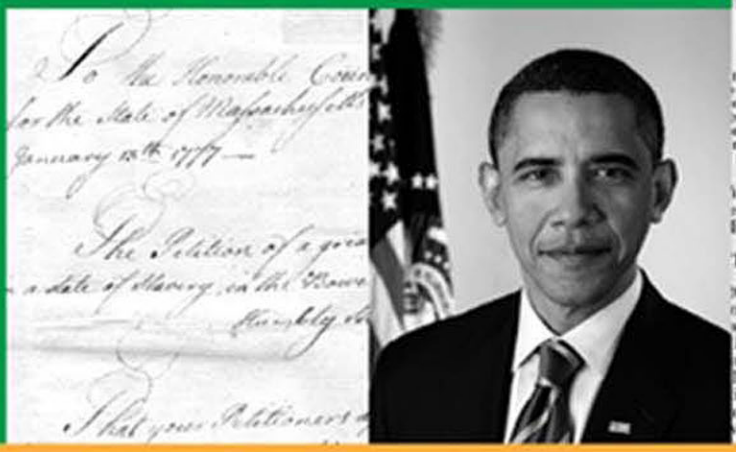

Milestone Documents in African American History

Exploring the Essential Primary Sources

Paul Finkelman, Editor in Chief

1619 2009

Milestone Documents

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Schlager Group
Dallas, Texas

Milestone Documents in African American History

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Overview

Milestone Documents in African American History represents a unique and innovative approach to history reference. Combining full-text primary sources with in-depth expert analysis, the 125 entries in the set cover nearly four hundred years of African American history. The set includes primary sources from the time of the arrival of blacks in America in 1619 to the Senate apology for slavery in 2009. Documents range from letters and personal narratives to laws and legal cases, from proclamations and petitions to political speeches. The documents are reprinted as they originally appeared and many contain grammatical oddities and unusual spellings peculiar to the time of their writing.

Organization

The set is organized chronologically in four volumes:

- Volume 1: 1619 1852
- Volume 2: 1853 1900
- Volume 3: 1901 1964
- Volume 4: 1965 2009

Within each volume, entries likewise are arranged chronologically by year.

Entry Format

Each entry in *Milestone Documents in African American History* follows the same structure using the same standardized headings. The entries are divided into two main sections: analysis and document text. Following is the full list of entry headings:

- **Overview** gives a brief summary of the primary source document and its importance in history.
- **Context** places the document in its historical framework.
- **Time Line** chronicles key events surrounding the writing of the document.
- **About the Author** presents a brief biographical profile of the person or persons who wrote the document.
- **Explanation and Analysis of the Document** consists of a detailed examination of the document text, generally in section-by-section or paragraph-by-paragraph format.
- **Audience** discusses the intended audience of the document's author.
- **Impact** examines the historical influence of the document.
- **Questions for Further Study** proposes study questions for students.
- **Further Reading** lists articles, books, and Web sites for further research.
- **Essential Quotes** offers a selection of key quotes from the document.
- **Document Text** gives the actual text of the primary document.
- **Glossary** defines important, difficult, or unusual terms in the document text.

Each entry features the byline of the scholar who wrote the analysis. Readers should note that in most entries the Document Text section includes the full text of the primary source document. In the case of lengthy documents, key portions have been excerpted for analysis.

Features

In addition to the text of the 125 entries, the set includes 233 photographs and illustrations. The front matter of Volume 1 includes an "Introduction" to the set, written by Editor in Chief Paul Finkelman; a "Contributors" list; and an "Acknowledgments" section. The back matter of Volume 4 has a section of interest to educators: "Teachers' Activity Guides." The latter comprises nine distinct guides, all of which are tied to the National History Standards and make use of the documents covered in this set. Following the Activity Guides, readers will find an "Index of Documents by Category" and a cumulative "Subject Index."

Questions

We welcome questions and comments about the set. Readers may address all such comments to the following address:

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Introduction

Each February most schools and colleges recognize what is now called Black History Month. It began as Negro History Week, in February, to coincide with the birthdays of Frederick Douglass and Abraham Lincoln and was later expanded to a month-long focus on the history of African Americans. When it began in the 1920s, African Americans were virtually absent from American history books and the narrative of American history. Negro History Week (and then Black History Month) was an attempt to remind the nation black and white of the significant contributions of blacks to American history. Today it would be hard to imagine a history of America that would not include blacks. This history is no longer merely about the "contributions" of African Americans, but rather about the way issues of race and discrimination affected the entire development of the United States.

Milestone Documents in African American History offers a significant collection of primary sources on our nation's racial history. The collection begins with the first documentation of blacks coming to the English colonies, the arrival in 1619 of some twenty Africans in the Virginia colony a year before the Pilgrims reached Plymouth. At the time there was no slavery in the English colonies, and these blacks were treated as indentured servants, bound to serve their masters for a term of years. Some of these first Africans eventually became free residents of the colony and at least one of them, Anthony Johnson, later became a property owner in the colony. However, within forty years Virginia and most of the other colonies had adopted a system of slavery that was based entirely on race. On the eve of the American Revolution black slaves could be found in every one of the thirteen colonies. There were few slaves in New England, though many merchants in Boston, Providence, and New Haven owned some, often using them as household servants. Most middle-class families in New York and many in Philadelphia also owned household slaves. A few residents of the middle colonies owned significant numbers of slaves who worked on farms. Further south slavery was more common. Forty percent of all the residents of Virginia and about half the people in South Carolina were slaves.

Mennonites in Pennsylvania were the first to issue a protest against slaveholding on religious grounds, in "A Minute against Slavery, Addressed to Germantown Monthly Meeting" (1688). In the years leading up to the Revolution members of certain faiths especially Quakers, Mennonites, Methodists, and some Baptists argued that slavery was morally wrong and began to manumit their own slaves. During the Revolution many other northerners, and some southerners, concluded that slavery was incompatible with the Declaration of Independence. Thus, between 1780 and 1804 all of the states north of Maryland either ended slavery outright or passed gradual emancipation laws, which ended slavery over a generation as Pennsylvania did with An Act for the Gradual Abolition of Slavery (1780). In the South numerous masters voluntarily freed their slaves, including George Washington, who did so at his death in 1799. Meanwhile, during the Revolution, Lord Dunmore, the royal governor of Virginia, offered freedom to slaves who would join his army (1775).

Despite the assertion that "all men are created equal," the Declaration of Independence did not end slavery, and the Constitution (1787) protected slavery in many ways. Thomas Jefferson, the author of the Declaration of Independence, defended the enslavement of blacks on racist and "scientific" grounds in his *Notes on the State of Virginia* (1784), though he later disingenuously tried to back away from this views when complimenting a black man, Benjamin Banneker, on his intellectual accomplishments. The number of free blacks grew substantially in the Revolutionary era, and in many places these blacks began to build their own institutions, including churches and Masonic lodges. However, at the same time, racism and slavery became embedded in American law, as in the Fugitive Slave Act of 1793 and the Black Codes of states such as Ohio (1803 1807).

During and after the Revolution, African Americans protested racism and slavery again and again, in documents ranging from the Petition of Prince Hall and Other African Americans to the Massachusetts General Court (1777) to David Walker's *Appeal to the Coloured Citizens of the World* (1829). Starting in the 1830s black opponents of slavery were joined by a growing number of white abolitionists, among them William Lloyd Garrison, and northern states governments that sought to protect black freedom. During this period, slaves, freeborn blacks, and fugitive slaves persisted in fighting bondage. Narratives of slave rebels, such as *The Confessions of Nat Turner* (1831); fugitive slaves, such as *Narrative of the Life of Henry Box Brown, Written by Himself* (1854); and other blacks caught up in slavery, like Solomon Northup's *Twelve Years a Slave* (1853), illustrated the many ways in which blacks protested slavery and fought against it. Some whites argued that blacks were well suited for slavery, but others, such as Judge Thomas Ruffin of North Carolina, in his opinion in *State v. Mann* (1830), admitted and understood that slavery was ultimately based on power, force, and violence. By mid-century it was clear to a majority of the Supreme Court, Congress, and the presidents that served in the 1850s that federal power had to supplement that of states and masters in enforcing slavery. This position is made clear in the Fugitive Slave Act of 1850 and such Court opinions as *Dred Scott v. Sandford* (1857).

The documents in the first third of this collection thus show how southern whites and the federal government maintained slavery and how blacks and their white allies fought it. They give us the voices of slaves, free blacks,

white abolitionists, southern supporters of slavery, and northerners who supported racism and those who opposed it. They allow us understand the complexity of slavery and racism in America.

Slavery in the end tore the Union apart. In 1860 1861, eleven states left the Union because they feared that the incoming administration of President Abraham Lincoln threatened the "peculiar institution." Shortly before the Civil War, Confederate Vice President Alexander H. Stephens declared that slavery was the "cornerstone" of the Confederacy. No one, north or south, would have disagreed. The seceding states, one after another, declared they were leaving the Union to protect slavery. Ironically, it would be secession and the Civil War that allowed for emancipation. When he entered office, Lincoln had no constitutional power to end slavery, but under his powers as commander in chief, he issued the Emancipation Proclamation (it took effect in 1863), authorized the enlistment of black troops, and turned the war into a great crusade for human liberty. In the aftermath of the war, southerners attempted to re-impose racial controls on blacks, as evidenced, for example, by the Black Code of Mississippi (1865), but in the short run they were thwarted by the military, Congress, and such constitutional changes as the Thirteenth (1865), Fourteenth (1868), and Fifteenth (1870) Amendments known as the Reconstruction Amendments.

Social change and equality were thwarted by southern white resistance, including lethal violence, and a Supreme Court that never seemed to understand that the Civil War had altered race relations and the power of the states to discriminate, as evidenced by *United States v. Cruikshank* (1873) and the Civil Rights Cases (1883). Blacks resisted this southern white counter-revolution. In 1874, for example, Congressman Richard Harvey Cain spoke in favor of the Civil Rights Act of 1875 in his speech "All That We Ask Is Equal Laws, Equal Legislation, and Equal Rights." John Edward Bruce took a more militant tone in his address "Organized Resistance Is Our Best Remedy" (1889). In the end, the push for civil rights was overwhelmed by white political and economic power, aggression and brutality, and a Supreme Court that cynically rejected the idea that the federal government should pass legislation to protect black equality and then, in *Plessy v. Ferguson* (1896), decided that the states were free to discriminate as they wished. By the end of the century black leaders could only hope to hold on to some power, rights, and dignity as, for example, Booker T. Washington counseled a slow and steady approach to winning a place for African Americans in his Atlanta Exposition Address (1895). In the face of growing discrimination imposed by law and extra-legal violence, retaining their rights proved impossible. At the turn of the century southern blacks who still made up more than 90 percent of all African Americans were free and, in theory, equal, but they had lost almost all their political power and were struggling to resist lynching. Ida B. Wells-Barnett cast a light on this situation in "Lynch Law in America" (1900).

In the face of bloodshed and racist legislation in the South, the struggle for rights was once again centered in the North, as it had been during the antebellum period. Black intellectuals and activists struggled, with their white allies, to attack segregation in an organized fashion, as with the formation of the Niagara Movement in 1905, forerunner to the National Association for the Advancement of Colored People, which was founded in 1909 and signaled the beginning of a concerted effort in the North to fight racism. The struggle was thwarted not only by southerners but also by northerners, like President Theodore Roosevelt, who dealt harshly with black soldiers forced to defend their lives against white mobs in Texas (1906). Woodrow Wilson, the first southern-born president elected since 1848, authorized the segregation of federal facilities and prevented the nation's highest-ranking black officer from serving in World War I. In segregated units blacks served heroically in that war the war that was meant to make the world safe for democracy only to encounter continued brutality and increased segregation at home. The ongoing state of unrest is evidenced in Walter F. White's "The Eruption of Tulsa" (1921). A rare victory in the Supreme Court, in *Guinn v. United States* (1915), made it slightly more difficult for the South to prevent blacks from voting but did not stop the practice. Indeed, blacks would be effectively disfranchised in eighteen southern states until the 1960s.

The documents from the Civil War to the end of World War I illustrate the variety of black responses to the final push for freedom and the seemingly endless losing battle to give meaning to that freedom. This long and dismal period led to a new birth of black activism and cultural self-expression. The Back to Africa movement propounded by Marcus Garvey and other black nationalist organizations focused white attention on the deep disaffection of blacks, not just in the South but also in the North, while at the same time giving self-expression to black aspirations in such documents as Cyril Briggs's *Summary of the Program and Aims of the African Blood Brotherhood* (1920) and Garvey's "Principles of the Universal Negro Improvement Association" (1922).

In the 1920s the flowering of intellectual life known as the Harlem Renaissance, described in Alain Locke's "Enter the New Negro" (1925) and James Weldon Johnson's "Harlem: The Culture Capital" (1925) , brought new attention to African Americans. For the first time in American history significant numbers of whites became aware of black music, art, theater, poetry, and literature. In the North, blacks participated in politics and fought for equal opportu-

nity in education and jobs. During the presidency of Franklin D. Roosevelt, they demanded (and won) attention from the federal government. John P. Davis indicted the efforts of Roosevelt to repair the country's economic woes during the Great Depression in "A Black Inventory of the New Deal" (1935), while Robert Clifton Weaver defended them in "The New Deal and the Negro: A Look at the Facts."

In 1931 the Scottsboro incident, in which a group of black teenagers were jailed (and nearly lynched) for a crime they had not committed, focused international attention on the pervasive racism in the South. The fact that the "Scottsboro boys" were neither lynched nor executed illustrates the power of national pressure. Almost two decades later, one of the defendants, Haywood Patterson, told his side of the story in *Scottsboro Boy* (1950). In another scandal from this era, the Tuskegee Syphilis Study was initiated in 1932 by physician-researchers at the U.S. Public Health Service to investigate the affects of untreated syphilis in black males. The research proceeded for forty years, with the infected men left deliberately untreated during these decades The experiment, which did not fully come to public light until the *Final Report of the Tuskegee Syphilis Study Ad Hoc Advisory Panel* was published (1973), illustrated the second-class (at best) medical care available to blacks in the 1930s.

By the eve of World War II significant numbers of blacks were no longer willing to accept second-class citizenship. Meanwhile, growing numbers of black migrants to the North had begun to affect national politics. The very threat of a black protest march on Washington an idea put forth in A. Philip Randolph's "Call to Negro America to March on Washington" (1941) led the Roosevelt administration to issue orders mandating equality in government contracts. After World War II, important changes in society began to be made. In 1946 the Brooklyn Dodgers signed Jackie Robinson, thus beginning the integration of American baseball and significantly altering the cultural landscape. Meanwhile, President Harry Truman, a midwesterner who hated segregation, moved against the institution where he could as with Executive Order 9981 (1948), establishing equality of treatment in the armed forces. Drafted by Truman's Committee on Civil Rights, *To Secure These Rights* (1947) identified remarkable disparities in racial treatment in both the North and the South and called for a series of measures to improve race relations in the United States. Meanwhile, in *Sweatt v. Painter* (1950) and *Brown v. Board of Education* (1954), the Supreme Court took the lead in dismantling segregation. While southerners complained that such decisions were unconstitutional, this was both appropriate and ironic. The Court had eviscerated the three Reconstruction Amendments to the Constitution in the nineteenth century, so in the mid-twentieth century the Court brought the amendments back to life.

The civil rights movement was the result of many factors: black veterans returning from World War II who would no longer tolerate discrimination, changes in northern white attitudes, the political power of black voters in the North, and the pressures of cold war politics. But the three key factors were the effectiveness of the National Association for the Advancement of Colored People in bringing legal challenges to segregation and in organizing black protest, decisions by the Supreme Court that almost always favored civil rights, and a mass movement in the South, symbolized by Martin Luther King, Jr., in his speeches and marches, that drove home the relentlessness of tens of thousands of black southerners, willing to risk beatings and jailing to destroy segregation. The assassination of President John F. Kennedy altered the civil rights landscape in two ways. As he voiced in his Civil Rights Address (1963), Kennedy had been moving toward a stronger civil rights position in response to southern violence and resistance to court-ordered desegregation on the part of such segregation stalwarts as Alabama's governor, George Wallace (as he made plain that same year in his Inaugural Address). Kennedy's successor, Lyndon B. Johnson, was a southerner who, like Truman, knew segregation and hated it. He pushed Congress to pass the far-reaching Civil Rights Act of 1964 and then a voting rights act a year later. By the end of Johnson's term in 1969, segregation was no longer legal anywhere in the United States. Documents from this era teach us about the many faces of the civil rights movement and explore the contours of the civil rights revolution.

But the successes of the 1960s were mixed. Blacks in the North did not face legal segregation, but they were nevertheless segregated by housing patterns, economic discrimination, and institutional racism. Many were denied equal educational opportunities as suburban schools flourished and inner city schools crumbled. These conditions spawned more militant black organizations, such as the Black Panther Party, and calls for a take-charge approach, as outlined in the 1966 speech of Stokely Carmichael on "Black Power" at the University of California, Berkeley, and Eldridge Cleaver's essay "Education and Revolution" (1969). For the first time, significant numbers of blacks abandoned Christianity, joining the Nation of Islam a group that in its present form holds a place on the Southern Poverty Law Center's list of active hate groups in the United States.

These issues were complicated by the Vietnam War the first American war in which blacks fought in fully integrated units. But economics, draft laws, and social policy led to a new kind of discrimination as blacks were more likely than whites to be drafted, sent into combat, and die. Moreover, black activists like Martin Luther King, Jr., and

the boxer Muhammad Ali realized that the war was sapping America's energy for racial equality and economic fairness. In "Beyond Vietnam: A Time to Break Silence" (1967), King denounced the war for deepening the problems of African Americans and poor people. That same year, Muhammad Ali was convicted for refusing induction into the armed services, a conviction that was reversed by the 1971 Supreme Court decision in *Clay v. United States*.

The half-century following Johnson's presidency witnessed new struggles and complexities in the history of African Americans. Politically, African Americans were more important than ever. In 1964 blacks from Mississippi could not be seated at the Democratic National Convention, a ban that Fannie Lou Hamer protested in her Testimony at the Democratic National Convention. Twenty years later Jesse Jackson made a major speech at the convention, as he sought and failed to win the presidential nomination (1984). By this time blacks held positions in Congress (Shirley Chisholm) and on the Supreme Court (Thurgood Marshall). By the end of the century African Americans such as Anita Hill, A. Leon Higginbotham, Colin Powell, and Clarence Thomas would be serving at the highest levels of civilian government and in the military as well as on the judiciary. President Bill Clinton appointed a commission to study race relations, chaired by the nation's most distinguished black scholar, the historian John Hope Franklin. In 1999 the commission issued *One America in the 21st Century: The Report of President Clinton's Commission on Race*. Exactly a decade later America would inaugurate its first black president, Barack Obama, and the U.S. Senate would pass the Resolution Apologizing for the Enslavement and Racial Segregation of African Americans.

The primary sources in *Milestone Documents in African American History* take us from the record of the arrival in the early seventeenth century of the first blacks in America almost all of them anonymous and the circumstances of their lives unknown through to the speeches of our nation's first black president, allowing us to read the words of those who shaped not just African American history but the entire history of the United States.

Paul Finkelman
President William McKinley Professor
Albany Law School

1901 - 1964

Black Africans landing at Jamestown (Library of Congress)

John Rolfe's Letter to Sir Edwin Sandys

1619/1620

"He brought not anything but 20 and odd Negroes."

Overview

When John Rolfe related in a letter to Sir Edwin Sandys that "20 and odd Negroes" had been off-loaded by a Dutch ship at Point Comfort in 1619, he had no notion of the lasting importance of his account. The seemingly casual comment recorded the first documented case of Africans sold into servitude to British North America. Purchased as indenture servants in the labor-starved Virginia colony, these twenty-some souls disappeared into the anonymous pool of workers transported to the colony during its first decades. The origins of the Africans and their ultimate fates have long been debated by historians and others studying the account. Rolfe provided little detail and made no further mention of the group.

Rolfe's statement was part of a much longer missive written from the Virginia colony to one of his benefactors back in England. Rolfe hoped to endear himself by relating the recent events of the colony to the new treasurer of the Virginia Company of London, Sir Edwin Sandys. Under Sandys's leadership, the Virginia enterprise had entered a new phase in its existence and had recently undergone reorganization. Part of that process involved the establishment of the headright system (a system of land grants to settlers), which, in part, was responsible for the growing labor shortage of 1619 and 1620 as well as the rapid increase in the demand for unfree workers obtained through contracts of indenture.

Context

Virginia in 1619 was very much in a state of flux. Established in 1607 by the Virginia Company of London, a joint-stock enterprise, the settlement had endured great hardship, a constant turnover in leadership, and various financial crises. The recently introduced cash crop, tobacco, had for the first time made the prospect of profits from Virginia a realistic but as yet unrealized possibility. It was, however, labor- and land intensive. Another factor creating some upheaval was the death of the leader of the Powhatan Confederacy, known as Powhatan, and his replacement by a chief much less friendly toward the English, Opechancanough, or Mangopeesomon ("Opachankano" in the document). The company was also in the process of making the transition from a merchant enterprise to a colonial property.

A power struggle within the Virginia Company of London had resulted in the ouster of its earlier leader, Sir Thomas Smith, and the recall of Samuel Argall, the settlement's governor, by Sir Edwin Sandys, the company's new treasurer, and his supporters. By mid-1619 the new governor, Francis Yeardley, had taken up residence in Virginia and initiated the reforms crafted by his colleagues. Among the most significant changes was the establishment of a framework for local governance—the Virginia Assembly and a governor's council—which would collectively be referred to as the Virginia House of Burgesses. Also included in the plan were attempts at economic diversification meant to encourage movement away from a single cash-crop economy based on tobacco cultivation and the creation of the headright system. Sandys's goal was to convert the Virginia venture from a place inhabited largely by transient laborers who sought at least modest fortunes in North America and then planned to return to England into a colony populated by individuals who would become permanent residents.

Sandys's plan produced an unprecedented demand for labor. The headright system was aimed at creating a sense of ownership in the colony by making landowners of the settlers. The plan distributed one hundred acres of land to all of the "Ancient Planters," or inhabitants of Virginia before 1618. All new arrivals became entitled to headrights, fifty acres of land, upon reaching the colony, as long as they met a few basic requirements: being male, adult, and free of indenture. Those who met the guidelines could also collect headrights on behalf of the others for whom they were responsible, including wives, children, and bound servants. This liberal dispersal of land and the profitability and labor-intensive nature of tobacco were largely responsible for the shortage of field hands. No one in possession of his own land worked on the land of another planter, and to be profitable even fifty acres of land needed many hands.

At this point in their development, Virginia's residents were particularly confused about the uses and nature of unfree labor. Their knowledge base drew upon the experi-

Time Line

1606

- **April**
  The Virginia Company of London receives its charter for land in North America.
- **December 20**
  Captain Christopher Newport departs from London with three ships and the Virginia enterprise's first employees.

1607

- **May 13**
  Captain Newport arrives at Chesapeake, and the site for the Virginia Company settlement is selected on the James River. The company employees surviving the voyage, 104 of them, establish the first permanent British outpost in the Americas.

1612

- John Rolfe grows the first commercially salable tobacco crop in Virginia.

1613

- **June 4**
  Samuel Argall tricks Pocahontas, takes her hostage, and transports her to Jamestown.

1614

- **April 5**
  John Rolfe and Pocahontas, now known as Rebecca, marry at Jamestown.

1616

- **June 3**
  John and Rebecca Rolfe arrive in London with their native retinue.
- The headright system is established by the Virginia Company; "Ancient Planters" are rewarded with one hundred acres of land.

1617

- **March 17**
  Rebecca Rolfe dies at Gravesend, England, and Rolfe returns to Virginia, leaving their young son, Thomas, behind to be raised by family.

ences and precedents established by their neighbors in the Caribbean: the Spanish and the Portuguese. They knew of the existence and use of slavery as a mainstay of the sugar economy of the Caribbean and South America but were unfamiliar with the specifics of the institution. Their own experiences in Great Britain had offered them no firsthand contact with slavery. English common law also had no provisions for slavery as a codified institution. Virginians were not opposed to slavery; they simply had no legal framework for its utilization. Instead, they relied on a different sort of legal framework, that for indenture. In England, this institution supplied a contractual agreement under which the servant bound himself for a period of years, usually five to seven, to a master, giving up his personal liberties in exchange for the basics necessary for survival: food, shelter, and clothing. At the end of service, the servant regained his freedom and a small payment usually referred to as freedom fees. In Virginia, this system was quickly distorted as the value of labor in the fields increased exponentially. Terms governing the length of service were extended for any violation of the contract, and bound laborers found themselves subject to much harsher conditions than they might have expected in England.

The first record of African laborers in the Virginia colony appears in the census of 1619. This document lists thirty-two Africans, fifteen men and seventeen women, in the employ of several planters as early as March 1619. Their origins are unclear; however, many scholars agree that a majority of the first Africans in the colony came not as resettlements or as natives from the West Indies but rather straight from western and central Africa. The appearance of Africans in early Virginia must also be considered in the larger context of the Atlantic world, where a brisk trade in unfree labor deposited African captives to be sold for their labor from New England southward to the Portuguese colony of Brazil. The dominant factor in this commercial venture was the Portuguese, who were acting under the Spanish *asiento*, or trade monopoly. Others who engaged in this trade, particularly the English and the Dutch, often acquired their cargoes by acting as freebooters or privateers.

About the Author

John Rolfe, born in Norfolk, England, probably in 1585, was not among the first of the Virginia venturers, but he was certainly among the Virginia Company's earliest recruits. He and his first wife left Plymouth, England, in June 1609 on the *Sea Venture*, the flagship of a flotilla dispatched to Virginia by the new governor, Thomas West, 12th Baron De La Warre, and under the command of his lieutenant governor, Sir Thomas Gates. All went well until they were shipwrecked along the coast of Bermuda after an encounter with a hurricane on July 23. In May of the following year, the survivors risked a voyage to Jamestown, completing their journey. Rolfe's wife, unnamed in the records of the time, died shortly after reaching Virginia.

In 1612 Rolfe produced his and the Virginia enterprise's first crop of salable tobacco. The natives of Virginia grew tobacco prior to the arrival of Englishmen, but that product was deemed too harsh. Europeans in general and the English in particular favored the mellower, sweeter tobacco varieties produced in the West Indies. Exactly where Rolfe procured his seed remains unclear—whether picked up during his sojourn on Bermuda or secured at considerable cost while he was still in England or after he arrived in Virginia. In any case, his 1612 experiment marked a turning point in the course of Virginia venturers' lives. By 1616 Virginia had its first major cash crop. It was this success that allowed Rolfe to frequent the company of Jamestown's controlling elite.

Those connections served him well, for by 1614 two significant events altered his status in Virginia. Sometime during that year Rolfe began to serve as the secretary and recorder for the colony, and on April 5 he married a young native woman commonly known as Pocahontas. The daughter of a powerful local chief named Powhatan, Pocahontas—or, as she called herself, Matoaka—was perceived by the English as akin to royalty. Taken hostage a year earlier as part of plan to exchange captives, Pocahontas had received considerable instruction in English and the precepts of the Christian faith and had submitted to baptism days before her wedding. The marriage, approved by the governor, Sir Thomas Dale, was perceived as a mechanism for civilizing the local tribes. This union is also generally credited with the temporary peace between the Jamestown inhabitants and members of the Powhatan Confederacy, who had recently been at war.

After the ceremony the couple returned to the property granted to Rolfe by the Virginia Company on Hog Island near Jamestown. There, Rolfe continued to refine his tobacco experimentations. Probably with the help and guidance of his wife, his crops flourished, and he solved some of the problems surrounding the curing and drying of tobacco (or the "weed," as many referred to it) that plagued his counterparts. In 1615 Pocahontas, by this time known as Rebecca Rolfe, bore the couple a son, Thomas. The following year John, Rebecca, and Thomas Rolfe, at the company's suggestion, traveled to England with Governor Dale on the *Treasure*, captained by Samuel Argall, a part owner of the vessel. The Rolfes and their native companions quickly became celebrities in London and received an introduction to Court. It was also during this period that Rolfe made the acquaintance of Sir Edwin Sandys, the person soon to be the controlling factor of the Virginia Company of London.

While the journey was a social and political success for the company, it was a personal disaster for the Rolfes. Rebecca Rolfe and her native companions did not fare well physically. By the end of 1616 all were affected by infectious diseases that proved much more virulent among Native Americans. In March 1617 the couple and their company made plans to return to Virginia with Argall, who had become the governor of the outpost. Shortly after leaving London, Rolfe requested that the captain dock at Gravesend because his wife had grown too ill, probably with

Time Line

1618

- **May**
  Powhatan dies, marking a sharp increase in tensions between colonists and natives, as Opechancanough begins to assume a leadership role.
- **July 30**
  Virginia House of Burgesses and the General Assembly meet for the first time.

1619

- **May**
  The Virginia census notes that thirty-two Africans were among the settlement inhabitants.
- **August**
  The Dutch ship, the *White Lion*, makes landfall at Point Comfort, where Captain John Colyn Jope sells twenty African captives to Governor George Yeardley and the merchant Abraham Piersey for food. Four days later the *Treasure*, an English privateer sailing in consort with Jope, arrives but is not welcomed.
- Rolfe marries again, this time to Joan Pierce, his neighbor and fellow planter William Pierce's daughter.

1619–1620

- Rolfe sends a letter to Sir Edwin Sandys citing the arrival in Virginia of "20 and odd Negroes." (Confusion with the date results from England's continued use of the Julian calendar, which recognized April 1 as the start of the new year.)

1621

- John Rolfe is appointed to the Governor's Council in the Virginia House of Burgesses.

1622

- **March 10**
  Mortally ill, Rolfe makes his last will and testament.
- **March 22**
  The Powhatan uprising results in the deaths of 347 settlers and starts a war between the Native Americans and the British colonists in Virginia.
- **March**
  Rolfe dies.

Time Line

1624	■ The Virginia Company, nearly bankrupt, loses its charter, and settlement reverts to royal possession.
1625	■ The Virginia colony becomes a royal colony with a charter from the king.

pneumonia, to travel. Rebecca died and was buried in the churchyard there shortly afterward. At this point, Rolfe also made the difficult decision to leave his son, Thomas, who was also affected by the contagion, behind with family in England.

Back in Virginia tobacco flourished, but all else foundered. The illness that had felled Rebecca spread rapidly among the local tribes. Powhatan, her father and longtime peacekeeper, also died in 1618, leaving the much more militant and anti-English Opechancanough in charge. Among the English community, Governor Argall faced continuing high death rates, shortages of food and other supplies, and growing frustration with the company's quasi-military rule. From England he received conflicting orders, bad advice, and complaints about the lack of profits. Rolfe, acting pragmatically, continued to curry favor with Argall and the soon-to-be secretary of the company, Sir Edwin Sandys. Shortly after Sandys's takeover and the arrival of his new governor, George Yeardley, Rolfe wrote an extensive missive to Sandys exhibiting his allegiance and intimate knowledge of Virginia and citing the presence of indentured African servants. He reminded Sandys of his connection to the Indians through his marriage to Pocahontas (Rebecca) but failed to reveal his recent marriage to Joan Pierce, the daughter of his friend and neighbor William Pierce.

Rolfe's plan evidently worked, for in 1621 he received an appointment to a newly reorganized council aimed at colonial restructuring. The officers of the Virginia Company, most particularly Sandys, knew enough of Rolfe's name and reputation to name him to the elite governor's council in the fledgling House of Burgesses. His tenure, however, was short-lived. Just before the Powhatan uprising of March 22, 1622, Rolfe contracted an illness from which he would not recover. He dictated his will on March 10, making provisions for his son, Thomas; his third wife, Joan; and his new daughter, Elizabeth. At the age of thirty-seven he died during yet another war with his second wife's people. This conflict had lasting repercussions for the Virginia settlements; in 1624 the financial problems that had plagued the colony from its beginning, combined with the effects of the war and yet another wave of pandemic disease, led to its bankruptcy. Within a year it would be reorganized as a royal colony under the new king, Charles I.

Explanation and Analysis of the Document

John Rolfe's statement in his 1619 letter to Sir Edwin Sandys concerning the arrival of "20 and odd Negroes" at Point Comfort, Virginia, represents the first documented arrival of Africans in the Virginia colony. The related sections of the letter constitute two short paragraphs about one-third of the way into a much larger missive. The reference to "negroes" appears almost casual in its tone and is certainly not the focus of Rolfe's interest or his purpose in writing the letter to Sandys.

By late 1619 Rolfe's personal political position in the colony, similar to that of Virginia itself, was in a state of flux. His earlier allegiances to the former governors Thomas Dale and Samuel Argall had become liabilities rather than advantages, and he had to quickly realign himself and find new patrons. The recent London upheaval within the controlling body of the Virginia Company and the ouster of its treasurer, Sir Thomas Smith, and his replacement by Sir Edwin Sandys called for action on Rolfe's part if he was to maintain his status in the colony. Although, in the letter, he continues to defend the deposed governor, he also begins to distance himself from Argall's actions and policies. He promptly reminds Sandys that he, Rolfe, has value in his connections through his late wife, Pocahontas, and their son, Thomas, to the leadership of the Powhatan Confederacy.

Rolfe's letter is interesting in the way in which he positions himself in reference to the colony's new governor, George Yeardley, and Yeardley's secretary, John Pory. While Rolfe clearly defers to their authority and their responsibility to report officially on the state of the colony, he points out that his ties and insider knowledge of the colony's personalities and inner workings might prove invaluable. In this vein, Rolfe pens his long and detailed letter to Sandys, recounting the happenings in the colony from the spring of 1619 through the winter of that year and thus illustrating his insight and his value to the new regime.

♦ Paragraphs 1–7

In the opening paragraph of his letter to Sandys, Rolfe gently reminds the new treasurer of the Virginia Company of his identity and offers his service "as a token of my grateful remembrance for your many favors and constant love shown me." In the next several paragraphs Rolfe relates the developments in the colony since the arrival of Yeardley, the new governor. These developments include the calling of the House of Burgesses, two trials held "according to the laudable Laws of England," and the dispatch and successful return of a ship under the command of a Captain Ward and another, the *George*, to the northern colony, probably New England, and to Newfoundland, respectively, to trade for fish to feed the hungry colonists. He also reports that the cattle that had arrived on board the *Trial* fared well during the voyage and that the horses and the mares should be easy to sell, as the population continued to grow through constant immigration to Virginia.

Wedding of Pocahontas to John Rolfe (Library of Congress)

♦ **Paragraph 9**

Rolfe then recounts events of August 1619, stating, "About the latter end of August, a Dutch man-of-war of the burden of a 160 tons arrived at Point Comfort, the Commander's name Captain Jope, his Pilot for the West Indies one Mr. Marmaduke, an Englishman." The ship, which was unnamed in Rolfe's letter, was the *White Lion*, which John Pory, the secretary of the colony, names as a "man of warre of Flushing," a privateer sailing from Vlissingen, a Dutch seaport noted as a haven for corsairs, or pirates. Rolfe describes this ship as capable of carrying a burden of 160 tons. In the seventeenth century that term referred to a measure of volume, usually wine or beer, in a cask rather than to a measure of weight. Point Comfort refers to the location of the ship's landing in Virginia and rests at the juncture of the James and York rivers as they empty into the Chesapeake Bay. The officers of the Virginia Company in London constantly recommended the maintenance of a "fort" at this location despite the fact that this point of land was largely swamp land and unhealthy in its aspect. Rolfe lists the ship's general officers rather incompletely as a Captain Jope and a Mr. Marmaduke. The *White Lion*'s captain was, in reality, John Colyn Jope, an Englishman hailing from Cornwall. The gentleman named Marmaduke is identified by Pory as Marmaduke Rayner.

Rolfe continues by establishing the credentials of the Dutch ship and its relationship to its consort ship, the *Treasure*: "They met with the *Treasure* in the West Indies and determined to hold consort ship hitherward, but in their passage lost one the other." For Rolfe's contemporaries reading the letter, this statement was among the most important. The *Treasure*—among whose stockholders were Robert Rich, the Earl of Warwick, and Samuel Argall, the deposed governor of Virginia—was captained by Daniel Elfrith and sailed under the English flag with a license from Victor Amadeus, the Duke of Savoy, to seize Spanish shipping. These two vessels met in the West Indies, and their captains agreed to sail in cooperation in search of Spanish plunder. Successful in their attempts, they boarded the *São Juan Batista*, a Portuguese slaver sailing out of Loanda, Angola, under a Spanish *asiento* (contract), and removed a number of the Africans held captive on board. On their way toward friendlier territory, the two ships lost sight of each other; the *White Lion* made port in Virginia in late August 1619.

Rolfe's next statement—"He brought not anything but 20 and odd Negroes"—represents the first recorded instance of Africans in captivity brought to Virginia and traded or sold in the colony. Although census data suggest that there were others brought to Virginia earlier, there is no extant record of their arrival or their disposition. According to Rolfe, Jope exchanged his Africans for food and other supplies needed to refit his ship. The governor, George Yeardley, and Abraham Piersey, the cape merchant for the

Essential Quotes

"He brought not anything but 20 and odd Negroes, which the Governor and Cape Merchant bought for victuals (whereof he was in great need as he pretended) at the best and easiest rate they could."

(Paragraph 9)

Virginia Company, purchased the lot, with seven of the Africans going with Yeardley back to Jamestown and the remainder in the possession of Piersey.

Rolfe spends the rest of this paragraph detailing Jope's credentials as a privateer, stating, "He had a large and ample Commission from his Excellency to range and to take purchase in the West Indies." The commission to which he refers came from Maurice, the Count of Nassau, and gave him license to raid Spanish shipping in the Caribbean and its surrounding water. This was significant, because Jope's actions—the raid on a Spanish ship—could, therefore, be seen by officials back in England as instigated by the English, who had recently signed a treaty with Spain.

♦ Paragraph 10

The next paragraph, while not directly commenting on Jope's sale or the fate of his twenty-some Africans, does illuminate Rolfe's position in the colony. Rolfe reports that the *Treasure* made landfall not far from Point Comfort, three or four days after the *White Lion*. Captain Daniel Elfrith, thinking that Argall was still in command, "sent word presently to the Governor to know his pleasure." Elfrith's presence in Virginia seriously disconcerted the newly arrived Governor Yeardley on several fronts: The *Treasure* was at least partially owned by members of the regime that he and Sandys had replaced; Argall was not only part owner of the vessel but also the former governor chased from the colony under clouds of suspicion; and, finally, the *Treasure* sailed and raided under an English flag, threatening James I's fragile new peace with the Spanish. Elfrith, taking heed of his hostile reception—"the unfriendly dealing of the Inhabitants of Keqnoughton"—quickly abandoned Virginia for Bermuda, where he found a friendlier welcome and a market for his cargo of captive Angolans.

♦ Paragraphs 11–23

In the remainder of the letter Rolfe describes the events occurring in the colony over the rest of the year. The most important of his accounts focus on a warning from Elfrith that a Spanish attack might come in the spring as well as on the deteriorating relationships with the local tribes, the establishment of new plantations and the division of land under Sandys's new system, and arrivals and departures from the colony. He closes with a pledge of his loyalty and a plea for Argall, his former patron.

Audience

The audience named by John Rolfe in his salutation consisted of a party of one, Sir Edwin Sandys. It is clear that much of what Rolfe says was intended specifically for Sandys. This is particularly true of the first and last paragraphs of the text. Rolfe was interested in cultivating a relationship with the man he perceived, quite correctly, as holding the keys to his and his family's future. His tone is deferential, and his language throughout the letter is almost penitent. However, in Rolfe's seventeenth-century world, both would be normal in a communication between an official and a subordinate and clearly define the relationship between the two men.

While Rolfe specifically addresses Sandys in the letter, he must also have intended for his work to be read by others. Given the common practice in early-modern England of reading aloud letters from distant places, it is reasonable that Rolfe expected Sandys to share at least selected passages from his text with others, most specifically those shareholders in the Virginia Company. Sandys's position in the company as secretary also suggests that he served as a conduit for information to and from the officers and holdings.

Impact

It is quite clear that Rolfe's mention of the sale of those twenty-some Africans in August of 1619 bears much more historical relevance in the eyes of twenty-first century Americans than it did in the eyes of seventeenth-century Englishmen or Virginians. Sandys, or perhaps his secretary, recorded at the end of the letter the items of importance discussed by Rolfe. That list contains no mention of the *White Lion* or the twenty or so Africans sold at Point Comfort in August of 1619. That sale is significant only in retrospect. Those doing the selling and the buying did not comprehend that their actions were the first steps toward a massive forced migration of Africans to British North America and the codification of the institution of slavery.

We know something of what became of two of the Africans who arrived in Virginia on that August day in 1619. According to Tim Hashaw, these two Africans, captives from the Angolan Kingdom of Ndongo, are found in a later Jamestown census under the names "John" Gowan and "Margaret" Cornish. John was taken as a servant by the planter William Evans ("Ewens" in the document), and Margaret became the slave of the planter Robert Shephard. Although they lived apart, John and Margaret had a son. Many Africans in Jamestown were initially held as indentured servants, to be freed after a period of up to seven years. John soon gained his freedom and went on to start his own farm, but Margaret remained a slave.

Their story was not unique in early colonial times. It was typical for black men to be indentured but for black women to be held as slaves, creating an imbalance in possible marriage partners for these indentured black men when they gained their freedom. The freed black men went on to marry Indians and even white women and became planters with their own servants, some of them white. Within a generation such mixed marriages were banned, and the rights of free blacks were curtailed as the slave trade burgeoned and Virginians began to fear slave uprisings.

See also Virginia's Act XII: "Negro Women's Children to Serve according to the Conditions of the Mother" (1662); Virginia's Act III: Baptism Does Not Exempt Slaves from Bondage (1667).

Further Reading

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Questions for Further Study

1. Describe the economic and agricultural circumstances that gave rise to slavery in what would become the United States.

2. Imagine that John Rolfe's first tobacco crop had failed. How might the history of the colonies and of the United States have been different?

3. What political intrigues in the Virginia colony and England contributed to the development of the institution of slavery?

4. How did the institution of slavery affect the Virginia settlers' relationships with Native Americans?

5. In 1619 the Spanish and the Portuguese had long had a foothold in the Americas and were using slave labor. How did the history of Spanish and Portuguese slavery affect the development of slavery in the North American colonies?

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—Martha Pallante

Document Text

John Rolfe's Letter to Sir Edwin Sandys

January 1619/20

Honored Sir:

Studying with myself what service I might do you, as a token of my grateful remembrance for your many favors and constant love shown me, as well in my absence as when I was present with you I could not at this time devise a better than to give you notice of some particulars both of our present estate and what happened since the departure of the *Diana*. And though I am well assured, you will be satisfied herein more fully by our Governor, yet I desire your kind acceptance of this my poor endeavor.

Presently, after the *Diana* had her dispatch, Sir George Yeardley (according to a Commission directed unto him and to the Council of State) caused Burgesses to be chosen in all place who met at James City, where all matters therein contained were debated by several Committees and approved and likewise such other laws enacted as were held expedient & requisite for the welfare and peaceable government of this Commonwealth. Captain Martin's Burgesses for his Plantation were not admitted to this Assembly; the reasons I am assured you shall receive from our Governor, who sends home a report of all those proceedings.

These principal men being at James City, Captain William Epps (who commands Smythe's Hundred Company) was arraigned (as near as might be) according to the laudable Laws of England, for killing one Captain Edward Roecroft alias Stallenge. He came hither from the North Colony in a ship of Sir Ferdinando Gorges (as he said) for some necessaries which he wanted and to coast along the shore to find and discover what Harbors and rivers he could. But through neglect of the Master of the ship and others, she was forced aground in a storm near Newport News and there sprang so great a leak that he could not carry her back again. This mischance happened through uncivil and unmanly words urged by Stallenge (there being no precedent malice) with which Captain Epps being much moved did strike him on the head with a sword in the scabbard such an unfortunate blow that within 2 days he died. The Jury…, hearing the Evidence, found him guilty of Manslaughter by Chance medley. The Governor finding him (though young) yet a proper civil gent and of good hopes, not long after restored him to his Command.

Captain Henry Spelman, being accused by Robert Poole (one of the interpreters of the Indian language) of many crimes which might be prejudicial to the State in general and to every man's safety in particular, received Censure at this general Assembly. But the Governor hoping he might redeem his fault, proceeding much of Childish ignorance, pardoned the punishment upon hope of amendment. In trial whereof he was employed as interpreter to Patawamack to trade for Corn.

Captain Ward in his ship went to Monahigon in the North Colony in May and returned the latter end of July, with fish which he caught there. He brought but a small quantity, by reason he had but little salt. There were some Plymouth ships where he harbored, who made great store of fish, which is far larger then Newfoundland fish.

The *George* was sent by the Cape Merchant (with the Governor's consent) to Newfoundland to trade and buy fish for the better relief of the Colony and to make trial of that passage. One other reason (as I take it) was, for that the Magazine was well stored with goods, it was somewhat doubtful, whether a ship would be sent to carry home the crop so soon as the *George* might upon her return back. She departed hence about the 9th of July and arrived here again about the 10th of September. She made her passage to Newfoundland in less than 3 weeks and was at the bank amongst the French fishermen in 14 days. She came back hither again in 3 weeks, with bare wind and brought so much fish as will make a saving voyage, which, beside the great relief, gives much content to the whole Colony.

The *Sturgeon* ship and the *Trial* departed hence together [in] July. Mr. Pountys has taken great pains in fishing, and toward Michaelmas (the weather being somewhat temperate) made some good sturgeon. He hopes by the spring to be better fitted, with Cellars and houses, and to do some good therein.

The Cattle in the *Trial* came exceeding well, and gave the Colony much joy and great encouragement. Both the horses and Mares will be very

vendible here a long time, the Colony increasing with people as of late.

About the latter end of August, a Dutch man-of-war of the burden of a 160 tons arrived at Point Comfort, the Commander's name Captain Jope, his Pilot for the West Indies one Mr. Marmaduke, an Englishman. They met with the *Treasure* in the West Indies and determined to hold consort ship hitherward, but in their passage lost one the other. He brought not anything but 20 and odd Negroes, which the Governor and Cape Merchant bought for victuals (whereof he was in great need as he pretended) at the best and easiest rate they could. He had a large and ample Commission from his Excellency to range and to take purchase in the West Indies.

Three or 4 days after the *Treasure* arrived. At his arrival he sent word presently to the Governor to know his pleasure, who wrote to him, and did request myself, Lieutenant Peace, and Mr. Ewens to go down to him, to desire him to come up to James City. But before we got down, he had set sail and was gone out of the Bay. The occasion hereof happened by the unfriendly dealing of the Inhabitants of Keqnoughton, for he was in great want of victuals, wherewith they would not relieve him or his Company upon any terms. He reported (whilst he stayed at Keqnoughton) that if we got not some Ordinance planted at Point Comfort, the Colony would be quite undone—and that ere long—for that undoubtedly the Spaniard would be here the next spring which he gathered (as was said) from some Spaniard in the West Indies. This being spread abroad does much dishearten the people in general for we have no place of strength to retreat unto, no shipping of certainty (which would be to us as the wooden walls of England) no sound and experienced soldiers to undertake, no Engineers and earthmen to erect works, few Ordinance, not a serviceable carriage to mount them on; not Ammunition of powder, shot and lead, to fight 2 whole days, no, not one gunner belonging to the Plantation, so our sovereign's dignity, your honors or poor reputations, lives, and labors thus long spent lies too open to a sudden and to an inevitable hazard, if a foreign enemy oppose against us. Of this I cannot better do, to give you full satisfaction, than to refer you to the judgment and opinion of Captain Argall, who has often spoken hereof during his government and knows (none better) these defects.

About the beginning of September, Japazaws (the King of the Patawamack's brother) came to James City to the Governor. Among other frivolous messages, he requested, that 2 ships might be speedily to Patawamack, where they should trade for great stores of corn. Hereupon (according to his desire) the Governor sent an Englishman with him by land, and in the beginning of October, Captain Ward's ship and Somer-Island frigate departed James City hitherward.

Robert Poole, being wholly employed by the Governor of message to the great King, persuaded Sir George that if he would send Pledge, he would come to visit him. Our Corn and Tobacco being in great abundance in our ground (for a more plentiful year than this it hath not pleased God to send us since the beginning of this Plantation, yet very contagious for sickness, whereof many, both old and new men, died) the Governor sent two men unto him, who were returned with frivolous answers, saying he never had any intent to come unto him. The Governor being jealous of them (… because we had many straggling Plantations, much weakened by the great mortality, Poole likewise proving very dishonest) requested Captain William Powell and myself … to go in a shallop unto Pomonkey river, which we did. Going up that river within 5 miles of his house, we sent Captain Spelman and Thomas Hobson unto him with the Governor's message. The ship and frigate (being not far out of their way to Patawamack) went in the night about 12 miles into the river, and we hasting up with our shallop, the messengers were with Opachankano, before or as soon as any news came to him either of the ships or our arrival, which much daunted them and put them in great fear. Their entertainment at the first was harsh (Poole being even turned heathen), but after their message was delivered, it was kindly taken, they sent away lovingly, and Poole accused and Condemned by them, as an instrument that sought all the means he could to break or league. They seemed also to be very weary of him. Opachankano much wondered I would not go to him, but (as I wished the messengers) they said I was sick of an ague, wherewith they were satisfied. We had no order to bring Poole away, or to make any show of discontent to him, for fear he should persuade them to some mischief in our corn fields, hoping to get him away by fair means. So we returned in great love and amity to the great content of the Colony, which before lived in daily hazard, all message being untruly delivered by Poole on both sides.…

All the Ancient Planters being set free have chosen place for their dividend according to the Commission. Which giveth all great content, for now knowing their own land, they strive and are prepared to build houses & to clear their ground ready to

Document Text

plant, which gives the great encouragement and the greatest hope to make the Colony flourish that ever yet happened to them.

Upon the 4th of November the *Bona Nova* arrived at James City. All the passengers came lusty and in good health. They came by the West Indies, which passage at that season doth much refresh the people.

The proportion of Victuals brought for those 100 men fell so short that Captain Welden and Mr. Whitaker were forced (notwithstanding our plenty) to put out 50 or thereabout for a year by the Governor's and Council's advise, for whom they are to receive the next years 3 barrels of corn and 55 n of tobacco for a man; which their sickness considered (for seldom any escapes little or much) is more than they of themselves could get. By this means the next year, they will be instructed to proceed in their own business and be well instructed to teach newcomers. With the remainder (being about 25 apiece, the one is seated with one Captain Mathews 3 miles beyond Henrico for his own security, and to his great content. And Mr. Whitaker within 4 miles of James City on the Company's land.

Upon Saturday the 20th of November at night Mr. Ormerod died at James City, after a long and tedious sickness, the chief occasion the flux, which of late hath much reigned among us. His death is generally much lamented, the Colony receiving hereby a great loss, being a man of so good life, learning & carriage as his fellow here he left not behind him.

One Mr. Darmer, agent sent out by the Plymouth Company, arrived here about the end of September in a small bottom of 7 or 8 tons; he had coasted … to our Plantation, and found an Inland sea…, the depth whereof he could not search for want of means, and winter coming on. He is fitting his small vessel and purposes this spring to make a new trial.

Captain Lawne, at his arrival, seated himself in Warraskoyack Bay with his Company, but by his own sickness and his people's (wherein there was improvidence) he quitted his Plantation, went up to Charles City, and about November died. So his piece is likely (unless better followed and well seconded) to come to nothing.

Smythe's Hundred people are seated at Dauncing Point, the most convenient place within their limit. There has been much sickness among them: so yet this year no matter of gain or of great industry can be expected from them.

Martyne's Hundred men seated at Argall Towne with good & convenient houses have done best of all Newcomers. Many who were industrious having reaped good crops, but most not of equal spirit and industrious have less, yet exceeded other Newcomers. Many of these have also died by sickness, but not comparable to other places.

About the beginning of December Captain Ward with his ship and the frigate came from Patawamack. Japazaws had dealt falsely with them, for they could get little trade, so that they brought not about 800 bushels, the most part whereof they took by force from Japazaws' Country who deceived them, and a small quantity they traded for. But in conclusion being very peaceable with all the other Indians, at their departure they also made a firm peace again with Japazaws.

At this time also came Captain Woodiff in a small ship of Bristow, who brought his people very well, and made his passage in ten weeks.

Thus far as part of my duty (ever ready at your service) have I briefly made known unto you, some particulars of our estate and withal in conclusion cannot chose but reveal unto you the sorrow I conceive, to hear of the many accusations heaped upon Captain Argall, with whom my reputation has been unjustly joined, but I am persuaded he will answer well for himself. Here have also been divers depositions taken and sent home by the *Diana*; I will tax no man therein. But when it shall come to farther trial, I assure you that you shall find many dishonest and faithless men to Captain Argall, who have received much kindness at his hand & to his face will contradict, and be ashamed of much, which in his absence they have intimated against him. Lastly, I speak on my own experience for these 11 years, I never among so few, have seen so many falsehearted, envious, and malicious people (yea among some who march in the better rank), nor shall you ever hear of any the justest Governor here, who shall live free, from their scandal and shameless exclamations, if way be given to their report. And so desiring your kind acceptance hereof, being unwilling to conceal anything from yourself (who now, to mine and many others' comfort, stands at the helm to guide us and bring us to the Port of our best happiness, which of late we say principally by your goodness we now enjoy) either which you may be desirous to understand or which may further you for the advancement of this Christian Plantation I take my leave and will ever rest

At your service and command in all faithful duties.

Jo: Rolf.

[Indorsed by Sir Edwin Sandys:] Mr. John Rolfe from Virginia Jan. 1619.

By the George.

Document Text

Narration of the Late proceedings in Virginia.

Cape Cod fish larger than that of Newfoundland.

The fishing voyage of the *George*.

The *Treasure*'s return: Extreme fear of the Spaniards: Want of all things.

Ships sent to the King of Patawamack.

Voyage to Opachankano. Poole's villainy.

The 4 Burrough & public land set out.

Joy and good success of dividing the Lands.

The Voyage of the *Bona Nova*. Vide C. Welden's seat. Vide Death & praise of Mr Ormerod.

Mr. Darmer of Plymouth's discoveries.

Captain Ward's Voyage for Corn.

In favor of C. Argall. That people ill-conditioned to Sir Edwin Sandys.

[Addressed by self:] To the Honored and my much respected friend Sir Edwyn Sandys Kt, Treasurer for the Virginia Company these.

Glossary

ague	fever
bottom	cargo ship
burgesses	representatives to an assembly
chance medley	from the Anglo-French *chance-medlee* ("mixed chance"), a term from English law used to describe a homicide arising from a quarrel or fight; akin to manslaughter as a killing without malice aforethought
earthmen	sappers, military specialists in field fortification
flux	dysentery, or another disease causing loss of bodily fluid
magazine	warehouse, storage building
Michaelmas	September 29, celebrated as the feast of Saint Michael the Archangel
ordinance	weapons
shallop	a large, heavy boat
wooden walls	warships

Virginia's Act XII: Negro Women's Children to Serve according to the Condition of the Mother

1662

"All children borne in this country shall be held bond or free only according to the condition of the mother."

Overview

In December 1662 the Virginia House of Burgesses met for the second time that year and approved a set of twenty-three statutes that focused on various facets of colonial life. The most infamous of these laws, Act XII, made the civil status of African and African American slave women inheritable by their offspring. The burgesses, convened by the governor, Sir William Berkeley, and presided over by the speaker, Captain Robert Wynne, acted in response to their perceptions of the colonists' needs and interests. Other legislation passed during that session included the commission for a new city to be built at Jamestown, various attempts at regulating trade, several taxes and tax reforms, a law aimed at controlling brabbling (squabbling) or gossiping women, and six statutes governing the behavior and status of indentured servants.

The status of Virginia's unfree laborers, as illustrated by the number of laws passed regarding them, was prominent among the burgesses' concerns. These workers fell into two major categories, indentured servants and slaves. Together, these groups formed the majority of the laborers in the colony's burgeoning tobacco economy. Indentured servants were bound under contracts that negotiated away their right to profit from their labor in exchange for food and lodging as well as protection from the colony's enemies. These individuals hailed primarily from British Isles. Slaves, on the other hand, were of African descent and served for life.

Context

Virginians in 1662 lived in a world that for several decades had been fraught with change. The colony had grown from a ragtag frontier outpost established in 1607 to a cornerstone of England's imperial holdings. Virginia was established and initially owned by the Virginia Company of London, also known as the London Company, but reverted to royal ownership after the company's bankruptcy in 1624. From 1641 to 1660, the inhabitants of the British Empire endured considerable political turmoil and civil unrest. A civil war erupted in England, resulting in the deposal of Charles I and his beheading in 1649 as well as the establishment of the Puritan-led Commonwealth under Oliver Cromwell. To fill the vacuum of power brought on by Cromwell's death in 1658, Parliament invited Charles II to take the throne in 1660; the monarchy was thus reinstated, and the period known as the Restoration began. For settlers in Virginia and other English colonies, that meant an adjustment to the return of imperial oversight after nearly two decades of neglect.

Some of the changes Virginia settlers experienced in the mid-seventeenth century were for the better. After five decades of high mortality rates among new immigrants, Virginia's population had finally stabilized. This occurred for a variety of reasons, including better and more plentiful food, the relocation of settlements farther away from malaria-ridden riverfronts and high-water tables, and better timing of the arrival of new settlers. In the eighteen-year period between 1644 and 1662, the population more than tripled, from approximately eight thousand to twenty-five thousand six hundred. While most of this increase resulted from immigration, greater longevity and increasing birth rates also contributed to the colony's growth.

Politically, the governmental structures and laws of Virginia loosely resembled those of the mother country. The House of Burgesses, established in 1619, was based on the British parliament. It was a bicameral body comprising the lower house, the Assembly, elected at the county level by members of the county court, and the Governor's Council, constituted of members of the elite. The county courts functioned much like the English quarter sessions, which were similar to common pleas courts presided over by the local justice of the peace and meeting four times a year. The difference lay in the percentage of the people who had the right to participate in the court; land ownership was common among free adult white males in Virginia, whereas in England land ownership was concentrated in the hands of a relative few. English common law had been the starting point for Virginia's lawmakers. In some respects, however, Virginia's laws strayed considerably from the English model. This was particularly true during the Commonwealth period, when direction from across the Atlantic was limited. As a consequence, Virginians created their own rules to fit their unique situation. The statutes concerning local

Time Line

1606

■ **April**
King James I of England issues a charter to the Virginia Company of London (also known as the London Company) to colonize the eastern shore of North America between the latitudes of 34 and 41 degrees north.

■ **December 20**
Under the command of Admiral Christopher Newport, the three ships of the Virginia Company of London—the *Godspeed*, *Discovery*, and *Susan Constant*—leave for the New World.

1607

■ **March**
The Virginia Company's ships reach the coast of Virginia and explore the Chesapeake Bay vicinity through early May.

■ **May 13**
The 104 male settlers who survive the voyage, led by Captain John Smith and Bartholomew Gosnold, arrive at a site along the James River that becomes Jamestown; they begin construction of a fort the next day, thus establishing the first permanent British outpost in the Americas.

1612

■ John Rolfe grows the first commercially salable tobacco crop in Virginia.

1619

■ Upon gaining control of the Virginia Company of London, Sir Edwin Sandys reorganizes the venture as a colony with a representative government. On July 30, the first session of the Virginia House of Burgesses is convened.

■ **May**
The Virginia census counts thirty-two Africans among the colony's inhabitants.

■ **August**
The Dutch privateer *White Lion* makes landfall at the tip of the Virginia peninsula in Mobjack Bay. In exchange for food, its captain, John Colyn Jope, sells to Governor George Yeardley and the merchant Abraham Piersey some twenty African captives seized from a Portuguese ship.

defense and the use of unfree labor deviated the most from English common law because Virginians dealt with conditions that did not exist in England.

In economic terms, tobacco was the king of Virginia crops. Introduced in the 1610s by John Rolfe, the English husband of the Indian Pocahontas, tobacco provided Virginia with a viable cash crop that was grown nearly to the exclusion of anything else. The harvest of 1663 yielded seven million pounds shipped to London alone. This had a negative effect, however, for as supply increased, prices declined. Broad attempts at crop diversification continued to fail, though Virginians had begun to grow some of their own food. For most planters, large and small, the only way to increase their profits was to put more land into cultivation, which in turn required more labor. Since free males in Virginia usually owned property, labor by definition had to be performed by those who could not hold property in their own right: women, children, and the unfree.

During most of the first half century of the colony's existence, unfree labor had been integral to its economy. Throughout the 1610s, traditional indentured servants met that need. In August 1619 the colonists' regular source of bound labor from the British Isles was supplemented by the arrival of captive Africans aboard a Dutch privateer (warship) commanded by an English captain. John Rolfe identified this event in a letter to Sir Edwin Sandys in 1619/1620. This was the first documented sale of African slaves in Virginia; however, a census taken in May 1619 had already identified thirty-two Virginians of African origin.

Through the 1620s, the labor demands of the colony accelerated because of the expansion of the cash crop, tobacco. The demand far exceeded the supply of indentured labor from the British Isles. To alleviate that stress, the House of Burgesses began to regulate more closely the laws controlling the behavior and contract terms of indentured servants. In addition to using indentured labor, Virginians also looked at the possibilities of exploiting people from cultures unlike their own, namely, Native Americans and Africans. Models of servitude developed by the Spanish and Portuguese in the West Indies and South America had introduced Virginians to such possibilities as well as to the institution of perpetual slavery. By the 1640s, some colonists had experimented with the enslavement of individuals not of their own race. In the case of the local indigenous peoples, that had proved to be unfeasible because of their familiarity with the countryside and the hostilities generated with their native tribes. To forestall additional trouble, the House of Burgesses passed legislation prohibiting the enslavement of local Native Americans, with a loophole that permitted the enslavement of those who had already been brought into the colony. Imported Africans proved easier to entrap into permanent servitude. They lacked local defenders and were markedly different in their physical characteristics and religious orientations. Additionally, English colonists could draw upon examples of African slavery from the Caribbean.

Throughout the Commonwealth period, when parliamentary oversight was limited, Virginians began to craft laws that altered the systems of servitude employed in the

colony. They gradually lengthened terms of service for all unfree laborers and made provisions for the perpetual enslavement of Africans. In the era after 1660, conditions provided further impetus to continue down that path. The supply of English indentured servants stagnated and then declined as political and economic conditions in England stabilized with the restoration of Charles II. As mortality rates among new arrivals dropped, the financial advantages of holding a laborer for life began to outweigh the higher cost of a slave in comparison with an indentured servant, whose labor was bound for an average of five to seven years. This was also a period when English merchants seriously investigated the possibilities of engaging in the slave trade themselves.

About the Author

Identifying a specific author for Act XII: Negro Women's Children to Serve according to the Condition of the Mother, is an extremely difficult, if not impossible, task. The records of the burgesses' proceedings do not contain the names of the individuals who wrote specific laws. Other than specifying two persons, Sir William Berkeley and Captain Robert Wynne, the record leaves other possible legislative authors anonymous.

We can identify, however, what the burgesses were or represented, rather than exactly who produced the statute. In 1619 the House of Burgesses was established during a reorganization of the Virginia Company of London led by Sir Edwin Sandys, who had served earlier as the company's joint manager and treasurer. The House of Burgesses represents one facet of a larger scheme to transform the Virginia settlement from a commercial enterprise staffed by company employees into a colony of the British Empire. Officials of the Virginia Company hoped to encourage a sense of permanence and stability by granting land to the residents and providing them with at least the semblance of local governance.

The plan for the Virginia House of Burgesses called for a bicameral body that had the power to create and adjudicate local law. The burgesses could not, however, make laws that affected intercolonial trade, dispute aspects of English common law, or set themselves up in opposition to the monarchy or Parliament. The original body consisted of the Assembly and the Governor's Council. Members of the Assembly were elected by each county's court. The Assembly comprised two representatives per county, who usually were those individuals with the greatest social prestige and the most acreage. The county court consisted of adult male landowners. The members of the Governor's Council were selected in London by the stockholders of the Virginia Company. The councilors made up an elite body of individuals who wielded considerable clout on both sides of the Atlantic. Collectively, the two chambers represented the colony's powerful elite. By the 1660s, the burgesses met annually in two sessions; one took place in the spring of each year, and a second convened in the late fall.

Time Line

1619/1620	■ John Rolfe writes a letter to Sir Edwin Sandys, noting the arrival in Virginia of "20 and odd Negroes" aboard a Dutch warship the previous August.
1624	■ The Virginia Company of London, now nearly bankrupt and beset by litigation, loses its charter, and the Virginia colony reverts to direct royal control.
1625	■ After the accession of Charles I to the throne of England, the Virginia colony is granted a royal charter.
1641	■ Sir William Berkeley is named governor of Virginia.
1642	■ The English Civil War begins.
1647	■ **June** After several decisive military victories, the Roundheads, Puritan rebels led by Oliver Cromwell, take Charles I prisoner.
1649	■ Charles I is beheaded; the Commonwealth Parliament is established, and Oliver Cromwell becomes Lord Protector.
1652	■ Governor Berkeley is removed from office.
1660	■ **May 29** The English monarchy is reinstated with the accession of Charles II to the throne, ushering in the Restoration.
1662	■ Berkeley becomes governor of Virginia again. ■ **December** The House of Burgesses passes twenty-three statutes, one of which, Act XII, is subtitled "Negro Women's Children to Serve according to the Condition of the Mother."

Time Line

1676	■ Bacon's Rebellion erupts on the frontier and results in the razing of Jamestown.
1677	■ Berkeley is removed from office and recalled to England but dies before being able to make a report to the British Crown.

Sir William Berkeley is the better known of the two individuals explicitly associated with Act XII. Like most of Virginia's colonial governors, Berkeley had been born in England. He received his initial appointment to the governorship of Virginia in 1641 and took up residence in the colony in 1642. Commissioned by King Charles I, Berkeley was a firm royalist who supported the monarchy during the English Civil War. He went so far as to offer supporters of the monarchy sanctuary in Virginia. Removed from office in 1652 under threat of imprisonment for treason, he negotiated a compromise that kept him in Virginia and in possession of his estates. After the Restoration began in 1660, he was recommended as governor and served again until his recall in 1677 in the aftermath of Bacon's Rebellion, an uprising of colonists on the frontier against both Native Americans and the ruling white political elite.

Less is known of Captain Robert Wynne. A roster of burgesses present for the sessions of 1661–1663 lists him as the speaker and suggests that he held property in Charles City County, which is located on the north side of the James River roughly equidistant from Jamestown and Henrico. Many of Virginia's earliest settlers resided in this vicinity. His title, captain, was most likely in recognition of his status in the local militias and not an indicator of military rank. His selection as speaker was a mark of respect among his colleagues and gave him some power over the phrasing of the presentation of materials to the body.

Explanation and Analysis of the Document

The House of Burgesses session of December 1662, which produced the statute known as Negro Women's Children to Serve according to the Condition of the Mother, deliberated and acted on a variety of issues. Their discussions included matters concerning the construction of a new "James Citty," or Jamestown, (Act XVI) and laws to deal with debtors in default (Act I). Among their most pressing concerns were those involving bound laborers. During that session alone, the burgesses approved six acts concerning the status of bound laborers.

Act XII, the sixth statute concerning bound servants passed by this body, made an African American child's civil status—whether slave or free—inheritable from his or her mother. As with the other laws dealing with slaves and servants, it is altogether possible that this legislation, rather than being proactive, was passed in response to existing circumstances. As the wording of the act suggests, there had already arisen questions and at least one legal case concerning the status of children born to slaves. In January 1655 Elizabeth Key, a woman born in 1630 to an unnamed African servant and an English father, Thomas Key, filed suit for her freedom on the ground that her father had been a free man. (He had also been a burgess.) The Northumberland County Court ruled in her favor in July 1656.

Act XII is divided into two segments. The first portion deals with the status of children born to African and African American women in the Virginia colony. The second section addresses the issue of sexual intercourse between Africans and Anglo-Americans. The opening clause of the act states: "Whereas some doubts have arisen whether children got by any Englishman upon a negro woman should be slave or free." This suggests that the burgesses were aware that miscegenation, or sexual intercourse between individuals of different races, had occurred in the Virginia colony and that laws concerning the civil status of the offspring of such unions were insufficient. Seventeenth-century English common law clearly delineated children as the recipient of their father's civil status and further noted children as the responsibility of their sires. By the 1660s, Virginians had begun to question those precepts and their corresponding obligations when the female parent was of African descent.

Captain John Smith (Library of Congress)

Essential Quotes

"Some doubts have arisen whether children got by any Englishman upon a negro woman should be slave or free."

"All children borne in this country shall be held bond or free only according to the condition of the mother."

The middle section of the statute begins with a formulaic statement: "*Be it therefore enacted and declared by this present grand assembly*." Virtually every statute passed by the House of Burgesses in this period contained similar, if not identical, phrasing. However, it is the latter part of this section that puts forth the central premise of the act: "All children borne in this country shall be held bond or free only according to the condition of the mother." It placed the offspring of "negro" mothers outside the normal boundaries of English law and made them special cases. It also absolved the fathers of those children of all responsibilities for them or claims to them. A father might have retained some claim over his child only in situations where the mother was free or he was the master of a mother who was his female bound servant. Otherwise, the paternal rights normally jealously guarded by English common law were to be negated when the mother was of African descent by designating the child as the property of the mother's master. No person could claim responsibility for another's chattels.

The last clause of the law calls attention to the perceived problem of sexual intercourse between persons of English and African descent: "*And* that if any christian shall commit fornication with a negro man or woman, he or she so offending shall pay double the fines imposed by the former act." While Virginians of this era disapproved of any form of sexual intercourse outside traditional marriage, miscegenation was considered particularly repugnant, and this portion of the act is an explicit warning against such activity. Justices of the peace levied fines against those found guilty of acts of extramarital sex according to local customs that varied from county to county. Justices often required public penance by the offenders in church as well. In most cases the guilty couple shared responsibility for payment of the fine, or the male assumed the entire debt. In cases of miscegenation, however, the expectationwas that the "christian," a euphemism for an Anglo-American in the statute, would bear the full cost, regardless of his or her gender. Furthermore, it is implicit in the clause's wording that the burgesses did not consider blacks to be Christians but rather heathens.

Audience

There are, in a sense, three separate audiences for this document: the Virginians who created and implemented the statutes, the residents and officials of the larger British Empire who would later model similar legislation on it, and those persons whose actions directly affected female African slaves and their progeny. All three audiences had vested interests in the act's implementation and perceived it differently. Anglo-Virginians perceived the legislation largely as expedient. For large landowners, the inheritability of slaves' status provided a captive labor force that would increase over time. It also clearly defined distinct racial lines between Anglo-Americans and their African slaves. Officials in different areas of the British Empire had similar motives for accepting and adapting the legislation. In England, primarily the members of Parliament and merchants responded to the statute, albeit at a distance. Neither slavery nor its inheritability affected their daily lives. In other British colonies, Anglo-Americans recognized slavery as part of an emerging network of trade and law that governed their access to labor. Africans and African Americans found themselves in the unenviable position of being subject to the law without having had any voice in its passage or implementation.

Impact

For Anglo-Virginians, the statute represented economic pragmatism and implicit racism. In Virginia, tobacco was quite literally money, and larger crops represented larger incomes. In a period when prices had stagnated and then dropped, the only way to increase profits was to cultivate more of the cash crop. The leveling of tobacco prices coincided with a decline in the utility and availability of white indentured servants. Simultaneously, Virginians recognized that the declining mortality rates among new arrivals to the colony made holding servants bound for life more viable than purchasing an indentured servant who would serve for

a limited period of years. Africans were the most vulnerable to being bound for life because they had no voice in the system that created the laws and because of their subservient role in extant Spanish and Portuguese models of labor exploitation. Once slavery for life became a reality, making it a legally inheritable status was the logical conclusion.

People in England had only a limited perception of what African slavery meant or entailed. Those who recognized it at all saw it as an exotic institution and perhaps as a necessary evil. The residents of other British colonies, particularly those in the West Indies, already engaged in similar practices, and their laws existed in a symbiotic relationship with those of Virginia.

For African Americans, whether enslaved or free, the passage of this statute represented the closure of one of the last loopholes that had permitted them and their offspring to escape the institution of slavery. The statute contained elements that would characterize Anglo-American slavery for the next two hundred years. It explicitly acknowledged slavery as an institution in Virginia, limited it to Africans and African Americans, and made it an inheritable condition.

See also John Rolfe's Letter to Sir Edwin Sandys (1619/1620); Virginia's Act III: Baptism Does Not Exempt Slaves from Bondage (1667); Virginia Slave Code (1860).

Further Reading

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Questions for Further Study

1. In colonial Virginia, the need for labor was persistently more pressing than the need for land. Discuss this proposition.

2. Using this document in conjunction with John Rolfe's Letter to Sir Edwin Sandys and Virginia's Act III: Baptism Does Not Exempt Slaves from Bondage, prepare a time line of the most significant events in Virginia's colonial history, particularly as they affected slaves.

3.This document was one of the earliest in Virginia establishing the position of slaves. Among the last was the Virginia Slave Code of 1860. Comparing the two documents and their historical contexts, explain what, if anything, changed in Virginia over the course of two-plus centuries.

4. What specific circumstances led to the passage of Virginia's Act XII?

5. Given that Virginia was a colony of Great Britain and thus subject to Britain's laws, why do you believe Britain tolerated, or ignored, the codification of slavery in its colony?

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—Martha Pallante

Virginia's Act XII: Negro Women's Children to Serve according to the Condition of the Mother

Whereas some doubts have arisen whether children got by any Englishman upon a negro woman should be slave or free, *Be it therefore enacted and declared by this present grand assembly*, that all children borne in this country shall be held bond or free only according to the condition of the mother, *And* that if any christian shall commit fornication with a negro man or woman, he or she so offending shall pay double the fines imposed by the former act.

Virginia's Act III: Baptism Does Not Exempt Slaves from Bondage

1667

"Baptism doth not alter the condition of the person as to his bondage or freedom."

Overview

In 1667 in Jamestown, Virginia, the House of Burgesses approved a statute, Act III of September 1667, that answered the following query: Does the conferring of the Christian sacrament of baptism in any way change the legal status of a slave? The legislators ruled that baptism did not alter a slave's legal status, with the act thus titled "An act declaring that baptism of slaves doth not exempt them from bondage." Their decision, when added to certain previous rulings made concerning the colony's enslaved blacks, revealed a distinct pattern of behavior. Virginia's House of Burgesses slowly, over a period of years, crafted a legal system that identified enslaved blacks and their descendants as a permanent source of cheap labor. Through that process, British colonials sowed the seeds of institutionalized slavery based on race, a system that survived in the Chesapeake region for more than two centuries.

Context

Englishmen made their first attempts to settle the Chesapeake region of North America in the late sixteenth century, a time when Europeans tested one another's limits through fierce competition for dominance over lucrative transatlantic trade routes and the colonization of the Western Hemisphere. British nobles, ill prepared to confront the harsh realities of life in Virginia, were responsible for the failures of the colony's earliest settlements. In 1606, Britain's King James I granted a land charter to investors of the Virginia Company of London, hoping the entrepreneurs would shape the overseas colony into a profitable asset. The company's shareholders placed their money and their faith in the hands of merchants who pledged large profits and proclaimed their intent to Christianize the region's indigenous people.

During this stage of European exploration, the British were not alone in identifying religious conversion as a primary goal of colonization. Most seventeenth-century Christians considered non-Christians uncivilized pagans in desperate need of Christian salvation and a subsequent imposition of European cultural norms. Their beliefs were rooted in the religiously inspired Crusades between western Christendom and Muslims that began in the eleventh century, with the aim of reclaiming the Holy Land. Generally, Europeans viewed the process of colonization as beneficial to all participants involved. The majority of the British colonizers who settled Jamestown belonged to the Anglican Church of England. They understood that proselytizing and profit making were tandem goals of British colonization. However, in practice, Virginia's early Christians spent more of their energy and efforts struggling to survive than preaching for conversion. In 1624 King James I, frustrated with the Virginia Company's mismanagement of the colony, proclaimed Virginia a royal colony and replaced company officials with men of his own choosing. In addition, the king recognized the Anglican Church of England as the colony's prominent religious institution and mandated that all settlers support the church with taxes. Thereafter, Anglican authorities expected their colonial ministers and Virginia's ruling planter class to promote Christianity among their indentured servants and slaves.

Prior to the king's intervention, the Virginia Company of London planned to strategically manage the colony's economic growth. The intent was to export settlers trained in assorted occupations, who would then build and sustain a diverse economy capable of producing stable dividends for investors. However, Virginia was an ocean away in a time of limited means of communication, and the colony's large landholders had their own ideas regarding growth and economics. Virginia planters rejected a diverse economy and instead focused their efforts on the production of a single crop, tobacco. In the seventeenth century tobacco was a popular commodity in Europe. Within a decade of the founding of Jamestown, the tobacco produced by Virginia planters was selling in British and European markets. By the 1620s tobacco planters, motivated by strong sales of the product in European markets, focused their efforts on increased production. Initially, tobacco sales returned good profits for planters. That changed when England insisted the colonies restrict their trade to English markets alone. Britain's restrictive trade policies and an overabundance of tobacco created a glut in the market. By 1660 the price of

Time Line

1606

- King James I of England grants the Virginia Company of London a land charter in North America.

1607

- **May 13**
  Jamestown, Virginia, is settled by English traders.

1619

- **August**
  A Dutch trading vessel arrives in Jamestown, and twenty Africans are sold into slavery.
- **July 30**
  The House of Burgesses convenes in Jamestown.

1624

- The Virginia Company loses its charter, and Virginia is proclaimed a royal colony.
- **March 24**
  The Anglican Church of England is recognized as the colony's dominant denomination.

1640

- **January**
  The House of Burgesses decrees that blacks cannot carry arms.

1641

- Massachusetts legalizes slavery.

1642

- In Virginia, harboring and assisting an escaped slave are ruled criminal acts.
- **March**
  The House of Burgesses passes a tax on black female slaves at a rate comparable to that for male servants thus giving their owners an economic incentive to send them into the tobacco fields to maximize their own gains.

1660

- Virginia legalizes slavery.

1662

- **December**
  Virginia's House of Burgesses makes slavery hereditary according to the mother's status.

tobacco would decline to such low levels that most tobacco planters would spend more years coping with debts than being economically solvent. This turnabout in market prices and reduced profits would leave tobacco planters committed to maintaining a cheap source of labor.

The fact that tobacco is an agricultural product grown in rural environments hindered the development of urban centers in the Virginia colony. The colony's large landholders established independent communities on their tobacco plantations and relied on indentured servants and slaves to fashion the necessities of everyday life. Although the Virginia Company of London set out to build a colony sustained by a stable and diverse economy, many of the early colonial tradesmen and artisans encouraged to settle in Jamestown returned to Britain complaining that they could not find work in their chosen fields. Virginia's economic identity developed into a plantation system of production, and the tobacco planters shared a common goal, to obtain and keep a large labor force at minimum cost in order to secure profits. To meet that goal they looked to three possible sources of labor: They enslaved Native Americans, appealed to the Virginia Company for more indentured servants, and copied the method used by British planters in the Caribbean colonies of Jamaica and Barbados, the increased importation of enslaved West Africans.

British colonials discovered that sustaining a large labor force from enslaved Native Americans was difficult and deadly. Foremost, Native Americans died in staggering numbers from exposure to devastating European diseases. Second, enslaved Native Americans, familiar with the region's natural resources and geographical terrain, proved to be successful runaways who were rarely recaptured. Finally, since their earliest encounters, British colonials considered the indigenous people of the Chesapeake region to be savage and inferior beings. Misunderstandings related to cultural differences and language barriers often ended in acts of violent aggression by both parties. In 1622 a confederation of Native Americans came together and attacked Jamestown, leaving more than three hundred inhabitants dead. Although the attack did not drive the British out of Virginia, it did teach the lesson that Native Americans, if united, were powerful enough to challenge the colony's survival. Colonial tobacco planters turned to their second source for labor and urged company officials in England to supply the great numbers of laborers necessary for successful tobacco production.

The Virginia Company distributed pamphlets and posters advertising Virginia as a land of opportunity. The timing proved advantageous, as Britain's population had increased disproportionate to its economy in the sixteenth century. This uneven growth continued until the middle of the seventeenth century and left in its wake a large class of unemployed and poverty-stricken British citizens. In exchange for their passage, shelter, and food, many of them signed labor contracts and arrived in Virginia as indentured servants bound to a master for a specific number of years. The British government also sanctioned the shipping of convicted criminals and political prisoners to its British colonies for

the purpose of serving out their sentences. With this large influx of laborers, Virginia's planter class could now meet their labor demands.

Throughout the first half of the seventeenth century, the majority of colonial laborers were white indentured servants. Gradually, the steady stream of indentured servants arriving from England slowed in relationship to its economic prosperity and political stability. Over the years, merchants and sailors carried stories of the colony's famines, sicknesses, and deadly conflicts with Native Americans back to England. Their tales refuted the lure of opportunity and discouraged laborers from signing indentures. Britain's colonial holdings were successfully supplying resources and creating markets for English goods. As a result, English laborers could now find jobs in England instead of seeking opportunities in distant colonies. The diminished supply of white indentured servants persuaded tobacco planters to use their third possible source for labor, enslaved West Africans.

Initially, black slaves appeared randomly in small numbers during Virginia's early years. Most of them were transported to the colony either because they were considered unfit for sugar production in the Caribbean or to fulfill a specific request for slaves of a certain age or gender. Often pirates smuggled slaves into the colony, hoping to turn a quick profit. After they were sold, enslaved West Africans worked shoulder to shoulder with whites and small numbers of Native Americans. When the day's work was done, social contact among this diverse labor force spilled over into their private lives and, by extension, into the lives of their communities.

At this time the social order in Virginia was divided by class, not race. Economic assets and royal pedigrees determined a person's status in the community. Under this system Virginia's most marginalized class was the landless working class of indentured servants and slaves. Away from work, in their private worlds, this mix of people created friendships, engaged in recreational activities, maintained intimate relations, married, and had children. While struggling to survive colonial hardships, they found common bonds they could share. As time went on, former servants and some slaves who acquired their freedom through various means carved out new lives for themselves in the colonial wilderness. Although class boundaries were apparent in the first half of the seventeenth century, white legislators had not yet cemented racial boundaries into legal statutes. A small number of blacks managed to take advantage of the fluidity and became small landholding farmers of the yeoman class with servants and slaves of their own. Their successes demonstrated to enslaved blacks that opportunities existed if they could find a way out of slavery.

West Africans of various ethnicities understood slavery through their own life experiences. While slavery in any form is rarely a desirable state of existence, West African norms permitted slaves, over time, to assimilate into their enslaver's extended family unit either through marriage or by proving themselves to be extremely valuable assets. That is not to say that all slaves in West African societies had such opportunities; it is just an acknowledgment that the

Time Line

1664	■ Maryland acts to stop slaves from claiming that English common law forbids the enslavement of Christians.
1667	■ **September** The Virginia House of Burgesses decrees that Christian baptism does not transform the legal status of a slave.
1669	■ **October** The Virginia House decrees that killing a slave while administering punishment is not a criminal act.
1670	■ The House of Burgesses recognizes that a slave's condition is for life.

slaves of early colonial Virginia came from a world where to be enslaved was not necessarily a life sentence. Enslaved blacks surely found the conditions of servitude in Virginia harsh and at times unbearable, as evidenced by their regular efforts to resist their enslavement. One means of resistance repeatedly documented was to challenge the legality of captivity by petitioning the colony's courts for freedom. In the first half of the seventeenth century, the possibility of successfully maneuvering through and out of the permeable boundaries of slavery still existed. Choosing to convert to Christianity was one of the paths black slaves hoped would lead to freedom.

White Anglican ministers were generally unsuccessful at persuading blacks to abandon their chosen faith and embrace Christian ideals. Most enslaved West Africans arrived in the Western Hemisphere practicing Islam or one of the many indigenous faiths of their homelands. They demonstrated little interest in adopting the faith of the white planter class that held them in bondage and governed the colony. Still, small numbers of black slaves did accept the sacrament of baptism and converted to Christianity. Their reasons for doing so are explained by colonial court records that detail petitions filed by blacks who challenged their legal status as slaves, arguing it was unlawful, under English common law, to enslave a fellow Christian. For those slaves, adopting the religion of one's master was simply a means to an end and little different from wearing European dress or learning to speak English. Freedom was their ultimate goal, and, drawing on their West African understanding of slavery, assimilation was their means.

As fellow Christians, enslaved blacks believed they shared a common bond with their owners, a bond that they could use as a path to freedom. Baptism was a documented event, written into church ledgers and sometimes baptismal

Cultivation of tobacco in colonial Virginia (AP/Wide World Photos)

certificates. The ceremony's rituals and subsequent recording lent an air of validation to the act; it also presented the possibility of entering into something more than the state of enslavement. The process of conversion was a public invitation into a community of believers who shared ceremonial and spiritual bonds. As communal members, enslaved blacks felt justified in challenging their legal status. The colonial courts and legislators were faced with a dilemma. Some slaves had already won their freedom by proving they were Christians. If that trend continued, it was likely that slaves throughout Virginia might join the Anglican Church in record numbers. In addition, awarding freedom for conversion acknowledged equality, at least in the sphere of religion. That could set a precedent for equality in colonial political and economic institutions.

Virginia's white legislators were not alone in their struggle to define a legal relationship between conversion and bondage. Maryland's legislators ruled on the issue in 1664. In many British colonies, legislators were dealing with judicial challenges from enslaved blacks who were seeking legal loopholes for gaining their freedom. Virginia's legislators ruled in 1667 that converting to Christianity through the sacrament of baptism did not change the legal status of a slave. Their decision echoed the choice made by legislators in Maryland. Through that ruling, Virginia's lawmakers created two distinct categories of Christians, free and enslaved. That black slaves living in the colony understood the path to freedom through conversion was closed is evident in the low numbers of slaves who converted to Christianity over the next five decades. The majority of black slaves generally avoided Christianity until the middle of the eighteenth century, when evangelical Protestants interjected some semblance of equality into the religious practices of the First Great Awakening.

About the Author

The white men who voted to legalize the 1667 Virginia statute regarding slavery and Christian conversion were members of the House of Burgesses. The governing body was the first representative political assembly established in

Essential Quotes

"It is enacted and declared by this grand assembly, and the authority thereof, that the conferring of baptism doth not alter the condition of the person as to his bondage or freedom."

a British colony. In 1619 the General Assembly convened for its initial session in Jamestown, Virginia. The political body consisted of a governor and several appointed council members selected by the officials of the Virginia Company of London. In addition, individual settlements in the colony were permitted to send two elected representatives called burgesses to Jamestown. Only landholding freemen were allowed to vote for the burgesses. For most of its existence, the men who served in the colonial assembly shared common bonds of wealth and race. In 1624 the colony's representative government was placed under royal control, and the governor and council members were chosen by the king. Although certain historical events in England influenced the development of the colonial governing body, the impact was minimal owing to the geographical distance. In general, the House of Burgesses independently shaped the colony's legal, economic, and social foundations. The representative assembly was also responsible for drafting membership requirements and regulating the colony's tax system. In 1776, during the American Revolution, the House of Burgesses evolved into the Virginia House of Delegates.

Explanation and Analysis of the Document

When the British crossed the Atlantic Ocean and claimed what they considered a new world, they arrived with their cultural norms intact. The negative relationships they constructed with coastal Native Americans exposed their long-held views of English superiority. Furthermore, that sense of entitlement or ethnocentrism also tainted their dealings with free and enslaved colonial blacks. An examination of Virginia's earliest records reveals that before legislators recognized slavery as a legal institution, whites had various ways of marking blacks as a different class of people. The clerks who wrote in the census books identified blacks by name and race. There were no racial identities given for white settlers, only names. In several court cases where black and white individuals were convicted of committing the same crime, white judges sentenced blacks to harsher physical punishments. Gradually, blacks were identified in legal records using only their first names, as if their surnames were somehow irrelevant and unnecessary.

Masters marked black female slaves as being different from white female servants by assigning only black females to work in the tobacco fields. In small increments whites labeled blacks as second-rate and unusual in a negative way. As time passed, the social contact and sexual intimacy that was so ordinary between black and white laborers in the colony's early years ended. Instead, sexual relationships between the races drew condemnation and social ostracism for whites and physical punishments for blacks. British ethnocentrism reached its legal pinnacle in Virginia in 1669 when the House of Burgesses declared no criminal charges would be filed against a master who killed a slave while administering punishment. Clearly, whites had decided that blacks were disposable commodities. All of the actions mentioned—certainly not a complete list—leave little doubt that most white colonials considered West Africans to be inferior creatures and structured the social norms of Virginia society to ensure white racial supremacy.

Thus, in the first half of the seventeenth century, whites consolidated their control over the lives of free and enslaved blacks. Blacks responded with determined will and crafted overt and covert means of resistance. Too often the success of their challenges was curbed by their limited access to political and economic power. Repeatedly, the steps taken by the colony's legislators demonstrate their actions were responses to enslaved blacks who persisted in pressing for liberty. In 1656 Elizabeth Key petitioned the courts for her liberty on the ground that she had inherited the free status of her father. Key also let it be known that she was a Christian. Traditionally, English common law validated paternal hereditary claims and supported the enslavement of non-Christians who were identified as infidels. Elizabeth Key was not the only slave in the colony who thought being Christian offered an opportunity for freedom.

Conversion to Christianity was an open door to freedom that legislators decidedly closed and, in that process, continued their pattern of legally ensuring a sizable supply of inexpensive labor for tobacco production. Simultaneously, the act encouraged slaveholders to Christianize slaves while reaffirming the Crown's intent to build Christian colonies. With the passage of the 1667 statute, Virginia's burgesses reminded the colony's slaveholding taxpayers that they were expected to contribute to more than just the fiscal support of the colonial Anglican Church, something they had done through taxes since 1624. The law regarding the baptism of slaves called for the "propagation" of new members. The act identified slaveholders as additional sources to share

the responsibility for the religious training and conversion of black slaves. Slaveholders were expected to seed the growing colony with Christian laborers obedient to their masters.

Audience

The statutes passed by the House of Burgesses were legal measures designed to regulate and control the various groups of people living in the colony. The statute on baptism passed by the colonial assembly in 1667 was directed at slaveholders and constructed judiciary restraints designed to legally clarify that religious rites of passage carried no legitimate secular weight. Since newspapers did not appear in the Virginia colony until the eighteenth century, the majority of its inhabitants would have learned of the 1667 statute through verbal means. Although some colonists corresponded through letters, most colonists shared their news by discussing various topics in taverns, shops, and churches. News from the colonial legislature was also carried from farm to farm by merchants, family, and friends.

Impact

Prior to 1667, masters hesitated to convert their slaves, owing to the uncertainty concerning whether baptism altered a slave's legal status. The ruling of the General Assembly finally cleared the ambiguity surrounding conversion. During the second half of the seventeenth century and forward, Anglican ministers continued to encourage masters to convert slaves, arguing that Christianity would make a slave humble, obedient, and less likely to dispute enslavement. The Church of England, like most Christian institutions at that time, found no contradiction between slavery and Christian principles. Once slave owners understood that conversion was not a threat and, at its best, might be a tool to strengthen their control over slaves, they encouraged slaves to convert. In addition, the ruling offered greater financial security to tobacco planters, in that it protected their investments. Every time colonial legislators passed a law that benefited a slave owner, they were encouraging the expansion of Virginia's slave population.

For enslaved blacks the 1667 statute regarding conversion was yet one more obstacle Virginia legislators designed and implemented to preserve the colony's supply of cheap labor. By the second half of the seventeenth century it was apparent to colonial blacks, both free and enslaved, that the political power in Virginia rested with the large landholders, who were also the lawmakers. The choices made by planters in the colony's founding years to reject a diverse economy in favor of quick returns from the lone crop of tobacco set the stage for the birth of institutionalized slavery in Virginia. Through the remainder of the century the House of Burgesses continued to pass restrictive laws that marginalized West Africans and their African American descendants. Such laws must have been discouraging to enslaved blacks, but the laws failed to stop them from pursuing alternate avenues to freedom. Throughout Britain's North American colonies, enslaved blacks continued to petition courts for their liberty while simultaneously resisting and refusing to assimilate into the inferior identities that were crafted for them by colonial whites. British ethnocentrism defined the roles that the historical actors would play in a drama full of human suffering and freedom struggles that did not end until the American Civil War.

See also John Rolfe's Letter to Sir Edwin Sandys (1619/1620); Virginia's Act XII: Negro Women's Children to Serve according to the Condition of the Mother (1662).

Questions for Further Study

1. In what specific ways did agriculture in the Virginia colony contribute to the development of the slave system and the social system that supported it?

2. In its early years, the Virginia colony was marked by dissension, mismanagement, and other assorted ills. Using this document in conjunction with John Rolfe's Letter to Sir Edwin Sandys, outline the problems Virginia faced and how the authorities tried to solve them.

3. What social circumstances involving indentured servants, Indians, and slaves in early Virginia led to Virginia's Act III: Baptism Does Not Exempt Slaves from Bondage?

4. What factors entered into the Virginia House of Burgesses' deliberations about the relationship between bondage and conversion to Christianity?

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—Mary Lou Walsh

Document Text

Virginia's Act III: Baptism Does Not Exempt Slaves from Bondage

Whereas some doubts have arisen whether children that are slaves by birth, and by the charity and piety of their owners made partakers of the blessed sacrament of baptism, should by virtue of their baptism be made free; It is enacted and declared by this grand assembly, and the authority thereof, that the conferring of baptism doth not alter the condition of the person as to his bondage or freedom; that diverse masters, freed from this doubt, may more carefully endeavor the propagation of Christianity by permitting children, though slaves, or those of greater growth if capable to be admitted to that sacrament.

Bas-relief of Francis Pastorius (Library of Congress)

"A Minute against Slavery, Addressed to Germantown Monthly Meeting"

1688

"Is there any that would be ... sold or made a slave for all the time of his life?"

Overview

On February 18, 1688, Quakers met in Germantown, Pennsylvania, located about five miles northwest of Philadelphia, and issued the first known statement in British North America proclaiming the evils of slavery and urging the abolition of the institution. The petition, titled "A Minute against Slavery, Addressed to Germantown Monthly Meeting," raised points that would become the basis for eighteenth-century arguments for the abolition of slavery: It violated the Golden Rule, to do unto others as you would have done to you; it was theft; it inspired the growth of vices such as adultery and caused family dissolution; it detracted from the humanity of the owner; and it presented the constant threat of insurrection and rebellion by those enslaved.

The members of the Germantown Monthly Meeting drafted the resolutions in accordance with their interpretations of the belief system governing Quakers throughout the colony. Part of the most radical faction of the Protestant Reformation, Quakers acknowledge the primacy of following the divine presence known as the Inner Light and, as a consequence, relegate man-made dogmas and rites to lesser significance. The group also adheres to the concept of the "brotherhood" of all individuals and the basic equality of all souls. Finally, they agree that individuals can and should work to remove all taint of sin from their souls and their lives while on earth. The significance of their beliefs and their desire to put into practice what they preach is evident in the Germantown Quakers' statements condemning slavery.

Context

The colony in which the Germantown protesters lived was unique in many ways. Pennsylvania, meaning "Penn's Woods," owed its existence to William Penn (1644–1718) and his plans for a "Holy Experiment." Penn, a member of the English elite and the son of Admiral Sir William Penn, became enamored of radical Protestant theology at the University of Oxford and converted to Quakerism at the age of twenty-three under the guidance of Thomas Loe, an itinerant Quaker minister. The Religious Society of Friends, or Quakers, had organized in England during the Commonwealth period (when England was governed by Oliver Cromwell as Lord Protector rather than a king), around the spiritual teaching of George Fox, to emerge as an identifiable entity in 1652. Similar to other Anabaptist sects appearing in Europe at the same time, the Friends emphasized deep personal and spiritual connections to God, the brotherhood of all humans, pacifism, and the possibility that individuals could achieve grace and perfection of the soul while on earth. Quakers, Mennonites, Moravians, Dutch and German Reformists, and pietistic Lutherans, among others, reject Trinitarian doctrines (belief in the unity of three persons in one god), the validity of man-made dogmas and creeds, and an organized clergy. In most places, with the exception of the Netherlands, Anabaptists were deemed heretics and persecuted on that basis.

Penn, who was politically protected by his status and family connections, recognized the vulnerability of those less fortunate than he and sought to provide safe refuge for persecuted believers. In 1681 he used his ties to the British Crown to acquire a proprietary grant for the territory west of the Delaware River in exchange for a debt of £16,000 owed to his father, and on February 28, 1681, Charles II signed the Charter for the Province of Pennsylvania. Penn clearly understood the similarities and common plight of Quakers and other Anabaptist communities in mainland Europe, and he recruited heavily among them for immigrants to his "Holy Experiment." By 1685 nearly eight thousand religious dissenters had joined Penn's colonial venture. His plan called for broad-based religious toleration and the disestablishment of the church from the state. This made his colony particularly attractive to radical reformers in the Rhineland region, whence the settlers destined for Germantown originated. The disassociation of faith from the structures of governance—combined with the general lack of religious uniformity and the Quakers' and other Anabaptists' emphasis on the Inner Light and independent searching for answers and moral guidance—brought about a colonial system where community morality was adjudicated by civil rather than religious authorities, and individuals were charged with the responsibility of moving their communities toward moral and ethical ideals.

Time Line

1681

■ **February 28**
King Charles II signs the Charter for the Province of Pennsylvania, which William Penn intends to be a safe haven for those suffering religious persecution.

1683

■ **May–June** The Frankfort Land Company, organized by German Pietists with Francis Daniel Pastorius as their agent, purchases land from Penn.

■ **October**
A number of original immigrants, including Pastorius and the Opden Graff brothers, arrive in Germantown, Pennsylvania.

■ The Germantown Quaker meeting is organized and begins gathering in local homes.

1685

■ Gerhard Henderich immigrates with his family to Germantown.

1688

■ **February 18**
Antislavery resolutions, signed by Pastorius, Henderich, and Derick and Abram Opden Graff, are issued as "A Minute against Slavery, Addressed to the Germantown Monthly Meeting."

1692-1694

■ The Keithian schism splits the Quaker meetings of Pennsylvania and drives many adherents from the faith, including many of the Germantown cohort.

Despite the fact that the residents of Germantown were inhabitants of an Anglo-American colony established by royal charter, the members of their community and their meeting were not English but rather German and Dutch. The immigrants to the community consisted in large part of pietistic Germans recruited by the Frankfort Land Company, established in 1683, and of Germans and Dutch Quakers organized separately from the town of Krefeld, in the Rhineland region, along the border between the German principalities and the Netherlands. The groups' acknowledged leader, Francis Daniel Pastorius, a pietistic Lutheran, represented the Frankfort Land Company as its legal agent and was the only member of the company to venture to Pennsylvania. He organized and recruited many of the original settlers and collaborated heavily with the Krefeld contingent; he was thus in many ways the architect of the company's Germantown settlement. They had dual goals for their experiment: They sought both to establish a spiritual and physical haven for other radical religious reformers and to ensure the success of their financial investment.

Between 1683 and 1690 the stable core of the Germantown community consisted of the households of thirteen of the original Krefelders—twelve of whom were Quakers. Earlier scholarship suggested that the composition of this cohort was Mennonite, a version of German Anabaptists, in origin, but more recent evidence indicates that they were not Mennonite at this time; although several would abandon Quakerism for Mennonite ideals after the schism led by George Keith in 1692, during the 1680s they were professing Quakers. Shortly after their immigration to the colony and by the end of 1683, the leaders of the Germantown community organized their own Quaker meeting under the guidance of Pastorius. The group affiliated with the larger Philadelphia Monthly Meeting during 1684 and with the Abington Quarterly Meeting, located in New Jersey and the oldest and superior meeting of the region, by 1688.

When the Quaker meeting at Germantown issued "A Minute against Slavery, Addressed to Germantown Monthly Meeting" in 1688, the group operated within a societal framework that was for the seventeenth century remarkably flexible and heterogeneous. In Germantown alone, there resided individuals hailing from several distinct German and Dutch communities as well as English immigrants. Virtually all of the inhabitants practiced some form of radical Protestantism; there were German Lutheran Pietists, German Reformists, and Dutch and English Quakers.

About the Author

While the antislavery resolutions were intended as a general statement from the Quaker meeting at Germantown to the affiliate Dublin Monthly Meeting, it was signed by four specific members of the group: Gerhard (or as signed in the text, "Garret") Henderich, Derick Opden Graff ("up de Graeff"), Francis Daniel ("daniell") Pastorius, and Abram Opden Graff ("Abraham up Den graef"). Pastorius, perhaps the most famous of the quartet, represented the interests of the Frankfort Land Company. The two Opden Graffs were part of the original Krefeld contingent, while Henderich arrived in 1685.

Pastorius, the son of a burgher, was born in 1651 and grew up in an urban and commercial atmosphere. He attended four universities and was well traveled. By the 1680s he was practicing law in Frankfurt am Main. Pastorius was familiar with William Penn even before his arrival in Pennsylvania, having frequently served as the liaison between the residents of Germantown and the colony's bureaucratic structures. He also became well acquainted with the colony leaders David Lloyd and James Logan,

and he shared their vision of Pennsylvania as a commercial and mercantile venture. Similarly, he recognized the value of Pennsylvania as a refuge for western Europe's most radical Protestant reformers, the Anabaptists. Pastorius encouraged the inhabitants of Germantown to adapt to their new environment. He suggested that his fellow immigrants learn and practice English, familiarize themselves with English laws and systems of governance, and intermingle with the larger English population of the colony. Pastorius played a leading role in the organization and recognition of the Germantown Monthly Meeting and actively encouraged its correspondence and affiliation with others throughout the region. He continued to serve as spokesperson and promoter for Germantown and the larger colony until his death in 1720.

Derick and Abram Opden Graff were two of three brothers who emigrated from Krefeld to Germantown in July 1683. According to the contract negotiated in Rotterdam between William Penn and Jacob Telner, Jan Streypers, and Dirck Sipman on March 10, 1683, the proprietor promised the signers five thousand acres of land each in exchange for a guarantee of settlement. The Opden Graff trio received two thousand acres of land from Telner, after the contract was signed. The third brother, Herman, agreed to act as agent for Sipman, another Krefeld landholder who never ventured to Pennsylvania. Later that summer, Derick, Abram, and Herman Opden Graff, along with thirty other Krefelders closely tied by blood and marriage, immigrated to Pennsylvania. The brothers were among the original membership of the Germantown Quaker meeting organized later that year and housed by 1686 in the Kirchlein, a log meetinghouse.

Gerhard Henderich is the member of the group about which the littlest is known. He arrived in Germantown in 1685 on either the *Francis* or the *Dorothy* along with a number of other German and Dutch immigrants. Henderich, accompanied by his wife, Mary, and daughter, Sarah, originated in Krisheim, a community near Krefeld on the Dutch side of the border. Claiming two hundred acres purchased from Sipman upon his arrival, he was by 1688 a substantial member of the Germantown community. As a Dutch Quaker, he, too, aligned himself with the heterogeneous Quaker meeting at Germantown. By 1692, Derick and Abram Opden Graff had parted ways as the consequence of a larger religious controversy, the Keithian schism, which debated the corruption of Quakers in Pennsylvania by secular concerns. Abram, aligning with the Keithians, left Germantown for Perkiomen, the Dutch township. In 1704 Abram Opden Graff, as the last surviving of the brothers, sold the remaining 828 acres of land in Germantown. Of Henderich there is little mention after 1693, when he was recorded on a Germantown tax list.

Explanation and Analysis of the Document

The Germantown Quakers' Monthly Meeting felt an obligation to protest against what they perceived as immorality surrounding them. The Rhinelanders, coming from a situation in Europe in which they were actively hounded and disenfranchised for their beliefs, were particularly sensitive to the plights of others they saw as mistreated simply on the basis of who they were. In creating "A Minute against Slavery" they acted in accord with their belief system, which requires Quakers to seek independent answers to pressing social issues, to strive for moral perfection, and to abjure violence.

William Penn (Library of Congress)

The authors of the Germantown protest—Pastorius, the Opden Graffs, and Henderich—open their statement with the title "A Minute against Slavery, Addressed to Germantown Monthly Meeting." Here, *minute* refers to a formal record of matters of importance to the writers, often for a superior audience and especially in the context of a meeting. In this case, the authors drafted a statement of their arguments against slavery at the Germantown Monthly Meeting, for formal presentation at the regional Monthly Meeting held at Richard Worrell's house in Dublin Township, Bucks County. The authors proceed to voice their protests against slavery and to present evidence supporting their points. Their prefatory statement, "These are the reasons why we are against the traffick of men-body," clearly indicates their intent: They oppose the selling, buying, and use of human beings as slaves.

The first point raised by the Germantown protesters echoes the Golden Rule. They ask their audience, "Is there any that would be done or handled at this man-

Essential Quotes

"Is there any that would be done or handled at this manner? viz., to be sold or made a slave for all the time of his life?"

(Paragraph 1)

"Now, tho they are black, we can not conceive there is more liberty to have them slaves, as it is to have other white ones. There is a saying that we shall doe to all men like as we will be done ourselves; making no difference of what generation, descent or colour they are."

(Paragraph 1)

"In Europe there are many oppressed for conscience sake; and here there are those oppressed who are of a black colour."

(Paragraph 1)

"Pray, what thing in the world can be done worse towards us, than if men should rob or steal us away, and sell us for slaves to strange countries; separating husbands from their wives and children. Being now that this is not done in the manner we would be done at therefore we contradict and are against this traffic of men-body."

(Paragraph 1)

ner? viz., to be sold or made a slave for all the time of his life?" In other words, they ask their fellow colonists how many of them would appreciate being taken and sold into permanent bondage without their consent. They remind their readers of the fear inspired by the Turks and their practice of taking Christian captives in eastern Europe and around the Mediterranean basin, and they ask if Africans facing the same danger should feel less terror or believe themselves less wronged. A bit later in the document the authors will return to this theme, suggesting that the racial origin of slaves should not be a factor in determining the morality of enslaving others. Here they affirm,

> Now, tho they are black, we can not conceive there is more liberty to have them slaves, as it is to have other white ones. There is a saying that we shall doe to all men like as we will be done ourselves; making no difference of what generation, descent or colour they are.

Thus the Germantowners explicitly invoke the Golden Rule and make reference to issues of race and equality, emphasizing the obligation to treat others, no matter how different, as they themselves would wish to be treated. They return to this point a final time in drawing a very specific comparison between the plight of those abused for the nature of their faiths—"for conscience sake"—in Europe and the plight of "those oppressed who are of a black colour" in America.

Next the protesters turn to two issues they perceive as threats to the morality of the enslavers: their participation in theft and the temptations of vice. Opening their argument on this point, they characterize those who take slaves as thieves and those who purchase the captives as accomplices, stating, "And those who steal or robb men, and those who buy or purchase them, are they not all alike?" The Germantowners suggest that in Pennsylvania there is "liberty of Conscience," or freedom of faith, as well as freedom of "body"; thus, to steal and sell the body of a person without

consent is a sin that they, the members of the meeting at Germantown, must oppose. Later in the opening paragraph they return to this point and emphasize their obligation to stop such behavior, contending, "And we who profess that it is not lawful to steal, must, likewise, avoid to purchase such things as are stolen, but rather help to stop this robbing and stealing if possible." Here, their argument reaches its most radical and far-reaching point. They continue by suggesting, in accord with Christian obligation, not only that the trafficking of human beings should be stopped but also that the unlawfully enslaved "ought to be delivered out of ye hands of ye robbers, and set free" everywhere. This is a clear denunciation of the slave trade and of slavery in general; it is a call to abolition.

In the course of the first paragraph, the authors also worry about the exposure of their brethren to other vices, in particular those associated with the sanctity of marriage and the family. They argue that slavery presents the opportunity for adultery. They specifically cite the evils of "separating wives from their husbands and giving them to others." They also refer to the consequences of family dissolution imposed when the offspring of slaves are sold away from their parents. The petitioners warn their audience that Christians ought not do such things, not simply because they are sins but also because those actions damage the image of the colony and threaten the morality of the whole Pennsylvania enterprise.

The Germantown protesters proceed to question both the inhumanity of slavery and the appearance of their colony in the eyes of the larger world should they permit the institution to flourish within their boundaries. They challenge the morality of all who engage in the institution of slavery, condemning not only those who own slaves and profit from their unlawful labors but also those who join in the buying and selling of slaves. The petitioners then point out that Europeans pay attention to the residents of the colonies and judge their behaviors, and they ask what the nature of European opinions will be when "they hear of, that ye Quakers doe here handel men as they handel there ye cattle." The Germantowners then profess doubt regarding any possible defense against such judgments. In their eyes, slavery violates the most basic of Christian tenets—treat others as you wish to be treated—and they can find no way to "maintain this your cause, or pleid for it." They also imply that colonists who participate in slavery exceed the European evils of religious and political oppression through their sinful treatment of their fellow men. Drawing on their own experiences, they suggest to those Christians engaged in slavery, "You surpass Holland and Germany in this thing"—in the mistreatment of their fellow human beings. The protesters close the opening paragraph with clear opposition to the reduction of Africans to objects to be bought and sold and used as chattel. Referring to how morality is skewed by the presence of slavery in society, they state in closing, "Europeans are desirous to know in what manner ye Quakers doe rule in their province;—and most of them doe look upon us with an envious eye. But if this is done well, what shall we say is done evil?"

The second paragraph of the protest contains a warning of a different sort, one that is nearly prophetic in its content. It is a statement concerning the ongoing dangers of holding men in bondage against their wills. The Germantowners here assume the slaveholders' arguments and turn them against those who employ slaves. Owners, supporting permanent bondage of Africans, voice the notion that their slaves represent the basest of all human beings and need to be enslaved. The authors thus ask what would stop these "wicked and stubbern men" from aggressively seeking their liberty and thereupon using "their masters and mastrisses as they did handel them before." The authors go on to ask slaveholders if they would then rebel against the injustice of permanent servitude, wondering, "have these negers not as much right to fight for their freedom, as you have to keep them slaves?" These questions touch on the deepest fears of slave owners and foreshadow the slave rebellions brewing on the horizon. The Germantowners are furthermore expressing concerns over the bearing of arms in response to the threat of revolt. Ingrained in the Quaker belief system is a commitment to pacifism. The petitioners question the ability of slave-owning Quakers to resist the temptation of defending themselves, by taking "the sword at hand," in the case of an insurrection.

The argument closes in the third paragraph with a formal request to be informed of the regional meeting's findings concerning their protests. In good Quaker fashion, they state, "And in case you find it to be good to handle these blacks at that manner, we desire and require you hereby lovingly, that you may inform us herein." They do not demand that their counterparts, meeting at Richard Worrell's house in Dublin, support their cause but rather request that the members of the Dublin Meeting search their consciences and report their findings. They note that up to this point no religious authority had defined the Christian legitimacy of slavery; thus, they in Germantown needed guidance and answers to their questions. They also hoped to calm the fears of their brethren back in their "natif country"—that is, both Germany and Holland—"to whose it is a terror, or fairful thing, that men should be handeld so in Pennsylvania."

"A Minute against Slavery" concludes as it begins, by formally addressing the protests to the next regional Monthly Meeting at Worrell's house. The four signers of the document—Henderich, Pastorius, and the two Opden Graff brothers—follow in no particular order and with no reference to rank or status within Germantown. This presentation is very Quakerly, in that it privileges none of the participants and so emphasizes their equality. The four were, perhaps, more important for what they represented about their community. Although not indicated in the document, Pastorius's name carried considerable weight beyond Germantown, and any petition from the community without his support would have been treated with greater suspicion. The other signers represented the diversity of Germantown and its possible factions. The Opden Graffs were German in origin and among the first wave of colonists. Henderich represented the Dutch voices in the meeting and was a fairly recent arrival. Together the men embodied the larger population of their community.

Audience

The intended audiences of "A Minute against Slavery" were the Monthly, Quarterly, and Yearly Meetings of Pennsylvania and New Jersey with which the Germantown Quakers' meeting was affiliated. In the document itself, the Germantowners address themselves specifically to the "Monthly Meeting held at Richard Worrell's." This gathering at Dublin, in Bucks County farther north of Philadelphia, had been settled in the initial movement to the colony, and its residents came primarily from the British Isles. They reviewed the Germantown petition on February 30, 1688, and chose not to act on it but rather to forward it to the Quarterly Meeting with which they were affiliated. Their response, signed by P. Joseph Hart, states, "We find it so weighty that we think it not expedient for us to meddle with it here, but do rather commit it to ye consideration of ye Quarterly meeting." On April 4, 1688, that meeting, lodged in Philadelphia, agreed on the gravity of the questions raised and in turn referred the protest to the Yearly Meeting to be held in Burlington, New Jersey, on July 5, 1688. The reaction of the meeting at Burlington is ambiguous. They recognize "a Paper being here presented by some German Friends Concerning the Lawfulness and Unlawfulness of Buying and keeping Negroes" and consider it "not to be so proper for this Meeting to give a Positive Judgment in the case, It having so General a Relation to many other Parts." That is, given their connections, commercial and personal, with slaveholding regions and individuals, they indefinitely tabled the petition.

There also existed a secondary audience for the resolution: those who in the following decades would read or refer to it. While the Germantown Quakers' immediate readers and listeners in the affiliate meetings might have rejected their petition by refusing to act upon it, the ideas that they put forth could not be permanently ignored.

Impact

The immediate impact of "A Minute against Slavery" was negligible. Those meetings petitioned by the Germantown cohort refused to act on the resolutions, instead passing the petition on to the succeeding affiliate meeting or, in the case of the Burlington meeting, postponing action on the measure. The protest did, however, foreshadow the wider emergence of antislavery sentiments in Pennsylvania's Quaker communities. By 1750 there would be at least fifteen such Anglo-American statements against slavery, nearly all authored by Quakers. The earliest of these succeeding statements was issued at a 1696 Yearly Meeting wherein the membership strongly discouraged engagement in the slave trade; in 1715 that same Pennsylvania body made participation in slavery an offense subjecting the member to expulsion from the meeting. While such an action had no legal standing, a Friend's exclusion from Quaker circles in Pennsylvania would have been a serious matter in the colonial era.

What is particularly interesting about the Germantown protest is how accurately the members defined what would become the most politically significant arguments against slavery. They drew on their belief system to construct the condemnation of an institution they considered morally and spiritually repugnant. Germantown's Quakers asked their fellow worshippers to acknowledge their own beliefs in the brotherhood of all humanity, in the obligation to strive for moral perfection, and in the Golden Rule. They also warned their audiences of the consequences of failure to join them in renouncing the institution of slavery: slave owners and holders invited and would suffer the approbation of their European counterparts, the burdens and temptations of sin, and the threat of rebellion.

See also John Woolman's *Some Considerations on the Keeping of Negroes* (1754).

Questions for Further Study

1. Why—and how—did the Quakers become the leaders of the abolitionist movement in the seventeenth and eighteenth centuries?

2. In what way was the Pennsylvania colony ethnically distinct from the other American colonies? How and why did this occur? What impact did this difference have, if any, on the early abolition movement?

3. On what basis did the men who signed the minute oppose slavery?

4. Why do you believe the audience for "A Minute against Slavery" refused to act on it?

5. Compare this document with John Woolman's *Some Considerations on the Keeping of Negroes* (1754). What similar arguments are made? How do the documents differ?

Further Reading

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http://www.quakerinfo.org/history/slavery.html.

"Excerpts from Frame of Government of Pennsylvania, by William Penn, 1682." Constitution Society Web site.
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—Martha Pallante

"A Minute against Slavery, Addressed to Germantown Monthly Meeting"

This is to ye Monthly Meeting held at Richard Worrell's

These are the reasons why we are against the traffick of men-body, as foloweth. Is there any that would be done or handled at this manner? viz., to be sold or made a slave for all the time of his life? How fearful and faint-hearted are many on sea, when they see a strange vessel,—being afraid it should be a Turk, and they should be taken, and sold for slaves into Turkey. Now what is this better done, as Turks doe? Yea, rather it is worse for them, which say they are Christians; for we hear that ye most part of such negers are brought hither against their will and consent, and that many of them are stolen. Now, tho they are black, we can not conceive there is more liberty to have them slaves, as it is to have other white ones. There is a saying that we shall doe to all men like as we will be done ourselves; making no difference of what generation, descent or colour they are. And those who steal or robb men, and those who buy or purchase them, are they not all alike? Here is liberty of conscience wch is right and reasonable; here ought to be liberty of ye body, except of evil-doers, wch is an other case. But to bring men hither, or to rob and sell them against their will, we stand against. In Europe there are many oppressed for conscience sake; and here there are those oppressed who are of a black colour. And we who know that men must not comitt adultery,—some do committ adultery, in separating wives from their husbands and giving them to others; and some sell the children of these poor creatures to other men. Ah! doe consider will this thing, you who doe it, if you would be done at this manner? And if it is done according to Christianity? You surpass Holland and Germany in this thing. This makes an ill report in all those countries of Europe, where they hear of, that ye Quakers doe here handel men as they handel there ye cattle. And for that reason some have no mind or inclination to come hither. And who shall maintain this your cause, or pleid for it. Truly we can not do so, except you shall inform us better hereof, viz., that Christians have liberty to practise these things. Pray, what thing in the world can be done worse towards us, than if men should rob or steal us away, and sell us for slaves to strange countries; separating husbands from their wives and children. Being now that this is not done in the manner we would be done at therefore we contradict and are against this traffic of men-body. And we who profess that it is not lawful to steal, must, likewise, avoid to purchase such things as are stolen, but rather help to stop this robbing and stealing if possible. And such men ought to be delivered out of ye hands of ye robbers, and set free as well as in Europe. Then is Pennsylvania to have a good report, instead it hath now a bad one for this sake in other countries. Especially whereas ye Europeans are desirous to know in what manner ye Quakers doe rule in their province;—and most of them doe look upon us with an envious eye. But if this is done well, what shall we say is done evil?

If once these slaves (wch they say are so wicked and stubbern men) should join themselves,—fight for their freedom,—and handel their masters and mastrisses as they did handel them before; will these masters and mastrisses take the sword at hand and warr against these poor slaves, licke, we are able to believe, some will not refuse to doe; or have these negers not as much right to fight for their freedom, as you have to keep them slaves?

Now consider will this thing, if it is good or bad? And in case you find it to be good to handle these blacks at that manner, we desire and require you hereby lovingly, that you may inform us herein, which at this time never was done, viz., that Christians have such a liberty to do so. To the end we shall be be satisfied in this point, and satisfie likewise our good friends and acquaintances in our natif country, to whose it is a terror, or fairful thing, that men should be handeld so in Pennsylvania.

This is from our meeting at Germantown, held ye18 of the 2 month, 1688, to be delivered to the Monthly Meeting at Richard Worrell's.

Garret henderich
derick up de graeff
Francis daniell Pastorius
Abraham up Den graef.

Document Text

Monthly Meeting Response

At our Monthly Meeting at Dublin, ye 30–2 mo., 1688, we have inspected ye matter, above mentioned, and considered of it, we find it so weighty that we think it not expedient for us to meddle with it here, but do rather commit it to ye consideration of ye Quarterly Meeting; ye tenor of it being nearly related to ye Truth. On behalf of ye Monthly Meeting,

Signed, P. Jo. Hart.

Quarterly Meeting Response

This, above mentioned, was read in our Quarterly Meeting at Philadelphia, the 4 of ye 4th mo. '88, and was from thence recommended to the Yearly Meeting, and the above said Derick, and the other two mentioned therein, to present the same to ye above said meeting, it being a thing of too great a weight for this meeting to determine.

Signed by order of ye meeting,

Anthony Morris.

Yearly Meeting Response

At a Yearly Meeting held at Burlington the 5th day of the 7th month, 1688.

A Paper being here presented by some German Friends Concerning the Lawfulness and Unlawfulness of Buying and keeping Negroes, It was adjusted not to be so proper for this Meeting to give a Positive Judgment in the case, It having so General a Relation to many other Parts, and therefore at present they forbear It.

Glossary

mastrisses	mistresses
natif	native
negers	an antique (and not derogatory) form of "Negro," based on the Germanic word for "black."
pleid	plead
Turks	a reference to the Barbary pirates operating off the north coast of Africa
viz.	an abbreviation of the Latin *videlicet*, meaning "that is."
wch	which
ye	the

John Woolman's *Some Considerations on the Keeping of Negroes*

1754

"When a People dwell under the liberal Distribution of Favours from Heaven, it behoves them carefully to inspect their Ways."

Overview

Some Considerations on the Keeping of Negroes remains one of the earliest and most influential antislavery tracts written in North America. Composed by the Quaker John Woolman in 1753, it gained approval by the Society of Friends in 1754, marking the beginnings of committed Quaker opposition to slaveholding. Prior to that point, Quakers in the American colonies had been ambivalent about the moral status of slavery, many even owning slaves themselves.

Writing at a time when prevailing colonial attitudes toward Africans presumed their inferiority, Woolman made a remarkably forward-looking case for racial equality. Not only did Woolman argue that Africans belonged to the same human family as Europeans but he also even suggested that many of the perceived differences between blacks and whites were actually the product of patterns of discrimination over time—what modern scholars would call "socially constructed."

Countering arguments that slavery exercised a positive, Christianizing effect, Woolman stressed its negative spiritual implications for both slaves and their owners. Slaves, he maintained, developed a series of negative behaviors precisely because they were forced to labor against their will. Meanwhile, both owners and their children developed evil habits that distanced them from Christ, forgetting the importance of humility, antimaterialism, and self-sacrifice. Of particular concern to Woolman were children who grew up accustomed to seeing tyranny as a natural part of dealing with others.

A not insignificant number of Quaker slave owners were so moved by Woolman's thesis that they decided to manumit their human chattel. Over half a century later, Quakers inspired by Woolman's work helped to form the American Colonization Society in 1817, dedicated to returning slaves to Africa. More radical abolitionists also drew inspiration from Woolman's work, using it to fight for the complete eradication of slavery in the United States. Over two hundred years after its publication, proponents of civil rights in the 1960s cited Woolman's tract for its eloquent arguments against racial repression and in favor of racial equality.

Context

John Woolman lived during a time of rapid demographic growth and remarkable political ferment. At the time of his birth in 1720, only half a million people lived in the colonies, a number that would surge to over two million by the time of his death in 1772. Much of this population growth was due to immigration, a third of Pennsylvania's inhabitants being of (non-Quaker) German origin by 1800. As immigrants poured into the colonies, religious groups like the Quakers found themselves rapidly becoming a minority even in their own strongholds, places like Pennsylvania and western New Jersey. Yet, precisely because they arrived first, Quakers remained a financial and political elite into the nineteenth century.

To preserve their power, Quakers required the labor of others. This presented a problem, given that many immigrants proved more interested in procuring their own land on Pennsylvania's western frontier than in the traditional indentured servitude. The resulting labor shortage encouraged wealthy Quakers to purchase slaves. First shipped to Philadelphia in the 1680s, slaves became a relatively common sight in the northern colonies during the eighteenth century. Although they were never as numerous as in the South, they made up roughly 10 percent of the populations of Philadelphia, New York, and New Jersey by 1770. Newport, Rhode Island, became a hub of slave trading in the eighteenth century, boasting a slave population upward of 20 percent by 1800.

While Quaker elites proved willing to accommodate slave owning, dissenting voices emerged within the Society of Friends. Long before John Woolman, for example, John Hepburn decried the ownership of slaves in his 1715 tract *The American Defense of the Golden Rule*. Eighteen years later, Elihu Coleman penned another diatribe against slavery titled *A Testimony against That Anti-Christian Practice of Making Slaves of Men*. Yet neither Coleman nor Hepburn won the support of a majority of the Society of Friends, making Woolman's *Considerations* an important turning point in Quaker attitudes toward slavery generally in colonies.

Just as slavery engendered tensions within the Quaker community, so too did relations with Native Americans

Time Line

1664	■ The colony of New Jersey is founded when an English fleet arrives, taking the colony from the Dutch.
1673	■ John Berkeley, 1st Baron Berkeley of Stratton, sells his share of New Jersey to the Quakers.
1681	■ King Charles II grants territory west of the Delaware River to William Penn.
1682	■ Penn drafts the Frame of Government of Pennsylvania, guaranteeing religious freedom.
1689	■ **May 24** The English Parliament passes the Act of Toleration, granting limited freedom to Quakers.
1704	■ Penn approves the creation of Delaware.
1720	■ **October 19** John Woolman is born in Northampton, New Jersey.
1739	■ George Whitefield tours the colonies, sparking the First Great Awakening.
1740	■ French-allied Indians attack on the Pennsylvania frontier, presaging King George's War (1744–1748).
1746	■ The (Presbyterian) College of New Jersey is founded at Princeton.
1753	■ Woolman writes *Some Considerations on the Keeping of Negroes, Part I*, which was distributed the following year following approval by the Quaker Meeting.

complicate Quaker colonial politics. For most of the seventeenth and eighteenth centuries, Quakers advocated a peaceful approach to Indian-colonial relations. William Penn insisted on negotiating settlement rights with Native Americans, generally purchasing their land before allowing white settlers to move onto it. Perhaps the most memorable negotiations that Penn engaged in involved the Delaware chief Tammany, from whom Penn negotiated land purchases in 1682 and 1683. Penn's reputation for fair dealing became so well known that Indians often settled in Pennsylvania after being displaced from other colonies.

Despite Quaker efforts, two factors converged to complicate colonial Indian relations. One was the unending influx of European immigrants to the colonies, pushing the western frontier ever farther onto Indian lands. The other was the growing tension and ultimately intermittent war between France and Britain, both of whom used Indian allies to advance their imperial interests. Such tensions began in 1689, when English forces and their Iroquois allies attacked French-controlled Montreal, only to be repulsed and counterattacked by French-Algonquin forces in New York, New Hampshire, and Maine. Although overt hostilities ended by treaty in 1697, they resurfaced in 1704, when French forces and their Algonquin allies again attacked English settlements, this time kidnapping women and children from frontier outposts in Massachusetts. Enraged, English military leaders ordered a counterstrike against a strategic French fortress at Port Royal in Acadia (modern-day Nova Scotia), eventually leading to British control over Newfoundland, Hudson's Bay, and Acadia. France challenged this control in 1740, leading to a protracted eight-year war along the frontier until British forces seized another strategic French fortress at Louisbourg on Cape Breton Island in 1745. Afraid that they might lose their foothold in the Ohio River valley, the French sent an armed force down the Ohio River, recruiting Indian allies to kill and expel a significant number of English-speaking settlers from the valley in 1752.

Violence on the Pennsylvania frontier led white settlers to challenge the traditional Quaker insistence on pacifism. Quaker faith in pacifism, such critics argued, was preventing colonial authorities in Philadelphia from raising the necessary military force to counter the Indian threat. Such critiques gained force in 1755, when Native Americans launched a devastating offensive against frontier communities on Pennsylvania's western border. Popular outrage over the death of white women and children at the hands of Indians confounded Pennsylvania Quakers, who had long pursued a strategy of accommodation with Native Americans, struggling to convert them to Christianity in a peaceful manner. Although such strategies enjoyed some success, the ensuing French and Indian War incited non-Quakers—by then a majority in Pennsylvania—to call for swift retribution. Quakers themselves split over the question of whether to accommodate violent reprisals or denounce them and effectively withdrew from colonial politics. Quaker pacifism was also challenged by the need to protect Quaker ships' crewmen from impressment by British naval vessels.

The resulting rift marked a decline in Quaker hegemony in Pennsylvania, even as it proved to be the handmaiden of more radical Quaker politics, of which Woolman would become a prominent leader.

Yet Quakers as a whole proved reluctant to come out against slavery. Part of this was due to a larger colonial acceptance of legal restrictions on liberty; indentured servitude was common in Quaker colonies, for example, and Quakers resented British attempts to forgive indentures in exchange for joining the British army. Another factor was Quaker slave owning, a practice common not simply in southern colonies but among elites in Pennsylvania, New Jersey, and Rhode Island as well.

John Woolman was not alone among eighteenth-century Protestant leaders in calling for a return to fundamental principles. In fact, one might say that his decision to oppose slavery fell firmly within a religious resurgence that historians have since termed the First Great Awakening. Although it was transdenominational, the Awakening was sparked by the arrival from England of an evangelical Anglican named George Whitefield in 1738. Much as Woolman would later do, Whitefield toured different colonies, preaching fiery sermons designed to kindle spirituality in increasingly materialist hearts. In Pennsylvania, William and George Tennent, a father-and-son team, established a special Presbyterian school to train evangelical ministers, later inspiring the establishment of the College of New Jersey, or what would become Princeton University, in 1746. At the center of the Tennents' preaching was a conviction that congregants should scrutinize the faith of their clergy. This eventually led to a schism within the Presbyterian Church between young reformers, or New Lights, who believed that the church should reaffirm basic Calvinist principles, and Old Lights, who had come to accept a less impassioned, arguably more compromised faith.

Almost every Protestant denomination underwent an awakening from the 1730s to the 1770s, as dynamic itinerant preachers traveled the colonies electrifying audiences. While most of the beneficiaries of this Awakening were already members of congregations, some colonies witnessed dramatic rises in church membership, particularly Methodists and Baptists in the American South. The most fervent proponents of religious reform tended to be the young and dispossessed, the very people who had not benefited from material gain during the first half of the eighteenth century. Frustration at the types of religious compromise endorsed by older, more established religious elites helped describe many Great Awakeners, John Woolman included.

Time Line

1754	■ Hostilities break out between the French and English on Pennsylvania's western frontier, leading to the French and Indian War (called the Seven Years' War in Europe).
1755	■ Quaker insistence on pacifism leads frontier people to vote them out of power in the colony of Pennsylvania.
1760s	■ The First Great Awakening reaches its apex in the American South.
1762	■ Woolman issues *Some Considerations on the Keeping of Negroes, Part II*.
1774	■ Quakers make the selling of slaves ground for excommunication.
1780	■ Pennsylvania passes An Act for the Gradual Abolition of Slavery.
1790	■ The Society of Friends petitions Congress to abolish slavery.
1817	■ Quakers inspired by Woolman found the American Colonization Society.

About the Author

Born to a prominent Quaker family in Northampton, New Jersey, in 1720, John Woolman began life as a farmer, shopkeeper, and tailor. Hardworking and frugal, Woolman succeeded financially at a young age, only to struggle with the inevitable interrelationship between commerce and force. Over a decade before the sharp decline of Quaker power at the hands of internal disagreements between pacifism and wealth, John Woolman recognized that war and commerce were inextricably linked, and he minimized his business activity to pursue the life of a traveling minister. Quaker ministers did most of their work outside the church, or meeting house, and spent much of their time conducting family visits or traveling between distant congregations aiding in intrafaith correspondence.

Woolman's travels brought him into direct contact with the institution of slavery and with Quaker slave owners. This was true even of his first journey, which led him to slave markets in Perth Amboy, New Jersey, in 1843. In 1846, Woolman traveled directly into the South, visiting Virginia and North Carolina. He later recalled, in his *Journal* feeling "uneasy" about fellow Quakers living "in ease on the hard labour of their slaves" In particular, Woolman lamented the "vices and corruptions" that slavery encouraged

The evangelical Anglican preacher George Whitefield
(Library of Congress)

among whites. That Woolman was bothered by slavery was perhaps not surprising for a Quaker who had already mitigated his commitment to commerce in order to remain true to his inner light. The doctrine of the inner light predisposed many Quakers to notions of social equality, on the ground that it was absurd that God would shine more brightly in some than others.

Aware of the tacit approval that Quakers had developed toward human bondage, Woolman initially engaged only in quiet protest, refusing to draft the wills of Quakers who wanted to bequeath slaves, rather than manumit them. Then, in 1753, he set down his treatise on the subject, *Some Considerations on the Keeping of Negroes*, which he published the following year. By 1756, Woolman dared to oppose not only slavery but also the payment of a war tax to defend white settlers against Indian attacks on the frontier. As Quaker political power in Pennsylvania crumbled, Woolman emerged as the leader of a radical new reformist bloc, freed from involvement in politics.

Three years after completing his *Considerations,* Woolman ventured back to the South, finding conditions even more deplorable than he had before. Many of the slaves he observed were excruciatingly thin, with barely enough clothes to cover their bodies. Others suffered severe punishments or witnessed their children being sold off. One of the most disturbing aspects of his visit, however, was the indolence of white slave owners who, though they were Quaker, evinced behavior not in accord with the enterprising, hard-working ethos of their faith. Woolman found similarly disturbing conditions in New England, particularly in the port of Providence, Rhode Island, a heavily Quaker town with an equally heavy involvement in the slave trade. Shocked at the dire impact of slavery on both North and South, Woolman composed a sequel to his original essay, also titled *Some Considerations on the Keeping of Negroes*, that went into greater depth regarding the negative impact that slavery had on Africans, particularly children, and whites.

Woolman's radicalism drove him to increasing solitude and arguably even eccentricity. In 1761 he stopped wearing dyed clothing because of slave involvement in dye making, leading many Quakers to wonder at his rejection of traditional garments. He also gave up the use of any other product tied to slavery, including molasses, rum, and sugar—all key products of the "triangular trade" between Africa, America, and Europe. Although peers deemed such actions unconventional, Woolman continued writing and traveling, producing texts against slavery, materialism, and greed. Noteworthy among these works was his memoir, which described the details of his life and thought. Published posthumously in 1744 as *The Journal of John Woolman*, it quickly became accepted as a classic of American literature. In 1772 he traveled to England, contracted smallpox, and died shortly thereafter, in York.

Explanation and Analysis of Document

Written in 1754, Woolman's short treatise against slavery raised objections that were both strategic and forward-looking. He appealed to the self-interest of slave owners by documenting the negative impact that bondage had on whites, and he prefigured more contemporary debates about the socially constructed nature of race.

♦ "The General Disadvantage Which These Poor *Africans* Lie Under"

Following a scriptural invocation, Woolman begins his original *Considerations* (1754) by acknowledging that the conditions under which slaves live depended in large part on the particular circumstances and attitudes of their masters. Thus, it might be completely possible that some slaves were treated well, better even than freed people who could not claim an owner as protector. Nevertheless, even good treatment belied a deeper problem with the institution itself, namely that it placed the souls of slave owners in jeopardy. Equating slave owners to "Men under high Favours" (such as the Chosen People of Israel—the Jews), Woolman warns that such individuals are "apt to err in their Opinions concerning others." Indeed, he says, they are like the first "Jewish Christians," who would not

Defeat of General Braddock in the French and Indian War (Library of Congress)

"so much as eat," with their Gentile Christian brethren. Equating slaves with the Gentiles of New Testament times (that is, the earliest non-Jewish Christian converts), Woolman notes that, like blacks, Gentiles could also be physically distinguished from Jews, their lack of circumcision being analogous to the difference in skin color. Implicit in such a comparison is the notion that skin color is a superficial quality, not an indicator of genuine dissimilarity. Just as Gentile converts, despite their superficial differences, were genuine Christians, so black slaves must be considered our brothers today.

♦ "Favours … Peculiar to One Nation"

Assuming something like the modern conception of race as a "socially constructed" category, Woolman claims that anyone who believes "Favours" are "peculiar to one Nation" suffers from a "Darkness in the Understanding." Inherent in that darkness is the misconception that blacks are congenitally inferior, when in fact societal circumstances could explain their plight. Examples of such circumstances included the fact that they had been forced into servitude, made to perform menial tasks, denied education, and robbed of any reward for their work. Such circumstances, in turn, quickly explained the development of other "odious" habits, including laziness, which is actually the logical response for people forced into an occupation against their will. In a particularly eloquent passage, Woolman suggests that were Europeans treated like slaves, they too would come to adopt characteristics commonly attributed to Africans. "Suppose, then that our Ancestors and we had been exposed to constant Servitude … [and] had generally been treated as a contemptible, ignorant Part of Mankind: Should we, in that Case, be less abject than they now are?"

Just as Woolman recognizes that structural factors could contribute to the appearance of inferiority, so too he observes that structural changes might have the opposite effect. If "our Conduct towards [African Americans] be seasoned with his [Christ's] Love," for example, then "'sloth' and 'other Habits appearing odious to us' would disappear." Before that could happen, however, whites had to recognize that slavery falsely elevated Europeans above blacks, corrupting their perceptions of reality and truth.

♦ "When *Self-love* Presides in Our Minds"

Continuing with his emphasis on whites, Woolman equates slaveholding with pride, or "self-love," warning that its tendency was to lead the slave owner away from

Essential Quotes

"When a People dwell under the liberal Distribution of Favours from Heaven, it behoves them carefully to inspect their Ways, and consider the Purposes for which those Favours were bestowed."

("The General Disadvantage Which These Poor *Africans* Lie Under")

"To consider Mankind otherwise than Brethren, to think Favours are peculiar to one Nation, and exclude others, plainly supposes a Darkness in the Understanding."

("Favours … Peculiar to One Nation")

"Suppose, then, that our Ancestors and we had been exposed to constant Servitude in the more servile and inferior Employments of Life … that while others, in Ease, have plentifully heap'd up the Fruit of our Labour, we had receiv'd barely enough to relieve Nature, and being wholly at the Command of others, had generally been treated as a contemptible, ignorant Part of Mankind: Should we, in that Case, be less abject than they now are?"

("Favours … Peculiar to One Nation")

Christ. Specifically, slavery precluded slave owners from honoring Christ's command to treat all men "as becometh Sons of one Father" as well as the command in Leviticus 14:33–34 to love the stranger as oneself. Conceding that owners might be concerned about their investments in slaves as well as the threat that freedpeople of color might pose to public safety, Woolman invokes the notion that whites possess a collective responsibility for blacks, which necessitates risking death and financial ruin. Indeed, financial ruin is not necessarily a bad thing in Woolman's eyes, for worldly wealth itself represented a "snare" that only tempted slave owners with "the getting of riches," driving a wedge between themselves and the Gospels of Christ.

Children, in particular, warns Woolman, are threatened by the corrupting influences of slavery. Whereas those children who are "prudently employed in the necessary Affairs of Life" tend to benefit from hard work, children of slave owners experience an "Ease and Idleness" that invariably lead to "evil habits." Exacerbating this is the fact that children of slave owners grow used to "lording it over their Fellow Creatures," making the attainment of true humility and grace virtually impossible.

♦ **"This Seems to Contradict the Design of Providence"**

Placing Christ's emphasis on humility, poverty, and selflessness at the heart of his considerations, Woolman concludes his somewhat rambling eighteen-page essay by making a compelling case that slavery is antithetical to "the Design of Providence." Slave owners should not recoil from this revelation, argues Woolman, but instead take it as an opportunity to free their slaves and bring upon themselves hardships that would win God's grace. They should draw inspiration from biblical figures such as Abraham, Jacob, Joseph, and David, all of whom suffered and, in their suffering, won God's favor.

Pitching his complaint against slavery as a desperate bid to save the souls of slave owners, Woolman emphasizes that all great figures in the Bible had suffered moments when they were "very low and dejected," only to find that material loss translated invariably into spiritual gain. Conversely, those who did not recognize God's will risked incurring God's wrath, another possible fate of the slave owner who failed to see how slavery alienated him from the teachings of Jesus. Those whose ownership of slaves only made them more "selfish, earthly, and sensual" would "wander in a Maze of dark Anxiety."

Audience

Woolman's audience was primarily Quaker. He presented his *Considerations* to the Philadelphia Yearly Meeting of Quaker leadership in the colonies in 1753. At the time, Quakers had accumulated considerable material wealth in northern colonies like Pennsylvania, New Jersey, and Delaware and in southern colonies like Virginia and North Carolina. Slaveholding contributed to such fortunes, as Quaker slave owners in the South used blacks to work their crops and Quaker businessmen in the North used slaves to work their farms and shops, meanwhile profiting from the triangle trade, shipbuilding, and slave auctions. Woolman hoped to break through to such Quakers, persuading them to manumit their slaves and, in so doing, come closer to God.

Woolman also hoped to make a larger argument, namely that Quakers in the colonies had strayed from their religious principles generally. This message came at an opportune time, just as Quaker elites found themselves voted out of office by war-hungry frontiersmen. Although such elites attempted to hold on to their power by compromise, Woolman provided a counterargument that Quaker values of humility and pacifism could not coexist with material gain and slaveholding. This made Woolman an important voice for the restoration of fundamental Quaker principles, precisely at a moment when such principals could provide a tonic for political defeat.

Impact

Evidence that Woolman succeeded emerged shortly after he presented his tract to the Philadelphia Yearly Meeting. Rather than reject him, as they had prior opponents of slavery, Quaker leaders authorized his work for general publication to Quaker communities both in the American colonies and England, declaring it the official position of the Virginia Yearly Meeting in 1754. This marked a significant departure from past accommodations on the question of slavery, ushering in a new era of Quaker leadership in what would become the abolition movement. It might be said that Woolman transformed the decline of Quaker hegemony in Pennsylvania politics into a spiritual opportunity, successfully reinvigorating the spiritual life of the Society of Friends.

Woolman's public denunciation of slavery came on the eve of catastrophe for Quaker America, providing a new vision for one of America's great faiths. One year after the completion of his *Considerations*, Native Americans and their French allies mounted a vicious offensive against white settlers on the Pennsylvania frontier, even killing the British colonial commander in chief, General Edward Braddock, on the Monongahela River. One year later, France and England entered the Seven Years' War, heightening tensions between the English colonists of Pennsylvania and their Indian foes, many of whom allied themselves with France in the hope that an English defeat might enable them to regain their lands. Convinced of the need for a strong military, colonists endorsed a war tax to fund efforts against the French and their Indian allies.

John Woolman spoke out against the war tax, and his religious attack on slavery alienated him from more secular Quakers even as it helped him cobble together a new vision for colonial Quaker society, one made all the more important by the crumbling of Quaker hegemony in Pennsylvania and western Jersey as Quaker political elites were voted out of office by colonists desperate for military reinforcements on the frontier. Indeed, Woolman emerged from the "crisis of 1755"—the collapse of Quaker political power in Pennsylvania—a spiritual leader with a new vi-

Questions for Further Study

1. Describe the economic conditions that expanded the slave system during Woolman's lifetime. Why did the ready availability of land make slavery an attractive option for many settlers?

2. Explain the relationship between Native Americans and the Quakers. What implications did this relationship have for the history of slavery during the eighteenth century?

3. What was the Great Awakening? What role did this movement have in creating conditions for opposition to slavery?

4. Why is Woolman's tract often considered forward looking in the attitudes it expresses?

5. Compare this document with Thomas Jefferson's *Notes on the State of Virginia*, written three decades later. Do the two documents share any views? How are they different?

sion for the church. Much like other religious leaders of the Great Awakening, Woolman drove home the message that congregants needed to recommit themselves to their faith, returning to first principles as a guide.

Woolman's *Considerations* became an immediate inspiration to Quakers in the American colonies, prompting many to manumit their slaves. In fact, his leadership transformed American Quakerism into a vanguard of antislavery activism in the United States. Two years after his death in 1772, Quaker leadership made the selling or transferring of slaves ground for excommunication, and in 1776 the leadership ordered all Quakers to free their human chattel. In 1780, Pennsylvania passed An Act for the Gradual Abolition of Slavery, and in 1790 the Society of Friends petitioned Congress requesting the abolition of slavery. By 1817 Quakers inspired by Woolman founded the American Colonization Society, calling for the manumission of slaves and their return to Africa. Later abolitionists borrowed from Woolman's arguments to lobby for the eradication of slavery in the United States. Leading public intellectuals like Ralph Waldo Emerson publicly praised Woolman's work for its eloquent prose and sweeping ideas. The poet John Greenleaf Whittier took inspiration from him. Almost two hundred years after his death, civil rights activists recovered Woolman's work in the 1960s, finding inspiration in his proclamations of racial equality and spiritual denunciations of racial injustice. A radical at the time that he wrote, Woolman's views of slavery made him a visionary model to later generations.

See also "A Minute against Slavery, Addressed to Germantown Monthly Meeting" (1688); Pennsylvania: An Act for the Gradual Abolition of Slavery (1780).

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—Anders Walker

John Woolman's *Some Considerations on the Keeping of Negroes*

Forasmuch as ye did it to the least of these my Brethren, ye did it unto me, Matt. xxv. 40.

As Many Times there are different Motives to the same Actions; and one does that from a generous Heart, which another does for selfish Ends:— The like may be said in this Case.

There are various Circumstances amongst them that keep *Negroes*, and different Ways by which they fall under their Care; and, I doubt not, there are many well disposed Persons amongst them who desire rather to manage wisely and justly in this difficult Matter, than to make Gain of it.

But the general Disadvantage which these poor *Africans* lie under in an enlight'ned Christian Country, having often fill'd me with real Sadness, and been like undigested Matter on my Mind, I now think it my Duty, through Divine Aid, to offer some Thoughts thereon to the Consideration of others.

When we remember that all Nations are of one Blood, *Gen.* iii. 20. that in this World we are but Sojourners, that we are subject to the like Afflictions and Infirmities of Body, the like Disorders and Frailties in Mind, the like Temptations, the same Death, and the same Judgment, and, that the Alwise Being is Judge and Lord over us all, it seems to raise an Idea of a general Brotherhood, and a Disposition easy to be touched with a Feeling of each others Afflictions: But when we forget those Things, and look chiefly at our outward Circumstances, in this and some Ages past, constantly retaining in our Minds the Distinction betwixt us and them, with respect to our Knowledge and Improvement in Things divine, natural and artificial, our Breasts being apt to be filled with fond Notions of Superiority, there is Danger of erring in our Conduct toward them.

We allow them to be of the same Species with ourselves, the Odds is, we are in a higher Station, and enjoy greater Favours than they: And when it is thus, that our heavenly Father endoweth some of his Children with distinguished Gifts, they are intended for good Ends; but if those thus gifted are thereby lifted up above their Brethren, not considering themselves as Debtors to the Weak, nor behaving themselves as faithful Stewards, none who judge impartially can suppose them free from Ingratitude.

When a People dwell under the liberal Distribution of Favours from Heaven, it behoves them carefully to inspect their Ways, and consider the Purposes for which those Favours were bestowed, lest, through Forgetfulness of God, and Misusing his Gifts, they incur his heavy Displeasure, whose Judgments are just and equal, who exalteth and humbleth to the Dust as he seeth meet.

It appears by Holy Record that Men under high Favours have been apt to err in their Opinions concerning others. Thus *Israel*, according to the Description of the Prophet, *Isai.* lxv. 5. when exceedingly corrupted and degenerated, yet remembered they were the chosen People of God and could say, *Stand by thyself, come not near me, for I am holier than thou.* That this was no chance Language, but their common Opinion of other People, more fully appears by considering the Circumstances which attended when God was beginning to fulfil his precious Promises concerning the Gathering of the *Gentiles.*

The Most High, in a Vision, undeceived *Peter*, first prepared his Heart to believe; and, at the House of Cornelius, shewed him of a Certainty that God was no Respector of Persons.

The Effusion of the Holy Ghost upon a People with whom they, the *Jewish* Christians, would not so much as eat, was strange to them: All they of the Circumcision were astonished to see it; and the Apostles and Brethren of *Judea* contended with *Peter* about it, till he, having rehearsed the whole Matter, and fully shewn that the Father's Love was unlimited, they are thereat struck with Admiration, and cry out; *Then hath God also to the* Gentiles *granted Repentance unto Life!*

The Opinion of peculiar Favours being confined to them, was deeply rooted, or else the above Instance had been less strange to them, for these Reasons: *First*, They were generally acquainted with the Writings of the Prophets, by whom this Time was repeatedly spoken of, and pointed at. *Secondly*, Our Blessed Lord shortly before expressly said, *I have other Sheep, not of this Fold, them also must I bring*, &c. *Lastly*, His Words to them after his Resurrection, at the very Time of his Ascension, *Ye shall be Witnesses to me, not only in* Jerusalem, Judea, *and* Samaria, *but to the uttermost Parts of the Earth.*

Those concurring Circumstances, one would think, might have raised a strong Expectation of see-

ing such a Time; yet, when it came, it proved Matter of Offence and Astonishment.

To consider Mankind otherwise than Brethren, to think Favours are peculiar to one Nation, and exclude others, plainly supposes a Darkness in the Understanding: For as God's Love is universal, so where the Mind is sufficiently influenced by it, it begets a Likeness of itself, and the Heart is enlarged towards all Men. Again, to conclude a People forward [*sic*], perverse, and worse by Nature than others (who ungratefully receive Favours, and apply them to bad Ends) this will excite a Behaviour toward them unbecoming the Excellence of true Religion.

To prevent such Error, let us calmly consider their Circumstance; and, the better to do it, make their Case ours. Suppose, then, that our Ancestors and we had been exposed to constant Servitude in the more servile and inferior Employments of Life; that we had been destitute of the Help of Reading and good Company; that amongst ourselves we had had few wise and pious Instructors; that the Religious amongst our Superiors seldom took Notice of us; that while others, in Ease, have plentifully heap'd up the Fruit of our Labour, we had receiv'd barely enough to relieve Nature, and being wholly at the Command of others, had generally been treated as a contemptible, ignorant Part of Mankind: Should we, in that Case, be less abject than they now are? Again, If Oppression be so hard to bear, that a wise Man is made mad by it, *Eccl.* vii. 7. then a Series of those Things altering the Behaviour and Manners of a People, is what may reasonably be expected.

When our Property is taken contrary to our Mind, by Means appearing to us unjust, it is only through divine Influence, and the Enlargement of Heart from thence proceeding, that we can love our reputed Oppressors: If the *Negroes* fall short in this, an uneasy, if not a disconsolate Disposition, will be awak'ned, and remain like Seeds in their Minds, producing Sloth and many other Habits appearing odious to us, with which being free Men, they, perhaps, had not been chargeable. These, and other Circumstances, rightly considered, will lessen that too great Disparity, which some make between us and them.

Integrity of Heart hath appeared in some of them; so that if we continue in the Word of Christ [previous to Discipleship, *John* viii. 31.] and our Conduct towards them be seasoned with his Love, we may hope to see the good Effect of it: The which, in a good Degree, is the Case with some into whose Hands they have fallen: But that too many treat them otherwise, not seeming concious of any Neglect, is, alas! too evident.

When *Self-love* presides in our Minds, our Opinions are bias'd in our own Favour; in this Condition, being concerned with a People so situated, that they have no Voice to plead their own Cause, there's Danger of using ourselves to an undisturbed Partiality, till, by long Custom, the Mind becomes reconciled with it, and the Judgment itself infected.

To humbly apply to God for Wisdom, that we may thereby be enabled to see Things as they are, and ought to be, is very needful; hereby the hidden Things of Darkness may be brought to light, and the Judgment made clear: We shall then consider Mankind as Brethren: Though different Degrees and a Variety of Qualifications and Abilities, one dependant on another, be admitted, yet high Thoughts will be laid aside, and all Men treated as becometh the Sons of one Father, agreeable to the Doctrine of Christ Jesus.

He hath laid down the best Criterion, by which Mankind ought to judge of their own Conduct, and others judge for them of theirs, one towards another, *viz. Whatsoever ye would that Men should do unto you, do ye even so to them.* I take it, that all Men by Nature, are equally entitled to the Equity of this Rule, and under the indispensable Obligations of it. One Man ought not to look upon another Man, or Society of Men, as so far beneath him, but that he should put himself in their Place, in all his Actions towards them, and bring all to this Test, *viz.* How should I approve of this Conduct, were I in their Circumstance and they in mine?

A. Arscot's Considerations, Part III. Fol. 107.

This Doctrine being of a moral unchangeable Nature, hath been likewise inculcated in the former Dispensation; *If a Stranger sojourn with thee in your Land, ye shall not vex him; but the Stranger that dwelleth with you, shall be as One born amongst you, and thou shalt love him as thyself.* Lev. xix. 33, 34. Had these People come voluntarily and dwelt amongst us, to have called them Strangers would be proper; and their being brought by Force, with Regret, and a languishing Mind, may well raise Compassion in a Heart rightly disposed: But there is Nothing in such Treatment, which upon a wise and judicious Consideration, will any Ways lessen their Right of being treated as Strangers. If the Treatment which many of them meet with, be rightly examined and compared with those Precepts, *Thou shalt not vex him nor oppress him; he shall be as one born amongst you, and thou shalt love him as thyself*, Lev. xix. 33. Deut. xxvii. 19. there will appear an important Difference betwixt them.

It may be objected there is Cost of Purchase, and Risque of their Lives to them who possess 'em,

and therefore needful that they make the best Use of their Time: In a Practice just and reasonable, such Objections may have Weight; but if the Work be wrong from the Beginning, there's little or no Force in them. If I purchase a Man who hath never forfeited his Liberty, the natural Right of Freedom is in him; and shall I keep him and his Posterity in Servitude and Ignorance? "How should I approve of this Conduct, were I in his Circumstances, and he in mine?" It may be thought, that to treat them as we would willingly be treated, our Gain by them would be inconsiderable: And it were, in divers Respects, better that there were none in our Country.

We may further consider, that they are now amongst us, and those of our Nation the Cause of their being here; that whatsoever Difficulty accrues thereon, we are justly chargeable with, and to bear all Inconveniences attending it, with a serious and weighty Concern of Mind to do our Duty by them, is the best we can do. To seek a Remedy by continuing the Oppression, because we have Power to do it, and see others do it, will, I apprehend, not be doing as we would be done by.

How deeply soever Men are involved in the most exquisite Difficulties, Sincerity of Heart, and upright Walking before God, freely submitting to his Providence, is the most sure Remedy: He only is able to relieve, not only Persons, but Nations, in their greatest Calamities.

David, in a great Strait, when the Sense of his past Error, and the full Expectation of an impending Calamity, as the Reward of it, were united to the agravating of his Distress, after some Deliberation, saith, *Let me fall now into the Hands of the Lord, for very great are his Mercies; let me not fall into the Hand of Man*, 1 Chron. xxi. 13.

To act continually with Integrity of Heart, above all narrow or selfish Motives, is a sure Token of our being Partakers of that Salvation which *God hath appointed for Walls and Bulwarks*, Isa. v. 26. Rom. xv. 8. and is, beyond all Contradiction, a more happy Situation than can ever be promised by the utmost Reach of Art and Power united, not proceeding from heavenly Wisdom.

A Supply to Nature's lawful Wants, joined with a peaceful, humble Mind, is the truest Happiness in this Life; and if here we arrive to this, and remain to walk in the Path of the Just, our Case will be truly happy: And though herein we may part with, or miss of some glaring Shews of Riches, and leave our Children little else but wise Instructions, a good Example, and the Knowledge of some honest Employment, these, with the Blessing of Providence, are sufficient for their Happiness, and are more likely to prove so, than laying up Treasures for them, which are often rather a Snare, than any real Benefit; especially to them, who, instead of being exampled to Temperance, are in all Things taught to prefer the getting of Riches, and to eye the temporal Distinctions they give, as the principal Business of this Life. These readily overlook the true Happiness of Man, as it results from the Enjoyment of all Things in the Fear of God, and, miserably substituting an inferior Good, dangerous in the Acquiring, and uncertain in the Fruition, they are subject to many Disappointments, and every Sweet carries its Sting.

It is the Conclusion of our blessed Lord and his Apostles, as appears by their Lives and Doctrines, that the highest Delights of Sense, or most pleasing Objects visible, ought ever to be accounted infinitely inferior to that real intellectual Happiness suited to Man in his primitive Innocence, and now to be found in true Renovation of Mind; and that the Comforts of our present Life, the Things most grateful to us, ought always to be receiv'd with Temperance, and never made the chief Objects of our Desire, Hope, or Love: But that our whole Heart and Affections be principally looking to that *City which hath Foundations, whose Maker and Builder is God*. Did we so improve the Gifts bestowed on us, that our Children might have an Education suited to these Doctrines, and our Example to confirm it, we might rejoice in Hopes of their being Heirs of an Inheritance incorruptible.

This Inheritance, as Christians, we esteem the most valuable; and how then can we fail to desire it for our Children? O that we were consistent with ourselves, in pursuing Means necessary to obtain it!

It appears, by Experience, that where Children are educated in Fulness, Ease and Idleness, evil Habits are more prevalent, than in common amongst such who are prudently employed in the necessary Affairs of Life: And if Children are not only educated in the Way of so great Temptation, but have also the Opportunity of lording it over their Fellow Creatures, and being Masters of Men in their Childhood, how can we hope otherwise than that their tender Minds will be possessed with Thoughts too high for them? Which, by Continuance, gaining Strength, will prove, like a slow Current, gradually separating them from [or keeping from Acquaintance with] that Humility and Meekness in which alone lasting Happiness can be enjoyed.

Man is born to labour, and Experience abundantly sheweth, that it is for our Good: But where

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the Powerful lay the Burthen on the Inferior, without affording a Christian Education, and suitable Opportunity of improving the Mind, and a Treatment which we, in their Case, should approve, that themselves may live at Ease, and fare sumptuously, and lay up Riches for their Posterity, this seems to contradict the Design of Providence, and, I doubt, is sometimes the Effect of a perverted Mind: For while the Life of one is made grievous by the Rigour of another, it entails Misery on both.

Amongst the manifold Works of Providence, displayed in the different Ages of the World, these which follow [with many others] may afford Instruction.

Abraham was called of God to leave his Country and Kindred, to sojourn amongst Strangers: Through Famine, and Danger of Death, he was forced to flee from one Kingdom to another: He, at length, not only had Assurance of being the Father of many Nations, but became a mighty Prince, *Gen.* xxiii. 6.

Remarkable was the Dealings of God with *Jacob* in a low Estate, the just Sense he retained of them after his Advancement, appears by his Words; *I am not worthy of the Least of all thy Mercies*, Gen. xxxii. 10. xlviii. 15.

The numerous Afflictions of *Joseph*, are very singular; the particular Providence of God therein, no less manifest: He, at length, became Governor of *Egypt*, and famous for Wisdom and Virtue.

The Series of Troubles *David* passed through, few amongst us are ignorant of; and yet he afterwards became as one of the great Men of the Earth.

Some Evidences of the Divine Wisdom appears in those Things, in that such who are intended for high Stations, have first been very low and dejected, that Truth might be sealed on their Hearts, and that the Characters there imprinted by Bitterness and Adversity, might in after Years remain, suggesting compassionate Ideas, and, in their Prosperity, quicken their Regard to those in the like Condition: Which yet further appears in the Case of *Israel*: They were well acquainted with grievous Sufferings, a long and rigorous Servitude, then, through many notable Events, were made Chief amongst the Nations: To them we find a Repetition of Precepts to the Purpose abovesaid: Though, for Ends agreeable to infinite Wisdom, they were chose as a peculiar People for a Time; yet the Most High acquaints them, that his Love is not confined, but extends to the Stranger;

Glossary

Abraham	in the Christian Old Testament, the founding patriarch of the Israelites
Alwise	all wise
Apple of his Eye	an image used in various biblical books, including Deuteronomy, Psalms, Proverbs, Lamentations, and Zechariah
Ascension	the doctrine that after his death Christ rose to heaven
Chron.	the Christian Old Testament books of Chronicles
City which hath Foundations …	quotation from the biblical book of Hebrews, chapter 11, verse 10
Cornelius	a non-Jew whose house Peter and his companions entered to dine, the first time Peter had ever eaten with a Gentile
David	a king of Israel in biblical times
Deut.	the Christian Old Testament book of Deuteronomy
divers	divers
Eccl.	the Christian Old Testament book of Ecclesiastes
Exod.	the Christian Old Testament book of Exodus
Gen.	the Christian Old Testament book of Genesis
Gentiles	non-Jews
Holy Record	the Bible

Document Text

and, to excite their Compassion, reminds them of Times past, *Ye were Strangers in the Land of* Egypt, Deut. x. 19. Again, *Thou shalt not oppress a Stranger, for ye know the Heart of a Stranger, seeing ye were Strangers in the Land of* Egypt, Exod. xxiii. 9.

If we call to Mind our Beginning, some of us may find a Time, wherein our Fathers were under Afflictions, Reproaches, and manifold Sufferings.

Respecting our Progress in this Land, the Time is short since our Beginning was small and Number few, compared with the native Inhabitants. He that sleeps not by Day nor Night, hath watched over us, and kept us as the Apple of his Eye. His Almighty Arm hath been round about us, and saved us from Dangers.

The Wilderness and solitary Desarts in which our Fathers passed the Days of their Pilgrimage, are now turned into pleasant Fields; the Natives are gone from before us, and we established peaceably in the Possession of the Land, enjoying our civil and religious Liberties; and, while many Parts of the World have groaned under the heavy Calamities of War, our Habitation remains quiet, and our Land fruitful.

When we trace back the Steps we have trodden, and see how the Lord hath opened a Way in the Wilderness for us, to the Wise it will easily appear, that all this was not done to be buried in Oblivion; but to prepare a People for more fruitful Returns, and the Remembrance thereof, ought to humble us in Prosperity, and excite in us a Christian Benevolence towards our Inferiors.

If we do not consider these Things aright, but, through a stupid Indolence, conceive Views of Inter-

Glossary

Holy Writ	the Bible
I have other Sheep …	quotation from the book of John, chapter 10, verse 16
Isai.	the Christian Old Testament book of Isaiah
Jacob	in the Christian Old Testament, the third patriarch of the Israelites
Jer.	the Christian Old Testament book of Jeremiah
Judea	in biblical times the southern part of Israel
Judg.	the Christian Old Testament book of Judges
Lev.	the Christian Old Testament book of Leviticus
Matt.	the Christian New Testament Gospel of Matthew
meet	fitting, appropriate
Peter	one of Christ's apostles
Risque	risk
Rom.	the Christian New Testament Epistle of Paul to the Romans
Shews	shows
***Then hath God also to the* Gentiles …**	quotation from Acts of the Apostles, chapter 11, verse 18
they of the Circumcision	Jews, traditionally known for circumcising male infants
Whatsoever ye would that Men …	the Golden Rule, from the Gospel of Matthew, chapter 7, verse 12
Ye shall be Witnesses to me …	quotation from Acts of the Apostles, chapter 1, verse 8

est, separate from the general Good of the great Brotherhood, and, in Pursuance thereof, treat our Inferiors with Rigour, to increase our Wealth, and gain Riches for our Children, what then shall we do, when God riseth up, and when he visiteth, what shall we Answer him? Did not he that made Us, make Them, and *Did not one Fashion us in the Womb?* Job. xxxi. 14, 15.

To our great Master we stand or fall, to judge or condemn is most suitable to his Wisdom and Authority; my Inclination is to persuade, and intreat, and simply give Hints of my Way of Thinking.

If the Christian Religion be considered, both respecting its Doctrines, and the happy Influence which it hath on the Minds and Manners of all real Christians, it looks reasonable to think, that the miraculous Manifestation thereof to the World, is a Kindness beyond Expression.

Are we the People thus favoured? Are we they whose Minds are opened, influenced, and govern'd by the Spirit of Christ, and thereby made Sons of God? Is it not a fair Conclusion, that we, like our heavenly Father, ought, in our Degree, to be active in the same great Cause, of the Eternal Happiness of, at least, our whole Families, and more, if thereto capacitated?

If we, by the Operation of the Spirit of Christ, become Heirs with him in the Kingdom of his Father, and are redeemed from the alluring counterfeit Joys of this World, and the Joy of Christ remain in us, to suppose that One remaining in this happy Condition, can for the Sake of earthly Riches, not only deprive his Fellow Creatures of the Sweetness of Freedom [which, rightly used, is one of the greatest temporal Blessings] but therewith neglect using proper Means, for their Acquaintance with the Holy Scriptures, and the Advantage of true Religion, seems, at least, a Contradiction to Reason.

Whoever rightly advocates the Cause of some, thereby promotes the Good of all. The State of Mankind was harmonious in the Beginning, and tho' Sin hath introduced Discord, yet, through the wonderful Love of God, in Christ Jesus our Lord, the Way is open for our Redemption, and Means appointed to restore us to primitive Harmony. That if one suffer, by the Unfaithfulness of another, the Mind, the most noble Part of him that occasions the Discord, is thereby alienated from its true and real Happiness.

Our Duty and Interest is inseparably united, and when we neglect or misuse our Talents, we necessarily depart from the heavenly Fellowship, and are in the Way to the greatest of Evils.

Therefore, to examine and prove ourselves, to find what Harmony the Power presiding in us bears with the Divine Nature, is a Duty not more incumbent and necessary, than it would be beneficial.

In Holy Writ the Divine Being saith of himself, *I am the Lord, which exercise Loving Kindness, Judgment and Righteousness in the Earth; for in these Things I delight, saith the Lord*, Jer. ix. 24. Again, speaking in the Way of Man, to shew his Compassion to *Israel*, whose Wickedness had occasioned a Calamity, and then being humbled under it, it is said, *His Soul was grieved for their Miseries*, Judg. x. 16. If we consider the Life of our Blessed Saviour when on Earth, as it is recorded by his Followers, we shall find, that one uniform Desire for the eternal, and temporal Good of Mankind, discovered itself in all his Actions.

If we observe Men, both Apostles and others, in many different Ages, who have really come to the Unity of the Spirit, and the Fellowship of the Saints, there still appears the like Disposition, and in them the Desire of the real Happiness of Mankind, has out-ballanced the Desire of Ease, Liberty, and, many Times, Life itself.

If upon a true Search, we find that our Natures are so far renewed, that to exercise Righteousness and Loving Kindness [according to our Ability] towards all Men, without Respect of Persons, is easy to us, or is our Delight; if our Love be so orderly, and regular, that he who doth the Will of our Father, who is in Heaven, appears in our View, to be our nearest Relation, our Brother, and Sister, and Mother; if this be our Case, there is a good Foundation to hope, that the Blessing of God will sweeten our Treasures during our Stay in this Life, and our Memory be savory, when we are entered into Rest.

To conclude, 'Tis a Truth most certain, that a Life guided by Wisdom from above, agreeable with Justice, Equity, and Mercy, is throughout consistent and amiable, and truly beneficial to Society; the Serenity and Calmness of Mind in it, affords an unparallel'd Comfort in this Life, and the End of it is blessed.

And, no less true, that they, who in the Midst of high Favours, remain ungrateful, and under all the Advantages that a Christian can desire, are selfish, earthly, and sensual, do miss the true Fountain of Happiness, and wander in a Maze of dark Anxiety, where all their Treasures are insufficient to quiet their Minds: Hence, from an insatiable Craving, they neglect doing Good with what they have acquired, and too often add Oppression to Vanity, that they may compass more.

O that they were wise, that they understood this, that they would consider their latter End! Deut. xxxii, 29.

Lord Dunmore's Proclamation

1775

"I do hereby further declare all ... Negroes ... free that are able and willing to bear Arms."

Overview

On November 7, 1775, John Murray, 4th Earl of Dunmore, who had been royal governor of the colony of Virginia since 1771, drafted a document. This Proclamation, published on November 14, named the Patriot rebels of Virginia as traitors to the Crown, declared martial law in Virginia, and—the part that elicited the greatest response and had the widest impact—declared as free any slaves or indentured servants who would join Dunmore's forces against the rebels. Many slaves ran away from their masters to join the British because of their offer of freedom, and the Virginians did whatever they could to prevent it.

The results of this Proclamation were not as dramatic as Dunmore had hoped, as harassment, disease, and a decisive defeat all worked against him and his vision for an army supplemented heavily with African American troops. However, the Proclamation deserves to be remembered as the first mass emancipation of slaves in America. The number of slaves escaping their masters during the American Revolution, in large part because of this Proclamation, would also be the greatest number to escape slavery until the Civil War.

Context

Africans who arrived in the colony, starting in 1619, were not originally slaves. Most of them worked as servants, with the same rights, duties, and treatment as indentured servants. Like indentured servants, these Africans worked for a master a certain number of years, after which they could be released and were free to buy land. Black men could even have white servants and testify in court against white people.

Before long, however, white Virginians began to draw a more distinct line—in life and in law—between themselves and black Africans. By 1662, Virginia had introduced Act XII: Negro Women's Children to Serve according to the Condition of the Mother, implementing the possibility of life servitude—slavery—for blacks, with the conferral of slave status through the mother, thus guaranteeing that the children of unions between white masters and female slaves would be born into slavery. In 1667, Act III declared that the legal status of slaves would not change as a result of baptism. In 1670, Virginia law specified that free blacks could no longer have Christian servants, thus ruling out all whites and even some fellow blacks. A year earlier Virginia had ruled that if a black slave should die while being punished, the master would not be charged with a crime.

In the 1680s the laws regulating slavery and the separation of whites and blacks became even more rigid. The laws about trials for blacks grew much stricter, and slaves were punished more severely. The conferral of permanent slave status on all imported black servants was solidified at this time. Punishments for runaways worsened. At the end of this decade, in 1691, any white person who married a black or a mulatto was subject to banishment from the colony, and systematic procedures for the capture of runaway slaves had been approved. In 1705 Virginia declared that all black, mulatto, and Indian slaves were to be treated as "real estate." This same year, the punishment of disorderly slaves by dismemberment was made legal. Gone were the days—less than a century previous—when blacks could testify in court against whites or when black servants would be given freedom and allowed to buy land or keep servants of their own after their term of service. For almost one hundred years—since a law enacted in 1691—the manumission of slaves was not allowed in Virginia. It was not until 1782 that Virginia passed a law permitting slaveholders to free their slaves if they wished. Clearly, in Dunmore's time, it can be imagined that anyone who tried to emancipate any slaves—whether their own or someone else's—would be seen as the worst of villains.

In 1775, however, Lord Dunmore, royal governor of Virginia, found himself in an increasingly desperate position. The Patriots in Virginia were numerous and powerful, and they threatened British government of the colony. Tension had been rising since before Dunmore was assigned the governorship in 1771, and he did little to alleviate it, disbanding the Virginia House of Burgesses as soon as he arrived. By April 1775, the atmosphere had become so heavy that, as a preventive measure, Dunmore decided to remove the gunpowder stored in the public magazine. This move further angered the colonials, to the point that Dunmore

Time Line

1770

- Lord Dunmore is appointed royal governor of New York.

1771

- **September 25**
Dunmore becomes royal governor of Virginia; he subsequently dismisses the Virginia House of Burgesses.

1772

- **April**
Dunmore writes to Lord Dartmouth, the British secretary of state for the colonies, suggesting that slaves could be encouraged to fight for the British in large numbers.

1774

- Dunmore negotiates a treaty with the Shawnees after their defeat at the Battle of Point Pleasant.

1775

- **March 20**
At the Virginia Convention, Patrick Henry's speech (in which he famously says, "Give me liberty or give me death") proposes arming the Virginia militia.

- **April 18**
The battles of Lexington and Concord in Massachusetts initiate the Revolutionary War.

- **May**
Dunmore writes again to Lord Dartmouth, telling him that if he could arm the slaves and Indians, then he would use them.

- **June 8**
Dunmore flees Williamsburg for Yorktown, taking refuge on the man-of-war *Fowey*.

- **November 7**
Dunmore drafts his Proclamation.

- **November 12**
Dunmore's force, with the help of African American privates, routs the colonial militia at Kemp's Landing on the Elizabeth River.

- **November 14**
Dunmore enters Kemp's Landing as the victor and orders that the Proclamation be published.

fled the capital of Williamsburg on June 8, bound for the man-of-war *Fowey* near Yorktown. His forces had been diminished both by harassment from rebels and by desertion to approximately three hundred troops.

In April, a group of slaves had visited Dunmore at the governor's mansion, sensing that things were about to change. They volunteered their services, despite the punishment they risked in running away from their masters. The time was not right for a public rift with the Patriots, however, so Dunmore had the slaves sent away. Dunmore had contemplated enlisting African Americans held in bondage as early as 1772 and said as much in a May 1775 letter to William Legge, 2nd Earl of Dartmouth, who was British secretary of state for the colonies. Slaves and Native Americans, if armed, could supplement the dwindling numbers of British troops. Dunmore also knew that if the British did not arm the slaves, the rebels might; as he says in his letter to Dartmouth, "Whoever promises freedom to the slaves shall have all of them at his disposal."

After fleeing Williamsburg in June for the *Fowey*, Dunmore started, unofficially, to act on his scheme, reinforcing his ranks with raids and inviting anyone not against them to join them. This led to the practice of enlisting African Americans of "uncertain origins" (that is, free or slave), with no questions asked. To increase the yield of potential troops, Dunmore decided that he would issue an official proclamation promising freedom to slaves in return for service. He drafted this Proclamation on November 7, 1775, but he knew he needed to wait for the right moment to issue it.

The moment came a week later with the defeat of the rebel forces at a skirmish at Kemp's Landing along the Elizabeth River. Dunmore had learned that a group of about 150 militiamen were on their way to join Colonel William Woodford. Taking about 350 British—regulars, Loyalists, and runaway slaves—he left from Norfolk, a port town along the southeast coast of Chesapeake Bay and the home of Loyalist Scottish merchants, to intercept them. On November 14, the colonial militia was routed, and two commanding colonels were captured—one of them by African American privates who had joined Dunmore's forces. This success encouraged Dunmore to trust his decision to use African American soldiers. When he entered Kemp's Landing on November 15, he ordered the Proclamation to be published.

About the Author

John Murray, the future Lord Dunmore, was born in England in 1732, a direct, albeit distant, descendant of royalty. He later inherited his title, making him the 4th Earl of Dunmore. Dunmore served briefly in the House of Lords in Parliament, until, in 1770, he was appointed the royal governor of the New York Colony. Approximately a year later he left to be the royal governor of Virginia.

The first thing Dunmore did as governor was to eliminate the Virginia House of Burgesses, which was controlled by Patriots like Thomas Jefferson. In 1774, problems with the Shawnee Indians, who were in bitter conflict with the

settlers in western Virginia, caused Dunmore to gather troops and hasten to the field of battle. At Point Pleasant, on the Virginia (later West Virginia) side of the Ohio River, one part of Dunmore's troops, led by General Andrew Lewis, was attacked by great numbers of the Shawnees. In a daylong battle, the Virginians came out victorious, though at great cost in numbers of men. Dunmore then negotiated a treaty with the Shawnees, which stated that the tribe would not hunt south of the Ohio River. This successfully cleared the way for English settlement in Kentucky.

Despite this victory, problems with the Patriots worsened. In June 1775, after an unsuccessful attempt at emptying the public magazine of gunpowder, Dunmore fled Williamsburg for the ship *Fowey*. From shipboard he considered his next move and gathered troops. After issuing his Proclamation in November 1775, Dunmore was derisively nicknamed "African Hero" by Richard Henry Lee, one of the Virginia delegates to the Continental Congress. In the summer of 1776, Dunmore disbanded his fleet and returned to England. However, in early 1782, Dunmore, with no official assignment, tried to advance a plan in Charleston, South Carolina, to recruit slaves into the British army again on a large scale. Nearly ten thousand men would be placed under the command of provincial officers. Although he was encouraged by other officers to accept the plan, commander in chief Henry Clinton refused to do so. In 1787, Dunmore was appointed royal governor of the Bahamas in the British West Indies. There he was responsible for building most of the forts in and around Nassau. One of the forts was dubbed "Dunmore's Folly" for being built at great cost in an area of the Bahamas where attack was highly improbable. He died in England in 1809.

Explanation and Analysis of the Document

The Proclamation begins with Lord Dunmore's own name and credentials: "His Majesty's Lieutenant and Governor General of the Colony and Dominion of Virginia, and Vice Admiral of the same." ("Lieutenant" here signifies not a junior officer but rather invokes the literal meaning of one who "holds the place of" the king.) These credentials entitled Dunmore to make the following Proclamation. Although Dunmore says he had sought an "Accommodation" (a reconciliation) between the unhappy rebels and the British, matters had reached a point where something had to be done to force the rebels to recognize the authority of the Crown. Rebel colonists were forming an army and firing on British troops and "well-disposed subjects of this Colony"—those loyal to Britain—alike. These people were committing treason as well as disrupting the peace, order, and justice of the colony; this state of affairs could not be allowed to continue, and the Proclamation aimed to put a stop to it.

Civil laws did not seem to be working toward this end anymore, however. Thus, Dunmore declares that martial law had to be instituted in the rebellious colony. He points out that the power to institute martial law lay with him, a

Time Line

1775

- **November 24** A letter is published in the *Virginia Gazette* warning slaves that they should not "ruin themselves" by running to Lord Dunmore, himself a slaveholder.
- **December 2** The Continental Congress orders ships to capture or destroy Dunmore's fleet.
- **December 4** The Continental Congress tells the Virginia Convention to do whatever it can to oppose Dunmore.
- **December 8** The Virginia Convention assembles to answer the Proclamation.
- **December 9** The Patriots defeat Dunmore's force, half of them African American, at Great Bridge.
- **December 13** The Virginia Convention replies to Dunmore's Proclamation with their own Virginia Declaration, which repudiates Dunmore's offer of freedom to slaves.

1776

- **July** Dunmore's fleet disbands after taking refuge at Saint George's Island in the Potomac River, with some African American soldiers heading north for further service.

1782

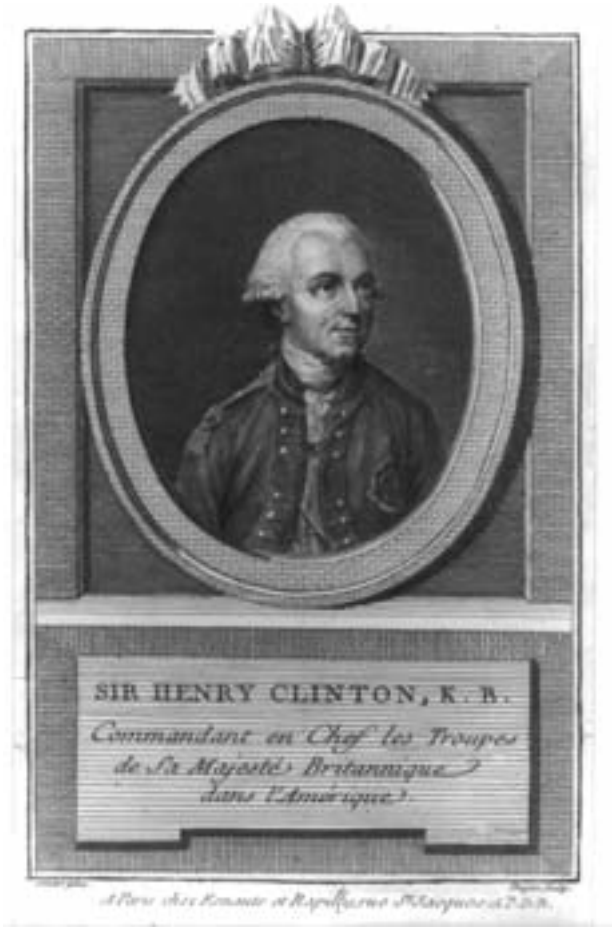
- **Early** Dunmore's large-scale plan to recruit African American soldiers into the British army is rejected in Charleston by commander in chief Henry Clinton.

1787

- Dunmore is appointed governor of the Bahamas.

1809

- **February 25** Dunmore dies in England.



Sir Henry Clinton (Library of Congress)

power given to him by the king and one he would use to restore the peace. Furthermore, so that this restoration of peace and order could be more swiftly executed, Dunmore summoned every man capable of bearing arms to report to "His Majesty's Standard." To summon men to report to the king's standard was tantamount to saying "Rally around the flag" or, more literally, "Come and join our side in the fighting." Those who did not join the British against the rebels were to be regarded as traitors, such treason being punishable by confiscation of land or even loss of life.

What follows is the part of the Proclamation that elicited the strongest response. Dunmore declares free all "indented [indentured] Servants, Negroes, or others"—black or white—belonging to "Rebels" who are "able and willing to bear Arms" in the company of the British troops to fight against the traitors. Note that the offer applied only to able-bodied men—a point that would later be seized upon by colonial rebels. Dunmore took this action for "speedily reducing this Colony to a proper Sense of their Duty"—putting them in their proper place, as it were. This measure was not altruistic; it did not come from any sense that slavery was inherently wrong. Dunmore himself owned slaves and by most accounts was a harsh master. And, as colonial governor, he had refused to sign a bill stopping the slave trade into Virginia. The Virginia House of Burgesses wanted to pass this bill to hurt the British economy, since international slave trade was controlled by Britain. In this context, it is no wonder that Dunmore withheld his signature.

Emancipating the slaves of his enemy was an act of war. There were a number of reasons for Dunmore to take this step. It would increase the numbers of his army, diminished through desertion and harassment by the Patriots. He hoped that as slaves left their masters, those masters would decide to stay home to care for their property and their families. The fear of a mass slave insurrection would also turn the attention of planters from the British. Dunmore also realized that if he did not get some of these people on his side, he would eventually be compelled to fight them.

The last part of the Proclamation orders all people to "retain their Quit-rents, or any other Taxes due or that may become due, in their own Custody, till such a time as Peace may be again restored to this at present most unhappy Country." Quit-rents were a type of rent or property tax due to the royal treasury and were used to cover the expenses of royal colonial government. Most officers who collected these taxes were British or Loyalists, and sending these men to collect these taxes during the insurrection put them in grave danger.

Dunmore closes conventionally by stating where and when he was issuing the Proclamation: "the 7th day of November in the Sixteenth Year of His Majesty's Reign," on board the *William*. He ends with "God save the King," the common declaration appended to documents and toasts, a sign of loyalty for subjects and officers of the monarch.

Audience

Lord Dunmore meant his Proclamation to be read by as wide an audience as possible. This was certainly achieved, as many newspapers reprinted it, often in its entirety. The rebels were to know that their actions had consequences. The loyal subjects of Britain were to be reassured that they would be protected and that attacks on them were also attacks on Britain. And the free African Americans and slaves were to know that their freedom could be secured if they were willing and able to get to the British lines and help them fight.

Impact

The impact of Lord Dunmore's Proclamation was instantaneous and far reaching. Almost immediately, area newspapers reprinted the entire Proclamation, both as information and as a warning. Restrictions on slave meetings were tightened, patrols doubled, and roads carefully watched. Anyone owning a small boat was warned to be particularly alert to the possibility of theft by runaways. Maryland also ordered a stricter alert for military forces to watch for runaways in Saint Mary's County. Many colonials—Patriot and Loyalist alike—feared a major slave rebellion because of

Essential Quotes

"To defeat such treasonable Purposes, and that all such Traitors, and their Abettors, may be brought to Justice, and that the Peace, and good Order of this Colony may be again restored … I have thought fit to issue this my Proclamation."

"I do in Virtue of the Power and Authority to Me given, by His Majesty, determine to execute Martial Law, and cause the same to be executed throughout this Colony."

"I do require every Person capable of bearing Arms, to resort to His Majesty's Standard, or be looked upon as Traitors to His Majesty's Crown and Government."

"And I do hereby further declare all indented Servants, Negroes, or others, (appertaining to Rebels,) free that are able and willing to bear Arms, they joining His Majesty's Troops as soon as may be, for the more speedily reducing this Colony to a proper Sense of their Duty, to his Majesty's Crown and Dignity."

the Proclamation. The growing distrust between slaves and masters was made worse.

Rumors began to spread that slaves were "stampeding" to the British lines. That there were actually enough slaves running to join the British to constitute a "stampede" is doubtful. However, because British propaganda promised good treatment from the governor—and, of course, freedom from slavery—about two hundred men joined the British within a few days, and within a week of the Proclamation's publication, there were about three hundred. Within the month, approximately eight hundred had enlisted. Undoubtedly there were many more who attempted to run away but did not succeed. The number of recruits might have been higher had the governor not been in exile aboard the *William* at the time.

The African Americans who reached the British lines were usually in good health and capable of being put to a great many uses. Indeed, Dunmore did put them to diverse service. Mainly, he envisioned them as soldiers. By December 1, 1775, approximately three hundred of his black troops were given military garb with the inscription "Liberty to Slaves" upon it. These troops were called Lord Dunmore's Ethiopian Regiment.

Dunmore also used his African American troops in maritime service, often as pilots, since they knew the area better than the British. They were also used for foraging and messenger service on land. Being on the ground in Virginia was more dangerous at this time for British soldiers than it was even for runaway slaves. Dunmore was accused, too, of using the African American troops for biological warfare, by inoculating a few with smallpox and sending them onto land to infect the rebels. This was most likely propaganda rather than truth, but it made the rebels angry all the same. This propaganda also held a shred of truth, since many African American troops were indeed infected with smallpox. The cramped space on the ships where they were based and

the lack of proper clothing made for horrible conditions, and the majority of the black men who fled to Dunmore ultimately died of disease.

The Patriots did their best to prevent slaves from running to enemy lines. The newspapers, besides printing the Proclamation in its entirety, also engaged in a type of psychological warfare. They published letters urging slaves not to join Dunmore, including several printed in the *Virginia Gazette*, pointing out that Dunmore was cruel to his own slaves and that the British were much harsher masters all around. If the Patriots lost, these black troops would be sold to the West Indies by the British. The *Gazette* also pointed out that Dunmore would free only those slaves who could bear arms, leaving women, children, the aged, and the infirm still in bondage and subject to the wrath of their masters. The slaves' best bet was to place their hopes not on the British but "on a better condition in the next world," according to one letter.

On December 2, 1775, the Continental Congress in Philadelphia responded to the Proclamation by ordering ships to capture or destroy the governor's fleet. Two days later, the Congress also told the Virginia Convention that they should do everything they could to oppose Dunmore. On December 8, the Virginia Convention met to appoint a committee to prepare an answer to the Proclamation. Five days later, the committee reported back and was authorized to draw up a declaration stating that runaways to the British would be pardoned if they put down their arms and returned within ten days. If they did not, then they would be punished. This Virginia Declaration also reminded the runaways that the usual punishment for slave insurrection was death without the benefit of clergy. The Declaration was published as a broadside in order to reach the widest audience possible.

Despite this warning, the death penalty was in fact used sparingly. In general, slaves caught running to Dunmore were simply returned to their masters. Those captured "in arms" were sold to the West Indies, and the money from the sale, minus expenses, was given to the slaves' masters. Slaves of British sympathizers who were caught were sent to work in the lead mines.

The only real military action seen by those African Americans joining Dunmore after the Proclamation was the Battle at Great Bridge on the Elizabeth River on December 9, 1775. Because of the victory at Kemp's Landing the month before and the fresh influx of black troops, Dunmore became overconfident and took the offensive at Great Bridge. His defeat was decisive, with at least one hundred casualties, half of them African American troops. After this failure, Dunmore was forced to operate exclusively from shipboard and never regained a foothold on the Virginia mainland.

As noted, many of the African Americans who ran away to join Dunmore died from disease. Otherwise, he might have had as many as two thousand African American troops. In the event, smallpox and harassment by the Virginia and Maryland militias forced Dunmore to move his fleet northward in May 1776. By June, fewer than one hundred and fifty African American soldiers were fit for duty. On August 6 Dunmore ordered his fleet to be broken apart (some dispersed and others destroyed), and the ablest of the African Americans were sent north for further military service with the British.

Had things gone better for Dunmore, his plan might have succeeded. However, one consequence of the Proclamation would have been unavoidable. The Proclamation helped secure to the Patriots those white colonists who had previously been moderate or undecided about the British. Many of them saw this Proclamation as the last straw: It

Questions for Further Study

1. Describe the legislative history of slavery in the Virginia colony. How did slave-owning Virginians react to Lord Dunmore's Proclamation?

2. What military circumstances provoked Dunmore to issue the Proclamation? Why did he issue it when he did?

3. Why do you think the Proclamation failed to create a "stampede" of Virginia slaves and free blacks going over to the British side in the Revolutionary War?

4. Other than to recruit troops for the British army, what other motivations did Dunmore have in issuing the Proclamation?

5. In some respects, the promise of freedom offered by Lord Dunmore's Proclamation made matters worse for Virginia's slaves. How so?

was an attack on private property and on their way of life and their peace, since it threatened to create a slave insurrection. These things reminded moderates that their ideals were the same as those of the more radical Patriots and that these ideals were worth fighting for.

See also Virginia's Act XII: Negro Women's Children to Serve according to the Condition of the Mother (1662); Virginia's Act III: Baptism Does Not Exempt Slaves from Bondage (1667); Thomas Jefferson's *Notes on the State of Virginia* (1784).

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—Angela M. Alexander

Document Text

Lord Dunmore's Proclamation

By His Excellency the Right Honorable John Earl of Dunmore, His Majesty's Lieutenant and Governor General of the Colony and Dominion of Virginia, and Vice Admiral of the same.

A Proclamation

As I have ever entertained Hopes, that an Accommodation might have taken Place between Great Britain and this Colony, without being compelled by my Duty to this most disagreeable but now absolutely necessary Step, rendered so by a Body of armed Men unlawfully assembled, firing upon His Majesty's Tenders, and the formation of an Army, and that Army now on their March to attack his Majesty's Troops and destroy the well-disposed subjects of this Colony. To defeat such treasonable Purposes, and that all such Traitors, and their Abettors, may be brought to Justice, and that the Peace and good Order of this Colony may be again restored, which the ordinary Course of the Civil Law is unable to effect; I have thought fit to issue this my Proclamation, hereby declaring, that until the aforesaid good Purpose can be obtained, I do in Virtue of the Power and Authority to Me given, by His Majesty, determine to execute Martial Law, and cause the same to be executed throughout this Colony: And to the end that Peace and good Order may the sooner be restored, I do require every Person capable of bearing Arms, to resort to His Majesty's Standard, or be looked upon as Traitors to His Majesty's Crown and Government, and thereby become liable to the Penalty the Law inflicts upon such Offenses; such as forfeiture of Life, confiscation of Lands, &c. &c. And I do hereby further declare all indented Servants, Negroes, or others, (appertaining to Rebels,) free that are able and willing to bear Arms, they joining His Majesty's Troops as soon as may be, for the more speedily reducing this Colony to a proper Sense of their Duty, to His Majesty's Crown and Dignity. I do further order, and require, all His Majesty's Liege Subjects, to retain their Quit-rents, or any other Taxes due or that may become due, in their own Custody, till such a Time as Peace may be again restored to this at present most unhappy Country, or demanded of them for their former salutary Purposes, by Officers properly authorized to receive the same.

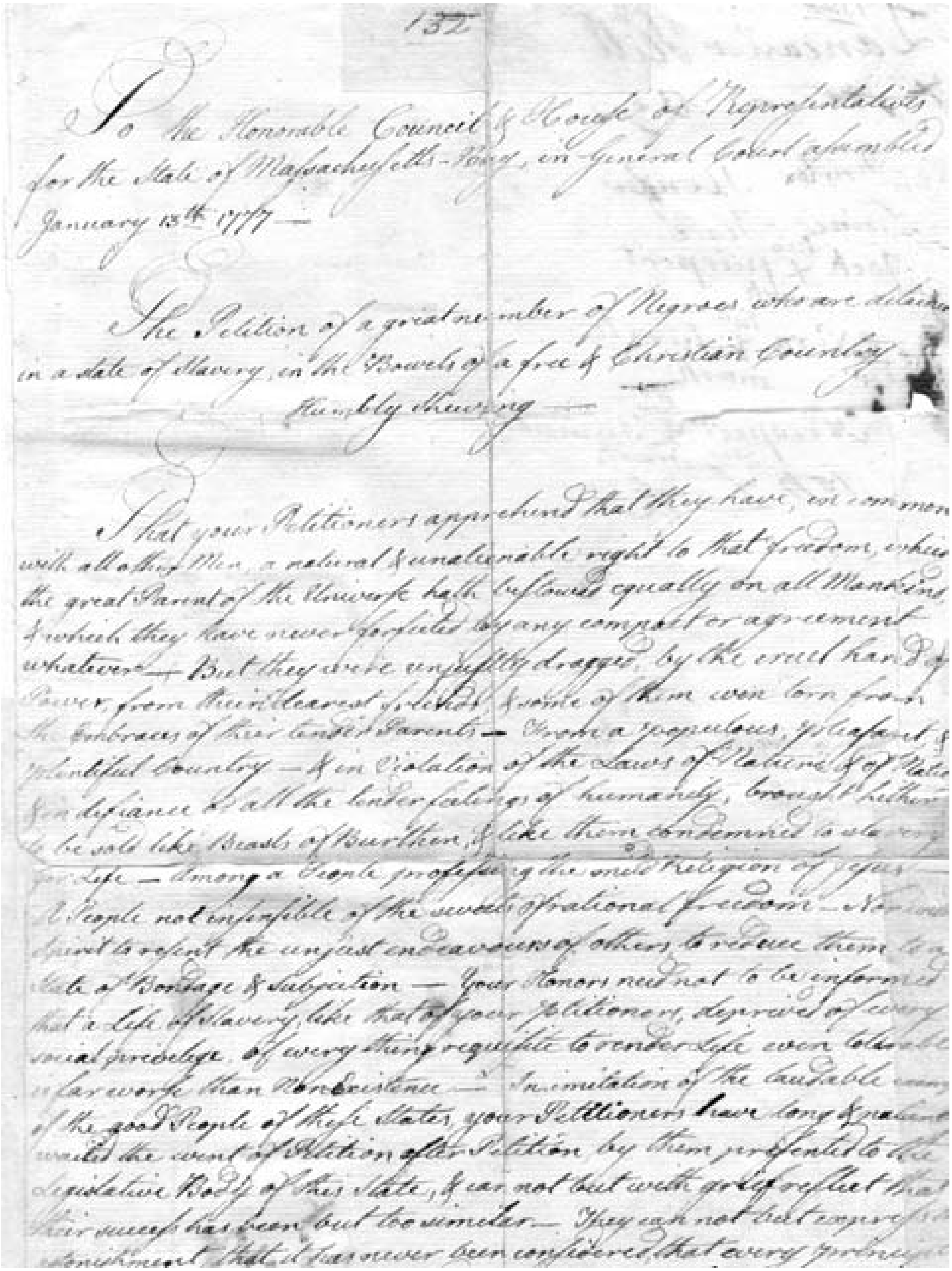
Given under my Hand on board the Ship William by Norfolk, the 7th Day of November in the Sixteenth Year of His Majesty's Reign.

Dunmore

(God save the King.)

Glossary

indented servants	indentured servants, that is, servants bound to their master for a term of years, after which they are released
Liege	bound by obligation; faithful, loyal
Lieutenant	literally, "one who holds the place of," in this instance, of the king of England; the king's representative
Quit-rents	a land tax imposed on owned or leased land by the landowning authority, usually the government
Sixteenth year of His Majesty's reign	1775, the sixteenth year of the reign of George III of England, who assumed the throne in 1760
Tenders	generally, small ships or boats used to attend other ships and supply them with provisions



132

To the Honorable Council & House of Representatives for the State of Massachusetts-Bay, in General Court assembled January 13th 1777 —

The Petition of a great number of Negroes who are detained in a state of Slavery, in the Bowels of a free & Christian Country —

Humbly shewing —

That your Petitioners apprehend that they have, in common with all other Men, a natural & unalienable right to that freedom, which the great Parent of the Universe hath bestowed equally on all Mankind, & which they have never forfeited by any compact or agreement whatever — But they were unjustly dragged, by the cruel hand of Power, from their dearest friends, & some of them even torn from the Embraces of their tender Parents — from a populous, pleasant & plentiful Country — & in Violation of the Laws of Nature & of Nations & in defiance of all the tender feelings of humanity, brought hither to be sold like Beasts of Burthen, & like them condemned to slavery for Life — Among a People professing the mild Religion of Jesus — A People not insensible of the sweets of rational freedom — Nor without Spirit to resent the unjust endeavours of others to reduce them to a State of Bondage & Subjection — Your Honors need not to be informed that a Life of Slavery, like that of your petitioners, deprived of every social privilege, of every thing requisite to render Life even tolerable, is far worse than Non-Existence — In imitation of the laudable example of the good People of these States, your Petitioners have long & patiently waited the event of Petition after Petition by them presented to the Legislative Body of this State, & can not but with grief reflect that their success has been but too similar — They can not but express their astonishment that it has never been considered that every principle

The 1777 petition to the Massachusetts General Court (Courtesy Massachusetts Archives)

Petition of Prince Hall and Other African Americans to the Massachusetts General Court

1777

"They were ... torn from the embraces of their tender Parents from a ... pleasant and plentiful Country."

Overview

On January 13, 1777, Prince Hall and seven other African American men—most of them probably free—submitted a petition to the Massachusetts General Court, which at that time consisted of the Massachusetts Revolutionary Council and the House of Representatives. This petition sought freedom for "a great number of Negroes who are detained ... in the Bowels of a free & Christian Country." The petition was one of several that African Americans in New England submitted during the late eighteenth century. This one was particularly noteworthy because it challenged the Commonwealth of Massachusetts's government to live up to the human rights principles that had been set forth less than a year earlier in the Declaration of Independence. Little is known of Prince Hall before 1780, and there are conflicting stories of his origins, but what we do know of Hall's life points to him as the leader of this effort.

The Massachusetts legislature failed to pass any laws in response to this petition; however, the *Quock Walker v. Jennison* case, in which an African American filed a claim of unjust enslavement, soon resulted in a jury decision in 1781 and an upper-court ruling in 1783 that spelled the end of slavery in Massachusetts. In the coming years, other northern states passed laws that ended slavery gradually and thus avoided what many whites viewed as the socioeconomic chaos that could have been brought on by immediate abolition. While these governmental actions are usually credited with having ended slavery above the Mason-Dixon Line, the petition of January 1777 and similar formal appeals played critical foundational roles in the process. These petitions also to some extent represent the starting point for the establishment of organized African American communities in New England and elsewhere in the North.

Context

The number of Africans and their descendants in southern New England had risen from about one thousand in 1700 to around eleven thousand by the middle of the eighteenth century, largely because prominent merchants in the region had become deeply involved in the slave trade. These merchants sold most of their slaves to owners in the West Indies, but they processed and routed slaves through Boston as well as Newport, Rhode Island, and other New England ports. Also, some slaves were sold within New England to meet the demand for domestic servants and skilled laborers. Most slaves probably had come directly from Africa, but some were from the West Indies or the southern American colonies. The percentage of American-born blacks grew throughout the eighteenth century, and the demographic balance between men and women began to even out. Nevertheless, in 1765 most of the twenty-seven hundred adult African Americans living in Massachusetts were men. About a third lived in Boston, the region's center of commerce and government.

Although most blacks in colonial New England were slaves, a significant number were free. The situation of blacks in New England, regardless of their status, was markedly different from that of blacks in other colonies. Most lived in port towns and worked in semiskilled or unskilled jobs for which Anglo-American labor was scarce. The few who resided in rural villages were probably slaves and served as status symbols for their masters. Rural slaves also provided a pool of menial labor for the local elites, particularly ministers. Of those African Americans who already were free, a very few became successful. For example, a slave named "Emmanuel," after having gained freedom from his master, Gabriel Bernon, in 1736, opened a popular oyster house in Providence, Rhode Island, and when he died in 1796 left an estate worth £569.

Like indentured white servants and apprentices, all slaves and nearly all free blacks in colonial New England lived as dependents in the homes of Anglo-Americans and were considered members of extended households. As dependents, they lacked individual autonomy and were expected to adapt quickly to the dominant culture and community. But even under these circumstances there were opportunities for betterment. Slaves were usually taught to read so that they could understand the Bible. Many slaves were able to hire themselves out to work for other employers and potentially could even buy their freedom. Those living in port towns worked alongside free, apprenticed,

Time Line

1772

■ **June 22**
The Chief Justice of the King's Bench issues the Somerset decision, which stated that slavery could not exist in England or British colonies unless written law had already established it.

1773

■ **January 6**
Felix Holbrook petitions the Massachusetts colonial government for "relief" from slavery.

■ **April 20**
Five African Americans from Boston, including Holbrook, petition the Massachusetts colonial government for their freedom.

1774

■ **May 25**
African Americans submit a petition asking for freedom to the British military governor Thomas Gage and the Massachusetts House of Representatives, the first of two petitions.

1775

■ **March 6**
Fifteen Boston blacks join the Masonic lodge attached to the British Army in Boston.

1777

■ **January 13**
Eight Boston blacks, including Prince Hall, petition for freedom for "a great number of Negroes."

1781

■ In *Brom & Bett v. Ashley*, a jury decides in favor of Elizabeth Freeman, a slave who sued her owner for her freedom on the basis on the first article of the Massachusetts state constitution of 1780.

■ Chief Justice William Cushing of the Massachusetts Supreme Judicial Court hands down the Quock Walker ruling.

■ **November**
Prince Hall offers to recruit African American men to help put down Shays's Rebellion in western Massachusetts.

and indentured laborers and often caroused with them in pubs after work. In Massachusetts, even slaves had many civil rights, including trial by jury as well as the right to enter into contracts, to sue for abuse or fraud, and to sue if they considered themselves unjustly enslaved. However, blacks and indentured whites were subject to special laws designed to exert an extra measure of control over potentially dangerous minorities. Blacks could not marry whites, and in many towns slaves and indentured whites had to carry passes from their masters if they were moving about after dark. Townspeople were often on edge about the potential for disorder. In Boston in 1753, groups of blacks and poor whites were accused of parading through streets, building bonfires, and abusing pedestrians. In response, the Massachusetts assembly passed laws that barred three or more men from parading in the streets, and blacks who disobeyed this law were to be punished with ten stripes.

There was one yearly event when blacks were allowed to take collective action: the so-called Negro election festivals, which had begun in the mid-eighteenth century and continued until after slavery ended in Massachusetts. These festivals served several purposes. Blacks in a given locale would elect a man who would serve as their representative with Anglo-American community leaders and might be called upon to judge disputes between slaves. Those elected were often from noble African families. These events were also carnival-like events where the social restrictions were set aside, providing a release from repressive social norms but paradoxically also reaffirming them. Whites and Native Americans also partook in these festivals.

While servitude and racism were facts of life in eighteenth-century New England, as elsewhere in colonial America, the region's culture also nurtured a nascent opposition to the slave trade. This opposition was rooted in the Puritan view that permitted the enslaving of war captives but frowned on "man stealing." In 1700 Massachusetts chief justice Samuel Sewall published *The Selling of Joseph: A Memorial*, which began, "It is most certain that all Men, as they are the Sons of *Adam*, are Coheirs; and have equal Right unto Liberty, and all other outward Comforts of Life." It is therefore perhaps not surprising that slaves, with the support of sympathetic whites, began in 1765 to file a series of lawsuits challenging their status. Juries became more sympathetic to the cause of slaves as popular opposition to Britain's measures intensified in the colonies. Many colonists began to contemplate the apparent contradiction between democratic ideals and the existence slavery in their midst. The Boston attorney James Otis, in his famed pamphlet *The Rights of British Colonies* (1764), wrote: "The Colonists are by the law of nature free born, as indeed all men are, white or black.... Does it follow that 'tis right to enslave a man because he is black?" Slavery, Otis noted, "is the most shocking violation of the law of nature, has a direct tendency to diminish the idea of the inestimable value of liberty, and makes every dealer in it a tyrant.... Those who every day barter away other men's liberty will soon care little for their own."

Not surprisingly, African Americans became involved the cause for freedom from British rule. One of the more famous examples occurred on March 2, 1770, when the mixed-race sailor Crispus Attucks was the first man killed in the Boston Massacre, a violent skirmish between dockworkers and British military forces. Along with the others slain, Attucks was honored as a martyr. Phillis Wheatley, born in West Africa in 1753 or 1754 and sold to John Wheatley in Boston at the age of seven, gained fame in the late 1760s as a teenage poet prodigy. Although some of her most famous works gave thanks for being brought to a Christian America, her public view shifted in the Revolutionary environment. In 1772 Phillis wrote a long work that linked her love of the emerging concept of American freedom to her "cruel fate" of being "snatch'd from Afric's fancy'd happy seat." But the most important embrace by blacks of Revolutionary goals came in a series of petitions that began in 1773.

The first petition was sent to the colonial Massachusetts governor Thomas Hutchinson, the Governor's Council, and the House of Representatives, on January 6, 1773. The petitioner was a black man named Felix (probably Felix Holbrook, who also signed subsequent petitions), who made his application on behalf of "many Slaves" in Boston and elsewhere in Massachusetts. He began with an appeal to Christianity and then referred in an oblique way to the Somerset court decision by invoking God, who "hath lately put it into the Hearts of Multitudes on both Sides of the Water, to bear our Burthens, some of whom are Men of great Note and Influence; who have pleaded our Cause." In the Somerset case, the chief justice of the King's Bench had ruled in June 1772 that slavery could not exist in England or its colonies unless it was explicitly established by written law. In his petition Felix conceded that "some of the Negroes are vicious," but he insisted that most slaves would be industrious if they were freed. He also pointedly observed that although male slaves were deprived of everything considered proper for men (wives, property, and children), they would obey their masters as long as they remained slaves. According to Felix, they wanted only "such Relief" that would cause the "least Wrong or Injury to our Masters." Felix clearly advocated freedom for slaves yet did not mention the word. While he was the only signatory, on the same day an individual known as Hume wrote a letter in support of Felix's petition to the governor and the House of Representatives. That letter, published in the *Massachusetts Spy* on January 28, brought up the Somerset ruling, moral arguments against slavery, and broader movements in the colony for the recognition of human rights.

Three and a half months later, on April 20, there came a very different petition from Felix Holbrook, Peter Bestes (or Bess), Sambo Freeman, and Chester Joe. Addressed to delegates in the House of Representatives, it was printed so that it could be distributed widely. The petition began by noting with considerable irony that the House's recent efforts "to free themselves from slavery"—that is, the colony's opposition to the Sugar Act, Stamp Act, and Townshend Revenue Act—"gave us, who are in that deplorable state, a high degree of satisfaction" and then added: "We expect great things from men who have made such a noble stand against the designs of their *fellow-men* to enslave them." As in Felix's earlier petition, the signatories assured their readers that they were not demanding all that was due to them by "right," because that would harm their masters. Nor did they want to "dictate" policy to the House of Representatives, but they expected that the delegates, motivated by "principles of equity and justice," would take their "deplorable case" into consideration. This time, the petitioners asked for their "natural right" to "freedom" and offered to submit to whatever laws and regulations were imposed until they could earn enough money to return to the coast of Africa—a goal not mentioned in the petition of January 1773.

Approximately a year later, on May 25 and again in June, two more petitions from African Americans were submitted, this time to the British governor Thomas Gage and the military government that had just been imposed in Massachusetts in response to popular unrest. There is no surviving record of signatories for either petition. The May petition referenced the Somerset decision and asserted that blacks were held in slavery "by divine permission," which implied that the laws of Massachusetts had not permitted their enslavement. This petition stated that "the laws of the Land … doth not justify but condemns Slavery" and that those held in bondage had "a natural right" to freedom. It also included an extended discussion of how slaves had been prevented from acting as husbands, wives, or even parents. The petitioners concluded with requests to be "liberated and made free men" and to be given land for farms. The petition of June 1777 pointed to the Somerset decision and noted that no laws or contracts had made blacks slaves; it also put more emphasis on religion and even hinted at a connection between the forced servitude of African Americans and that of the Israelites in Egypt. This petition asked for recognition of the "Natural rights or freedoms" of slaves

Time Line

1787

- **January 4**
  African Americans petition the Massachusetts General Court, seeking help in returning to Africa.
- **October**
  Boston blacks petition that since they pay taxes their children should also be educated in the city's schools.

1797

- The African Society of Boston is established.

1798

- African Americans in Boston open a school for black children.

Thomas Gage (Library of Congress)

and for their children to be freed at age twenty-one, but it made no request for land and did not mention Africa, apart from the reference to the Israelites' bondage.

As the politics of the region spun toward revolution and war, African Americans took sides with both the colonists and the British. Perhaps this was because many slaves were seeking the best opportunity for freedom. On September 22, 1774, Abigail Adams wrote to her husband, the future president John Adams, that she had heard in Boston of "a conspiracy of the negroes," who had offered Governor Gage their military service if he armed and freed them. Perhaps this rumor was connected to the May and June petitions, but the colonists would have been particularly fearful, given Parliament's imposition of the Intolerable Acts (also known as the Coercive Acts) in punishment for the Boston Tea Party. Those measures blockaded Boston, required the colonists to house British soldiers, and exempted British officials from local courts, and also repealed the Massachusetts charter and put the province under martial law directed by Gage. On March 6, 1775, as angry colonists moved to resist these measures, fifteen free black men, including Peter Best and Prince Hall, became members of the Masonic lodge that was affiliated with a British army regiment quartered in Boston. About three weeks later, African Americans in Bristol and Worcester counties asked the Revolutionary committees of correspondence in Worcester County to help them gain freedom. On April 19 came the outbreak of war at Lexington and Concord. Free and enslaved African Americans fought with town militias at those engagements and were among the forces of colonists at Charlestown that besieged Boston and tried to hold the line on June 17 at the Battle of Bunker Hill. By that time, General Gage was indeed considering enlisting African Americans, if only to entice them away from helping the American forces.

Congress appointed George Washington commander of American forces on June 15, 1775. When he arrived in Massachusetts in July, with British troops still besieged in Boston, he and his staff were scandalized to find blacks in the ranks. On October 8, his council tried to eject slaves and free blacks from the Continental army. But the protests of militia officers and shortfalls in recruiting—plus the willingness of the British to enlist blacks—forced Washington to change course. He first tolerated and then encouraged free blacks to enlist and finally asked Congress to allow slaves to enlist with their owners' permission. While a few black units were formed, most African American soldiers served in integrated units. It would not be until the Korean War during the early 1950s, over one hundred seventy years later, that African Americans would again serve their country in integrated units. On March 17, 1776, the British Army evacuated Boston; before they left, black members of the Masonic lodge were granted limited dispensation to maintain their group. On July 4, 1776, Congress declared independence. Five months later, on January 13, 1777, Prince Hall and seven other African Americans submitted a petition to the Massachusetts General Court on behalf of "a great number of Negroes" that called for an end to slavery.

About the Author

Eight men put their names on the petition of January 13, 1777: Lancaster Hill, Peter Bess (probably Best), Prince Hall, Jack Purpont, Brister Slenser, Nero Suneto, Newport Symner, and Job Lark. Four were literate enough to sign instead of simply making a mark next to their names: Hill, Hall, Slenser, and Lark. Hall, Best, and Slenser were three of the fifteen black members of the Masonic lodge and had obviously chosen not to leave with the British but rather to remain in Boston. Bess also had signed the petition of April 20, 1773. There is, however, extensive information about only one signatory, Prince Hall, largely because of his leadership of the African American Masonic lodge and other black community organizations in Boston after the Revolutionary War. Hall's subsequent speeches and petitions were written in a style similar to that of this petition, which indicates that he may have also been its author.

Little has been documented of Hall's life before the American Revolution. The Masonic tradition holds that he was born a free man in Barbados on September 12, 1748, and sailed to Boston in March 1765. By the age of twenty-five he owned a soap-making business, had purchased a home, and was qualified to vote in the city. A non-Masonic biographer has provided a different biography. According to this version, Hall was born in 1735, birthplace unknown,

and first appeared in Boston in the 1740s as a slave belonging to William Hall. In support of this version, Hall himself testified just before his death in 1807 that he was about seventy years old. In 1756 he fathered a son named Primus, whose mother was Delia, a servant in another household. In 1770 Hall was given freedom by his master one month after the Boston Massacre. It is unknown whether Hall fought during the American Revolution. Besides this petition, the only documents about Hall that date from the war years are records that he owned property and paid taxes. There is also a bill that he submitted on April 24, 1777, for five drumheads, which shows that his trade was leather dressing.

Hall became the leader of the Boston African American community—the largest in New England—as it became a coherent entity and developed social, religious, and educational institutions. He began with the African American Masonic lodge and tried without success to receive official recognition of it from the American branch of the Masons. In March 1784 he asked the leaders of the fraternal order of Free and Accepted Masons in London for a charter that would give the African American lodge in Boston the same powers as other lodges, including the ability to initiate new Masons. That charter was granted in the spring of 1787, officially recognizing African Lodge No. 1 with Prince Hall as Master. The lodge provided services to black Bostonians: free firewood, periodic food drives for those in need, weekly "sick dues," and loans for members and their families. It later became known as the Prince Hall Lodge; today there are forty-seven Prince Hall Lodges that have grown out of the original Boston lodge.

Hall sought to strengthen political bonds between African Americans and Massachusetts political leaders. In late November 1786 Hall offered Governor James Bowdoin seven hundred African American men to help put down Shays's Rebellion. Farmers and gentry in the poorer, rural, western part of the state, angered at their inability to pay high state taxes imposed to meet Revolutionary War debts, held mostly by wealthy Bostonians, had taken up weapons and forced the county courts to close in order to stop foreclosures. Boston merchants helped pay for an army assembled in the east, since more local militia seemed untrustworthy; that force confronted and dispersed the "rebels" and arrested many. But the governor turned down Hall's offer, probably because he and other Boston elites feared placing weapons in the hands of so many African American men. One month later, perhaps in part because of the governor's rebuff, Hall submitted a petition from the African Lodge to the General Court that complained about society's poor treatment of blacks and the lack of opportunity for them; the petition also sought assistance in returning blacks to Africa. In October 1787 Hall submitted a petition with many signatories that charged that since African Americans paid district taxes their children had the right to be educated in the city's schools. A few months later, he organized a petition signed by twenty-two Masons for the return of three free Boston African Americans who had been kidnapped and subsequently sold as slaves. On March 26, 1788, the General Court responded with an act that banned the slave trade and gained relief for blacks kidnapped from Massachusetts and resold into slavery. The return of the three men in July 1788 was celebrated at the African lodge.

Portrait of James Otis on the cover of the Boston Almanack (Library of Congress)

During the 1790s Hall was instrumental in the creation of organizations to meet the needs of Boston's African American community. In June 1792 he delivered a speech in Charlestown, "A Charge Delivered to the Brethren of the African Lodge," in which he criticized Massachusetts districts (towns) for taxing African Americans while refusing to allow their children to attend local schools. The speech was published that year. Four years afterward, he brought up this same issue with the Boston selectmen but again failed to gain admittance of black children to area schools. Hall then established an independent black school at the Boston African Meeting House, with his son, Primus, as teacher. In 1797 Hall helped found the African Society of Boston, which provided various forms of assistance to Boston-area blacks who were not Masons. Society members were required to live according to an upright moral code and emulate middle-class social values, even though the majority of blacks were of very limited means and un-

Essential Quotes

"They have, in common with all other Men, a natural & unalienable right to that freedom, which the great Parent of the Universe hath bestowed equally on all mankind, & which they have never forfeited by any compact or agreement whatever."

"They were unjustly dragged … from their dearest friends, & some of them even torn from the embraces of their tender Parents from a populous, pleasant and plentiful Country—& in Violation of the Laws of Nature & of Nation."

"They can not but express their astonishment, that it has never been considered, that every principle from which America has acted in the course of their unhappy difficulties with Great-Britain, pleads stronger than a thousand arguments in favor of your Petitioners."

able to attain a middle-class living standard. The last public record of Hall's thought was an address to the African Masonic Lodge on June 24, 1797, in which he celebrated the success of the Haitian slave revolt of 1791 and urged his brothers to exercise patience despite their regular abuse in Boston. He died ten years later.

Explanation and Analysis of the Document

The petition of January 1777 begins by stating that it was an appeal on behalf of not only the signatories but also "a great number of Negroes," many then living in a "state of Slavery." The three previous petitions for freedom submitted between January 1773 and May 1774 had begun similarly. But the 1777 petition was the first effort by African Americans to improve their situation after the country had declared itself free of British rule. The petition relied heavily on concepts that had emerged with the European Enlightenment in the late seventeenth century, particularly the notion first expressed by the English political philosopher John Locke in 1690 that all humans were born with the "natural" rights of life, liberty, and property. Locke and later Enlightenment thinkers also held that government was not something imposed by God on sinful humans but a contract created by people long ago in order to protect their natural rights from greed or passion; if a government violated those rights, the people had the right to change the government. These concepts would become foundations of the American Revolution and were carefully chosen by Thomas Jefferson to open the Declaration of Independence—published just six months before the eight Boston blacks presented their petition for freedom. The petition also critiques the hypocrisy of calling for freedom while allowing slavery to continue. This argument was quite different from that advanced in the other four petitions, all of which made only passing nods at Enlightenment thought and instead emphasized Christian morality, the "unmanly" situations of the petitioners, and the Somerset court decision.

Although the document is not divided into sections, it may be considered in three parts. In the first part, the petitioners call forth concepts cherished by political leaders in the state (and country) and condemn the international slave trade as a violation of those values. They declare that blacks have "a natural & unalienable right" to the freedom granted to all humankind, "which they have never forfeited by any compact or agreement." This phrasing is significant not only because of the reference to natural rights but also because the giver of freedom is described not as Christ or God but as the "great Parent of the Universe"—a phrase in

tune with Enlightenment notions of the universe as a machine that God created with predictable rules understandable by human beings. The opening perhaps also retains the hint of a reference to the Somerset decision. The next clause invokes the emerging Euro-American notion of sentimentalism, that citizens in a republic needed to develop the virtuous and benevolent moral feelings that could be fostered only within a loving family and by the manly bonds of friendship. Thus the petitioners decry the "cruel hand" of the slave traders, who "unjustly dragged" blacks "from their dearest friends," some "even torn from the embraces of their tender Parents." These practices are condemned as being in violation of the "Laws of Nature & of Nation"—a reference to Locke and the Somerset ruling—as well as "in defiance of all the tender feelings of humanity." In perhaps the most unexpected clause, the petitioners associate their lost happiness with "a populous, pleasant and plentiful Country," rather than an African continent more usually depicted (even by Phillis Wheatley in her popular poems) as barbaric, savage, and dark.

The next part first offers flowery praise, then bitter criticism. Here, the petition extols New Englanders for "professing the mild Religion of Jesus" (the tone of the word *professing* being perhaps mildly scolding) and being "not insensible of the sweets of rational freedom." By commending the "spirit" by which the American colonists had resisted "the unjust endeavors of others to reduce them to a State of Bondage & Subjection," this section makes the connection between the ideals of the American Revolution and freedom from slavery. The petitioners then pointedly note that the leaders of the state did not have to be "informed" that a life of slavery without any rights was "far worse than Non-Existence"—that is, even harsher than life under British military rule and Parliament's authority. The petitioners voice their bewilderment and "grief" at how, "in imitation of the laudable example" of American democratic practices, they had submitted "Petition after Petition" to the state legislature. Yet their efforts had been to no avail, much as the efforts of colonial American leaders had failed to gain a sympathetic ear in Parliament. There is no indication that this rebuke was meant to threaten a potential uprising by Massachusetts slaves, but it was a veiled hint at the level of their collective frustration. The petitioners then express "their astonishment" that their fellow Americans had not yet conceded that the principles upon which the Revolution was grounded pleaded "stronger than a thousand arguments" in support of freedom for slaves.

The third part of the petition is its most substantive section. It calls on the legislature to pass a measure ending slavery, though the petitioners are willing for their children born in America to remain slaves until the age of twenty-one. They observe that ending slavery would not be giving slaves new rights but restoring them "to the enjoyment of that freedom which is the natural right of all Men." Again, the petitioners call attention to the principle of natural rights. Unlike previous requests, this petition does not propose that any consideration should be given to slave owners. Likewise, it does not ask for land on which former slaves could start farms, nor is there any suggestion that blacks would return to Africa. If the legislature were to grant the petition's request, Prince Hall and the other signatories note, it would free the people of Massachusetts from "the inconsistency of acting, themselves, the part which they condemn & oppose in others." The people of Massachusetts would therefore certainly "be prospered in their present glorious struggles for Liberty."

Audience

This petition was addressed to the Massachusetts legislature, consisting of the House of Representatives and the Revolutionary Council, which functioned as the upper legislative house before the state constitution of 1780 took effect. Clearly, the petition was also directed at various community leaders (ministers, merchants, and lawyers), the general public, and African Americans throughout New England. The petitioners knew that their request would be reported and circulated widely.

Impact

The first response to the petition came from the Massachusetts legislature, which drafted and considered a bill that would have outlawed slavery, declaring it "unjustifiable in a civil government at a time when [the former colonies] are asserting their natural freedom." It also would have given freedmen "all the Freedom, Rights, privileges & immunities" of white adult males living in the state, which would have included the right to vote and hold office for those who also met the property-ownership requirement. The bill would have barred any agreements that conveyed or transferred ownership of any person aged twenty-one or older. It also would have tried to avoid adding to the tax burden of towns by "allowing" slaves who were "incapable of earning their living by reason of age or infirmities" to remain in service to their owners (and be supported by said owners) if they "voluntarily declare the same before two justices of the County." The bill also would have allowed ship owners to import indentured servants who were not from Africa or from the United States. The measure did not become law, however, apparently because the state assembly was reluctant to be the first in the union to take such an action. Instead, the question of emancipation was referred to the Continental Congress, which did nothing.

In a less direct fashion, the petition may have influenced the wording of the Massachusetts constitution and the outcome of two pivotal legal cases in which slaves had brought suit against their owners. Several Massachusetts towns rejected the draft of the state constitution of 1778 partly because it contained no explicit condemnation of slavery. Although the state constitution of 1780 also lacked a ban on slavery, its first article declared that "all men are born free and equal"—a statement that indeed led to the end of slavery in Massachusetts. In 1781 Elizabeth Freeman, a slave owned by John Ash-

ley of Sheffield, cited the first article of the state constitution in her lawsuit asking for her freedom. A local jury decided in her favor. That same year, Quock Walker sued his owner, Nathaniel Jennison; during this trial Chief Justice William Cushing instructed the court that the first article had effectively banned slavery in the state. While there is no direct connection between the petition of January 1777 and these developments, certainly this petition and others like it helped lay the ideological groundwork for the abolition of slavery. Petitions submitted by African Americans to the Connecticut and New Hampshire legislatures may have similarly influenced the passage of the gradual emancipation laws in those states.

A third significant impact of the petitions of Prince Hall and others was the emergence of African American leadership and institutions in Boston as well as in other cities and states. Prince Hall's exceptional efforts as a community leader highlight that development, but he was clearly not alone. Because African Americans lived scattered around the city and mostly within white-headed households until the 1820s, the petitions submitted before, during, and after the American Revolution were not simply requests or demands for legislative action; just as importantly, they served to unify and organize the African American community.

See also *Prince Hall: A Charge Delivered to the African Lodge* (1797).

Further Reading

■ Articles

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Questions for Further Study

1. How did Prince Hall's petition lay the foundation for abolition in Massachusetts and, ultimately, throughout the northern United States?

2. How did the status and circumstances of slaves in New England differ from those of slaves in the rural South? What factors contributed to these differences?

3. What role did religion play in the formation of early abolitionist sentiments in Massachusetts and throughout New England?

4. What events preceding and during the American Revolution contributed to the reasoning of Massachusetts petitioners in their quest for freedom? How did the authorities respond?

5. Compare this document with the court's decision in the legal case *Quock Walker v. Jennison*. To what extent do the two documents express similar views and rationales?

Otis, James. *The Rights of British Colonies Asserted and Proved*. Boston: Edes and Gill, 1764.

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—Daniel R. Mandell

Document Text

Petition of Prince Hall and Other African Americans to the Massachusetts General Court

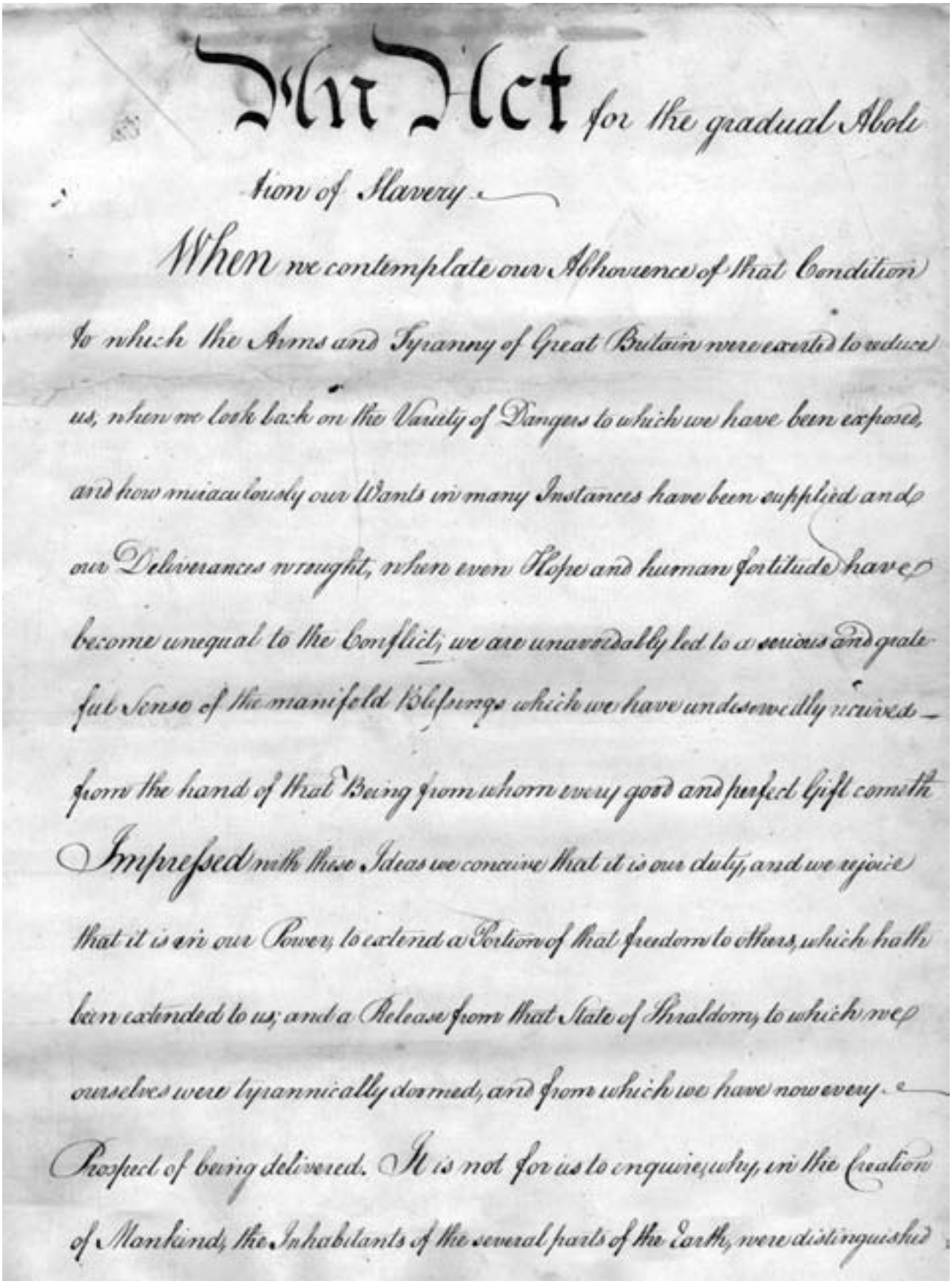
To the Honorable Council & House of Representatives for the State of Massachusetts Bay in General Court assembled January 13, 1777.

The Petition of a great number of Negroes who are detained in a state of Slavery in the Bowels of a free & Christian Country Humbly Shewing.

That your Petitioners apprehend that they have, in common with all other Men, a natural & unalienable right to that freedom, which the great Parent of the Universe hath bestowed equally on all mankind, & which they have never forfeited by any compact or agreement whatever. That they were unjustly dragged by the cruel hand of Power, from their dearest friends, & some of them even torn from the embraces of their tender Parents from a populous, pleasant and plentiful Country—& in Violation of the Laws of Nature & of Nation & in defiance of all the tender feelings of humanity, brought hither to be sold like Beasts of Burden, & like them condemned to slavery for Life. Among a People professing the mild Religion of Jesus—A People not insensible of the sweets of rational freedom—Nor without spirit to resent the unjust endeavors of others to reduce them to a State of Bondage & Subjection—Your donors need not to be informed that a Life of Slavery, like that of your petitioners, deprived of every social privilege, of every thing requisite to render Life even tolerable, is far worse than Non-Existence. In imitation of the laudable example of the People of these States, your Petitioners have long & patiently waited the event of Petition after Petition by them presented to the legislative Body of this State, & can not but with grief reflect that their success has been but too similar. They can not but express their astonishment, that it has never been considered, that every principle from which America has acted in the course of their unhappy difficulties with Great-Britain, pleads stronger than a thousand arguments in favor of your Petitioners. They therefore humbly beseech your Honors to give this Petition its due weight & consideration, & cause an Act of the Legislature to be passed whereby they may be restored to the enjoyment of that freedom which is the natural right of all Men—& their Children (who were born in this Land of Liberty) may not be held as Slaves after they arrive at the age of twenty one years. So may the Inhabitants of this State (no longer chargeable with the inconsistency of acting, themselves, the part which they condemn & oppose in others) be prospered in their present glorious struggles for Liberty: & have those blessings secured to them by Heaven of which benevolent minds can not wish to deprive their fellow Men.

And your Petitioners as in Duty Bound shall ever pray

Lancaster Hill
Peter Bess
Brister Slenser
Prince Hall
Jack Purpont [mark]
Nero Suneto [mark]
Newport Symner [mark]
Job Lark



An Act for the gradual Abolition of Slavery

When we contemplate our Abhorrence of that Condition to which the Arms and Tyranny of Great Britain were exerted to reduce us, when we look back on the Variety of Dangers to which we have been exposed, and how miraculously our Wants in many Instances have been supplied and our Deliverances wrought, when even Hope and human Fortitude have become unequal to the Conflict, we are unavoidably led to a serious and grateful Sense of the manifold Blessings which we have undeservedly received from the hand of that Being from whom every good and perfect Gift cometh. Impressed with these Ideas we conceive that it is our duty, and we rejoice that it is in our Power, to extend a Portion of that Freedom to others, which hath been extended to us; and a Release from that State of Thraldom, to which we ourselves were tyrannically doomed, and from which we have now every Prospect of being delivered. It is not for us to enquire why, in the Creation of Mankind, the Inhabitants of the several parts of the Earth, were distinguished

The Pennsylvania Gradual Abolition Act (The Pennsylvania State Archives)

Pennsylvania: An Act for the Gradual Abolition of Slavery

1780

"It is sufficient to know that all are the work of an Almighty Hand."

Overview

On March 1, 1780, with the Revolution still raging and its outcome in doubt, the Pennsylvania legislature became the first legislature in history to take steps to abolish slavery. Pennsylvania's Act for the Gradual Abolition of Slavery is both idealistic and practical. It tries to balance the idea of liberty, which was at the heart of the Revolution, with the founding generation's deep respect for private property. The law also recognizes the significance of race in both the creation of slavery and the perpetuation of discrimination against former slaves. Eventually four other states and a Canadian province—Connecticut (1784), Rhode Island (1784), New York (1799), New Jersey (1804), and Upper Canada (present-day Ontario; 1794)—adopted similar laws to end slavery. Thus the Pennsylvania law became a model for how places with slavery ended the institution. These places accomplished what no other societies before them had: the peaceful eradication of slavery.

Unlike the ending of slavery in the rest of the United States, the Pennsylvania law took into account the need to provide some equality and protection for former slaves. It also recognized that masters had a property interest in their slaves. While the American Revolutionaries used the rhetoric of liberty throughout their struggle, they also persistently acknowledged and argued for the right of property. Thomas Jefferson's famous language from the Declaration of Independence—that all people are entitled to "life, liberty, and the pursuit of happiness"—is a paraphrase of John Locke's trinity of "life, liberty, and property" from his *Two Treatises of Government* (1690), and almost all white Americans accepted that property was essential to liberty.

Context

When the American Revolution began in 1775, slavery was legal in all of the thirteen colonies. In New England, where the war started, some masters allowed their male slaves to enlist to fight for both their liberty and the liberty of the new nation. In the first battles in Massachusetts—at Lexington and Concord and then at Bunker Hill—a few blacks, such as Salem Poor and Peter Salem, distinguished themselves in battle. When the slaveholding George Washington took command of the Revolutionary Army based outside Boston, he was shocked to see armed and uniformed blacks in the ranks of the militias from New England. Initially Washington demanded that these black soldiers be mustered out of the army; within a few months, impressed by their skill and courage and desperate for any soldiers, Washington changed his mind and welcomed black soldiers. By the end of the war one of his favorite units was the First Rhode Island Infantry, even though about half the soldiers in that unit had been slaves when the war began. Washington quickly came to admire the dedication of those black soldiers who fought for their own liberty—and that of their families—as well as for the independence of the new nation.

Eventually thousands of slaves gained freedom for themselves and their families through military service, but these individual emancipations did not solve the great problem of slavery in the new nation. At the time of the Revolution, slavery presented the first great—and for a long time the most enduring—contradiction in American history. The Declaration of Independence asserts, "All men are created equal" and have a right to "life, liberty, and the pursuit of happiness." This language seems to condemn slavery. But the man who wrote these words, Thomas Jefferson, owned about 150 slaves at the time, and by the end of his life he owned more than two hundred slaves. The English literary figure Samuel Johnson pointedly asked during the Revolution, "How is it that we hear the loudest yelps for liberty among the drivers of negroes?"

In the South most Americans tried to ignore the issue of slavery, although hundreds if not thousands of individual southerners privately freed their slaves during and after the Revolution. Most famously, Washington provided for the freedom of all of his slaves when he died in 1799. The less famous, but still significant South Carolina Revolutionary Henry Laurens freed his slaves during his lifetime. Indeed, during and after the Revolution as many as fifty thousand southern slaves were freed by their owners, but this hardly made a dent in the overall southern slave population, which numbered more than one million when the Revolution ended.

Time Line

1688

■ **February**
Germantown Quakers issue first protest against slavery in the New World.

1737

■ Benjamin Lay publishes *All Slave-Keepers That Keep the Innocent in Bondage, Apostates Pretending to Lay Claim to the Pure and Holy Christian Religion.*

1754

■ John Woolman publishes *Some Considerations on the Keeping of Negroes.*

1758

■ Philadelphia Yearly Meeting of the Society of Friends (Quakers) officially urges all Quakers to emancipate their slaves.

1762

■ Anthony Benezet publishes *A Short Account of That Part of Africa Inhabited by the Negroes.*

1772

■ Benezet publishes *Some Historical Account of Guinea.*

1773

■ Benjamin Rush publishes *An Address to the Inhabitants of the British Settlements in America, upon Slave-Keeping.*

1775

■ **April**
First antislavery society in America is organized in Philadelphia, calling itself the Society for the Relief of Free Negroes Unlawfully Held in Bondage.

■ **April 19**
Battles of Lexington and Concord in Massachusetts ignite the American Revolution.

1776

■ **July 4**
Continental Congress meeting in Philadelphia issues the Declaration of Independence.

In the North, social and economic factors led to greater opposition to slavery. The religious background of many northerners—Quakers, Congregationalists, Methodists, and Baptists—led to significant opposition to slavery in Pennsylvania and New England. This contrasted with the dominance of Anglican/Episcopalian leadership in the South. Antislavery sentiment was particular strong in Pennsylvania, where Quakers and other pietists had long opposed slavery, as did freethinkers like Benjamin Franklin and Benjamin Rush. Opposition to slavery in Pennsylvania was rooted, to a great extent, in the state's religious heritage. Pennsylvania took the lead in ending slavery in part because Quakers, Mennonites, and other members of pietistic faiths were among the earliest opponents of slavery in America. In February 1688, Quakers in Germantown, Pennsylvania, issued a resolution that sets out "the reasons why we are against the traffic of men-body." The resolution notes the revulsion Europeans had for the thought of being enslaved by Turks and then argues, "Now, though they are black, we cannot conceive there is more liberty to have them slaves" than it is for the Turks to enslave white Europeans. The resolution also argues that slavery violates the fundamental tenets of Christianity: "There is a saying, that we should do to all men like as we will be done ourselves; making no difference of what generation, descent, or colour they are." Finally, the Germantown Quakers argue that slavery in effect violates the commandment against adultery, because "separating wives from their husbands, and giving them to others," as slave traders did, was the equivalent of sanctioning adultery. The resolution specifically singles out fellow Quakers in Pennsylvania who "here handel men as they handel there the cattle." This seemed particularly wrong because the Quakers had been persecuted for their beliefs in Europe and some were now persecuting men for their color.

The Germantown resolution set the tone for religious antislavery protests in Pennsylvania. Soon Quakers throughout the colony were asserting that blacks were equal to whites and thus could not be enslaved. Other Quakers, however, argued that slavery was sanctioned by the Bible and that the only obligation of Christians was to treat slaves humanely and to teach them the Gospel. This issue divided many Quaker meetings. By the mid-1700s, however, almost all Quakers accepted the idea that slavery was wrong. In 1737 Benjamin Lay published *All Slave-Keepers That Keep the Innocent in Bondage, Apostates Pretending to Lay Claim to the Pure and Holy Christian Religion*. The book was printed by Benjamin Franklin; it is likely that in setting the type for this book (and, in fact, helping Lay organize his notes), Franklin began to understand the deep problem that slavery presented for a just society. Eventually Franklin became a vigorous opponent of slavery and the president of the Pennsylvania Society for the Abolition of Slavery. With its pretentious title and aggressive attacks on slaveholding, Lay's book antagonized many people. But it also stimulated opposition to slavery and led to the emergence of John Woolman as the first significant antislavery activist in Pennsylvania. He was soon joined by his fellow Quaker Anthony

Benezet in a vigorous and mostly successful campaign to convince Quakers that slavery was wrong.

By the eve of the Revolution, a significant percentage of the people in Pennsylvania believed that slavery was morally wrong. This understanding extended beyond Quakers. In 1773 the respected physician and soon-to-be patriot leader Benjamin Rush (who had been influenced by Benezet) published *An Address to the Inhabitants of the British Settlements in America, upon Slave-Keeping*. Rush argued for racial equality on medical grounds and against slavery. Three years later Rush, along with Franklin, signed the Declaration of Independence. In 1775 Thomas Paine, a recent migrant to Philadelphia, published an essay attacking slavery. He soon became the most famous pamphleteer of the Revolution, writing the classic *Common Sense* (1776) and *The American Crisis* (1776–1783). Paine's essay against slavery appeared in a Philadelphia newspaper on the very eve of the Revolution. Paine asked "with what consistency or decency" would the Americans complain that the British king was trying to enslave them, "while they hold so many hundred thousands in slavery." In April 1775, less than a week before the first battles of the Revolution, ten men in Philadelphia organized the Society for the Relief of Free Negroes Unlawfully Held in Bondage. This was the first antislavery organization in the Americas or in England, and its establishment confirmed Philadelphia's status as the center of antislavery thought and action. Quakers led the movement, but Presbyterians like Rush and deists like Franklin and Paine were also vitally concerned about the problem of slavery and slaveholding.

Ironically, while the Revolution brought opponents of slavery like Rush, Paine, and Franklin into the political mainstream, it undermined the political significance of the Quakers, who were the most active antislavery group in the new state. Many Quakers sympathized with the British, and those who did not sympathize refused to take up arms because they were pacifists. Thus, during the Revolution, Quakers saw their political power erode. However, by this time, opposition to slavery was not confined to the Quakers. In 1779 George Bryan, a Presbyterian member of the new state legislature, proposed legislation to end slavery in Pennsylvania. His bill received an enthusiastic reception, although some opposition came from those who feared free blacks and those who owned slaves. In January 1780 more than 60 percent of the state legislators voted to pass Bryan's bill. The law came into effect on March 1, 1780.

About the Author

The 1780 act was proposed by George Bryan, a member of the Pennsylvania legislature. Like most pieces of legislation, it has no single author. Legislators altered and amended the act as it went through committees and was read on the floor of the legislature. Bryan is considered the father of the law. Born in Dublin, Ireland, Bryan came to Philadelphia when he was about twenty years old. He practiced law, became a Patriot leader, and was a devout Presbyterian

Time Line

1780

- **March 1** Pennsylvania legislature passes the Act for the Gradual Abolition of Slavery.
- **June 15** Massachusetts Constitution declares all people are born "free and equal."

1781

- Massachusetts courts rule that the new constitution has ended slavery in the state.

1783

- **September 3** American Revolution ends with the signing of the Treaty of Paris.

1784

- Rhode Island and Connecticut both pass gradual abolition acts based on the Pennsylvania law.
- **May 25–September 17** Constitutional Convention meets in Philadelphia and includes a number of provisions protecting slavery in the Constitution.
- **July 13** Congress meeting under the Articles of Confederation in New York passes the Northwest Ordinance, banning slavery in the territories that later become the states of Ohio, Indiana, Illinois, Michigan, Wisconsin, and parts of Minnesota.

1788

- **March 29** Pennsylvania legislature passes supplement to the Act for the Gradual Abolition of Slavery.

1793

- **February 12** Congress passes the first federal fugitive slave law.

1799

- **March 29** New York passes a gradual abolition act based on the Pennsylvania law.

Time Line

1804

■ **February 15**
New Jersey passes a gradual abolition act based on the Pennsylvania law.

1808

■ **January 1**
Congress officially bans the African slave trade.

1820

■ Missouri Compromise allows slavery in Missouri but bans it north and west of Missouri.

■ **July 4**
New York frees all remaining slaves in the state.

whose religious values influenced his opposition to slavery. Before the Revolution, Bryan was a delegate to the Stamp Act Congress (October 1765), and from 1777 to 1779 he served on the Supreme Executive Council of the state, usually as the council's vice president but for a time as the president, which was the equivalent of being the governor of the state. In 1779 he was elected to the state assembly, where he immediately proposed the Act for the Gradual Abolition of Slavery. Shortly after passage of the act he became a judge.

Explanation and Analysis of the Document

The 1780 Act for the Gradual Abolition of Slavery was part of the social and political revolution associated with the rebellion that led to American independence. Emancipation dovetailed with the stated claims of the American Revolutionaries, and structurally the 1780 act resembles the Declaration of Independence. Each has a two-paragraph preamble, which sets out the document's purpose. The Declaration is not a statute but rather a series of statements justifying independence. The 1780 act, as a statute, becomes less dramatic after the preamble, because it must explain how emancipation is to work.

In addition to this structural resemblance to the Declaration of Independence, the statute can be seen as a legislative implementation of the Declaration. That document asserts, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness." Clearly, slavery was incompatible with these ideals.

♦ Preamble and Section 2

The Pennsylvania legislature surely understood the relationship of slavery to the Declaration. Thus, in Section 2 (a second preamble) the statute notes that bondage "deprived" slaves "of the common blessings that they were by nature entitled to." Beyond this, the statute's initial sections ignore the general assertions of liberty in the Declaration, and it instead focuses on the specific harms of slavery and the relationship of slavery to the Revolution. Equally intriguing is the deistic approach to this issue.

The preamble begins by noting the difficulties of the Revolution. In comparison with subsequent wars—especially the U.S. Civil War and the massive conflicts of the twentieth century—the approximately 4,500 military deaths in the Revolution seem relatively small in number. But for the emerging American states these were painful losses that affected communities across the new nation. The Revolution was costly in treasure and blood, and the people of Pennsylvania understood that. By 1780 they also knew that even though the war was not over, it was likely that sooner or later they would gain independence. For five years they had held off the greatest military power in the world. The horrible and bloody struggle for independence leads to another parallel with the Declaration.

In the Declaration, Thomas Jefferson avoided any reference to a particular faith or even to the generally shared notions of what today might be called a Judeo-Christian tradition or shared views of the Bible. Thus, Jefferson used phrases like "their creator" and "nature's God" when making claims to liberty based on natural law. Similarly, the authors of the 1780 act marveled at the accomplishment of independence and, while not specifying any particular faith or religion, ascribed their success to Divine Providence. The opening sentence of the preamble to the statute reflects the secular religiosity of the age. The Pennsylvania legislators came from a variety of religious backgrounds and had no interest in asserting allegiance to a particular faith or sect. At the same time, they understood a sense of Divine Providence. Thus, the statute's preamble later refers to the "Almighty Hand" in explaining the differences among the races. Faith, but not denomination, church, or sect, is important to the legislators, but only as it reflects and supports their larger social goal.

This goal, of course, is ending slavery. The statute's authors assert they have no more right to own slaves than England has a right to rule them. This is surely the logic of the Revolution and a logic that had been discussed in Pennsylvania and elsewhere since the early 1770s. Just as the Americans in 1776 (in the Declaration of Independence) felt they had to explain to the world why they were rebelling against England, so too did the Pennsylvania legislators have to explain why they were taking the radical step of ending slavery. The natural law arguments in the preamble of the Declaration ("We hold these truths to be self-evident ...") were not sufficient to convince the world or even a significant number of Americans that a rebellion was necessary. Thus the Congress, in 1776, asserted in the Declaration that "a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation." This led to a long list of reasons for the rebellion that constituted the bulk of the Declaration of Independence.

While not explicitly stating it the way the Declaration does, the Pennsylvania statute follows the same logic. Having stated the moral argument for emancipation, the legislators turned to defusing arguments against it while elaborating the reasons for the law. First, the 1780 preamble explains that there is a moral obligation to bring freedom to slaves, just as the colonists are being delivered from English rule. However, many Americans doubted that blacks were like white people and even deserved freedom. The Pennsylvania legislature dismissed this, using an argument that appealed to both religion and science: "It is not for us to enquire why, in the creation of mankind, the inhabitants of the several parts of the earth were distinguished by a difference in feature or complexion. It is sufficient to know that all are the work of an Almighty Hand."

The legislature simply refused to be drawn into a debate over race. All men were created by the "Almighty Hand" and thus no person had a right to question the reasons why some had a different skin color. Indeed, because the "Almighty Hand" had delivered Pennsylvania from British tyranny, the legislature felt an obligation to help deliver others from bondage.

Having dealt with the race issue, the legislators remind readers about the horrors of slavery. Section 2 of the act, which is a second preamble, sets out what became one of the most powerful arguments against slavery: It leads to "an unnatural separation and sale of husband and wife from each other and from their children; an injury, the greatness of which can only be conceived by supposing that we were in the same unhappy case." Few people in Pennsylvania, at least, could argue against the idea that separating families was deeply immoral. The last part of this sentence is also a blow against racial thinking. By suggesting that white Pennsylvanians could understand the suffering of slaves only by "supposing that we were in the same unhappy case," the legislators in effect asked whites to imagine they were black slaves.

Having asserted why the act was proper, the legislature then turned to the far more difficult task of setting out how slavery in the state should be terminated. This was not easy. Even as they condemned slaveholding, the legislators knew they could not simply take property away from those who owned it. If the Revolution was about liberty, it was also about property. Indeed, the key slogan of the period before the Revolution, "Taxation without representation is tyranny," underscored the extent to which this was a revolution of middle-class property owners who believed that liberty and property went hand in hand.

♦ Section 3

There was no perfect answer to the problem of how to give freedom to one person without taking property away from someone else. In the end, the Pennsylvania legislature solved the problem by not, in fact, freeing anyone while still ensuring a relatively speedy end to all slavery in the state. The legislature provided that all slaves living in the state would remain slaves for the rest of their lives or for as long as their masters chose to keep them in bondage. For all the rhetoric of liberty in the preamble, *no one* actually gained his or her freedom under the law. Therefore no one in the state could complain that he or she had lost property under the law.

What, then, did the law accomplish? The key provision is Section 3 of the act, which states that every child born in Pennsylvania after the passage of the act, even if the child of a slave woman, would be born free. Since the status of slavery passed through the mother, the ultimate result was obvious. As the existing slaves died off, there would be no new slaves to replace them. Quite literally, slavery would soon die out in Pennsylvania. This provision is reinforced by Section 10 of the law, which prohibits anyone from bringing slaves into the state except on temporary visits.

♦ Section 5

Section 5 of the law requires that all slaveholders register each slave with a local court, giving the slave's name, age, and gender. Each registration would be accompanied by a two-dollar fee—not a large sum, but enough money to make some master try to avoid paying it. Any blacks not registered under this provision by November 1, 1780, were considered free people. The Pennsylvania courts interpreted these rules strictly. In *Wilson v. Belinda* (1817) the Pennsylvania Supreme Court ruled that the slave woman Belinda, then about forty years old, was free because in 1780 her master had neglected to list her gender on the registration form. The master clearly believed the name *Belinda* could indicate only a female, but the court disagreed.

The registration had to be accurate to prevent fraud, and a strict interpretation of the law favored freedom. In *Respublica v. Blackmore* (1797) the court ruled that slaves owned by citizens of Pennsylvania could not be registered if they were not living in Pennsylvania at the time the act went into effect. In this case Blackmore lost her slaves because she and her husband had not brought them into the state before the law went into effect; merely owning them in Maryland was not sufficient.

The registration process, the generally hostile climate toward slavery in the state, and the dislocations of the Revolution clearly had an effect on slaveholding. In 1765, a decade before the Revolution began, there were about 1,400 slaves in Philadelphia and 100 free blacks out of a total population of 2,400. By 1790 Philadelphia had about 28,500 people, but fewer than 400 of them were slaves, and about 2,000 were free blacks. In the rest of the state the process of emancipation was slower but still significant. Before the Revolution almost all of the blacks in Pennsylvania were slaves. By 1790 there were more than 6,500 free blacks in the state and just 3,700 slaves. A decade later there were just 1,700 slaves and more than1,400 free blacks in the state. By 1820 there were only about 200 slaves in the state but more than 30,000 free blacks. In forty years slavery in Pennsylvania had all but disappeared.

♦ Section 4 and Sections 6 to 14

The ending of slavery was not, however, a simple factor of letting slavery die out. The legislators understood that

Essential Quotes

"When we look back on the variety of dangers to which we have been exposed, and how miraculously our wants in many instances have been supplied, … when even hope and human fortitude have become unequal to the conflict; we are unavoidably led to a serious and grateful sence of the manifold blessings which we have undeservedly received from the hand of that Being from whom every good and perfect gift cometh."

(Section 1)

"It is not for us to enquire why, in the creation of mankind, the inhabitants of the several parts of the earth were distinguished by a difference in feature or complexion. It is sufficient to know that all are the work of an Almighty Hand."

(Section 1)

"We find in the distribution of the human species, that the most fertile as well as the most barren parts of the earth are inhabited by men of complexions different from ours, and from each other; from whence we may reasonably, as well as religiously, infer, that He who placed them in their various situations, hath extended equally his care and protection to all, and that it becometh not us to counteract his mercies."

(Section 1)

slavery was a complex institution, with many human issues in what was a very inhumane system. The status of the children of slaves posed a serious problem for the gradual abolition process. Under slavery, masters had a huge financial interest in the children of their slave women. Every child born to a slave woman was a financial asset. The child of a slave woman born under a gradual abolition scheme became a financial liability. The child would be born free, and the master, as the owner of the mother, would have to pay to raise the child. Furthermore, general society would face a growing population of children of former slaves who would have few skills and might become burdens on the entire society.

The legislators understood that if the children of slaves were not trained and educated for freedom they would not succeed in a free society. To solve this problem, the legislature used two tactics. First the law declares that the children of slave women, while born free, would be subject to an indenture until age twenty-eight. This would enable the master to recover the full cost of raising such children and actually give the masters a decent profit on each child. Modern economists have estimated that masters were handsomely compensated for raising the children of slaves if they kept them as servants until age twenty-eight. During this indenture period, masters were required to educate their black servants and prepare them for freedom. There was a strong incentive for doing so, because, under Section 6 of the law, masters were financially responsible for any blacks who could not take care of themselves. However, if masters freed their servants before age twenty-eight, they were not responsible for them. This incentive, combined with the growing public hostility toward slavery, probably accounts for the steep decline of slavery and bondage in Philadelphia. However, in the rural areas of the state, especially along the Maryland and Virginia border, slaveholding lingered into the first two decades of the nineteenth century.

The act also allows free blacks, including those indentured until age twenty-eight, to testify against their masters

or any other white person. This was an enormously important step in guaranteeing equal justice for blacks in the state. As indentured servants, the children of slave women had a number of legal rights and protections, and this provision of the law allowed them to vindicate those rights. This provision also served as a warning to masters not to abuse or mistreat the children of their female slaves, who would one day be free.

When Pennsylvania passed its abolition act, slavery was legal in all of the thirteen new states. Pennsylvania's goal was not to make war with its neighbors. Thus the 1780 act contains a number of provisions to protect the interests of out-of-state slaveholders, such as allowing visitors to bring slaves into the state for up to six months. This provision led to controversies, as opponents of slavery tried to manipulate the law to free slaves who had not yet been in the state for six months. Just as the courts were strict on the registration procedures, so too were they strict on this provision. The courts rejected the argument that the six months could be cumulative, asserting that it had to be one continuous six-month period, unless there was a fraudulent attempt to evade the law by moving a slave back and forth across the border on a regular basis. Similarly, when abolitionists claimed that six lunar months would satisfy the law, the court summarily rejected the freedom suit. In another attempt to ensure sectional harmony, the 1780 act allows masters to recover runaway slaves who escaped into Pennsylvania. Seven years before the Constitutional Convention provided for the return of fugitive slaves, Pennsylvania did so.

The act also allows members of Congress and other government officials, as well as foreign ambassadors, to keep slaves indefinitely in the state. At the time, Philadelphia was the nation's capital, and this rule was absolutely necessary for national harmony. Even after the capital had moved to Washington, the courts held that congressmen could move slaves into the state for indefinite periods of time. During the War of 1812, Langdon Cheves, a congressman from South Carolina, stayed in Philadelphia with his slaves for more than six months, and the state supreme court upheld his right to do so. However, when Pierce Butler, another southerner, stayed in the state after his term expired, he lost his slaves.

Audience

This act was aimed at the people of Pennsylvania. Slave owners needed to understand that if they wanted to hold on to their slaves, they had to fulfill all of the requirements of the new statute. Judges and lawyers needed to understand just what those requirements were. In addition, like the Declaration of Independence, this act was aimed at a larger public opinion. The preamble, in particular, was an appeal to "a decent respect to the opinions of mankind" and was designed to convince Americans as well as Europeans that slavery was wrong and that the people of Pennsylvania took seriously the ideology of the American Revolution. In a sense, the first two paragraphs of the law provide an answer to Samuel Johnson's query: "How is it that we hear the loudest yelps for liberty among the drivers of negroes?" In Pennsylvania, the demands for liberty were now coming from people who would no longer tolerate slavery.

Impact

The Pennsylvania Gradual Abolition Act of 1780 was the first of its kind in the modern world. Never before had a slaveholding jurisdiction taken steps to end human bondage. Never before had slave owners acquiesced in the end of slavery. The law was not passed unanimously, and after it was passed, there was a backlash led by slave owners, who campaigned against those legislators who had supported abolition. In 1781 a new legislature considered a bill to repeal or modify the law. The bill failed, in part because of petitions and protests by blacks, who actively worked to keep their recently acquired freedom. The rapid decline of slaveholding, especially in Philadelphia, guaranteed that the 1780 law would not be undone. On the contrary, in 1788 the legislature passed an elaborate act to close some loopholes in the law and further protect free blacks, indentured blacks, and slaves.

The twenty-eight-year indenture was far too long, and masters profited too much from it, while the children of slave women were forced to give a substantial number of their productive years to their mothers' owners. Otherwise the act was a valiant and mostly successful pioneering effort to dismantle slavery. In 1784 Rhode Island and Connecticut passed similar laws, as did New York in 1799 and New Jersey in 1804. In 1794 Upper Canada also passed a similar law. All of these statutes had shorter indentures for the children of slave women. On the other hand, some did not give blacks as many legal rights as the Pennsylvania law. In the end, these differences were not nearly as important as the general direction of all these laws. Without riots, rebellions, or great social upheaval, these places brought about an end to slavery and started on a path that led to a freed North. All of these states eventually sped up the abolition process by either freeing all slaves or at least (as in New Jersey) turning them into indentured servants with legal protections as rights. On July 4, 1827, New York, having previously passed a gradual abolition act, became the first state to fully end slavery. By 1850 there were no slaves in any of these states, although in New Jersey there were still a few hundred former slaves who had become indentured servants.

Blacks did not gain full legal equality in most of the North, and everywhere they faced social inequality. The Pennsylvania law did not anticipate segregation or the depth of white hostility to freed blacks. For all its flaws, the law was a remarkable first step on the road to fulfilling the promise of the Revolution and the Declaration of Independence, that America would become a nation where all people could exercise their "unalienable rights" to "life, liberty, and the pursuit of happiness."

See also Peter Williams, Jr.'s "Oration on the Abolition of the Slave Trade" (1808); William Lloyd Garrison's First *Liberator* Editorial (1831); Emancipation Proclamation (1863).

Further Reading

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—Paul Finkelman

Questions for Further Study

1. What reasons does the legislature give for ending slavery in the state?

2. What were the procedures that a master had to fulfill in order to keep slaves owned before March 1, 1780?

3. Can you think of any ways in which masters might have avoided the law in order to get the most value out of their slaves?

4. What other provisions would you have wanted in this law if you were a slave or the child of a slave?

Document Text

Pennsylvania: An Act for the Gradual Abolition of Slavery

♦ **Preamble.**

WHEN we contemplate our abhorrence of that condition to which the arms and tyranny of Great Britain were exerted to reduce us; when we look back on the variety of dangers to which we have been exposed, and how miraculously our wants in many instances have been supplied, and our deliverances wrought, when even hope and human fortitude have become unequal to the conflict; we are unavoidably led to a serious and grateful sence of the manifold blessings which we have undeservedly received from the hand of that Being from whom every good and perfect gift cometh. Impressed with there ideas, we conceive that it is our duty, and we rejoice that it is in our power to extend a portion of that freedom to others, which hath been extended to us; and a release from that state of thraldom to which we ourselves were tyrannically doomed, and from which we have now every prospect of being delivered. It is not for us to enquire why, in the creation of mankind, the inhabitants of the several parts of the earth were distinguished by a difference in feature or complexion. It is sufficient to know that all are the work of an Almighty Hand. We find in the distribution of the human species, that the most fertile as well as the most barren parts of the earth are inhabited by men of complexions different from ours, and from each other; from whence we may reasonably, as well as religiously, infer, that He who placed them in their various situations, hath extended equally his care and protection to all, and that it becometh not us to counteract his mercies. We esteem it a peculiar blessing granted to us, that we are enabled this day to add one more step to universal civilization, by removing as much as possible the sorrows of those who have lived in undeserved bondage, and from which, by the assumed authority of the kings of Great Britain, no effectual, legal relies could be obtained. Weaned by a long course of experience from those narrower prejudices and partialities we had imbibed, we find our hearts enlarged with kindness and benevolence towards men of all conditions and nations; and we conceive ourselves at this particular period extraordinarily called upon, by the blessings which we have received, to manifest the sincerity of our profession, and to give a Substantial proof of our gratitude.

♦ **Section 2.**

And whereas the condition of those persons who have heretofore been denominated Negro and Mulatto slaves, has been attended with circumstances which not only deprived them of the common blessings that they were by nature entitled to, but has cast them into the deepest afflictions, by an unnatural separation and sale of husband and wife from each other and from their children; an injury, the greatness of which can only be conceived by supposing that we were in the same unhappy case. In justice therefore to persons So unhappily circumstanced, and who, having no prospect before them whereon they may rest their sorrows and their hopes, have no reasonable inducement to render their service to society, which they otherwise might; and also in grateful commemoration of our own happy deliverance from that state of unconditional submission to which we were doomed by the tyranny of Britain.

♦ **Section 3.**

Be it enacted, and it is hereby enacted, by the representatives of the freeman of the commonwealth of Pennsylvania, in general assembly met, and by the authority of the same, That all persons, as well Negroes and Mulattoes as others, who shall be born within this state from and after the passing of this act, shall not be deemed and considered as servants for life, or slaves; and that all servitude for life, or slavery of children, in consequence of the slavery of their mothers, in the case of all children born within this state, from and after the passing of this act as aforesaid, shall be, and hereby is utterly taken away, extinguished and for ever abolished.

♦ **Section 4.**

Provided always, and be it further enacted by the authority aforesaid, That every Negro and Mulatto child born within this state after the passing of this act as aforesaid (who would, in case this act had not been made, have been born a servent for years, or life, or a slave) shall be deemed to be and shall be by virtue of this act the servant of such person or his or her assigns, who would in such case have been entitled to the service of such child, until such child shall attain unto the age of twenty eight years, in the manner and

on the conditions whereon servants bound by indenture for four years are or may be retained and holder; and shall be liable to like correction and punishment, and entitled to like relies in case he or she be evilly treated by his or her master or mistress, and to like freedom dues and other privileges as servants bound by indenture for four years are or may be entitled, unless the person to whom the service of any such child shall belong shall abandon his or her claim to the same; in which case the overseers of the poor of the city, township or district respectively, where such child shall be So abandoned, shall by indenture bind out every child so abandoned, as an apprentice for a time not exceeding the age herein before limited for the service of such children.

♦ **Section 5.**

And be it further enacted by the authority aforesaid, That every person, who is or shall be the owner of any Negro or Mulatto slave or servant for life or till the age of thirty one years, now within this state, or his lawful attorney, shall on or before the said first day of November next deliver or calm to be delivered in writing to the clerk of the peace of the county, or to the clerk of the court of record of the city of Philadelphia, in which he or she shall respectively inhabit, the name and surname and occupation or profession of such owner, and the name of the county and township, district or ward wherein he or she resideth; and also the name and names of any such slave and slaves, and servant and servants for life or till the age of thirty one years, together with their ages and sexes severally and respectively set forth and annexed, by such person owned or statedly employed and then being within this state, in order to ascertain and distinguish the slaves and servants for life, and till the age of thirty one years, within this state, who shall be such on the said first day of November next, from all other persons; which particulars shall by said clerk of the sessions asked clerk of the said city court be entered in books to be provided for that purpose by the said clerks; and that no Negro or Mulatto, now within this state, shall from and after the said first day of November, be deemed a slave or servant for life, or till the age of thirty one years, unless his or her name shall be entered as aforesaid on such record, except such Negro and Mulatto slaves and servants as are herein after excepted; the said clerk to be entitled to a fee of two dollars for each slave or servant so entered as aforesaid from the treasurer of the county, to be allowed to him in his accounts.

♦ **Section 6.**

Provided always, That any person, in whom the ownership or right to the service of any Negro or Mulatto shall be vested at the passing of this act, other than such as are herein before excepted, his or her heirs, executors, administrators and assigns, and all and every of them severally shall be liable to the overseers of the poor of the city, township or district to which any such Negro or Mulatto shall become chargeable, for such necessary expence, with costs of suit thereon, as such overseers may be put to, through the neglect of the owner, master or mistress of such Negro or Mulatto; notwithstanding the name and other descriptions of such Negro or Mulatto shall not be entered and recorded as aforesaid; unless his or her master or owner shall before such slave or servant attain his or her twenty eighth year execute and record in the proper county a deed or instrument, securing to such slave or or servant his or her freedom.

♦ **Section 7.**

And be it further enacted by the authority aforesaid, That the offences and crimes of Negroes and Mulattoes, as well slaves and servants as freemen, shall be enquired of, adjudged, corrected and punished in like manner as the offences and crimes of the other inhabitants of this state are and shall be enquired of, adjudged, corrected and punished, and not otherwise; except that a slave shall not be admitted to bear witness against a freeman.

♦ **Section 8.**

And be it further enacted by the authority aforesaid, That in all cases wherein sentence of death shall be pronounced against a slave, the jury before whom he or she shall be tried, shall appraise and declare the value of such slave; and in case such sentence be executed, the court shall make an order on the state treasurer, payable to the owner for the same and for the costs of prosecution; but case of remission or mitigation, for the costs only.

♦ **Section 9.**

And be it further enacted by the authority aforesaid, That the reward for taking up runaway and absconding Negro and Mulatto slaves and servants, and the penalties for enticing away, dealing with, or harbouring, concealing or employing Negro and Mulatto slaves and servants, shall be the same, and shall be recovered in like manner as in case of servants bound for four years.

Document Text

♦ **Section 10.**

And be it further enacted by the authority aforesaid, That no man or woman of any nation or colour, except the Negroes or Mulattoes who shall be registered as aforesaid, shall at any time hereafter be deemed, adjudged, or holden within the territories of this commonwealth as slaves or servants for life, but as free men and free women; except the domestic slaves attending upon delegates in congress from the other American states, foreign ministers and consuls, and persons passing through or sojourning in this state, and not becoming resident therein; and seamen employed in ships not belonging to any inhabitant of this state, nor employed in any ship owned by any such inhabitant. Provided such domestic slaves be not aliened or sold to any inhabitants nor (except in the case of members of congress, foreign ministers and consuls) retained in this state longer than six months.

♦ **Section 11.**

Provided always; And be it further enacted by the authority aforesaid, That this act or any thing in it contained shall not give any relies or shelter to any absconding or runaway Negro or Mulatto slave or servant, who has absented himself or shall absent himself from his or her owner, master or mistress residing in any other state or country, but such owner, master or mistress shall have like right and aid to demand, claim and take away his slave or servant, as he might have had in case this act had not been made: And that all Negro and Mulatto slaves now owned and heretofore resident in this state, who have absented themselves, or been clandestinely carried away, or who may be employed abroad as seamen and have not returned or been brought back to their owners, masters or mistresses, before the passing of this act, may within five years be registered as effectually as is ordered by this act concerning those who are now within the state, on producing such slave before any two justices of the peace, and satisfying the said justices by due proof of the former residence, absconding, taking away, or absence of such slaves as aforesaid; who thereupon shall direct and order the said slave to be entered on the record as aforesaid.

♦ **Section 12.**

And whereas attempts maybe made to evade this act, by introducing into this state Negroes and Mulattoes bound by covenant to serve for long and unreasonable terms of years, if the same be not prevented.

♦ **Section 13.**

Be it therefore enacted by the authority aforesaid, That no covenant of personal servitude or apprenticeship whatsoever shall be valid or binding on a Negro or Mulatto for a longer time than seven years, unless such servant or apprentice were at the commencement of such servitude or apprenticeship under the age of twenty one years; in which case such Negro or Mulatto may be holden as a servant or apprentice respectively, according to the covenant, as the case shall be, until he or she shall attain the age of twenty eight years, but no longer.

♦ **Section 14.**

And be it further enacted by the authority aforesaid, That an act of assembly of the province of Pennsylvania, passed in the year one thousand Seven hundred and five, intitled, "an Act for the trial of Negroes;" and another act of assembly of the said province, passed in the year one thousand seven hundred and twenty five, intitled, "An Act for the better regulating of Negroes in this province;" and another act of assembly of the said province, passed in the year one thousand seven hundred and sixty one, intitled, ... "An Act for laying a duty on Negro and Mulatto slaves imported into this province;" and also another act of assembly of the said province, passed in the year one thousand seven hundred and seventy three, inititled, "An Act making perpetual an Act laying a duty on Negro and Mulatto slaves imported into this province, and for laying an additional duty said slaves," shall be and are hereby repealed, annulled and made void.

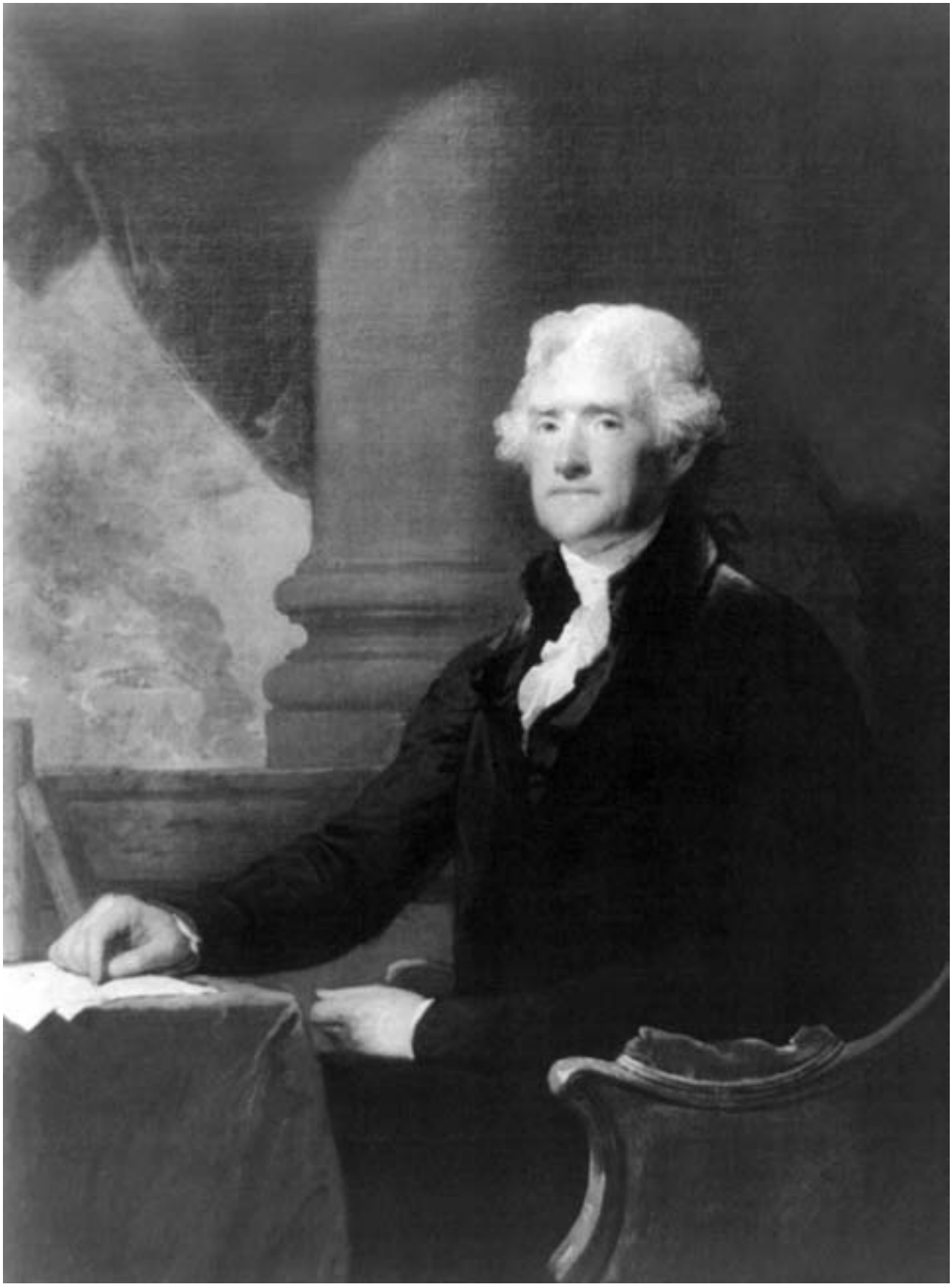
John Bayard, Speaker

Enabled into a law at Philadelphia, on Wednesday, the first day of March, A.D. 1780

Thomas Paine, clerk of the general assembly.

Glossary

covenant	contract or agreement between two or more people
indenture	contract under which a laborer (an indentured servant) agrees to work for someone (a master) for a specific term of years, after which time the master is usually required to give the former servant money or goods to start out in life as a free person



Thomas Jefferson (Library of Congress)

Thomas Jefferson's *Notes on the State of Virginia*

1784

"I advance it therefore as a suspicion only, that the blacks ... are inferior to the whites in the endowments both of body and mind."

Overview

In 1781, while he was still governor of Virginia during the Revolutionary War, Thomas Jefferson was given a series of questions about his beloved state posed by a diplomat, François Barbé-Marbois, marquis de Barbé-Marbois, on behalf of the French government. Jefferson began writing on a series of twenty-three topics, supplementing his own knowledge with that of persons he considered more expert in fields such as the natural sciences. Jefferson's responses to Barbé-Marbois's questions were eventually published as the *Notes on the State of Virginia*.

The *Notes* are significant for a number of reasons. In addition to recording his and other experts' knowledge of Virginia's geography and natural resources, Jefferson also addresses social constructs such as manners and the organization of Virginia's laws. The book consists of twenty-three chapters called "Queries," which are, in effect, answers to the queries he received. Topics included such matters as rivers, seaports, climate, population, and commerce. In the section on manners (Query XVIII), Jefferson discusses his moral reservations about the existence of slavery in America. In the section regarding laws (Query XIV), Jefferson dedicates considerable attention to what he saw as the natural differences between slaves and whites. Jefferson believed that there were real, evolutionary differences among the different types of people—Indians, whites, and blacks—and that those differences extended deeper than surface appearance. He concluded that the two groups—blacks and whites—could not live together peaceably in America and that the only solution was to remove African Americans from the new nation.

Context

During the Revolutionary War, the Virginia General Assembly was working its way through the new state's laws in an effort to scrub out those regulations that existed only because Virginia had inherited laws from Great Britain. No longer obliged to preserve Britain's laws, Virginia placed the entirety of its legal code under review—including the ways in which slaves were passed from one member of the family to another through inheritance and how they were treated in the criminal code. There was even a proposal to provide for gradual emancipation. Few people at the time thought that an immediate or outright abolition of slavery was possible, but there were calls in several quarters for gradual emancipation.

This idea is one that Jefferson sought to address in the *Notes*, specifically in Query XIV. Originally written for a select audience of French and other European intellectuals and the close circle of Jefferson's friends, *Notes on the State of Virginia* was eventually published for public consumption first in France (1784) and later in the United States and England (1787). As Jefferson continued to edit and revise the *Notes*, a variety of local, national, and international events also required his attention. In 1783 the Treaty of Paris officially ended the Revolutionary War; the following year, Jefferson accepted an appointment as minister to France.

Among the issues that Jefferson struggled with while he was overseas was the state of government in the newly formed American nation. The various states had begun the process of developing their new constitutions as early as 1776, but it took until 1780 for the last state—Massachusetts—to approve a constitution. The situation was further complicated on the national level, as representatives from the various states attempted to reach some form of compromise regarding the composition of a new national government. The initial result of these efforts was the Articles of Confederation, which were ratified in 1781 and served as the nation's blueprint until they were replaced by the Constitution of the United States in 1787. Foreign ambassadors (such as Jefferson) and other prominent figures found the articles frustratingly insufficient, for they left the United States more a collection of states than a unified nation, making it difficult for foreign powers to maintain relations with the new nation. Jefferson's *Notes* represented an effort on his part to explain the state of Virginia and, by implication, the United States to his foreign audience and to refute the notion, common in Europe, that the New World was degenerated in comparison with the Old World.

Time Line

1743
■ **April 13**
Thomas Jefferson is born in Albemarle County, Virginia.

1769
■ Jefferson, a new member of Virginia's House of Burgesses, submits a proposal to provide for the emancipation of Virginia's slaves.

1774
■ **July**
Jefferson lists slavery as one of the wrongs inflicted upon the colonies by Great Britain in *A Summary View of the Rights of British America*.

1775
■ Jefferson is named to the Second Continental Congress in Philadelphia.

1776
■ **July 4**
The Second Continental Congress adopts the Declaration of Independence, drafted by Jefferson.

1779
■ African Americans in New Hampshire use Jefferson's language from the Declaration of Independence when petitioning the state legislature to grant their freedom on the ground that freedom is a natural right of all humans.

1781
■ Jefferson begins to write *Notes on the State of Virginia*.

1782
■ Jefferson revises and expands his *Notes*.

1783
■ Virginia grants freedom to slaves who fought for the Patriot cause in the American Revolution.

1784
■ *Notes on the State of Virginia* is published in France.

1787
■ *Notes on the State of Virginia* is published in English in London.

About the Author

Thomas Jefferson was born in Albemarle County, Virginia, on April 13, 1743, the son of Peter Jefferson, a largely self-made plantation owner, and Jane Randolph, daughter of one of Virginia's most prosperous and powerful colonial families. Among Jefferson's earliest memories was being carried on a pillow by one of his father's slaves. Peter Jefferson died in 1757, when Thomas was only fourteen. Jefferson enrolled at Virginia's College of William and Mary in 1760 and graduated just two years later. By the time Jefferson married a fellow Virginian, Martha Wayles Skelton, in 1772, he was an established attorney, a plantation owner, and a slaveholder, with two and a half years of experience as a member of Virginia's colonial legislature, which at the time was called the House of Burgesses.

Jefferson's reputation as a talented writer grew in part because of his authorship of *A Summary View of the Rights of British America*, which he drafted in 1774 for the House of Burgesses in Williamsburg. In it Jefferson spelled out for King George III specific grievances that colonists believed had been inflicted upon them by the British Parliament and both chastised the king and appealed to him for assistance. Among the complaints listed in *A Summary View* was that the colonies had no representative in Parliament, where taxation policies were made, and that Britain had introduced slavery into the colonies.

Jefferson was named to Virginia's delegation to the Second Continental Congress in 1775. By the summer of 1776, Jefferson had established a reputation in Philadelphia as a better writer than a public speaker. Along with John Adams, Benjamin Franklin, Robert Livingston, and Roger Sherman, he was appointed to a committee that wrote the Declaration of Independence. Jefferson did the lion's share of the writing.

During the Revolutionary War (1775–1783), Jefferson spent two years as governor of Virginia (1779–1781). In 1781 he wrote *Notes on the State of Virginia*, which he would revise and rewrite over the course of the next several years. In 1782, when his wife, Martha, died, Jefferson sank into a deep depression, from which he took months to recover. Between 1784 and 1789 Jefferson served the newly formed United States of America as ambassador, primarily in France. It was during this period that *Notes on the State of Virginia* was first offered to the public in France and in the United States.

Jefferson returned to the United States in 1790 and urged, along with his friend and political protégé James Madison, the addition of the Bill of Rights to the Constitution. He also served as the first secretary of state under President George Washington, which helped bring him into frequent and vehement conflict with Alexander Hamilton, then secretary of the Treasury, over the new nation's economic and political course. Jefferson's conflicts with Hamilton became so severe that Jefferson resigned from Washington's cabinet at the end of 1793 and went home to Monticello. His retirement was short-lived, however, as he returned to the national stage just three years later when he was elected as John Adams's vice president. His long-standing friendship with Adams

was damaged during the Adams administration as the two clashed over a number of political issues. Jefferson led the attack on the Alien and Sedition Acts passed by the Adams administration, which he judged to be unconstitutional and dangerous to free expression.

In 1800, Jefferson himself was elected to the presidency. In 1803 he engineered the Louisiana Purchase (the acquisition from the French of land that today encompasses all or part of fourteen U.S. states) and dispatched Meriwether Lewis and William Clark on their famous exploration of the American West. Jefferson was easily reelected in 1804, but his second term did not progress as smoothly as his first. Among the troubles Jefferson experienced was the death of his daughter Maria, one of only two legitimate Jefferson offspring to live to adulthood. Jefferson also began to struggle with health issues during his second term.

During his second term Jefferson was also plagued by a number of political problems. One was the continuing hostility between France and Great Britain. Jefferson, who never favored the presence of a large standing military force, had restricted the growth of the American naval forces. When the struggle for dominance between France and Britain grew to encompass the Atlantic Ocean, American trading vessels found themselves caught in the middle. Jefferson's answer to this maritime trouble was the Embargo Act of 1807, intended to seal off American ports from foreign shipping. The unintended effect of the Embargo Act was severe stress for the American economy from the closing of U.S. ports to foreign trade. The domestic front proved similarly troublesome for Jefferson when his former vice president, Aaron Burr, was accused of treason. Jefferson wanted Burr found guilty, but he suffered yet another political loss when Burr was acquitted.

Jefferson retired to Monticello in 1809 and began plans for what would become the University of Virginia at Charlottesville. He persuaded many of his long-time political and personal allies to join in his efforts, including James Madison. In addition to promoting higher education in Virginia, Jefferson and John Adams renewed via correspondence their old friendship. They maintained their correspondence for the remainder of their lives, both of them passing away on July 4, 1826.

Explanation and Analysis of the Document

Jefferson's enthusiasm for studying and learning are fully displayed in the *Notes*, which underwent a series of revisions as Jefferson sought to increase his knowledge about natural science and edit his work based on the information of more accomplished scientists. There was a theory, popularized by French naturalists, that animal life in the New World had degenerated from that in Europe, and Jefferson wanted to correct this notion; his response to this subject forms the largest section of the *Notes*. In addition to natural science, Jefferson answered queries about Virginia's manners, laws, population, institutions, religion, commerce, and other subjects. Although slaves are referred to in several sections of the *Notes*, Jefferson confines the majority of his musings on African Americans and slavery to two sections: that on Virginia's laws (Query XIV) and that on Virginians' manners (Query XVIII).

Time Line

1800

- Jefferson is elected third president of the United States and serves until 1809.
- African Americans in Philadelphia petition Congress to end slavery and the slave trade and to repeal the Fugitive Slave Act of 1793.

1808

- **January 1**
  The ban on the importation of slaves issued in 1807 by the U.S. Congress takes effect.

♦ "Laws"

Jefferson had serious moral reservations about slavery and expressed them in the "Manners" section of the *Notes* (Query XVIII). Nevertheless, his discussion of African Americans in "Laws" strikes a different tone. Jefferson here describes a proposed amendment to Virginia's legal code that called for the emancipation of "all slaves born after passing the act." The amendment would have slave children remain with their parents and be trained at public expense "according to their geniuses" in various trades. When male slaves reached the age of twenty-one and females eighteen, they were to be sent away from America. Jefferson does not specify where he thought the young people should be sent, merely that they should be "colonized to such place as the circumstances of the time should render most proper."

In order to help the newly colonized young people, the amendment proposed that they be given supplies, the support of Virginia, and the protection of the United States until they had established themselves as an independent entity. The amendment further proposed that white Europeans be enticed to come to the United States to replace the labor of those who had been removed. In this way and over a period of years, African Americans would disappear from America as the older slaves stopped producing children and died off.

Jefferson anticipates a question from his audience when he writes, "Why not retain and incorporate the blacks into the state, and thus save the expense of supplying … the vacancies they will leave?" The answer to this question, Jefferson believes, is that inherent evolutionary differences between African Americans and white Americans as well as the strain of slavery on both groups have made it impossible for them to live together harmoniously. Jefferson cites political, physical, and moral incompatibilities between the groups. "Deep rooted prejudices entertained by the whites," Jefferson claims, "ten thousand recollections, by the blacks, of the injuries they have sustained … the real distinctions nature has made … will divide us into parties, and produce convul-

Descendants of Thomas Jefferson and descendants of his slave Sally Hemings pose for a group shot at his plantation during the Monticello Association's Annual meeting on May 15, 1999. (AP/Wide World Photos)

sions which will probably never end but in the extermination of the one or the other race."

Jefferson devotes a considerable amount of space to a list of the real and perceived differences between African Americans and Caucasians. The first difference is color. Here Jefferson's tone clearly expresses his personal bias. "Are not the fine mixtures of red and white, the expressions of every passion by greater or less suffusions of colour of the one, preferable to that eternal monotony, … that immoveable veil of black which covers all the emotions of the other race?" He goes on to cite slaves' "own judgment in favour of the whites, declared by their preference of them." Jefferson was referring to a popularly held belief that white beauty was superior to black beauty to the point that slaves themselves preferred white to black. He further poses this question: "The circumstance of superior beauty, is thought worthy of attention in the propagation of our horses, dogs, and other domestic animals; why not in that of man?" Clearly Jefferson believed it was.

In addition to a deficit of physical beauty compared with whites, African Americans, Jefferson believed, suffered from other deficiencies. Intellectual aptitude was extremely important to Jefferson the lifelong student, and it was his observation that African Americans lacked the intellect of Caucasians or Native Americans. As evidence to support his assertions, Jefferson offers the following: "Those numberless afflictions, which render it doubtful whether heaven has given life to us in mercy or in wrath, are less felt [by African Americans], and sooner forgotten by them. In general, their existence appears to participate more of sensation than reflection." Jefferson carries his argument further, writing that "comparing them by their faculties of memory, reason, and imagination, it appears to me, that in memory they are equal to whites; in reason much inferior … and that in imagination they are dull, tasteless, and anomalous."

It is at this point that Jefferson unfavorably compares African Americans with Native Americans. Jefferson believed that slaves, some of whom had "been liberally educated … and lived in countries where the arts and sciences are cultivated to a considerable degree, and have had before their eyes samples of the best works from abroad" had not taken the full cultural advantage of their association with whites. The Indians, on the other hand, "with no advantages of this kind … astonish you with strokes of the most sublime oratory; such as prove their reason and sentiment strong, their imagination glowing and elevated. But never yet could I find a black had uttered a thought above the level of plain narration."

Jefferson's interest in natural history reasserts itself after his lengthy recitation of the perceived deficiencies of Afri-

can Americans. "To our reproach it must be said," he writes, "that though for a century and a half we have had under our eyes the races of black and of red men, they have never yet been viewed by us as subjects of natural history." He is willing to admit that the inferiority of African Americans might be suspicion rather than fact, but regardless, the "unfortunate difference of colour, and perhaps of faculty, is a powerful obstacle to the emancipation of these people."

In addition to comparing African American slaves with Native Americans on racial terms, Jefferson also compared African American slaves to Roman slaves based on their shared condition of servitude. Once again, Jefferson finds the comparison to disfavor African Americans. Jefferson notes that Roman slaves, who were typically white, "might mix with, without staining the blood of his master." African Americans, however, "when freed," must be "removed beyond the reach of mixture." He meant that blacks and whites were to be separated so that there would be no possibility that they would produce mixed-race offspring. Given Jefferson's belief that the mixing of the races would "[stain] the blood of the master" and the proposal to remove African Americans from America altogether by colonizing and gradual emancipation, it is perhaps logical that the penalty for slave criminals included in the *Notes* is that they be "transported to Africa, or elsewhere, as the circumstances of the time admit, there to be continued in slavery." Of course, later historians have found this belief highly ironic, for it is widely accepted (through DNA evidence) that Jefferson himself fathered children with one of his slaves, Sally Hemings, a woman believed to have been a half-sister of his wife, Martha.

♦ Manners

In "Manners," Jefferson begins by noting that it is difficult for a citizen of a country to comment on its manners, for such a person has been habituated to the surrounding society. Nevertheless, he uses discussion of American manners to lament the "unhappy influence on the manners of our people produced by the existence of slavery among us." Further, he laments that children, by observing the behavior of adults, can grow to treat slaves with cruelty, simply because they do not know any better and they have learned to do so from their elders. He recognizes the discordance between the institution of slavery and the nation's belief in a republican form of government in which all men are created equal. "With what execration," Jefferson asks rhetorically, "should the statesman be loaded, who permitting one half the citizens thus to trample on the rights of the other, transforms those into despots, and these into enemies, destroys the morals of the one part, and the amor patriae [patriotism] of the other." Here he adopts language that reflects the principles he espoused in the Declaration of Independence.

Jefferson expresses sympathy for the slave, recognizing that the slave labors for others who themselves do not perform labor, and he wonders why a slave would even want to live in the United States. He goes further when he suggests that slavery destroys the moral fiber of the nation, for the presence of slaves strips their owners of any desire to perform useful labor. Jefferson expresses fear of divine retribution for America's use of slaves: "Indeed I tremble for my country when [I] reflect that God is just: that his justice cannot sleep forever … the spirit of the master is abating, that of the slave rising from the dust." As a whole, the section reflects Jefferson's own ambivalence about slavery.

Audience

Barbé-Marbois, for whom Jefferson initially compiled what would become *Notes on the State of Virginia*, can be considered Jefferson's primary audience. Jefferson sought initially to answer queries about the various American colonies. Virginia was not the only new American state to whom Marbois's questions were addressed, but it was the Virginian Jefferson who gave the most extensive answers. Indeed, he was widely recognized as a careful, dedicated student who sought to accumulate knowledge throughout his life, and he corresponded widely with people on both sides of the Atlantic. He thus shared his *Notes* on Virginia with a variety of highly educated personages, Americans and Europeans alike, who formed a second audience. Jefferson suspected that some of his thoughts, particularly those in Query XIV ("Manners"), would incite controversy, and so he originally intended the *Notes* to remain private. The work was greeted with such enthusiasm by acquaintances on both sides of the Atlantic, however, that Jefferson was eventually persuaded to allow copies to be distributed publicly, including at his alma mater—the College of William and Mary. As word of Jefferson's work spread and more people requested copies, Jefferson eventually decided to publish, first in Europe and later in the United States. Given Jefferson's interest in the natural sciences, scientists, too, could be considered a separate audience, for *Notes* contains extensive observations on the flora, fauna, and geography of Virginia.

Impact

Assessing the impact of Jefferson's *Notes* is problematic, mainly in light of subsequent events and particularly those events having a bearing on slavery, emancipation, and race relations. On the one hand, Thomas Jefferson is an icon of American democracy, one of the most revered Founding Fathers. He was a man of widespread erudition and towering intellect, prompting President John F. Kennedy to remark to a gathering of forty-nine Nobel Prize winners in 1962, "I think this is the most extraordinary collection of talent and of human knowledge that has ever been gathered together at the White House—with the possible exception of when Thomas Jefferson dined alone." He wrote the stirring words of the Declaration of Independence, and he is regarded as the fountainhead of the separation of church and state, religious freedom, limited government, and defense of civil liberties.

Nevertheless, Jefferson owned slaves. He called for separation of the races, yet he fathered children by one of his

Essential Quotes

"Deep rooted prejudices entertained by the whites; ten thousand recollections, by the blacks, of the injuries they have sustained; new provocations; the real distinctions nature has made; and many other circumstances, will divide us into parties, and produce convulsions which will probably never end but in the extermination of one or the other race."

("Laws")

"The Indians … astonish you with strokes of the most sublime oratory; such as prove their reason and sentiment strong, their imagination glowing and elevated. But never yet could I find that a black had uttered a thought above the level of plain narration."

("Laws")

"The improvement of the blacks in body and mind, in the first instance of their mixture with the whites, has been observed by every one, and proves that their inferiority is not the effect merely of their condition of life."

("Laws")

"I advance it therefore as a suspicion only, that the blacks, whether originally a distinct race, or made distinct by time and circumstances, are inferior to the whites in the endowments both of body and mind.… This unfortunate difference of colour, and perhaps of faculty, is a powerful obstacle to the emancipation of these people."

("Laws")

"The spirit of the master is abating, that of the slave rising from the dust, his condition mollifying, the way I hope preparing, under the auspices of heaven, for a total emancipation, and that this is disposed, in the order of events, to be with the consent of the masters, rather than by their extirpation."

("Manners")

slaves. And in *Notes* he expresses views about African Americans that were probably widely held at the time but that are considered repugnant today. In the minds of some Americans, Jefferson was guilty of enormous hypocrisy by stating, in the Declaration of Independence, that "all men are created equal" while being a slaveholder. Still, although Jefferson owned slaves, he long advocated their emancipation or at least the elimination of the slave trade; an early draft of the Declaration of Independence contained a clause condemning the British Crown for supporting the slave trade, but the clause was deleted during debates on the Declaration's wording. Jefferson clearly was often troubled by his conscience. On the one hand he recognized the evils of slavery, which he enumerates in "Manners," but on the other he had to contend with nearly lifelong extensive personal debt, and he recognized that the economic viability of much of the South depended on slave labor. He further believed that habit and custom would make it impossible for slaves to live as free men and women, but he later repudiated this belief. In sum, he hoped to see the eradication of the slave trade and, in future years, the abolition of the institution of slavery itself.

Jefferson's *Notes* became a popular work because of its detailed nature. Indeed, the *Notes* were greeted enthusiastically by certain liberal Europeans, such as the English philosopher and preacher Dr. Richard Price, a supporter of the American Revolution; an activist in republican, liberal, and even radical causes; and an advocate of Jefferson's vision of limited government. Thus, abolitionists such as Price would have welcomed Jefferson's proposal in Query XIV for gradual emancipation. The *Notes* have remained popular with scholars because they encapsulate the thoughts and opinions of one of America's most prominent Founding Fathers. Jefferson's biographer Dumas Malone wrote that "nobody had ever before given such a description of an American state … the most important scientific work that had yet been compiled in America." Malone went further when he described the *Notes* as Jefferson's "most memorable personal contribution in the name of his country to the enlightenment of Europe."

Prominent African Americans at the time responded to Jefferson's *Notes*. Among them was Benjamin Banneker, whose 1791 Letter to Thomas Jefferson included an almanac that Banneker prepared—with a view perhaps to countering Jefferson's view that African Americans were people of lesser intellect. In 1794 Richard Allen delivered his "Address to Those Who Keep Slaves and Uphold the Practice," refuting Jefferson's view that slavery was a necessary evil and urging slave owners to abandon the practice. In 1829 David Walker's *Appeal to the Coloured Citizens of the World* was in large part a response, again, to the view that African Americans were intellectually inferior to whites. Each of these writers took up strains from Jefferson's *Notes* and attempted to rebut them, suggesting the widespread impact that Jefferson's book had.

See also Benjamin Banneker's Letter to Thomas Jefferson (1791); Fugitive Slave Act of 1793; Peter Williams, Jr.'s "Oration on the Abolition of the Slave Trade" (1808); David Walker's *Appeal to the Coloured Citizens of the World* (1829).

Questions for Further Study

1. How would you explain Thomas Jefferson's attitude toward slavery, especially considering that he owned slaves?

2. If Jefferson supported the gradual emancipation of slaves, why did he propose sending them away rather than incorporating them into the social and economic system of the United States?

3. To what extent do you believe that Jefferson's attitude toward African Americans was a product, at least in part, of the time and place in which he lived?

4. Many people at the time opposed slavery as much for the effects it had on slave owners as for the effects it had on the slaves. How, in Jefferson's view, did slavery affect the white population?

5. Several African Americans responded to Jefferson's *Notes*, including Benjamin Banneker in his Letter to Thomas Jefferson (1791), Peter Williams in "An Oration on the Abolition of the Slave Trade" (1808), Richard Allen in his "Address to Those Who Keep Slaves and Uphold the Practice" (1794), and David Walker in *Appeal to the Coloured Citizens of the World* (1829). Compare this document with one of those listed. How did the later writer respond to Jefferson?

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—Sharon T. Glass

Document Text

Thomas Jefferson's *Notes on the State of Virginia*

"Laws"

♦ ***The administration of justice and description of the laws?…***

Slaves pass by descent and dower as lands do. Where the descent is from a parent, the heir is bound to pay an equal share of their value in money to each of his brothers and sisters.

Slaves, as well as lands, were entailable during the monarchy: but, by an act of the first republican assembly, all donees [sic] in tail, present and future, were vested with the absolute dominion of the entailed subject.

Bills of exchange, being protested, carry 10 per cent interest from their date.

No person is allowed, in any other case, to take more than five per cent per annum simple interest, for the loan of monies.

Gaming debts are made void, and monies actually paid to discharge such debts (if they exceeded 40 shillings) may be recovered by the payer within three months, or by any other person afterwards.

Tobacco, flour, beef, pork, tar, pitch, and turpentine, must be inspected by persons publicly appointed, before they can be exported.

The erecting of iron-works and mills is encouraged by many privileges; with necessary cautions however to prevent their dams from obstructing the navigation of the water-courses. The general assembly have on several occasions shewn a great desire to encourage the opening of the great falls of James and Patowmac rivers. As yet, however, neither of these have been effected.

The laws have also descended to the preservation and improvement of the races of useful animals, such as horses, cattle, deer; to the extirpation of those which are noxious, as wolves, squirrels, crows, blackbirds; and to the guarding of our citizens against infectious disorders, by obliging suspected vessels coming into the state, to perform quarantine, and by regulating the conduct of persons having such disorders within the state.

The mode of acquiring lands, in the earliest times of our settlement, was by petition to the general assembly. If the lands prayed for were already cleared of the Indian title, and the assembly thought the prayer reasonable, they passed the property by their vote to the petitioner. But if they had not yet been ceded by the Indians, it was necessary that the petitioner should previously purchase their right. This purchase the assembly verified, by enquiries of the Indian proprietors; and being satisfied of its reality and fairness, proceeded further to examine the reasonableness of the petition, and its consistence with policy; and, according to the result, either granted or rejected the petition. The company also sometimes, though very rarely, granted lands, independently of the general assembly. As the colony increased, and individual applications for land multiplied, it was found to give too much occupation to the general assembly to enquire into and execute the grant in every special case. They therefore thought it better to establish general rules, according to which all grants should be made, and to leave to the governor the execution of them, under these rules. This they did by what have been usually called the land laws, amending them from time to time, as their defects were developed. According to these laws, when an individual wished a portion of unappropriated land, he was to locate and survey it by a public officer, appointed for that purpose: its breadth was to bear a certain proportion to its length: the grant was to be executed by the governor: and the lands were to be improved in a certain manner, within a given time. From these regulations there resulted to the state a sole and exclusive power of taking conveyances of the Indian right of soil: since, according to them, an Indian conveyance alone could give no right to an individual, which the laws would acknowledge. The state, or the crown, thereafter, made general purchases of the Indians from time to time, and the governor parcelled them out by special grants, conformed to the rules before described, which it was not in his power, or in that of the crown, to dispense with. Grants, unaccompanied by their proper legal circumstances, were set aside regularly by *scire facias*, or by bill in Chancery. Since the establishment of our new government, this order of things is but little changed. An individual, wishing to appropriate to himself lands still unappropriated by any other, pays to the public treasurer a sum of money proportioned to the quantity he wants. He carries the treasurer's receipt to the auditors of public accompts [sic], who

thereupon debit the treasurer with the sum, and order the register of the land-office to give the party a warrant for his land. With this warrant from the register, he goes to the surveyor of the county where the land lies on which he has cast his eye. The surveyor lays it off for him, gives him its exact description, in the form of a certificate, which certificate he returns to the land-office, where a grant is made out, and is signed by the governor. This vests in him a perfect dominion in his lands, transmissible to whom he pleases by deed or will, or by descent to his heirs if he die intestate.

Many of the laws which were in force during the monarchy being relative merely to that form of government, or inculcating principles inconsistent with republicanism, the first assembly which met after the establishment of the commonwealth appointed a committee to revise the whole code, to reduce it into proper form and volume, and report it to the assembly. This work has been executed by three gentlemen, and reported; but probably will not be taken up till a restoration of peace shall leave to the legislature leisure to go through such a work.

The plan of the revisal was this. The common law of England, by which is meant, that part of the English law which was anterior to the date of the oldest statutes extant, is made the basis of the work. It was thought dangerous to attempt to reduce it to a text: it was therefore left to be collected from the usual monuments of it. Necessary alterations in that, and so much of the whole body of the British statutes, and of acts of assembly, as were thought proper to be retained, were digested into 126 new acts, in which simplicity of stile was aimed at, as far as was safe. The following are the most remarkable alterations proposed:

To change the rules of descent, so as that the lands of any person dying intestate shall be divisible equally among all his children, or other representatives, in equal degree.

To make slaves distributable among the next of kin, as other moveables.

To have all public expenses, whether of the general treasury, or of a parish or county, (as for the maintenance of the poor, building bridges, court-houses, &c.) supplied by assessments on the citizens, in proportion to their property.

To hire undertakers for keeping the public roads in repair, and indemnify individuals through whose lands new roads shall be opened.

To define with precision the rules whereby aliens should become citizens, and citizens make themselves aliens.

To establish religious freedom on the broadest bottom.

To emancipate all slaves born after passing the act. The bill reported by the revisors does not itself contain this proposition; but an amendment containing it was prepared, to be offered to the legislature whenever the bill should be taken up, and further directing, that they should continue with their parents to a certain age, then be brought up, at the public expense, to tillage, arts or sciences, according to their geniuses, till the females should be eighteen, and the males twenty-one years of age, when they should be colonized to such place as the circumstances of the time should render most proper, sending them out with arms, implements of household and of the handicraft arts, feeds, pairs of the useful domestic animals, &c. to declare them a free and independent people, and extend to them our alliance and protection, till they shall have acquired strength; and to send vessels at the same time to other parts of the world for an equal number of white inhabitants; to induce whom to migrate hither, proper encouragements were to be proposed. It will probably be asked, Why not retain and incorporate the blacks into the state, and thus save the expense of supplying, by importation of white settlers, the vacancies they will leave? Deep rooted prejudices entertained by the whites; ten thousand recollections, by the blacks, of the injuries they have sustained; new provocations; the real distinctions which nature has made; and many other circumstances, will divide us into parties, and produce convulsions which will probably never end but in the extermination of the one or the other race.—To these objections, which are political, may be added others, which are physical and moral. The first difference which strikes us is that of colour. Whether the black of the negro resides in the reticular membrane between the skin and scarf-skin, or in the scarf-skin itself; whether it proceeds from the colour of the blood, the colour of the bile, or from that of some other secretion, the difference is fixed in nature, and is as real as if its seat and cause were better known to us. And is this difference of no importance? Is it not the foundation of a greater or less share of beauty in the two races? Are not the fine mixtures of red and white, the expressions of every passion by greater or less suffusions of colour in the one, preferable to that eternal monotony, which reigns in the countenances, that immoveable veil of black which covers all the emotions of the other race? Add to these, flowing hair, a more elegant symmetry of form, their own judgment in favour of the whites, declared by their preference of them, as uniformly as is the preference of the Oranootan [sic] for the black women over those of his own species.

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The circumstance of superior beauty, is thought worthy of attention in the propagation of our horses, dogs, and other domestic animals; why not in that of man? Besides those of colour, figure, and hair, there are other physical distinctions proving a difference of race. They have less hair on the face and body. They secrete less by the kidneys, and more by the glands of the skin, which gives them a very strong and disagreeable odour. This greater degree of transpiration renders them more tolerant of heat, and less so of cold, than the whites. Perhaps too a difference of structure in the pulmonary apparatus, which a late ingenious experimentalist has discovered to be the principal regulator of animal heat, may have disabled them from extricating, in the act of inspiration, so much of that fluid from the outer air, or obliged them in expiration, to part with more of it. They seem to require less sleep. A black, after hard labour through the day, will be induced by the slightest amusements to sit up till midnight, or later, though knowing he must be out with the first dawn of the morning. They are at least as brave, and more adventuresome. But this may perhaps proceed from a want of forethought, which prevents their seeing a danger till it be present. When present, they do not go through it with more coolness or steadiness than the whites. They are more ardent after their female: but love seems with them to be more an eager desire, than a tender delicate mixture of sentiment and sensation. Their griefs are transient. Those numberless afflictions, which render it doubtful whether heaven has given life to us in mercy or in wrath, are less felt, and sooner forgotten with them. In general, their existence appears to participate more of sensation than reflection. To this must be ascribed their disposition to sleep when abstracted from their diversions, and unemployed in labour. An animal whose body is at rest, and who does not reflect, must be disposed to sleep of course. Comparing them by their faculties of memory, reason, and imagination, it appears to me, that in memory they are equal to the whites; in reason much inferior, as I think one could scarcely be found capable of tracing and comprehending the investigations of Euclid; and that in imagination they are dull, tasteless, and anomalous. It would be unfair to follow them to Africa for this investigation. We will consider them here, on the same stage with the whites, and where the facts are not apocryphal on which a judgment is to be formed. It will be right to make great allowances for the difference of condition, of education, of conversation, of the sphere in which they move. Many millions of them have been brought to, and born in America. Most of them indeed have been confined to tillage, to their own homes, and their own society: yet many have been so situated, that they might have availed themselves of the conversation of their masters; many have been brought up to the handicraft arts, and from that circumstance have always been associated with the whites. Some have been liberally educated, and all have lived in countries where the arts and sciences are cultivated to a considerable degree, and have had before their eyes samples of the best works from abroad. The Indians, with no advantages of this kind, will often carve figures on their pipes not destitute of design and merit. They will crayon out an animal, a plant, or a country, so as to prove the existence of a germ in their minds which only wants cultivation. They astonish you with strokes of the most sublime oratory; such as prove their reason and sentiment strong, their imagination glowing and elevated. But never yet could I find that a black had uttered a thought above the level of plain narration; never see even an elementary trait of painting or sculpture. In music they are more generally gifted than the whites with accurate ears for tune and time, and they have been found capable of imagining a small catch. Whether they will be equal to the composition of a more extensive run of melody, or of complicated harmony, is yet to be proved. Misery is often the parent of the most affecting touches in poetry.—Among the blacks is misery enough, God knows, but no poetry. Love is the peculiar estrum of the poet. Their love is ardent, but it kindles the senses only, not the imagination. Religion indeed has produced a Phyllis Whately [sic]; but it could not produce a poet. The compositions published under her name are below the dignity of criticism. The heroes of the Dunciad are to her, as Hercules to the author of that poem. Ignatius Sancho has approached nearer to merit in composition; yet his letters do more honour to the heart than the head. They breathe the purest effusions of friendship and general philanthropy, and shew how great a degree of the latter may be compounded with strong religious zeal. He is often happy in the turn of his compliments, and his style is easy and familiar, except when he affects a Shandean fabrication of words. But his imagination is wild and extravagant, escapes incessantly from every restraint of reason and taste, and, in the course of its vagaries leaves a tract of thought as incoherent and eccentric, as is the course of a meteor through the sky. His subjects should often have led him to a process of sober reasoning: yet we find him always substituting sentiment for demonstration. Upon the whole, though we admit him to the first place among those of his own colour who have pre-

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sented themselves to the public judgment, yet when we compare him with the writers of the race among whom he lived, and particularly with the epistolary class, in which he has taken his own stand, we are compelled to enroll him at the bottom of the column. This criticism supposes the letters published under his name to be genuine, and to have received amendment from no other hand; points which would not be of easy investigation. The improvement of the blacks in body and mind, in the first instance of their mixture with the whites, has been observed by every one, and proves that their inferiority is not the effect merely of their condition of life. We know that among the Romans, about the Augustan age especially, the condition of their slaves was much more deplorable than that of the blacks on the continent of America. The two sexes were confined in separate apartments, because to raise a child cost the master more than to buy one. Cato, for a very restricted indulgence to his slaves in this particular, took from them a certain price. But in this country the slaves multiply as fast as the free inhabitants. Their situation and manners place the commerce between the two sexes almost without restraint.—The same Cato, on a principle of economy, always sold his sick and superannuated slaves. He gives it as a standing precept to a master visiting his farm, to sell his old oxen, old waggons, old tools, old and diseased servants, and every thing else become useless. "Vendat boves vetulos, plaustrum vetus, ferramenta vetera, servum senem, servum morbosum, & si quid aliud supersit vendat." Cato de re rustica. c. 2. The American slaves cannot enumerate this among the injuries and

Glossary

accompts	accounts
Aesculapius	the Greek and Roman god of medicine
amor patriae	Latin for "love of country"
attainder	a bill passed by a legislature making something a crime, thus creating criminals without benefit of a trial
Augustan age	the period in Roman history when Caesar Augustus was the first emperor
bills of exchange	negotiable instruments acknowledging debts
catholic	here, universal
Cato	Marcus Porcius Cato, known as Cato the Elder, a Roman statesman, warrior, and writer, author of *De re rustica* (*On Agriculture*)
Chancery	a court that deals with such matters as real estate and inheritance (rather than criminal law)
corruption of blood	the incapacity to inherit because of a bill of attainder
descent and dower	legal terms referring to the inheritance of property, either by descent (property passes to natural heirs) or dower (property passes to a wife as part of a deceased husband's estate)
Dunciad	an eighteenth-century satirical poem by the British poet Alexander Pope
Emperor Claudius	Tiberius Claudius Caesar Augustus Germanicus, the fourth Roman emperor
entailable	able to be entailed; reference to property that passes to heirs "in tail," meaning that heirs use it and control it but cannot sell it, for it passes to subsequent heirs
Epictetus	a Stoic philosopher in ancient Greece
estrum	a state of sexual excitability
Euclid	an ancient Greek mathematician, the "Father of Geometry"

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insults they receive. It was the common practice to expose in the island of Aesculapius, in the Tyber, diseased slaves, whose cure was like to become tedious. The Emperor Claudius, by an edict, gave freedom to such of them as should recover, and first declared, that if any person chose to kill rather than to expose them, it should be deemed homicide. The exposing them is a crime of which no instance has existed with us; and were it to be followed by death, it would be punished capitally. We are told of a certain Vedius Pollio, who, in the presence of Augustus, would have given a slave as food to his fish, for having broken a glass. With the Romans, the regular method of taking the evidence of their slaves was under torture. Here it has been thought better never to resort to their evidence. When a master was murdered, all his slaves, in the same house, or within hearing, were condemned to death. Here punishment falls on the guilty only, and as precise proof is required against him as against a freeman. Yet notwithstanding these and other discouraging circumstances among the Romans, their slaves were often their rarest artists. They excelled too in science, insomuch as to be usually employed as tutors to their master's children. Epictetus, Terence, and Phaedrus, were slaves. But they were of the race of whites. It is not their condition then, but nature, which has produced the distinction.—Whether further observation will or will not verify the conjecture, that nature has been less bountiful to them in the endowments of the head, I believe that in those of the heart she will be found to have done them justice. That disposition to theft with which they have been branded, must be as-

Glossary

Ignatius Sancho	an eighteenth-century British composer, actor, and writer and the first known black to vote in a British election
Jove fix'd it certain …	from Alexander Pope's translation of Homer's *Odyssey*, book 17, lines 392–393
Oranootan	orangutan
Phaedrus	an ancient Roman writer of fables
Phyllis Whately	Phillis Wheatley, an eighteenth-century slave poet
reticular membrane	a thin layer of tissue that covers a surface, lines a cavity, or divides a space or organ
scarf-skin	the outermost layer of skin
scire facias	a Latin term referring to a court command to a borrower to show up at a hearing and show cause why a foreclosure should not be authorized
Shandean	a reference to Laurence Sterne's novel *Tristram Shandy* (1759–1769), famous for its extravagant language and stylistic peculiarities
shewn	an antique form of "shown"
stile	an antique form of "style"
Terence	Publius Terentius Afer, a playwright in the ancient Roman Republic
Tyber	the Tiber River, which runs through Rome; the Tiber Island is associated with healing and the god of medicine, Aesculapius
undertakers	people who have a statutory right to execute roadworks
Vedius Pollio	Publius Vedius Pollio, a Roman equestrian and friend of Augustus, known for his cruelty to slaves
"Vendat boves vetulos …"	The precise quote, from Cato's *De re rustica*, is "Vendat … boves vetulos, armenta delicula, oves deliculas, lanam, pelles, plostrum vetus, ferramenta vetera, servum senem, servum morbosum, et siquid aliut supersit, vendat" or, in English, "Sell worn-out oxen, blemished cattle, blemished sheep, wool, hides, an old wagon, old tools, an old slave, a sickly slave, and whatever else is not required."

cribed to their situation, and not to any depravity of the moral sense. The man, in whose favour no laws of property exist, probably feels himself less bound to respect those made in favour of others. When arguing for ourselves, we lay it down as a fundamental, that laws, to be just, must give a reciprocation of right: that, without this, they are mere arbitrary rules of conduct, founded in force, and not in conscience: and it is a problem which give to the master to solve, whether the religious precepts against the violation of property were not framed for him as well as his slave? And whether the slave may not as justifiably take a little from one, who has taken all from him, as he may slay one who would slay him? That a change in the relations in which a man is placed should change his ideas of moral right and wrong, is neither new, nor peculiar to the colour of the blacks. Homer tells us it was so 2600 years ago.

Jove fix'd it certain, that whatever day
Makes man a slave, takes half his worth away

But the slaves of which Homer speaks were whites. Notwithstanding these considerations which must weaken their respect for the laws of property, we find among them numerous instances of the most rigid integrity, and as many as among their better instructed masters, of benevolence, gratitude, and unshaken fidelity. —The opinion, that they are inferior in the faculties of reason and imagination, must be hazarded with great diffidence. To justify a general conclusion, requires many observations, even where the subject may be submitted to the Anatomical knife, to Optical glasses, to analysis by fire, or by solvents. How much more then where it is a faculty, not a substance, we are examining; where it eludes the research of all the senses; where the conditions of its existence are various and variously combined; where the effects of those which are present or absent bid defiance to calculation; let me add too, as a circumstance of great tenderness, where our conclusion would degrade a whole race of men from the rank in the scale of beings which their Creator may perhaps have given them. To our reproach it must be said, that though for a century and a half we have had under our eyes the races of black and of red men, they have never yet been viewed by us as subjects of natural history. I advance it therefore as a suspicion only, that the blacks, whether originally a distinct race, or made distinct by time and circumstances, are inferior to the whites in the endowments both of body and mind. It is not against experience to suppose, that different species of the same genus, or varieties of the same species, may possess different qualifications. Will not a lover of natural history then, one who views the gradations in all the races of animals with the eye of philosophy, excuse an effort to keep those in the department of man as distinct as nature has formed them? This unfortunate difference of colour, and perhaps of faculty, is a powerful obstacle to the emancipation of these people. Many of their advocates, while they wish to vindicate the liberty of human nature, are anxious also to preserve its dignity and beauty. Some of these, embarrassed by the question "What further is to be done with them?" join themselves in opposition with those who are actuated by sordid avarice only. Among the Romans emancipation required but one effort. The slave, when made free, might mix with, without staining the blood of his master. But with us a second is necessary, unknown to history. When freed, he is to be removed beyond the reach of mixture.

The revised code further proposes to proportion crimes and punishments.…

Pardon and privilege of clergy are proposed to be abolished; but if the verdict be against the defendant, the court in their discretion, may allow a new trial. No attainder to cause a corruption of blood, or forfeiture of dower. Slaves guilty of offences punishable in others by labour, to be transported to Africa, or elsewhere, as the circumstances of the time admit, there to be continued in slavery. A rigorous regimen proposed for those condemned to labour.…

Lastly, it is proposed, by a bill in this revisal, to begin a public library and gallery, by laying out a certain sum annually in books, paintings, and statues.…

"Manners"

♦ ***The particular customs and manners that may happen to be received in that state?***

It is difficult to determine on the standard by which the manners of a nation may be tried, whether *catholic*, or *particular*. It is more difficult for a native to bring to that standard the manners of his own nation, familiarized to him by habit. There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other. Our children see this, and learn to imitate it; for man is an imitative

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animal. This quality is the germ of all education in him. From his cradle to his grave he is learning to do what he sees others do. If a parent could find no motive either in his philanthropy or his self-love, for restraining the intemperance of passion towards his slave, it should always be a sufficient one that his child is present. But generally it is not sufficient. The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives a loose to his worst of passions, and thus nursed, educated, and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities. The man must be a prodigy who can retain his manners and morals undepraved by such circumstances. And with what execration should the statesman be loaded, who permitting one half the citizens thus to trample on the rights of the other, transforms those into despots, and these into enemies, destroys the morals of the one part, and the amor patriae of the other. For if a slave can have a country in this world, it must be any other in preference to that in which he is born to live and labour for another: in which he must lock up the faculties of his nature, contribute as far as depends on his individual endeavours to the evanishment of the human race, or entail his own miserable condition on the endless generations proceeding from him. With the morals of the people, their industry also is destroyed. For in a warm climate, no man will labour for himself who can make another labour for him. This is so true, that of the proprietors of slaves a very small proportion indeed are ever seen to labour. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? That they are not to be violated but with his wrath? Indeed I tremble for my country when I reflect that God is just: that his justice cannot sleep for ever: that considering numbers, nature and natural means only, a revolution of the wheel of fortune, an exchange of situation, is among possible events: that it may become probable by supernatural interference! The Almighty has no attribute which can take side with us in such a contest.—But it is impossible to be temperate and to pursue this subject through the various considerations of policy, of morals, of history natural and civil. We must be contented to hope they will force their way into every one's mind. I think a change already perceptible, since the origin of the present revolution. The spirit of the master is abating, that of the slave rising from the dust, his condition mollifying, the way I hope preparing, under the auspices of heaven, for a total emancipation, and that this is disposed, in the order of events, to be with the consent of the masters, rather than by their extirpation.

Gouverneur Morris (Library of Congress)

Slavery Clauses in the U.S. Constitution

1787

"Representatives and direct Taxes shall be apportioned among the several States ... according to their respective Numbers."

Overview

The U.S. Constitution was written at a convention that met in Philadelphia from May 25 until September 17, 1787. At the time, slavery was legal and a vibrant economic institution in eight states, while two (Massachusetts and New Hampshire) had abolished it, and three others (Pennsylvania, Rhode Island, and Connecticut) had passed gradual abolition acts. There were about 700,000 slaves in the nation, with more than 600,000 in Virginia, South Carolina, North Carolina, and Maryland. Virginia's 300,000 slaves constituted just over 40 percent of the state, while South Carolina's 107,000 slaves made up 43 percent of the state. Slaves were property and enormously valuable. They were also central to the southern economy. Indeed, with the exception of real estate, slaves represented the single most valuable form of privately held property in the nation. And, as people, they comprised more than a third of the entire population of the South. Not surprisingly, this important economic interest and this peculiar social relationship led to significant debates at the Constitutional Convention.

The issues of slavery affected discussion about the Constitution from the very first day of debates until the end of the convention. The final document did not use the word *slave*, because northern delegates feared that the use of the term would make ratification in their states more difficult. But slavery was embedded into the Constitution in many places and shaped the Constitution in at least five important ways. First, the delegates had to determine how slaves would be counted for purposes of representation. Naturally, southerners wanted to count all of them when allocating seats in Congress. Most northerners believed that slavery was deeply immoral and had no place in the allocation of power in a free country. How the Convention dealt with this issue would determine how power would be shared within the new government. In the end, the Convention compromised by counting slaves on a three-fifths basis. This compromise gave the South significant power in Congress and in the Electoral College.

The second area of debate concerned the power of Congress over commerce and the African slave trade. The document written in Philadelphia ultimately prevented Congress from interfering with the trade for at least twenty years. Third, the slaveholders at the convention—a majority of the delegates—insisted that the Constitution provide explicit federal protections for slavery. This was accomplished with clauses providing for the suppression of slave rebellions and a ban on export taxes, which southerners feared would be used to harm their slave-based agricultural economy. In addition to promises of federal protection, the slave owners at the convention insisted on guarantees that the states would also afford protection for their property. Thus, they prevailed upon the northern delegates to support a fugitive slave clause that would prohibit free states from emancipating fugitive slaves and instead guarantee that masters could capture their runaways. Finally, the Constitution created a government of limited powers that had no power over slavery in the states.

At no time did the Constitutional Convention consider giving the national government power to end slavery or even regulate it in the states where it existed. Numerous times during the convention the southern delegates made clear that they would not support the Constitution unless their slave property was protected from the general government. They gained this end through the overall structure of the Constitution. Thus, when he returned from the Convention, South Carolina's most important delegate, General Charles Cotesworth Pinckney, proudly told his state legislature: "We have a security that the general government can never emancipate them, for no such authority is granted and it is admitted, on all hands, that the general government has no powers but what are expressly granted by the Constitution, and that all rights not expressed were reserved by the several states."

Context

At the beginning of the American Revolution slavery was legal in every one of the thirteen colonies. As early as the 1680s Quakers and Mennonites had challenged the morality of slavery, but very few other white Americans questioned slavery. In 1700 the Puritan lawyer Samuel Sewall published *The Selling of Joseph*, which argued that slavery was inconsistent with Christian values. However, other Pu-

Time Line

1688

- The Quakers of Germantown, Pennsylvania, publish the first protest on slavery in America.

1700

- Samuel Sewall publishes *The Selling of Joseph* in Boston.

1712

- The slave population surpasses the free population of South Carolina. The colony will have a black majority until the Revolution.

1770

- **March 5**
The Boston Massacre takes place; one of the five Americans killed is Crispus Attucks, a former slave.

1772

- In *Somerset v. Stewart*, Lord Chief Justice Mansfield rules that a slave who is brought to England by his master or who escapes to England cannot be brought back to a slaveholding colony against his will.

1775

- **April 18**
The American Revolution begins with the battles of Lexington and Concord; many free blacks serve in the Massachusetts militias.

1776

- **July 4**
The Continental Congress formally approves the Declaration of Independence, which declares that "all men are created equal" and entitled to the rights of "life, liberty, and the pursuit of happiness," though it is unclear whether the delegates intended to apply these words to their many slaves. The primary author, Thomas Jefferson, owns about 150 slaves at this time.

1781

- The Articles of Confederation go into effect, creating a weak national government with limited powers.

ritans and most other mainstream Christians did not accept this premise. By the eve of the Revolution, Baptists, Methodists, and some New England Congregationalists and Unitarians opposed slavery on religious grounds, but most white Americans found no inconsistency between Christianity and ownership of slaves.

The growing religious opposition to slavery—especially among Quakers, Methodists, and some Baptists—dovetailed with mounting political antislavery sentiment immediately before and during the Revolution. As white Americans challenged the justice of Great Britain's sovereignty over them, black Americans challenged the justice of slavery. Even before the Revolution, slaves in Massachusetts petitioned the colonial legislature to free them. The Revolution accelerated this growing opposition to slavery. The assertions of the Declaration of Independence—that we are all "created equal" and "endowed" with the "unalienable rights" of "life, liberty, and the pursuit of happiness"—led many Americans to question the morality and justice of slavery. In addition, from the moment the war began, slaves, especially in the North, moved to gain their own freedom. Throughout New England many masters manumitted their male slaves so that they could serve in the Revolutionary Army. In the South slaves ran away to armies on both sides. A few Patriot masters also freed their slaves.

During the war opposition to slavery took more concrete forms. In 1778 the people of Massachusetts rejected a proposed state constitution because it did not abolish human bondage. Two years late the people approved a constitution written largely by John Adams that began (in Article 1) with an assertion of universal liberty: "All men are born free and equal, and have certain natural, essential, and unalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness." A year later the state's highest court confirmed, in *Commonwealth v. Jennison* (1781), that this clause had abolished slavery in the Bay State. Meanwhile, in Pennsylvania the state legislature passed a gradual abolition law, which did not lead to an immediate end to slavery but set the stage for the institution to gradually disappear. In 1783 New Hampshire followed the Massachusetts model, abolishing slavery in its new Constitution and in 1784 both Connecticut and Rhode Island passed gradual abolition laws. During this period, residents of Vermont, which would become the fourteenth state, wrote a constitution that explicitly banned slavery in the state. At this time slavery was made strong and economically important in New York and New Jersey, where slaves made up more than 6 percent of the population.

Thus, when the Constitutional Convention began, the nation was slowly moving along the road to becoming, in the words of Abraham Lincoln in his "House Divided" speech (1858), "half slave and half free." However, it was not yet "half free." Slavery was still legal in eleven of the thirteen states, and the gradual abolition acts in Pennsylvania, Connecticut, and Rhode Island were experiments that had not yet fully ended bondage. Nevertheless, the dele-

gates from the five biggest slave states—Virginia, Maryland, North Carolina, South Carolina, and Georgia—feared that a stronger national government would threaten their most important economic and social and institution. Thus, from the beginning of the Constitutional Convention, they insisted on specific protections for slavery. They gained them, as noted, throughout the Constitution. In the end, slaves were counted for representation and for the election of the president, even though slaves could not vote. Congress was prohibited from ending the African slave trade before 1808 but was not required to do it then. The federal government promised to help suppress domestic insurrections, which for the South meant slave revolts. The structure of the Constitution made it extremely difficult to amend the document. The requirement that three-fourths of the states ratify an amendment gave the slave states what amounted to a perpetual veto over any constitutional amendment.

The two most important slavery-related issues at the convention were the counting of slaves for representation and the demands of the Deep South that the African slave trade be given special protection from the national legislature. Most delegates believed that if the new Congress had the power to regulate international commerce, it would ban the slave trade. The delegates debated these issues a number of times during the convention. What they said and how they voted reflected their own political inclinations. Virtually all of the southerners insisted on counting slaves for representation in Congress. Some demanded that slaves be counted fully, while others were willing to accept what became the three-fifths compromise. The African slave trade was more complicated. Delegates from the Deep South insisted on a clause to prevent the new Congress from closing the trade. Many of the delegates from the Chesapeake region opposed this on a variety of grounds. Some thought the trade was immoral (even though they were not ready to end slavery itself for this reason), and some thought it dangerous to bring new slaves from Africa to the nation. Equally important, by the end of the Revolution both Virginia and Maryland had a surplus of slaves and thus did not need the African trade; if the trade stopped, they could sell their extra slaves to the Deep South at higher prices.

Northern delegates were also split on the slavery issues, but in different directions. Some adamantly opposed counting slaves for purposes of representation not only on moral grounds but also because it would strengthen the South and thus weaken their own section in the Congress. Others were more willing to compromise on this issue. The same was true for the slave trade. New Englanders in the end were willing to join South Carolinians in protecting the slave trade because South Carolinians were willing to support their interest in allowing Congress to regulate all interstate and foreign commerce. Delegates from the Middle Colonies were less willing to compromise on what they considered a "nefarious" commerce.

Fifty-five delegates attended. Thirty-nine delegates remaining at the end of the convention signed the Constitution, and three refused to do so. More than half the delegates came from states that would maintain slavery until the Civil

Time Line

1783

- The American Revolution ends, and the new United States is governed by Congress under the Articles of Confederation. There is no president and no national court system, and the states regulate almost everything, including personal status—whether someone is slave or free.

- **August 29**
Shays's Rebellion, an uprising of farmers, closes the courts in western Massachusetts to prevent foreclosures on farms during an economic downturn.

- **September 11**
A convention meets in Annapolis, Maryland, to discuss issues of interstate trade and commerce, but only twelve delegates from just five states—New York, Pennsylvania, New Jersey, Delaware, and Virginia—show up.

- **September 14**
The Annapolis Convention ends in failure, but two of the delegates who attend—James Madison of Virginia and Alexander Hamilton of New York—work out a plan to hold a national convention (the Constitutional Convention) in Philadelphia the following spring, to revise the Articles of Confederation.

1787

- **January**
Shays's Rebellion is suppressed by a privately hired army. The failure of the United States government to put down the rebellion underscores the weakness of the national government.

- **May 25–September 17**
The Constitutional Convention meets in Philadelphia to write the Constitution. Issues of slavery are debated throughout the Convention; on the last day, two delegates refuse to sign the document, in part because of the provisions involving slavery.

Time Line

1788

■ **June 21**
New Hampshire becomes the ninth state to ratify the Constitution, making it the new basis of government for the United States.

1789

■ **March 4**
A new Congress meets in New York City.

War, and more than half were also slave owners, including all of the delegates from Virginia and South Carolina and some from the North. The delegates differed substantially on slavery. Generally, the southern delegates were adamant in their desire to protect slavery, while the northerners were more willing to compromise to gain a stronger Union.

The debates over the Constitution reveal the way the Framers viewed slavery. Almost all the southerners, who made up more than half the delegates, were unanimous in support of counting slaves for representation and in other ways protecting slavery. The only issue they disagreed on was the African slave trade. The northerners were mostly opposed to slavery, but few were willing to risk confronting the South on this issue. Antislavery sentiment, such as it existed in the North, was confined to ending slavery in the northern states and to not interfering with slavery where it existed. Thus, at the insistence of slave owners, the delegates to the Constitutional Convention wrote slavery into the document.

When the Constitution was sent to the states for ratification, a number of opponents of the new form of government focused on the slavery provisions, especially those prohibiting Congress from ending the African slave trade. A New Yorker complained (in the *New York Journal* of January 22, 1788) that the Constitution condoned "drenching the bowels of Africa in gore, for the sake of enslaving its free-born innocent inhabitants." The anonymous "Countryman from Duchess County," another Antifederalist, sarcastically noted that the slave trade provision was an "excellent clause" for "an Algerian constitution: but not so well calculated (I hope) for the latitude of America." Three Antifederalists in Massachusetts, writing to the Northampton *Hampshire Gazette* (April 1788), warned that "this lust for slavery [was] portentous of much evil in America, for the cry of innocent blood, … hath undoubtedly reached to the Heavens, to which that cry is always directed, and will draw down upon them vengeance adequate to the enormity of the crime."

On the other side of the argument, southern supporters of the Constitution praised the document precisely because it protected slavery. In the Virginia ratifying convention, Edmund Randolph told the delegates they had nothing to fear from a stronger national government. He challenged opponents of the Constitution to show "*Where* is the part that has a tendency to the *abolition of* slavery?" He answered his own question in asserting, "Were it right here to mention what passed in [the Philadelphia] convention … I might tell you *that the Southern States, even South Carolina herself, conceived this property to be secure*" and that "there was not a member of the Virginia delegation who had *the smallest suspicion of the abolition of slavery*." Similarly, Pinckney, who had been one of the ablest defenders of slavery at the Convention, proudly told the South Carolina House of Representatives: "In short, considering all circumstances, we have made the best terms for the security of this species of property it was in our power to make. We would have made better if we could; but on the whole, I do not think them bad."

About the Author

The Constitution was not written by any single individual. James Madison of Virginia is often called "the Father of the Constitution," because he worked tirelessly at the convention and kept notes of the debates. When the convention began, Edmund Randolph of Virginia, the governor of the state at the time, introduced the "Virginia Plan," which became the basis for debate. Madison most likely drafted the Virginia Plan (also sometimes called the "Randolph Plan"), but the final Constitution differed significantly from the Virginia Plan. It was, in the end, truly the work of the convention.

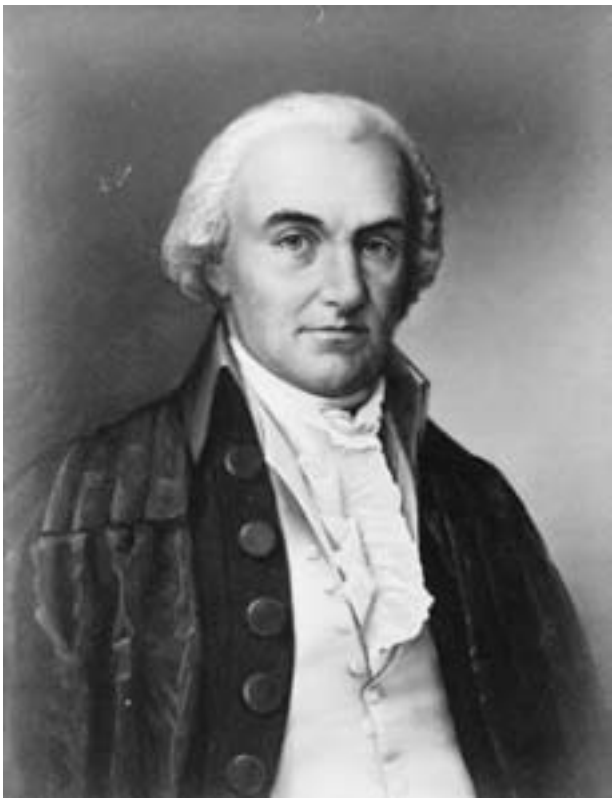
A few delegates strongly opposed slavery. Benjamin Franklin of Pennsylvania was the president of the Pennsylvania Society for the Abolition of Slavery, the most active and important antislavery society in the country. Although he had owned a few slaves during his life, using them as house servants, by this time he was adamantly opposed to human bondage. Alexander Hamilton of New York was a founding member of the New York Manumission Society, the main antislavery organization in his state. Hamilton had grown up on the Caribbean island of Nevis, where he had seen slavery throughout his childhood. He moved to New York as a teenager to attend school and was forever an opponent of slavery. Gouverneur Morris was the convention's most vocal opponent of slavery. Morris came from a very wealthy family with landholdings in New York and New Jersey but represented Pennsylvania at the convention. Morris's grandfather Lewis Morris had once been the largest slaveholder in the Middle Colonies, with more than sixty-five slaves. But Gouverneur Morris vigorously opposed the compromises over slavery, especially the slave-trade provisions. On the floor of the convention he tied counting slaves for representation to the clause protecting the African slave trade, noting

> When fairly explained [it] comes to this: that the inhabitant of Georgia and South Carolina who goes to the Coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow creatures from their dearest connections and damns them to the most cruel bondages, shall have more votes in a Government instituted for protection of the rights of mankind, than the Citizen of Pennsylvania or New Jersey who views with a laudable horror, so nefarious a practice.

Most of the other northern delegates were ambivalent about slavery. They understood that slavery was an important institution in the South, and they were prepared to compromise when southerners demanded special protection for the institution. A handful of the northern delegates owned a few slaves, as household servants. In the end most of the northern states voted to support the three-fifths clause; on the final vote over the slave trade provision, three New England states joined the South in preventing Congress from ending the trade before 1808. The strongest support on this issue came from Connecticut, where at least one of the delegates, John Dickinson of Delaware, argued that protecting the slave trade was "inadmissible on every principle of honor and safety." (He owned slaves but disliked his status as "master" and would eventually free them.) James Madison said this provision was "dishonorable to the National character" and would "produce all the mischief that can be apprehended from the liberty to import slaves." But New Englanders saw it differently, as they voted to support South Carolina's demand for protection for the trade. Oliver Ellsworth of Connecticut, who would later become chief justice of the United States, refused to debate the "morality or wisdom of slavery," simply asserting that "what enriches a part enriches the whole." When one southerner pointed out that the trade would produce immoral results, he replied that he "had never owned a slave" and thus declared that he "could not judge of the effects of slavery on character." Roger Sherman, also from Connecticut, backed the slave trade because he wanted South Carolina to support the new Constitution. He argued that "the public good did not require" an end to the trade and that "it was expedient to have as few objections as possible" to the new Constitution. Indeed, none of the northern delegates favored slavery, but most thought it expedient to support the demands of the South to protect it.

By 1787 George Washington had privately committed himself to freeing his own slaves when he died—an unusual act at the time. He also vowed never to buy or sell another slave. James Madison would never free any of his slaves, but he was deeply uncomfortable with the institution, as were George Wythe and James McClurg of Virginia. Still, almost all the southerners supported counting slaves for representation. The only real division among them was on the slave trade. A majority of the delegates from Virginia and Delaware opposed protecting the slave trade, while the Maryland delegation was split.

The delegates from the Deep South had no qualms about slavery or the slave trade. Charles Cotesworth Pinckney, the leader of the South Carolina delegation, owned huge numbers of slaves and was committed to preserving and protecting the institution. So, too, was his younger cousin, Charles Pinckney, and his fellow planter Pierce Butler, who would later become a U.S. senator. During the debate over the slave trade, Charles Pinckney defused moral arguments with historical references. Citing ancient Rome and Greece, Pinckney declared that slavery was "justified by the example of all the world." In demanding that slaves be counted equally with whites for purposes of representation, Butler argued that "the labour of a slave in South Carolina was as productive and valuable as that of a freeman in Massachusetts." Reflecting the nonegalitarian ideas of slave-owning South Carolina, Butler argued that since the national government "was instituted principally for the protection of property," slaves should be counted fully for representation.



Oliver Ellsworth (Library of Congress)

Explanation and Analysis of the Document

The word *slavery* does not appear in the U.S. Constitution as written in Philadelphia in 1787. The first mention of slavery is in the Thirteenth Amendment, ratified in 1865, which ended slavery throughout the United States after the Civil War. Throughout the Constitutional Convention the delegates talked frankly about slaves and slavery, but in the final document they did not use the term. The reason is clear. Some delegates were embarrassed by it, while others, especially in the North, feared that the direct mention of slavery would harm chances for ratification, as some northerners would vote against a Constitution that directly endorsed the practice. The records of the convention make this clear. During the debate over the slave trade, Gouvernor Morris, who hated slavery, suggested that the clause declare that the importation of slaves into North Carolina, South Carolina, and Georgia not be prohibited before a certain date. Other delegates rejected this idea, both because

Essential Quotes

"Representatives and direct Taxes shall be apportioned among the several States … according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons … three fifths of all other Persons."

(Article I, Section 2)

"No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due."

(Article IV, Section 2)

it would single out three states and because it would alert their constituents to the proslavery aspects of the Constitution. Connecticut's Roger Sherman, who voted with the Deep South to allow the trade, declared that he "liked a description better than the terms proposed," which had been declined by the old Congress and "were not pleasing to some people." George Clymer of Pennsylvania concurred with Sherman. In the North Carolina ratifying convention, James Iredell, who had been a delegate in Philadelphia, explained that the "word *slave* is not mentioned" because "the northern delegates, owing to their particular scruples on the subject of slavery, did not choose the word *slave* to be mentioned."

But even without the word's appearance in the Constitution, slavery is found in a number of places and is more indirectly connected to the Constitution in many other places. The delegates used descriptions of slaves, calling them "other persons," "such persons," and "persons owing service or labour." In other ways there were recognitions of slavery. Thus, in discussing apportionment in the three-fifths clause, the Constitution authorizes counting the "whole Number of free Persons," in each state and then added "three-fifths of all other Persons." The use of the term "free Persons" naturally implied that the "other Persons" were not free but were slaves. Thus, even as the framers avoided the word *slave*, they acknowledged the importance of slaves to the nation and the constitutional structure.

♦ Preamble

The Constitution begins with a preamble asserting that it had been formed by "We the People." The preamble states that the Constitution was written to "form a more perfect Union" and to "establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty" for the American people. Each of these issues raised questions about slavery and race.

"The people" who formed the more perfect Union were, of course, the "people" of the United States. Presumably that did not include slaves, since they were not allowed to participate in the political process. But it must have included free blacks in those states—Massachusetts, New Hampshire, New York, Pennsylvania, New Jersey, and North Carolina—where they could vote and even hold office. In *Dred Scott v. Sandford* (1857) the Supreme Court would declare that blacks could never be citizens of the United States, even if free. But this was surely problematic, since free blacks in at least six states participated in the ratification of the Constitution, just as blacks from a majority of the states had served in the Revolutionary armies that won independence from Great Britain.

The rest of the preamble spoke to other questions of slavery and liberty. The Constitution was designed to "establish Justice." Did this include justice for those born to slavery or just justice for their masters? The Constitution guaranteed that the national government would suppress insurrections, which would "insure domestic Tranquility." This in part meant suppressing slave rebellions, which the national government helped do on a handful of occasions before the Civil War. But when the master class revolted to set up a new nation—the Confederate States of America—based on slavery, the national government would suppress this insurrection as well. Meanwhile, "the common defense" was undermined, as many opponents of slavery

pointed out, by the very presence of slaves, who might side with an enemy in time of war. The Deep South would discover the truth of this during the Civil War as more than two hundred thousand black men—the vast majority slaves before the war—fought to preserve the Union and end slavery. Did slavery help or hinder "the general Welfare" of the nation? Obviously slave owners thought bondage served their welfare. But how could slavery be protected by a Constitution designed to "secure the Blessing of Liberty"? The answer depended on how one viewed slavery. For the South, one of the "blessings" of the new nation was the liberty to own other people and hold them in perpetual servitude. Slaves, and those who opposed their bondage, believed that the Constitution and the government it created failed to live up to the goal of securing "liberty."

♦ Representation

Article I, Section 2 of the Constitution set out how seats would be allocated in the new House of Representatives. A census would count everyone in the nation, except Indians living outside American jurisdictions (called "Indians not taxed"). Slaves would be counted separately from whites. Sixty percent of the slave population would be added to the whole free population to determine the state's population, and representatives would be based on that number. This was the "three-fifths clause." It did not designate blacks to be three-fifths of a person, as many people incorrectly believe. On the contrary, free blacks were counted in the same way as whites. What the clause did was to add to the power of the southern states in Congress by giving them extra representation for their slaves.

The importance of this clause is made clear when we look at the slave populations in the South in the 1790 census. Slaves constituted more than a third of the population in the five states from Maryland to Georgia. South Carolina was 43 percent slave. Virginia was the largest state in the nation, with 692,000 people, but Virginia's free population of just over 400,000 was second to Pennsylvania's and not much bigger than that of Massachusetts. North Carolina, with about 394,000 people, was the third-largest state, but only 288,000 of those people were free. If slaves had not been counted for representation, Virginia would have had the second-largest delegation in Congress, and North Carolina would have fallen from third to fifth. Similarly, Maryland, the sixth-largest state, would fall behind Connecticut if its 103,000 slaves were not counted for representation. Most dramatically of all, South Carolina, with 249,000 people, was the seventh-largest state in the Union. But if 107,000 slaves were not counted, the state would fall to eleventh place, behind Connecticut, New Jersey, and New Hampshire. By counting slaves for representation, the southern states gained a number of seats in the Congress that they would not have had if only free people had been counted.

In the Constitutional Convention, William Paterson of New Jersey had complained bitterly about the injustice of counting slaves to determine representation in a government designed for free people. Paterson argued that slaves were not "free agents, have no personal liberty, no faculty of acquiring property, but on the contrary are themselves property, and like other property entirely at the will of the Master." Paterson pointedly asked whether a man in Virginia had a number of votes in proportion to the number of his slaves. He noted that slaves were not counted in allocating representation in southern state legislatures and asked why they should be represented in the general government. Similarly, Elbridge Gerry of Massachusetts sarcastically asked if slaves were "property," in the South, why should their "representation be increased to the southward on account of the number of slaves, than horses or oxen to the north?" He wondered "Are we to enter into a Compact with Slaves?" In the end the Convention accepted the demand of the South that slaves be counted for representation, but on a three-fifths ratio.

In the long run this clause would give the South extra muscle in Congress, helping to provide the margin of victory for allowing slavery in Missouri, annexing Texas, and passing the Fugitive Slave Act of 1850. Because the Electoral College, which elects the president—set out in Article II—was based on representation in Congress, the three-fifths clause also helped elect slaveholding presidents. In 1800 the slaveholding Thomas Jefferson defeated the non-slaveholder John Adams because of electoral votes created by counting slaves for representation.

The clause also provided that if direct taxes were ever levied on the states, the states would pay according to a population including three-fifths of the slaves. Had the national government ever imposed direct taxes on the states—such as a tax on every person in the state—before the Civil War, this clause would have added to the tax burden of the slave states. But no one expected such taxes, and at the Convention a number of delegates said so. In fact, none was imposed. Thus, while it was *apparently* a compromise over taxation and representation, it was a clause that affected only representation and the election of the president.

♦ The Slave Trade

Article I, Section 9 of the Constitution provides that the "Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress" before 1808. This was awkwardly phrased, perhaps in the hope that opponents of the slave trade would miss the point. Under this provision Congress could not end the African slave trade before 1808, even though Congress had the power to regulate all other forms of international commerce. A divided convention adopted this clause after a touchy, three-day debate. The clause generated significant opposition to the Constitution throughout the North but also in Virginia. At the convention the South Carolina delegates said they could not support the Constitution without some protection for the African trade, but in 1787 none of the states was actually importing slaves. During the Revolution all the states voluntarily stopped the African trade because Great Britain dominated the trade and buying slaves from Africa would be a form of trading

with the enemy. South Carolina did not reopen the African trade until 1803. In the next five years about seventy thousand new slaves would be brought into South Carolina and Georgia—the largest importations in any similar period in American history. On January 1, 1808, the United States would ban the trade. In the next half century there would be some smuggling—probably no more than ten thousand slaves were brought into the country illegally. In 1821 the United States would declare that slave trading was piracy, punishable by death, but no trader would be executed until the Lincoln administration.

♦ The Fugitive Slave Clause

Article IV, Section 2 provides that "persons held to Service or Labour" and escaping into another state be "delivered up on Claim of the Party to whom such Service or Labour may be due." There was almost debate over this clause at the convention, and there is little sense of how people expected the clause to operate. Pierce Butler, who introduced it, was a wealthy planter from South Carolina and probably assumed that runaway slaves would be stopped by local sheriffs and held until someone claimed them. This is how it worked in the South, where any black—even if free—was subject to investigation if he or she was found without a master or was unknown to local officials. In the North, where slavery was ending, blacks were not presumed to be slaves. In 1793 Congress passed a fugitive slave law to implement this clause. The Supreme Court would uphold this law in *Prigg v. Pennsvylvaia* in 1842. In 1850 Congress passed a stronger law. The clause never worked well and led to enormous hostility in the North and great frustration in the South. Rather than creating a "more perfect Union," the clause dramatically undermined the Union. Southern states cited failure to enforce the clause as a reason for secession; northerners viewed the clause as legalizing kidnapping and a symbol of southern oppression.

♦ The Amendment Process

The Constitution provided for a complicated and difficult amendment process. Two-thirds of each house of Congress had to approve an amendment, which then had to be ratified by three-fourths of the states. This gave the South what amounted to a perpetual veto over any amendments. In 1861 there were fifteen slave states. If all fifteen were still slave states in the modern era, it would still be impossible to amend the Constitution to end slavery. If fifteen slave states voted against an amendment it would take forty-five free states to outvote them, necessitating a sixty-state Union. Only secession allowed for the Civil War Amendments, which ended slavery, made all people born in the nation citizens without regard to race, and prohibited discrimination in voting on the basis of race.

♦ Other Clauses Affecting Slavery

In addition to the clauses specifically designed to protect slavery, others also affected the system. The two insurrection clauses (Article I, Section 8, and Article IV, Section 4) created a guarantee that the U.S. government would suppress slave rebellions, as it did on a number of occasions. The Electoral College folded the three-fifths clause into the Electoral College so that slaves would help elect the president. The delegates were very specific about this. At the convention James Madison said that "the people at large" were "the fittest" to choose the president. But "one difficulty … of a serious nature" made election by the people impossible: "The Southern States … could have no influence in the election on the score of the Negroes." In other words, slaves would not help elect presidents. More openly, Hugh Williamson of North Carolina observed that if there were a direct election of the president, Virginia would not be able to elect "her" leaders president because "her slaves will have no suffrage." The slave states also insisted—and obtained—prohibitions on export taxes (in Article I, Sections 9 and 10) so that the products of slave labor might not be indirectly taxed.

Other parts of the Constitution put the national government in the position of having to regulate slavery. Article I, Section 8 gave Congress power to create and govern a national capital—which became Washington, D.C. Eventually located between Maryland and Virginia, it would be a slaveholding city until Congress exercised its power to end slavery there in 1862. Similarly, the power to admit new states and regulate the territories (Article IV, Section 3) gave Congress the power to ban slavery in the territories. From 1791 until 1857 Congress regulated slavery in the territories and debated the admission of new states on the basis of slavery. This led to enormous political conflict and, in Kansas, a civil war known as Bleeding Kansas. In *Dred Scott v. Sandford* (1857), Supreme Court Chief Justice Roger Taney ruled that Congress could not ban slavery in the territories. This attempt to solve the problem backfired and helped elect Lincoln, which in turn led to secession by slave-state politicians who could not imagine a Union led by an actual opponent of slavery. In 1862 Congress ignored Taney's decision and banned slavery in the territories.

The ultimate protection of slavery in the Constitution was the creation of a limited government. Under the pre–Civil War Constitution neither the president nor Congress had the power to touch slavery in the states. Since slavery was an institution created by state law, this meant that Congress could never end slavery. In that sense, the Constitution created a slaveholders' republic that lacked the internal structure to change itself. At the ratifying Convention in South Carolina, Charles Cotesworth Pinckney proudly noted,

> We have a security that the general government can never emancipate them, for no such authority is granted and it is admitted, on all hands, that the general government has no powers but what are expressly granted by the Constitution, and that all rights not expressed were reserved by the several states.

Only secession and the Civil War could change that.

Audience

The U.S. Constitution was designed to create "a more perfect Union." The audience was the voters of the America. The Framers wanted to gain support for the new Constitution and then set up a new, stronger, and more vibrant government. With regard to slavery, there were three audiences. First the Framers wanted to attract southern support for the Constitution by giving the states representation in Congress based on their slave populations, protecting the right of masters to recover fugitive slaves, and guaranteeing that the national government would never interfere with slavery in the states. Second, the Framers wanted to gain the support of the three most southern states—the Carolinas and Georgia—by guaranteeing their right to import slaves for *at least* twenty years. Finally, the Framers wanted to shape the proslavery provisions so that they would not offend northerners who opposed all slavery as well as Virginia and Maryland voters who opposed the African trade.

Impact

At first glance, the slavery provisions of the Constitution were enormously successful. Despite northern opposition to slavery—and some southern opposition to the slave trade provision—the people of the states ratified the Constitution. For the next seventy-two years the Constitution protected slavery and slaveholders. The slave population grew from 698,000 in 1790 to 3,954,000 in 1860. Slaveholders dominated the presidency, the Congress, and the Supreme Court. Even when slave owners were not in office, they were able to secure positions for northerners sympathetic to slavery. But while the slave population grew rapidly, the population of the free states grew even faster. So, too, did opposition to slavery, not only in the United States but also, indeed, throughout the world. In 1787 slavery was legal everywhere in the Atlantic world except Massachusetts, New Hampshire, the soon-to-be state of Vermont, England, and France. By 1860 slavery was legal only in the American South, a few Spanish islands in the Caribbean, and Brazil. For a majority of northerners, and for most of the Western World, slavery was a "relic of barbarism," as the Republican Party platform called it in 1856. Still, the Constitution may have protected slavery too well. There was no political or constitutional way to end bondage, even in the far-distant future. Southerners, meanwhile, saw the election of Abraham Lincoln as a direct threat to slavery, even though neither the president nor Congress had any power to touch slavery in the fifteen slave states. The eleven southern states seceded to protect slavery, which the Confederate Vice President Alexander Stephens called "the cornerstone of the Confederacy." When these states left the Union, they lost the ability to block constitutional changes. Thus, in 1865 the United States added the Thirteenth Amendment to the Constitution, ending slavery forever.

See also *Prigg v. Pennsylvania* (1850); Fugitive Slave Act of 1850; *Dred Scott v. Sandford* (1857); Thirteenth Amendment to the U.S. Constitution (1865); *Plessy v. Ferguson* (1896).

Questions for Further Study

1. In modern discussions it is often stated that the U.S. Constitution regarded slaves as "three-fifths" of a person. In what sense, though, is this misleading? Put differently, why would the northern states that opposed slavery have been more content if slaves had not been counted as persons at all?

2. The U.S. Constitution deferred the issue of abolishing the slave trade (but not slavery) for two decades. What was the outcome of this provision of the Constitution? For help, see "An Oration on the Abolition of the Slave Trade" by Peter Williams, Jr.

3. What historical factors made slavery an entrenched institution in the American South but less so in the North? Were there any circumstances in which this pattern might have been reversed?

4. The U.S. Constitution was a product of negotiation and compromise in a number of respects—between large states and small states; between agricultural states and those whose economies were based more on trade, manufacture, and finance; and, of course, between slave states and free states. What motivated the Framers of the Constitution to accede to these sorts of compromises?

5. Who were the Federalists and the Antifederalists in the debate over ratification of the U.S. Constitution? What were the positions of these incipient political parties on slavery and the slave trade?

Further Reading

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—Paul Finkelman

Document Text

Slavery Clauses in the U.S. Constitution

Preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article I

♦ Section 1

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

♦ Section 2

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.…

♦ Section 3

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six Years; and each Senator shall have one Vote.…

♦ Section 5

Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.…

♦ Section 6

The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.…

♦ Section 7

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

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Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States: If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.…

♦ Section 8

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

♦ Section 9

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

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No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

♦ Section 10

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article II

♦ Section 1

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; a quorum for this purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer

shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

♦ Section 2

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.…

♦ Section 4

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article III

♦ Section 1

The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.

♦ Section 2

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;— between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

♦ Section 3

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article IV

♦ Section 1

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

♦ Section 2

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and

Document Text

be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime. No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

♦ **Section 3**

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

♦ **Section 4**

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic Violence.

Article V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article VI

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article VII

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

The Word, "the," being interlined between the seventh and eighth Lines of the first Page, the Word "Thirty" being partly written on an Erazure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page.

Attest William Jackson Secretary

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names,

G. Washington
Presidt. and deputy from Virginia
New Jersey
Wil: Livingston
David Brearley
Wm. Paterson
Jona: Dayton

Document Text

Pennsylvania
B Franklin
Thomas Mifflin
Robt. Morris
Geo. Clymer
Thos. FitzSimons
Jared Ingersoll
James Wilson
Gouv Morris

New Hampshire
John Langdon
Nicholas Gilman

Massachusetts
Nathaniel Gorham
Rufus King

Connecticut
Wm. Saml. Johnson
Roger Sherman

New York
Alexander Hamilton

Delaware
Geo: Read
Gunning Bedford jun
John Dickinson
Richard Bassett
Jaco: Broom

Maryland
James McHenry
Dan of St Thos. Jenifer
Danl. Carroll

Virginia
John Blair
James Madison Jr.

North Carolina
Wm. Blount
Richd. Dobbs Spaight
Hu Williamson

South Carolina
J. Rutledge
Charles Cotesworth Pinckney
Charles Pinckney
Pierce Butler

Georgia
William Few
Abr Baldwin

Portrait of Benjamin Banneker (AP/Wide World Photos)

Benjamin Banneker's Letter to Thomas Jefferson

1791

"We have long been considered rather as brutish than human."

Overview

Benjamin Banneker's letter to Thomas Jefferson was written August 19, 1791, to accompany a copy of the almanac that Banneker was to have published in the next year. In the eighteenth and nineteenth centuries almanacs were not simply catalogs of information providing calendars, astronomical and seasonal predictions, weather forecasts, and agricultural ideas; they also included entertaining and educating stories, commentaries, and even poetry, therefore offering much more in the way of reading material at a time when such things were scarce. And since almanacs were common to most households, a wide variety of people were likely to have read Banneker's *Almanac*.

Banneker based his almanac predictions on his own table of the position of celestial bodies, called an ephemeris. Creating an accurate ephemeris was not an easy task; it took great mathematical and astronomical skill. Thomas Jefferson, as a farmer and someone with a keen interest in astronomy, would have recognized this fact and possibly marveled that a black man had put together an almanac, since he regarded those with African ancestry to be inferior to white people. Banneker sent the almanac, along with the letter, to Jefferson, who was then the U.S. secretary of state. On August 30, 1791, Jefferson wrote a response to Banneker, thanking him for the almanac and informing him that he was sending it on to the secretary of the Academy of Sciences in Paris, Nicolas de Condorcet. Both Banneker's letter and Jefferson's response were published in pamphlet form the following year and then in the 1793 edition of Banneker's almanac.

Context

On July 4, 1776, the Declaration of Independence was signed, stating that "all men are created equal" and entitled to "certain unalienable rights." Every colony had practiced slavery, and slavery was legal in all the colonies at the time the Declaration was signed. Americans fought a war for independence from Britain, ultimately winning and giving birth to a new nation. During the Revolutionary War many slave masters persuaded their slaves to fight in the American army against the British. Some were ordered to fight, while others were swayed by promises of freedom. When the fervor of republicanism and liberty for all died down after the war, however, few of these promises were actually kept.

In the midst of a country built on the virtues of freedom, liberty, and republicanism, there was the contradiction of slavery. The territory of Vermont banned slavery when it broke from New York in 1777 and maintained this ban in its constitution when it became the fourteenth state in 1791. Pennsylvania abolished slavery from the state in 1780, Massachusetts in 1781, New Hampshire in 1783, and Rhode Island and Connecticut in 1784. But despite these states' decisions to emancipate their slaves, whether immediately or gradually, and the budding social movement toward abolition, the second government of the United States under the Constitution, adopted in 1787, protected the rights of slave owners and, in consequence, the institution of slavery in America.

The American institution of slavery was based on race. The first slaves introduced into North America, after it was found that Native Americans were not a viable option as slave labor, were brought over from the western coast of Africa. The racial nature of American slavery gave rise to many arguments in defense of the institution that also were based on race. Many of the arguments in favor of slavery stressed much-debated theories about the mental and moral inferiority, heartier physical constitutions, and greater suitability for hard labor of African natives. Thus, slavery was said to provide a way for Africans to be cared for, since they lacked the mental abilities to care for themselves, to have their moral deficiencies checked, and to have their strength yoked for the economic good of the entire country—whether or not this country technically included the African slaves.

In his *Notes on the State of Virginia*, published in 1787, Thomas Jefferson wrote against the abolition of slavery, using much the same argument about the inherent inferiority of black Africans. It was well known in America at the time that Jefferson, a slave owner from Virginia, regarded slavery as a necessary evil; he believed that the practice was indispensable to ensuring the economic health of the southern states

Time Line

1776	■ **July 4** The Declaration of Independence is signed.
1787	■ Thomas Jefferson publishes his *Notes on the State of Virginia*. ■ **September 17** The U.S. Constitution is adopted.
1788	■ Banneker predicts an eclipse of the sun, almost completely accurately.
1791	■ Banneker assists Major Andrew Ellicott in surveying land for the new national capital. ■ **August 19** Banneker writes a letter to Thomas Jefferson to accompany a copy of his almanac. ■ **August 30** Thomas Jefferson writes a reply to Benjamin Banneker.
1792	■ Banneker's first almanac is published.
1792–1797	■ Twenty-eight editions of six almanacs by Banneker are published.
1800	■ **December 1** The seat of government is moved from Philadelphia to Washington, D.C.
1806	■ **October 25** Benjamin Banneker dies.

and of the nation as a whole. However, in Jefferson's opinion, the evil had more to do with the effect of slavery upon the slaveholder himself, not upon the slave. The *Notes* provided a basis for quite a few proslavery arguments that would be developed more fully in the early nineteenth century.

In a world where the ability to read and write, much less to calculate an ephemeris for an almanac, were rare for African Americans, even freedmen, Benjamin Banneker's letter to Jefferson stands out. His prose is clear, and his arguments are coherent and logical. Many white Americans would not have been able to compose a letter half so well. Abolitionists in Banneker's time, as well as in the later antebellum period, used his achievements to demonstrate that the proslavery writers—who held that African Americans did not have the mental or moral capacity to take care of themselves—were wrong. Correspondingly, Jefferson's arguments in *Notes on the State of Virginia* could also be refuted by arguments based upon Banneker's achievements.

About the Author

Benjamin Banneker was born in Baltimore, Maryland, on November 9, 1731. Banneker's maternal grandmother, Molly Welsh, was an Englishwoman who had been falsely accused and convicted of theft. As punishment, she became an indentured servant to a Maryland tobacco farmer. After she finished her service, she farmed some rented land, which enabled her to buy two slaves; she freed both later. Molly married one of these former slaves, Banneky, in defiance of Maryland law. One of their daughters, Mary, also married a freed African slave, Robert, who took the name Banneker as his own family name. Benjamin Banneker was their first child.

Mary and Robert Banneker and their children lived with Mary's mother as they worked to earn enough money for their own farm. Molly taught Benjamin to read, and for a short time he attended a small interracial Quaker school. Growing up, he showed a great capacity for mathematics and mechanics, and he read while other children played. His talent led him to construct a striking clock at the age of twenty-two, made mostly of wood and based on his own designs and computations. Despite the fact that he had seen only one pocket watch at this point in his life, the clock he made not only worked but, indeed, continued to run until it was destroyed by a fire forty years later.

Banneker's talents were nurtured further by his friendship with the Ellicott brothers. The Ellicott family was a Quaker family who owned flour mills and had furthered the technology of flour production and wheat cultivation. The family was known for stressing the importance of education and for bringing in the best teachers for the instruction of all the children in the community. Like Banneker, George Ellicott was a mathematician with a keen interest in astronomy, and he had probably encouraged Banneker's own interests. In 1788, making use of books and tools of Ellicott's, Banneker predicted an eclipse of the sun almost exactly. (He would have timed it precisely, except that one of his sources contained an error.)

In 1791, Major Andrew Ellicott (a cousin of George's and his brother Elias Ellicott) brought Banneker with him to the banks of the Potomac River to participate in an engineering project. This project was the surveying and designing of the city that would be the new federal capital. The Georgetown *Weekly Ledger* mentioned that Ellicott was "attended by Benjamin Banneker, an Ethiopian, whose abilities, as a surveyor, and an astronomer,

clearly prove that Mr. Jefferson's concluding that race of men were void of mental endowments, was without foundation." After the French architect of the project, Pierre Charles L'Enfant, quit in 1792, taking his plans with him, Banneker proved his capacities yet again. Duplicating L'Enfant's plans from memory, he enabled the group to finish laying out the capital city.

In 1792, Banneker published his first almanac, the same one he had sent to Jefferson with his letter in August of the previous year. Over the next six years, he published six almanacs in twenty-eight editions. Although he associated with the Quakers and even wore Quaker clothing, he never formally joined the Society of Friends. He never married, and he lived alone, renting and selling off his land, until his death in 1806. His house caught fire and burned down (including the still-working clock) on the day he was buried.

Explanation and Analysis of the Document

In the first paragraph of the letter, Banneker states that he is aware of the "liberty which seemed to me scarcely allowable" that he takes in sending a copy of his almanac and writing this letter to Jefferson, who was then in the "distinguished and dignified station" of secretary of state. Additionally, Banneker does not deny that it is an even further liberty since he is a black man and, as such, is generally looked down upon. However, he does write this missive to Jefferson, wherein he brings up issues of great significance. Taking a deferential tone for the entire letter, Banneker nonetheless makes sure the secretary of state knows where he stands.

After his humble acknowledgment of the freedom he takes in writing this letter, Banneker begins by reminding his reader of the well-recognized state of black people in America. They have been, for an extensive period of time, exploited, condemned, degraded, and regarded as incompetent in mental endeavors, considered more animal than human.

In contrast to the attitude that most white people have toward African Americans, both slave and free, Banneker reflects that he believes Jefferson to be a man "far less inflexible" and "measurably friendly." Historians speculate that Banneker had never read Jefferson's *Notes on the State of Virginia* or he may not have tried to approach Jefferson in a letter at all. Nevertheless, Banneker certainly thought that such a man as Jefferson might be more disposed than most to helping black people in America. If, too, Jefferson were so amiable, then naturally he would match his disposition to his actions and help ease and erase, whenever the opportunity arose, the "train of absurd and false ideas and opinions, which so generally prevails with respect to us."

Furthermore, says Banneker, if Jefferson believes that a "Father"—God—created all, he would also see that all, no matter what station, situation, or color, are human and thus capable of the same feelings and with the same capacity for intelligence. Because of this, all people are part of one family with that one Father, presumably a father who would not have any of his children exploited by the others. Later in the antebellum era, proslavery apologists began to rely heavily on the claim that Africans were descended from the son of the biblical Noah, Ham, who had been cursed. The story is from Genesis 9:18–29, where Ham sees that his father has gotten drunk and fallen asleep, naked, in his tent. He goes to tell his brothers, Japheth and Shem, who immediately walk backward into the tent, putting a robe between them to cover their father. When Noah awakens and hears what happened, he curses Ham's son, Canaan, to serve his relatives. The descendents of Canaan were said by proslavery writers to be black-skinned, and, therefore, Africans were destined to be the slaves of the earth. At the time Banneker wrote to Jefferson, this argument had not gained the position it would later have.

In the next paragraph, the fourth, Banneker points out that if Jefferson agrees that there is one universal Father of all humankind, then he would also agree that it is his Christian—and human—duty to see to it that all forms of inhumane treatment to fellow human beings are stopped. Banneker can see that white people love their liberties, their rights, the laws that give them these rights, and themselves, and if they are really sincere about the value of all these things, then they should want no less for everyone else, particularly those who have been living in oppression and degradation.

Banneker writes that he is a black man and, by the grace of God, a free one, who does not have to experience the "inhuman captivity" of his brethren. As a free man, he has the privilege of partaking of many of the same liberties and rights that Jefferson has. He hopes that Jefferson realizes that his own freedom comes from the merciful hand of God, just as Banneker's has.

In paragraph 6, Banneker reminds Jefferson of the time, still fresh in memory, since it had been so few decades ago, "in which the arms and tyranny of the British crown were exerted, with every powerful effort, in order to reduce you to a state of servitude." He asks Jefferson to remember how the colonists felt, how they thought, and how they reacted to the tyranny of British rule. Did they not feel as if they were to be slaves to the British? Did they not see every move by Parliament as one step closer to that servitude, as one more trespass upon their rights as human beings? Did they not feel their own hopelessness to do anything and despair that things would be this way forever? Despite this, Banneker asserts, the colonists persevered, and they gained their freedom, with the "blessing of Heaven."

Continuing in this same line of thinking, Banneker writes that Americans at this time felt "the injustice of a state of slavery." Because they could not tolerate the present condition or the future possibility of living in such a state, Jefferson wrote these words in the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, and that among these are, life, liberty, and the pursuit of happiness." The American colonists regarded themselves highly enough to make sure they would not be slaves to anyone and that "the great violation of liberty" would go no further. And yet even

Essential Quotes

"We have long been considered rather as brutish than human, and scarcely capable of mental endowments."

(Paragraph 2)

"I apprehend you will embrace every opportunity, to eradicate that train of absurd and false ideas and opinions, which so generally prevails with respect to us."

(Paragraph 3)

"Sir, I have long been convinced, that if your love for yourselves, and for those inestimable laws, which preserved to you the rights of human nature, was founded on sincerity, you could not but be solicitous, that every individual, of whatever rank or distinction, might with you equally enjoy the blessings thereof."

(Paragraph 4)

"This, Sir, was a time [the Revolutionary War] when you clearly saw into the injustice of a state of slavery, and … the horrors of its condition.… Your abhorrence thereof was so excited, that you publicly held forth this true and invaluable doctrine … 'We hold these truths to be self-evident, that all men are created equal.'"

(Paragraph 7)

"Neither shall I presume to prescribe methods by which [my brethren] may be relieved, otherwise than by recommending to you and all others, to wean yourselves from those narrow prejudices which you have imbibed with respect to them, and … 'put your soul in their souls' stead.'"

(Paragraph 8)

though there was a war fought over these words, over these ideas, these same colonies held enormous numbers of Africans in brutal and merciless bondage, using any means necessary to keep these men and women restrained. Banneker states that there is a contradiction demonstrated by people who rally around the statement "all men are created equal" but also publicly and vehemently deny an entire category of people those same unalienable rights. Abraham Lincoln, a politician from Illinois, would also point out this inconsistency in many of his speeches of the mid-1800s.

Not presuming to tell Jefferson, who supposedly already knew well, the "situation of my brethren" or to propose specific solutions to the problem of slavery, in paragraph 8 Banneker simply says that he thinks that a person should,

as the biblical Job urged his friends (Job 8), "put your soul in their souls' stead" and "wean yourselves from those narrow prejudices which you have imbibed with respect to them." One might think that Banneker here makes an indirect barb at Jefferson's notions (well-known even beyond his *Notes*) that black people were inferior to whites, particularly with regard to intellect. If, however, Jefferson and other whites could do as Job wisely told his friends to do, then perhaps they would feel some compassion toward those who were held in harsh servitude merely by reason of their skin color. And once they felt that compassion, no one would have to tell them how to act or how to progress regarding the question of slavery.

In closing the paragraph, Banneker explains that he had not intended to go into everything he had written about but that his caring for his fellow African Americans under bonds led him to do so at length. He hopes that Jefferson would forgive the digression and still accept the gift of an almanac, which had been the original reason for writing.

In telling Jefferson something about the almanac, Banneker observes that he is at an "advanced stage of life" and that he had "long had unbounded desires to become acquainted with the secrets of nature." This indicates that he had been doing this type of study for a long time, and, even if he had never published any of his findings before now, he had not come to the calculations without some knowledge and experience. He takes a collegial tone here, as he shares with Jefferson that he had had many "difficulties and disadvantages" in taking up astronomical studies on his own, "which I need not recount to you." Jefferson, as an amateur astronomer himself, would well know the complexities associated with the study and would recognize, too, the work that Banneker would have had to put in as a man who had had little formal schooling.

In the last full paragraph, he continues by commenting to Jefferson that the almanac had almost had to wait, since he had been spending so much time assisting Mr. Andrew Ellicott "at the Federal Territory." This is Banneker's allusion to his work on the plans of the capital city, which Jefferson would have realized, since he had recommended Banneker for the project. However, says Banneker, he had already told several printers in the area about his proposed almanac, so when he arrived home from the banks of the Potomac, he got to work on his calculations straight away.

Here, then, is the product, Banneker tells Jefferson, which he hopes will be accepted in the spirit it was intended. He has sent a manuscript, so that Jefferson not only could have an advance copy but also could see it in Banneker's own hand. This appears to be a subtle acknowledgment that Jefferson might not take the almanac for Banneker's own work unless he sees it written in the author's own hand. As it happens, years later Jefferson wrote a letter to his friend Joel Barlow saying that he did not think that Banneker had come up with his ephemeris by himself, that someone had helped him substantially in his calculations. He also refers to Banneker's letter, telling Barlow that he believed that it "shows him to have had a mind of very common stature indeed." Even so, Jefferson's letter in answer to Banneker's does not appear to indicate this seemingly cynical view.

Banneker closes by acknowledging "the most profound respect" toward Jefferson. The respect Banneker speaks of rings throughout the letter, in the sincerity with which he writes, even as he criticizes the American custom of slaveholding and the contradiction it presents. The last part of the closing, "Your most obedient humble servant," by no means should be taken as a statement of subservience. One of the points of Banneker's letter was to dispel the assumption, to which Jefferson also seemed to subscribe, that African Americans were inferior to white Americans, and he suggests clearly that African Americans should not be subservient based on such a misconception. The phrase "your most obedient humble servant" was simply a common closing in formal letters at the time, and, in fact, Jefferson closes his own letter to Banneker using the same phrase.

Audience

Benjamin Banneker sent his letter to Thomas Jefferson, the widely acknowledged primary writer of the Declaration of Independence, who was also a slaveholder. Jefferson's ideas on the inferiority of African Americans had been published, even though he seemed to be, as Banneker writes, "measurably friendly and well disposed" toward them. In fact, however, *Notes on the State of Virginia* discloses that Jefferson's views on the questions of slavery and race tended to be conflicting.

Although Jefferson was the first and main audience for the letter, a much wider audience was included when a printer in Philadelphia, Daniel Lawrence, published the exchange between Banneker and Jefferson in a pamphlet within six months. In 1792 the periodical *Universal Asylum and Columbian Magazine* also printed the letters. Banneker included the correspondence in the 1793 edition of the almanac.

Impact

Thomas Jefferson answered Benjamin Banneker's letter within a few days, writing his reply on August 30, 1791. In this rather brief letter, Jefferson courteously thanks Banneker for his almanac and letter, adding,

> No body wishes more than I do, to see such proofs as you exhibit, that nature has given to our black brethren talents equal to those of the other colors of men; and that the appearance of the want of them, is owing merely to the degraded condition of their existence, both in Africa and America.

He also writes that he would like to see their situation bettered, as far as it could be. The almanac, Jefferson tells Banneker, he has sent to Monsieur de Condorcet, secretary of the Academy of Sciences at Paris, "because I considered it as a document, to which your whole color had a

right for their justification, against the doubts which have been entertained of them." Jefferson does not comment further on either the almanac or the significant concerns in Banneker's letter.

Both letters were subsequently published, in 1792 as a pamphlet and in the popular periodical the *Universal Asylum and Columbian Magazine*, and also included in Banneker's 1793 almanac. The pamphlets sold out in 1792 and were reprinted by Daniel Lawrence. Banneker's almanacs, which were produced by Goddard Angell and John Hayes in Baltimore and Joseph Crukshank in Philadelphia, were outselling the almanacs of established mathematicians like Major Andrew Ellicott. Another Philadelphia publisher, William Young, soon procured permission to print an edition of his own. The almanac and letters supplied many subjects of debate in many arenas, and the Pennsylvania Society for the Promotion of the Abolition of Slavery used the almanacs and pamphlets effectively as propaganda in its cause.

The letters also were used in another way. Jefferson's critics were quick to point out the contradictions between his ideas on the African American as expressed in *Notes on the State of Virginia* and as he expressed them in his reply to Banneker. Many opponents of Jefferson's, both for and against slavery, used his letter to Banneker as ammunition against him in the 1800 presidential election. Those for slavery thought he had gone too far in elevating the mental abilities of the African American, and those against slavery thought he had not gone far enough. Either way, because of his own letter and his own claims to genius in mathematics and astronomy, during this time Benjamin Banneker became a symbol of all those of color could be if they were not shackled by the oppressions of slavery.

See also Thomas Jefferson's *Notes on the State of Virginia* (1784); Slavery Clauses in the U.S. Constitution (1787).

Further Reading

■ Books

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Finkelman, Paul. *Defending Slavery: Proslavery Thought in the Old South*. Boston: Bedford/St. Martin's, 2003.

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■ Web Sites

"Africans in America/Part 2/Benjamin Banneker." PBS Online Web site.
http://www.pbs.org/wgbh/aia/part2/2p84.html.

"Today in History: November 9." Library of Congress "American Memory" Web site.
http://memory.loc.gov/ammem/today/nov09.html.

—Angela M. Alexander

Questions for Further Study

1. Why would Banneker's almanac have been considered such an extraordinary achievement at the time?

2. Make the argument that Banneker was familiar with Jefferson's views as expressed in *Notes on the State of Virginia* and that he deliberately sent his almanac to Jefferson with the intention of countering those views. Do you think such an argument would be plausible? Why or why not?

3. Much has been made, both at the time and in the twenty-first century, of the fact that Thomas Jefferson, the principal writer of the Declaration of Independence, was also a slave owner. Do you believe that this fact undermines Jefferson's place in American history? Do you believe that, if he were alive today, Jefferson would accept the obvious view that slavery is wrong?

4. Compare and contrast Banneker's thinking about slavery with that expressed in the Petition of Prince Hall and Other African Americans to the Massachusetts General Court.

5. Members of the Quaker religion were at the forefront of the early abolitionist movement. To what extent did Quakerism play a role in Banneker's intellectual achievements?

Document Text

Benjamin Banneker's Letter to Thomas Jefferson

Maryland, Baltimore County, August 19, 1791.

Sir,

I am fully sensible of the greatness of that freedom, which I take with you on the present occasion; a liberty which seemed to me scarcely allowable, when I reflected on that distinguished and dignified station in which you stand, and the almost general prejudice and prepossession, which is so prevalent in the world against those of my complexion.

I suppose it is a truth too well attested to you, to need a proof here, that we are a race of beings, who have long labored under the abuse and censure of the world; that we have long been looked upon with an eye of contempt; and that we have long been considered rather as brutish than human, and scarcely capable of mental endowments.

Sir, I hope I may safely admit, in consequence of that report which hath reached me, that you are a man far less inflexible in sentiments of this nature, than many others; that you are measurably friendly, and well disposed towards us; and that you are willing and ready to lend your aid and assistance to our relief, from those many distresses, and numerous calamities, to which we are reduced. Now Sir, if this is founded in truth, I apprehend you will embrace every opportunity, to eradicate that train of absurd and false ideas and opinions, which so generally prevails with respect to us; and that your sentiments are concurrent with mine, which are, that one universal Father hath given being to us all; and that he hath not only made us all of one flesh, but that he hath also, without partiality, afforded us all the same sensations and endowed us all with the same faculties; and that however variable we may be in our religion, however diversified in situation or color, we are all of the same family, and stand in the same relation to him.

Sir, if these are sentiments of which you are fully persuaded, I hope you cannot but acknowledge, that it is the indispensible duty of those, who maintain for themselves the rights of human nature, and who possess the obligations of Christianity, to extend their power and influence to the relief of every part of the human race, from whatever burden or oppression they may unjustly labor under; and this, I apprehend, a full conviction of the truth and obligation of these principles should lead all to. Sir, I have long been convinced, that if your love for yourselves, and for those inestimable laws, which preserved to you the rights of human nature, was founded on sincerity, you could not but be solicitous, that every individual, of whatever rank or distinction, might with you equally enjoy the blessings thereof; neither could you rest satisfied short of the most active effusion of your exertions, in order to their promotion from any state of degradation, to which the unjustifiable cruelty and barbarism of men may have reduced them.

Sir, I freely and cheerfully acknowledge, that I am of the African race, and in that color which is natural to them of the deepest dye; and it is under a sense of the most profound gratitude to the Supreme Ruler of the Universe, that I now confess to you, that I am not under that state of tyrannical thraldom, and inhuman captivity, to which too many of my brethren are doomed, but that I have abundantly tasted of the fruition of those blessings, which proceed from that free and unequalled liberty with which you are favored; and which, I hope, you will willingly allow you have mercifully received, from the immediate hand of that Being, from whom proceedeth every good and perfect Gift.

Sir, suffer me to recall to your mind that time, in which the arms and tyranny of the British crown were exerted, with every powerful effort, in order to reduce you to a state of servitude: look back, I entreat you, on the variety of dangers to which you were exposed; reflect on that time, in which every human aid appeared unavailable, and in which even hope and fortitude wore the aspect of inability to the conflict, and you cannot but be led to a serious and grateful sense of your miraculous and providential preservation; you cannot but acknowledge, that the present freedom and tranquility which you enjoy you have mercifully received, and that it is the peculiar blessing of Heaven.

This, Sir, was a time when you clearly saw into the injustice of a state of slavery, and in which you had just apprehensions of the horrors of its condition. It was now that your abhorrence thereof was so excited, that you publicly held forth this true and invaluable doctrine, which is worthy to be recorded and remembered in all succeeding ages: "We hold these truths

Document Text

to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights, and that among these are, life, liberty, and the pursuit of happiness." Here was a time, in which your tender feelings for yourselves had engaged you thus to declare, you were then impressed with proper ideas of the great violation of liberty, and the free possession of those blessings, to which you were entitled by nature; but, Sir, how pitiable is it to reflect, that although you were so fully convinced of the benevolence of the Father of Mankind, and of his equal and impartial distribution of these rights and privileges, which he hath conferred upon them, that you should at the same time counteract his mercies, in detaining by fraud and violence so numerous a part of my brethren, under groaning captivity and cruel oppression, that you should at the same time be found guilty of that most criminal act, which you professedly detested in others, with respect to yourselves.

I suppose that your knowledge of the situation of my brethren is too extensive to need a recital here; neither shall I presume to prescribe methods by which they may be relieved, otherwise than by recommending to you and all others, to wean yourselves from those narrow prejudices which you have imbibed with respect to them, and as Job proposed to his friends, "put your soul in their souls' stead"; thus shall your hearts be enlarged with kindness and benevolence towards them; and thus shall you need neither the direction of myself or others, in what manner to proceed herein. And now, Sir, although my sympathy and affection for my brethren hath caused my enlargement thus far, I ardently hope, that your candor and generosity will plead with you in my behalf, when I make known to you, that it was not originally my design; but having taken up my pen in order to direct to you, as a present, a copy of an Almanac, which I have calculated for the succeeding year, I was unexpectedly and unavoidably led thereto.

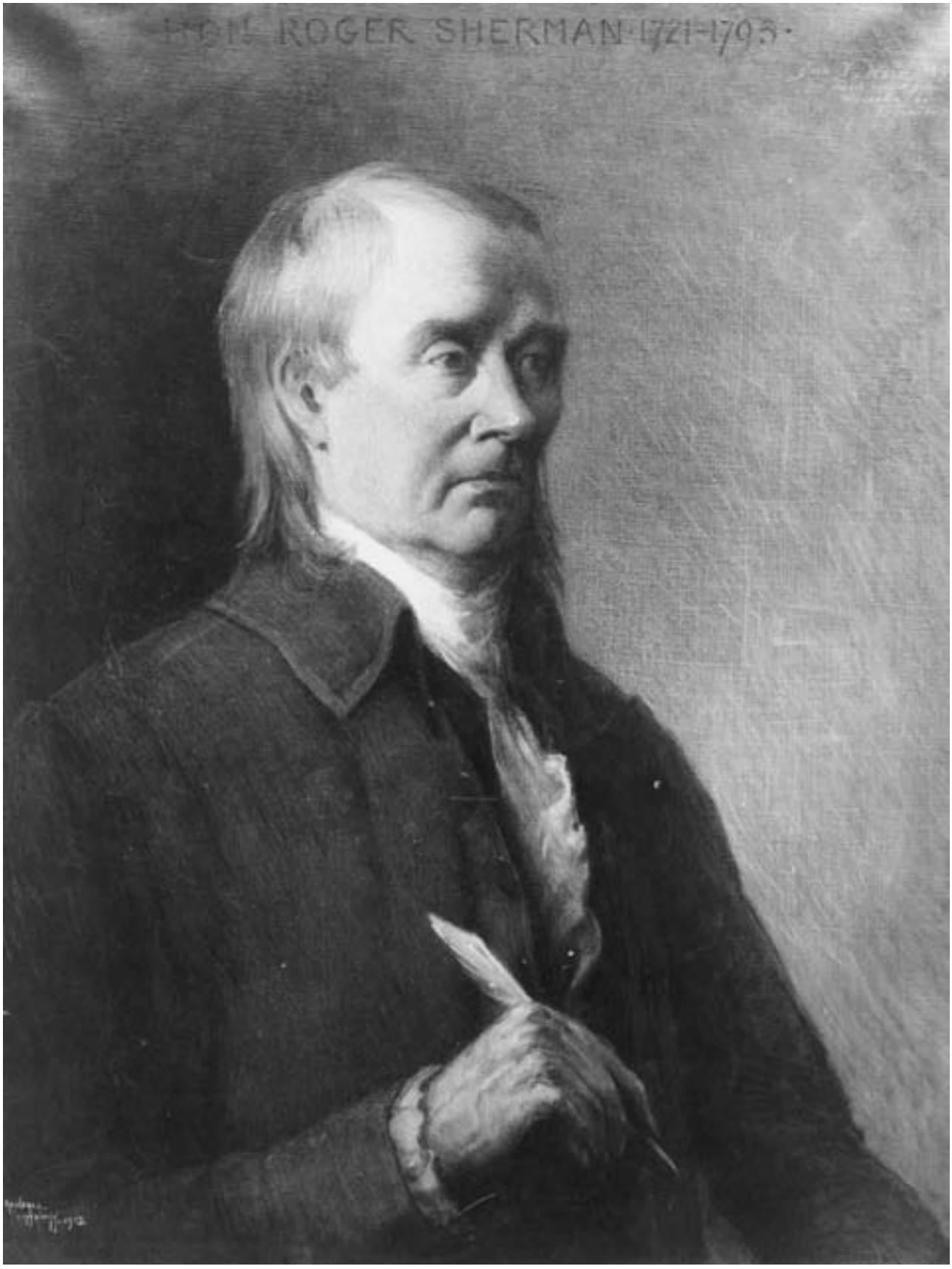
This calculation is the production of my arduous study, in this my advanced stage of life; for having long had unbounded desires to become acquainted with the secrets of nature, I have had to gratify my curiosity herein, through my own assiduous application to Astronomical Study, in which I need not recount to you the many difficulties and disadvantages, which I have had to encounter.

And although I had almost declined to make my calculation for the ensuing year, in consequence of that time which I had allotted therefor, being taken up at the Federal Territory, by the request of Mr. Andrew Ellicott, yet finding myself under several engagements to Printers of this state, to whom I had communicated my design, on my return to my place of residence, I industriously applied myself thereto, which I hope I have accomplished with correctness and accuracy; a copy of which I have taken the liberty to direct to you, and which I humbly request you will favorably receive; and although you may have the opportunity of perusing it after its publication, yet I choose to send it to you in manuscript previous thereto, that thereby you might not only have an earlier inspection, but that you might also view it in my own hand writing.

And now, Sir, I shall conclude, and subscribe myself, with the most profound respect,

Your most obedient humble servant,

Benjamin Banneker.



Roger Sherman of Connecticut, who served on the Senate committee that drafted the Fugitive Slave Act (Library of Congress)

Fugitive Slave Act of 1793

1793

"Any person who ... shall harbor or conceal [a fugitive slave shall] forfeit and pay the sum of five hundred dollars."

Overview

In 1793, Congress passed "An Act respecting fugitives from justice, and persons escaping from the service of their masters." Although only half of the act dealt with fugitive slaves, the statute became known as the Fugitive Slave Act of 1793. It would remain on the books until it was substantially amended in 1850 and eventually repealed in 1864.

The Fugitive Slave Act was one of the most tangible manifestations of the U.S. Constitution's protection of slavery. It gave slaveholders legal authority to seize fugitives who had crossed state lines. The law was vague in spelling out rendition procedure, however, and this created the potential problem that kidnappers would seize free blacks, claiming them as fugitives and then selling them into slavery. States responded by passing "personal liberty laws" that protected the liberty of free blacks. While these laws often worked in tandem with the Fugitive Slave Act, they nonetheless created conflicts, especially as the abolition movement quickened in the 1830s. Eventually, these conflicts came before the U.S. Supreme Court in the 1842 case of *Prigg v. Pennsylvania*, where the Court upheld the constitutionality of the Fugitive Slave Act and struck down the states' personal liberty laws that interfered with slaveholders' rights.

Context

Slavery was unknown to the English common law, and so British colonists in North America generally borrowed from other sources to regulate slavery. At its heart, the relationship of master to slave was one of absolute dominion. Masters could do virtually what they wished with their slaves, subject to the regulations passed by colonial legislatures. Some customs were borrowed from the English law concerning master and servant, notably the common-law right of "reception." If servants ran away, masters had the right to track them down, seize them, and return them to service. This right was embodied in the hierarchical relationship of the common law of persons and extended to husband and wife as well as to father and child.

Because the common-law right of reception was universally recognized, it was not uncommon for masters or their agents to pursue fugitive servants and slaves into other colonies, recapture them, and return them to service. The gradual disappearance in the eighteenth century of white indentured servitude meant that the majority of fugitives would be slaves, although some white indentured servants did remain. In 1775, for instance, George Washington offered a reward for two British-born white servants who had fled their contractual obligations. But by the Revolutionary era, it was mainly black slaves who ran. In most instances, masters relied upon this common law of reception to seize and forcibly return slaves to their plantations.

Reception, however, had its limits. The beginnings of an international abolition movement in the eighteenth century challenged slavery on moral, ethical, and legal grounds. One such challenge involved James Somerset (also spelled "Somersett"), a free-born African who was kidnapped, reduced to slavery, and sold to Charles Stewart (also spelled "Steurt"), a Scot who made his fortune in the North American colonies. In 1769, Stewart set sail for the British Isles and brought Somerset with him. When they arrived in London, Somerset escaped. Stewart's agents arrested him, chained him, and put him aboard a ship destined for the West Indies. Abolitionists caught wind of the case and petitioned the King's Bench for a writ of habeas corpus. Habeas corpus was, by 1772, the standard remedy for testing wrongful detention. It required the jailer (in this case, the captain of the vessel where Somerset languished in chains) to specify by what authority he detained the prisoner. In Somerset's case (*R. v. Knowles, ex parte Somersett*) , Charles Stewart argued that Somerset was a slave by the laws of Virginia, and as such the right of reception allowed him to seize Somerset, detain him, and forcibly remove him from England.

William Murray, 1st Earl of Mansfield, who was chief justice of the King's Bench, disagreed. He released Somerset, declaring that slavery was "so odious, that nothing can be suffered to support it, but positive law." By "positive law," Lord Mansfield meant a legislative enactment specifically endorsing slavery. Virginia's colonial legislature might allow slavery, Lord Mansfield was saying, but those laws extended only so far as Virginia's borders. The law had no

Time Line

1780

■ **March 1**
Pennsylvania passes its Act for the Gradual Abolition of Slavery.

1783

■ The slave John Davis gains free status under Pennsylvania's 1780 Act for the Gradual Abolition of Slavery, though his Virginia master continues to hold him in bondage.

1788

■ John Davis escapes from Virginia.

■ **May**
John Davis is kidnapped and taken to Virginia.

■ **September 17**
The Constitution, including the fugitive slave clause in Article IV, Section 2, is transmitted from the Constitutional Convention to the Continental Congress.

1791

■ **June 20**
Governor Beverly Randolph of Virginia refuses the extradition request of Governor Thomas Mifflin of Pennsylvania for the three men charged with kidnapping John Davis.

■ **October 27**
President George Washington communicates the extradition request of Pennsylvania Governor Thomas Mifflin to the U.S. Congress.

1793

■ **February 12**
President George Washington signs the Fugitive Slave Act of 1793.

1826

■ **March 25**
Pennsylvania passes a personal liberty law protecting free blacks from kidnapping and providing procedures for fugitive slave rendition.

1842

■ The U.S. Supreme Court upholds the Fugitive Slave Act of 1793 in *Prigg v. Pennsylvania*.

effect in England, and as such Somerset was not being held by any law. Accordingly, he had to be released. The common-law right of recaption, in other words, did not exist in the case of slavery, unless specifically allowed by statute.

The principle of Somerset's Case (as it came to be known) reverberated across the Atlantic. It was an age of liberty, and colonists from Georgia to Massachusetts were busy debating the precise nature of political freedom and self-government—a debate that, as they well understood in 1772, might lead to war. But slavery was entrenched in the colonies at this time, which created an obvious disjunction between reality and political rhetoric. Nonetheless, nascent abolitionism took hold in several northern colonies. In 1780, Pennsylvania became the first colony to pass a statute for gradual abolition, promising to end all slavery within several generations. Other states, including Virginia, also considered plans for gradual abolition.

The prospect of abolition in northern colonies, when combined with the principle of Somerset's Case, suddenly made the future of slavery in the United States seem precarious. Southern delegates to the Constitutional Convention of 1787—especially the state delegations from South Carolina and Georgia—were well aware of this danger and worked hard to make sure that their slave property was protected under the Constitution. Practically, the convention had to deal with three specific problems. The first was the question of whether slaves would be counted for the purpose of representation. The second was whether Congress would have the authority to regulate the international slave trade. The third was the problem of fugitive slaves. Of the three, the first two were the more serious and threatened more than once to stalemate the convention. Ultimately, the delegates settled with the three-fifths compromise, which counted three slaves for every five for the purposes of both taxation and representation. They also agreed that Congress could ban the slave trade, but not for twenty years.

There was comparatively little controversy over the question of fugitive slaves. When in August 1787, as the delegates were winding up their business, South Carolina delegates Pierce Butler and Charles C. Pinckney proposed adding a clause that required fugitives to be delivered up like criminals, the only protest it drew from northern delegates was that it would be costly because it would obligate state officers to spend time and resources locating, capturing, and extraditing fugitive slaves. Butler and Pinckney withdrew their motion and resubmitted one the next day that would become, with one small modification, the exact wording of Article IV, Section 2:

> No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

The fact that the fugitive slave clause encountered no opposition at the Constitutional Convention indicates how

deeply embedded was respect for property rights, even by abolitionists. Pennsylvania's 1780 Act for the Gradual Abolition of Slavery had a fugitive slave clause as well, thus guaranteeing slaveholders from other states that their fugitive slaves would not become free by Pennsylvania's laws. Likewise, the Northwest Ordinance (1787), which prohibited slavery in the Northwest Territory (today's upper Midwest) also contained a fugitive slave exception. The language of the Ordinance clause itself clearly embraced the fundamental principle of Somerset's Case: that slavery could be sustained only by explicit command. Yet the fugitive slave clause explicitly prohibited the states from freeing fugitive slaves, instead commanding that they "be delivered up." What was unclear was whether Congress or the states had the constitutional power to legislate with regard to fugitive slaves and precisely what the limits of that power were.

The Fugitive Slave Act was passed by the Second U.S. Congress in direct response to a situation that arose in western Pennsylvania. Confusion over the location of the Pennsylvania-Virginia border had led to the establishment of a joint commission between the two states to permanently fix its location. Consequently, some Virginians suddenly found that they were living in Pennsylvania. This had important consequences for slaves and slaveholders, because Pennsylvania's gradual abolition act specified that any and all slaves had to be registered and accounted for. Most slaveholders did register their slaves with the state, but a few did not. One slave, John Davis, was not properly registered and became legally free in 1783. His purported owner nonetheless rented him out to a Virginia planter. Davis escaped in 1788 and fled to Pennsylvania, but three Virginians pursued him, captured him, and forcibly removed him to Virginia.

This kidnapping of John Davis touched off a storm of legal activity. A Pennsylvania grand jury indicted the three Virginians for kidnapping. Pennsylvania Governor Thomas Mifflin officially requested the extradition of the men, but Virginia Governor Beverly Randolph declined to extradite him, on advice from his attorney general. The governor of Pennsylvania collected the official correspondence from the affair and sent it to President George Washington, asking him to submit it to Congress for resolution. Washington did so on October 27, 1791.

The issue at hand was not fugitive slaves but instead the extradition of fugitives from justice (namely, the three Virginian kidnappers). Perhaps because Article IV, Section 2, of the Constitution addresses these subjects together, the two subjects were joined when the House of Representatives appointed a committee to draft a law dealing with both fugitives from justice and fugitive slaves. Although the committee's work did not result in adoption of a law, the House of Representatives had established the precedent that the subjects of fugitives from justice and fugitive slaves would be joined.

The Senate first appointed a committee in March 1792 to consider the dual problem of fugitives from labor and fugitives from justice. Chaired by George Cabot of Massachusetts, the three-man committee had two northern senators (from Massachusetts and Connecticut) and one southerner (from South Carolina). This committee, too, never reported a bill and was in essence dissolved when the Senate adjourned. At its next session, the Senate appointed a new committee to address the issue. George Cabot was named chair again, but now George Read of Delaware and Samuel Johnston of North Carolina—both from slave states—rounded out the committee. On December 20, Johnston reported out a bill that caused a heated debate in the Senate, likely because the bill encroached on state sovereignty by requiring state officers to execute federal law and spelled out substantial penalties for those who did not assist in capturing fugitives from justice. The Senate returned the bill to the committee and added to its membership Roger Sherman of Connecticut and John Taylor of Virginia.

Throughout the bill-drafting process, southerners proved ready to vote as a bloc when the issue was the protection of slave property. This did not mean that any measure supporting slavery would be passed—as Samuel Johnston's failed bill indicates—but it did mean that slaveholders could command much better terms than northern abolitionists, who had little presence in these early congresses. The newly reconstituted committee—still dominated by senators from slave states—produced a brand-new bill, which was reported back to the Senate floor on January 3, 1793. The bill was debated and amended considerably and was finally passed and sent to the House of Representatives on January 17. After a minor revision to the section dealing with fugitives from justice, the House passed the bill, and it was signed into law on February 12, 1793, by President Washington.

Time Line

1850

■ **September 18**
President Millard Fillmore signs a new Fugitive Slave Act into law.

1864

■ **June 28**
The Fugitive Slave Acts of 1793 and 1850 are repealed.

About the Author

Congressional bills rarely have a single author. They are usually drafted by committee and then amended numerous times on the legislative floor before being adopted. Such was the case with the Fugitive Slave Act of 1793. The five senators who served on the committee that drafted the bill that was ultimately passed were George Cabot (1752–1823), Massachusetts; George Read (1733–1798), Delaware; Samuel Johnston (1733–1816), North Carolina; Roger Sherman (1721–1793), Connecticut; and John Taylor (1753–1824), Virginia. At this early stage in congressional history, members were not identified by party affiliation.

William Murray, 1st Earl of Mansfield (Library of Congress)

Explanation and Analysis of the Document

The Fugitive Slave Act of 1793 engaged some of the most important issues in antebellum America, including proper constitutional interpretation and the relationship of the states to the federal government. Crucial to understanding the Fugitive Slave Act are its sources of law, which included not just the fugitive slave clause of the Constitution but also the law of master and slave and natural law theories of justice. In addition, the application of the Fugitive Slave Act changed during the six decades of its operation, in part because the circumstances under which it operated evolved considerably during that time.

Congress struggled with constitutional ambiguity when it considered the subject of fugitives from justice or labor, and it took several drafts before the final version of the Fugitive Slave Act of 1793 was enacted. Sections 1 and 2 of the statute dealt with the rendition of fugitives from justice. Article IV, Section 2, of the Constitution commanded that those charged with "Treason, Felony, or other Crime" who fled from one state to another "shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime." Section 1 required that the executive authority's demand for a fugitive be accompanied by a copy of an indictment or an affidavit sworn before a magistrate charging the fugitive with having committed treason, felony, or another crime. Once this legal requirement was met, it became the "the duty of the executive authority of the state or territory to which such person shall have fled, to cause him or her to be arrested." States were required to hold fugitives for at least six months before agents arrived to collect them, and expenses were to be borne by the state making the demand for the fugitive. Section 2 of the act gave state agents the right to transport fugitives across state lines back to the state or territory from which they had fled. This section also made forcible rescue of such fugitives a federal crime, punishable by a fine of up to $500 and one year in prison.

Sections 3 and 4 of the statute dealt with the rendition of fugitive slaves. The process differed significantly from the rendition of fugitives from justice. Section 3 authorized slaveholders or their agents to seize fugitive slaves without an arrest warrant and take them before any federal judge residing in the state or any state magistrate. The section further empowered state and federal judges to issue warrants for removal across state lines "upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit" that the man, woman, or child seized was in fact a fugitive slave. Section 4 gave relief to slaveholders who faced difficulties in retrieving their fugitive slaves. Any person "knowingly and willingly" obstructing or hindering a slaveholder from arresting a fugitive, or rescuing a fugitive in a slaveholder's custody, or harboring or concealing a fugitive slave after notice was given of the fugitive's status was liable to the slaveholder in an action of debt for $500.

This act, on the whole, represented a conservative interpretation of Article IV, Section 2, by Congress. Although the law spelled out the duties of state officers, it preserved the role of the states in rendering fugitives. The differences between the treatment of fugitives from justice and fugitive slaves, however, is instructive. In the case of fugitives from justice, rendition was public, conducted by the executive authority of the state. The governor was expected to deploy law enforcement officers, make an arrest, and hold a fugitive in the state's jails. There was to be no judicial hearing, nor did the statute provide any federal relief if a state governor refused to extradite a fugitive. This proved problematic, and somewhat ironic, when Governor Salmon P. Chase of Ohio refused in 1859 to extradite a free black man named Willis Lago to Kentucky to face an indictment for the crime of "helping a slave escape." The U.S. Supreme Court heard the case in *Kentucky v. Dennison* (1861) and ruled that the federal government lacked the constitutional authority to compel states to render fugitives from justice.

In contrast, the rendition of fugitive slaves was a private affair. Arresting the fugitive was up to the slaveholder, as was the transport of the slave back to the slaveholder's state. The state bore no responsibility for these processes. Likewise, the rescue of a fugitive from justice was treated as a crime, whereas the rescue of a fugitive slave would be

remedied in civil court. The extension of federal jurisdiction to fugitive slave cases also meant that the slaveholders' private property right in a slave was, in essence, constitutionalized. Nonetheless, there were limits to this constitutional right. Given that the Fugitive Slave Act did not specify what constituted proof of fugitive status for either federal or state judges, state legislatures could and did define it. The Fugitive Slave Act did, however, specify that a judge alone could issue a certificate of removal without the aid of a jury. This was in potential conflict with the Fifth Amendment's requirement that no person be deprived of liberty without due process of law and the Sixth Amendment's promise of a jury trial in all criminal cases. Abolitionists would later raise this complaint in numerous cases, but they were continually rebuffed by state and federal judges.

Audience

The Fugitive Slave Act of 1793 would have been read by judges, state legislators, governors, and other public officers who were charged with enforcing the law. The law's passage would have immediately been broadcast, as the newspapers of the time regularly reported on the laws passed by Congress. Very few laypeople would have read the actual law, at least until the 1830s, when parts of its text became famous because of the multitude of court cases arising from it and the public discussion that followed.

Impact

The results of the Fugitive Slave Act of 1793 emerged over time. At first, the law's impact was minimal, although it did provide an example of how the early Congress understood federalism (that is, the relation of the national government to state governments). The law had not been passed to stem a tide of fugitive slaves and did not appear to have any immediate impact either on the number of slaves who fled or the number returned to slaveholding states.

Closely related to the fugitive slave problem was kidnapping—the act of seizing a free black and selling him or her into slavery. In April 1796, the House of Representatives asked its Committee of Commerce and Manufactures to consider the problem of kidnapping. After debate, the committee declined to report an antikidnapping bill. Another house committee appointed in 1799 concluded that the Fugitive Slave Act might be contributing to the problem of kidnapping. Because the statute authorized slaveholders to seize their slaves without a warrant, unscrupulous kidnappers could easily seize and carry off free blacks simply by claiming them as fugitive slaves. Despite evidence of these practices, Congress declined to act in the 1790s, leaving the problem and its resolution to the individual states.

Kidnapping became a more serious problem after 1800. The expanding Atlantic market created a cotton and sugar boom in the trans-Appalachian South. Planters moved westward to take advantage of the huge profits in these cash crops and, in the process, created a huge demand for labor. Congress closed the international slave trade in 1808, leaving western planters without a ready supply of slave labor to fill plantations in the southern interior. The result was the creation of an internal slave trade. All told, more than one million slaves were carried across the Appalachians between 1810 and 1861, destined for plantations as far west as Texas and as far north as Missouri. This high demand created a ready market for unscrupulous kidnappers.

In response to this situation, states passed antikidnapping laws, commonly called "personal liberty laws." Some states, such as Pennsylvania, Massachusetts, and Virginia, already had antikidnapping laws on the books. Ohio passed an antikidnapping law in 1804, Vermont in 1806, and New York in 1808. By 1830, all free states (excepting New Hampshire and Rhode Island) had personal liberty laws. Slave states did as well. Virginia and Delaware had such laws as early as 1787. Mississippi passed an antikidnapping statute in 1820 and Georgia passed one in 1835. These laws were not mere window dressing. Delaware, a slave state, actively prosecuted kidnappers under its laws.

Personal liberty laws often specified procedures for fugitive slave rendition as well, giving magistrates guidelines as to what evidence would constitute proof of a fugitive's status. Many of these laws, such as Ohio's 1804 law, were favorable to slaveholders. Pennsylvania, where abolitionists became increasingly influential, passed stricter laws. In 1820 the state withdrew the use of its resources to aid in fugitive slave rendition and fixed a twenty-year prison sentence for kidnapping a free black. This made fugitive slave reception difficult. Slaveholders could not rely on the skeletal federal court system to obtain legal cover for seizing fugitives and now faced almost certain indictment under Pennsylvania law if they failed to gain legal cover. After an official complaint from the Maryland legislature, Pennsylvania revised its law in 1826. The new personal liberty law outlawed private reception by requiring slaveholders to obtain a warrant for the arrest of an alleged fugitive. After capture, an alleged fugitive had an opportunity to prove his or her freedom before a judge before a certificate of removal would be issued.

Although this law followed the basic dictates of the Fugitive Slave Act in that it prescribed a summary procedure for fugitive slave rendition and made the states' courts and peace officers available to slaveholders, it deviated significantly from the federal law by prohibiting private reception. Nonetheless, the law was the product of cooperation on the part of Maryland and Pennsylvania and was meant to fulfill the state's requirements under the fugitive slave clause of the Constitution and to protect free blacks' liberty. New York and New Jersey passed similar laws in the 1820s.

Many abolitionists were not content with protecting free blacks from kidnapping, but wanted to strike a more general blow at slavery. One way to do so was to protect fugitives, whom abolitionists regarded as refugees from a morally reprehensible and illegal slave regime. Abolitionists had extended legal help to fugitives since the late eighteenth century but stepped up efforts in the 1810s.

Essential Quotes

"When a person held to labour in any of the United States, or in either of the territories on the northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said states or territory, the person to whom such labour or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labour."

(Section 3)

"Upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit … that the person so seized or arrested, doth … owe service or labour to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, … which shall be sufficient warrant for removing the said fugitive from labour, to the state or territory from which he or she fled."

(Section 3)

"Any person who shall knowingly and willingly obstruct or hinder such claimant … in so seizing or arresting such fugitive from labour, or shall rescue such fugitive from such claimant … or shall harbor or conceal such person after notice that he or she was a fugitive from labor, as aforesaid, shall, for either of the said offences, forfeit and pay the sum of five hundred dollars."

(Section 4)

One abolitionist courtroom tactic was to argue that the Fugitive Slave Act of 1793 was unconstitutional on three grounds. First, abolitionists complained that the institution of a summary procedure violated the Sixth Amendment's guarantee of a jury trial in all cases where liberty was at stake. Second, they argued that the determination of someone's status was a matter of plenary state authority. Because the Tenth Amendment reserved all powers not expressly enumerated in the Constitution to the states, the determination of who was a fugitive belonged to the individual states. Third, abolitionists argued that Congress had no constitutional warrant to legislate with regard to fugitive slaves at all. Continuing with the argument that sovereignty was reserved to the states, it followed that the only powers held by the federal government were "express powers" (that is, those expressly enumerated in the Constitution), they argued that the fugitive slave clause lacked "enabling" language and therefore did not empower Congress to act. Against those who said that the power to act should be implied, abolitionists pointed to specific enabling clauses in all the other sections of Article IV. Following the judicial rule of statutory construction that *expressio unius, exclusio alterius*—"the express mention of one thing excludes all others"—abolitionists concluded that the lack of an enabling clause in Article IV, Section 2, must have been intentional. In short, abolitionist lawyers made a strong states' rights argument against Congress's ability to enforce the fugitive slave clause.

These arguments did not fare well in the courtroom. Judges proved uniformly reluctant to declare the Fugitive Slave Act of 1793 unconstitutional and consistently refused to extend Sixth Amendment jury trials to alleged fugitives on the principle that slaves were not a party to the Constitution and thus were offered no protections under the Bill

of Rights. Nonetheless, courts did extend some protection to alleged fugitive slaves. The Pennsylvania Supreme Court ruled in *Wright v. Deacon* (1819) that a state habeas corpus proceeding was allowed under the Fugitive Slave Act of 1793. The Massachusetts Supreme Court reached a similar decision in *Commonwealth v. Griffith* (1823). These decisions, it should be noted, both resulted in the return of fugitive slaves to slavery. Nonetheless, they reaffirmed the power of the states to protect their free black residents.

When the Fugitive Slave Act and personal liberty laws conflicted, courts often ruled in favor of federal law. Such was the case with *In re Susan* (1818), when the federal district court in Indiana ruled that the Fugitive Slave Act took precedence over the state's personal liberty law. The New York Supreme Court ruled similarly in *Jack v. Martin* (1834), hinting for the first time that personal liberty laws themselves might be unconstitutional. Although the case was upheld in the New York Court for the Correction of Errors in 1835, that court refused to suggest that personal liberty laws were unconstitutional. Not every court ruled that federal law had to take precedence. Chief Justice Joseph Hornblower of the New Jersey Superior Court ruled in 1836 that a writ of habeas corpus could interrupt a federal hearing for a certificate of removal.

The Supreme Court addressed the Fugitive Slave Act of 1793 in the landmark case of *Prigg v. Pennsylvania* (1842). The case stemmed from the capture of Margaret Morgan and her two children. Margaret was the child of slaves who had been freed after the War of 1812. She married a free man and moved from Maryland to Pennsylvania. In 1837 the widow of Margaret's former owner sent an agent, Edward Prigg, to reclaim Margaret as a fugitive slave. When Prigg could not find a Pennsylvania magistrate to issue him a certificate of removal, he took Margaret Morgan and her children to Maryland anyway and was indicted by a Pennsylvania grand jury for kidnapping under Pennsylvania's 1826 personal liberty law. Given that one of Morgan's children had been born in Pennsylvania and was thus free by Pennsylvania law, the state had a compelling kidnapping case. Maryland's governor refused to extradite Prigg, but after commissioners from the two states communicated, the Pennsylvania legislature created a pro forma case that went to the U.S. Supreme Court with the consent of all parties.

The Supreme Court's decision in *Prigg v. Pennsylvania* upheld the Fugitive Slave Act of 1793 as a constitutional exercise of congressional power. Additionally, the Court held that personal liberty laws that interfered with fugitive slave extradition were unconstitutional. This opinion benefited slaveholders immensely, freeing them from the threat of legal action and cumbersome legal procedures imposed by the states. But it also left slaveholders exposed. The Supreme Court had held that no constitutional authority could compel the states to enforce the fugitive slave clause of the Constitution. Subsequently, Pennsylvania, Massachusetts, and Rhode Island passed laws forbidding state officers to assist in fugitive slave rendition. In Iowa, Indiana, and Michigan, abolitionists continued to fight the Fugitive Slave Act utilizing state laws and were successful more than once. Although the ruling in *Prigg v. Pennsylvania* was upheld again by the Supreme Court in *Jones v. Van Zandt* (1847), the law was virtually useless at this point in returning escaped slaves to chains. By 1850 southern states complained that nearly a thousand slaves per year were escaping north to freedom.

On September 18, 1850, President Millard Fillmore signed a new Fugitive Slave Act into law that, in essence, replaced the first. The new law created an exclusive federal jurisdiction for fugitive slave rendition and forbade the states from interfering in any way with the process. It proved to be one of the most controversial laws passed by

Questions for Further Study

1. Compare the 1793 Fugitive Slave Act with the Fugitive Slave Act of 1850. What circumstances changed that made the later law supposedly necessary?

2. How was the Fugitive Slave Act an outgrowth of the U.S. Constitution's tolerance of slavery? What circumstances led to the passage of this act?

3. What impact did international events relative to slavery have on the passage of the Fugitive Slave Act?

4. What actions did some states, particularly in the North, take to circumvent the Fugitive Slave Act? How effective were those actions?

5. Compare this document with the 1842 Supreme Court case *Prigg v. Pennsylvania*. On what basis did the Court uphold the constitutionality of the Fugitive Slave Act?

the antebellum Congress and was repealed in 1864 by a Congress shorn of representatives from the slaveholding states, which had seceded before the Civil War.

See also Pennsylvania: An Act for the Gradual Abolition of Slavery (1780); *Prigg v. Pennsylvania* (1842); Fugitive Slave Act of 1850.

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—H. Robert Baker

Document Text

Fugitive Slave Act of 1793

Chap. VII. &—*An Act respecting fugitives from justice, and persons escaping from the service of their masters. (a)*

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever the executive authority of any state in the Union, or of either of the territories northwest or south of the river Ohio, shall demand any person as a fugitive from justice, of the executive authority of any such state or territory to which such person shall have fled, and shall moreover produce the copy of an indictment found, or an affidavit made before a magistrate of any state or territory as aforesaid, charging the person so demanded, with having committed treason, felony or other crime, certified as authentic by the governor or chief magistrate of the state or territory from whence the person so charged fled, it shall be the duty of the executive authority of the state or territory to which such person shall have fled, to cause him or her to be arrested and secured, and notice of the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear: But if no such agent shall appear within six months from the time of the arrest, the prisoner may be discharged. And all costs or expenses incurred in the apprehending, securing, and transmitting such fugitive to the state or territory making such demand, shall be paid by such state or territory.

Sec. 2. *And be it further enacted*, That any agent, appointed as aforesaid, who shall receive the fugitive into his custody, shall be empowered to transport him or her to the state or territory from which he or she shall have fled. And if any person or persons shall by force set at liberty, or rescue the fugitive from such agent while transporting, as aforesaid, the person or persons so offending shall, on conviction, be fined not exceeding five hundred dollars, and be imprisoned not exceeding one year.

Sec. 3. *And be it also enacted*, That when a person held to labour in any of the United States, or in either of the territories on the northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said states or territory, the person to whom such labour or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labour, (*b*) and to take him or her before any judge of the circuit or district courts of the United States, residing or being within the state, or before any magistrate of a county, city or town corporate, wherein such seizure or arrest shall be made, and upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit taken before and certified by a magistrate of any such state or territory, that the person so seized or arrested, doth, under the laws of the state or territory from which he or she fled, owe service or labour to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labour, to the state or territory from which he or she fled.

Sec. 4. *And be it further enacted*, That any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney in so seizing or arresting such fugitive from labour, or shall rescue such fugitive from such claimant, his agent or attorney when so arrested pursuant to the authority herein given or declared; or shall harbor or conceal such person after notice that he or she was a fugitive from labour, as aforesaid, shall, for either of the said offences, forfeit and pay the sum of five hundred dollars. Which penalty may be recovered by and for the benefit of such claimant, by action of debt, in any court proper to try the same; saving moreover to the person claiming such labour or service, his right of action for or on account of the said injuries or either of them.

Glossary

doth does

Richard Allen: "An Address to Those Who Keep Slaves, and Approve the Practice"

1794

"Clear your hands from slaves, burthen not your children or your country with them."

Overview

The first abolitionist essay authored by the celebrated black activist and minister Richard Allen, "An Address to Those Who Keep Slaves, and Approve the Practice," was among the most important black abolitionist proclamations of the late eighteenth century. Originally published in 1794 as part of a longer document titled *A Narrative of the Proceedings of the Black People, during the Late Awful Calamity in Philadelphia, in the Year 1793*, which he coauthored with his fellow black churchman Absalom Jones, Allen's antislavery address challenged Americans to end both slavery and racial injustice. With his hometown of Philadelphia serving as the nation's temporary governing capital between 1790 and 1800, he believed that he had a unique opportunity to mold antislavery policy and compel American leaders to create a biracial republic that would shine in the eyes of both God and man.

Context

During the late eighteenth century, American abolitionism underwent a profound transformation. Up through the American Revolution, most racial reformers had limited success getting abolitionist laws passed in any slaveholding polity. In North America, the Society of Friends, commonly known as the Quakers, had produced a long tradition of antislavery testimony, including celebrated abolitionist treatises by such writers as Ralph Sandiford, Benjamin Lay, John Woolman, and Anthony Benezet. But Pennsylvania Quakers themselves did not adopt abolitionist rules until the mid-1700s. Moreover, even Quaker strictures against slaveholding, which were in full force by the 1770s, ruled only the Society of Friends.

The American Revolution's intense focus on human rights put new pressure on the institution of slavery. Between the 1770s and 1790s, a wave of secular antislavery writers picked up the dissident strains of Quaker abolitionism, creating the first sustained public attack on bondage. Enslaved people intensified antislavery discussions among both slaveholders and politicians by running away from their masters during the War of Independence. Tens of thousands of American slaves escaped between 1775, when Britain's John Murray, 4th Earl of Dunmore—known as Lord Dunmore—issued a proclamation offering freedom to runaway slaves loyal to the Crown, and 1783, when hostilities ceased. While many enslaved people departed with the British, others attained their liberty through service in Patriot forces. Nevertheless, slavery survived the American Revolution, with perhaps half a million bondmen then spread throughout the Union.

Revolutionary ideology, combined with the rise of evangelical Christianity, which envisioned widespread human brotherhood, prompted many statesmen to consider passing abolitionist laws. On March 1, 1780, Pennsylvania adopted An Act for the Gradual Abolition of Slavery, the nation's first such law, which would liberate any slave born after 1780 at the age of twenty-eight. With approximately seven thousand enslaved people in the state, Pennsylvania offered a model for ending bondage via state policy. Connecticut and Rhode Island soon passed similar laws. Below the Mason-Dixon Line, though, where the majority of enslaved people resided, many slaveholders feared such government-sanctioned liberation laws. But responding to black restiveness and white planters' expressions of guilt, southern states eased emancipation restrictions, which had formally required preapproval for private manumissions. Virginia's 1782 law allowing masters to manumit bondmen without legislative sanction prompted perhaps as many as six thousand manumissions over the next twenty-five years.

In addition to these antislavery trends at the political and social levels, abolitionism acquired a new institutional status during the late eighteenth century. The Pennsylvania Abolition Society, established in 1775 and then reorganized in 1784 as the Pennsylvania Society for Promoting the Abolition of Slavery and for the Relief of Free Negroes Unlawfully Held in Bondage, was the world's first abolition group. Similar groups were formed in New York City and Providence, Rhode Island, as well as in parts of both Maryland and Virginia. Adhering to a gradual abolitionist mind-set that recognized slaveholders' property rights, these early antislavery groups hoped to pressure state lawmakers to pass laws that would slowly curtail bondage and shut down both

Time Line

1758

- Pennsylvania Quakers establish prohibitions on slave trading.

1775

- **November 7**
A proclamation by John Murray, 4th Earl of Dunmore, offers freedom to slaves who reach British lines in Virginia.

1776

- **July 4**
The Declaration of Independence is issued, asserting that "all men are created equal."

1780

- **March 1**
Pennsylvania passes the world's first gradual abolition act.

1783

- Richard Allen pays off his freedom agreement with his master.
- **September 3**
The American Revolution ends with the signing of the Treaty of Paris.

1787

- **May 25–September 17**
The Constitutional Convention is held in Philadelphia, ultimately protecting the institution of slavery in the federal Republic's new Constitution.

1790

- Philadelphia becomes the nation's temporary capital while Washington, D.C., is being established.

1791

- **August 22**
The slave uprising in Saint Domingue begins.

1793

- **February 12**
President George Washington signs the Fugitive Slave Act into law.

domestic and international slave trades. Early abolitionists also rendered legal aid to kidnapped free blacks and, on occasion, fugitive slaves.

Although the abolitionist future seemed bright, the movement stalled by the 1790s—a fact that Richard Allen recognized. Although the first federal census in 1790 counted over sixty thousand free people of color, it also found that there were seven hundred thousand enslaved people in the United States. In addition, many politicians avoided the slavery issue, which they deemed too sensitive a topic in the new Union. At the Constitutional Convention in 1787, for example, Benjamin Franklin declined to present an abolitionist memorial against the continuance of the slave trade, fearing that this would divide northern and southern delegates. At the state level, New York, with roughly twenty thousand slaves, failed to pass a gradual abolition law until 1799, though reform politicians had attempted to adopt one much earlier. Meanwhile, abolitionists in Virginia faced hostile slaveholders, who were allowed to join southern gradual abolition societies and thereby often militated against broad attacks on slavery. Finally, in the Deep South states of South Carolina and Georgia, slaveholding itself became identified with economic progress and white cultural uplift. In short, abolitionism in the 1790s was not a widely popular movement.

Further evidence of this fact came in 1793, when Congress passed the nation's first Fugitive Slave Act. Abolitionist complaints about the law paled next to slaveholders' belief that property rights in man had been sanctioned by the Constitution. Ironically, the impetus for the fugitive slave law may have come from Allen's own state of Pennsylvania, which served as an antislavery borderland. The Quaker State's gradual abolition law prompted enslaved people from Delaware, Maryland, and Virginia to head for the Pennsylvania line. Congressional slaveholders became especially concerned when traveling to Philadelphia while it was serving as the nation's capital. Although they had six months to comply with the gradual abolition statute, out-of-state masters still had to worry about runaways who might find refuge among the city's vibrant free black community, which numbered over two thousand by 1790, or gain legal support from the Pennsylvania Abolition Society. Pierce Butler, a South Carolina congressman, sued the Pennsylvania abolitionist Isaac Hopper for allegedly helping a slave escape.

International events also made abolitionism a divisive topic in American statecraft. In 1791 a massive slave rebellion in the prosperous French colony of Saint Domingue (later renamed Haiti) began; by 1794 rebel slaves had compelled the French government to issue an emancipation decree banning bondage throughout the French Empire. Before that law took effect that year, many French slaveholders fled the Caribbean, often bringing their slaves to American shores. In Philadelphia, escaping French masters arrived at the city's doorstep with hundreds of slaves in tow. Although Pennsylvania would not grant them immunity from gradual abolition, many francophone masters sought refuge in the state anyway. As

a result, perhaps as many as nine hundred former slaves came to call the City of Brotherly Love home, telling tales of black revolution in the Caribbean. Some of these black émigrés attended Allen's Bethel Church.

Philadelphia's yellow fever epidemic of 1793 made race relations a hot topic in Allen's hometown. From August through November, perhaps as many as four to five thousand people died, including roughly four hundred people of color. So many white citizens fled the infected city that some officials worried about the future of the federal government there. African Americans, led by Allen, Absalom Jones, and many others, supported civic reform initiatives, in addition to serving as nurses, pallbearers, and gravediggers, which they were hired to do. Like Allen (who almost died from yellow fever), African Americans risked their lives to prove their fitness for equal citizenship. Yet some white citizens complained that African Americans were attempting to transcend their formerly servile status by asking for equal wages for rescue work. The celebrated white printer Mathew Carey turned such complaints into a broad stereotype about alleged black crime and insolence in his best-selling pamphlet history of the epidemic, *A Short Account of the Malignant Fever, Lately Prevalent in Philadelphia*, published at the close of 1793.

Carey's history infuriated Allen, who with Jones published a reply not long after. Their document, *A Narrative of the Proceedings of the Black People, during the Late Awful Calamity in Philadelphia, in the Year 1793: And a Refutation of Some Censures, Thrown upon Them in Some Late Publications*, attempted to set the record straight by describing blacks' heroism in the stricken city. After they published the work in January 1794, Allen took a copy to the federal clerk's office for the state of Pennsylvania and secured what became the first copyright for African American authors in the United States.

Believing that he would soon have the public spotlight, as returning congressmen would learn of black benevolence during the recent crisis, Allen inserted his antislavery address into the yellow fever narrative. He believed that through the skillful use of his pen, he could foment national racial reform. As he put it, the Lord has "from time to time raised up instruments" to spread righteousness throughout the world; as a black leader intent on eradicating slavery from federal politics and society, Allen viewed himself as just such an instrument.

About the Author

Richard Allen was born a slave on February 14, 1760, probably in Philadelphia. His first master, the jurist Benjamin Chew, owned property and slaves in both Pennsylvania and Delaware. He sold Allen's family to Stokely Sturgis, outside Dover, Delaware, in the late 1760s. After Sturgis sold Allen's mother in the late 1770s, the young enslaved man sought comfort in evangelical religion, converting to Methodism in his teens. In 1780 he struck a freedom agreement with Sturgis, which he paid off early, allowing him

Time Line

1794

- **January**
  Allen publishes an antislavery essay, "An Address to Those Who Keep Slaves, and Approve the Practice," as part of his and Absalom Jones's narrative of Philadelphia's yellow fever epidemic.
- **February 4**
  France abolishes slavery throughout its empire, prompting some French slaveholders in the Caribbean to immigrate with their slaves to the United States.
- **July 29**
  Allen officially dedicates Bethel Church, on ground that he purchased years before.

1799

- **March 29**
  After several legislative attempts, New York State passes a gradual abolition law.

1800

- The federal government moves to Washington, D.C.

1816

- **April**
  The African Methodist Episcopal Church is founded at Bethel Church in Philadelphia; Allen becomes the denomination's first bishop.

1827

- **November 2**
  Allen publishes a newspaper essay in *Freedom's Journal* referring to the United States as African Americans' "mother country."

1831

- **January 1**
  The abolitionist William Lloyd Garrison launches *The Liberator* in Boston.
- **March 26**
  Allen dies at his home in Philadelphia.

1833

Allen's family publishes his autobiography, *The Life, Experience, and Gospel Labours of the Rt. Rev. Richard Allen*, which includes a reprinted version of his 1794 antislavery address.

Portraits of Richard Allen and other A.M.E. bishops, surrounded by scenes including Wilberforce University, Payne Institute, missionaries in Haiti, and the A.M.E. church book depository in Philadelphia (Library of Congress)

to then gain fame on the mid-Atlantic revival circuit. He moved to Philadelphia in 1786 to preach at Saint George's Methodist Church, where he planned to bolster African American membership. Allen helped form the Free African Society, one of the first African American benevolent groups in the early Republic. Disputes with white preachers at Saint George's led to a famous walkout by black members, including Allen. By June 1794 he had officially formed Bethel Church, on ground that he had purchased years before. Bethel grew to well over a thousand members by the early nineteenth century, setting the stage for another breakaway: In 1816, after a Pennsylvania Supreme Court ruling declared that white Methodists did not own Allen's church, he and black Methodists from several mid-Atlantic states formed the African Methodist Episcopal denomination, with Allen's church renamed Mother Bethel African Methodist Episcopal Church. Allen became the denomination's first bishop and the only African American to ascend to such a position in the United States before the 1820s.

Allen was one of the leading black abolitionists in the early Republic. He published three antislavery essays during the 1790s, signed several abolitionist petitions to the federal government, and aided both kidnapped free blacks and fugitive slaves. Although he was fiercely in favor of black rights within the United States, Allen entered a period of profound doubt about the future of American race relations between 1815 and 1830. During these years he supported African, Haitian, and Canadian emigration movements, believing that people of color needed a safety-valve option to escape the withering racism of the urban North. Allen himself never left America, however, and in 1827 he wrote a famous essay in *Freedom's Journal* claiming the United States as African Americans' "mother country." In September 1830, he hosted the first convention of free black activists at Mother Bethel Church in Philadelphia. His autobiography, published in 1833 by his son, explains Allen's spiritual and political journey in American culture and was celebrated as the first memoir of the black founding generation.

Essential Quotes

"We believe if you would try the experiment of taking a few black children, and cultivate their minds with the same care, and let them have the same prospect in view as to living in the world, as you would wish for your own children, you would find upon the trial, they were not inferior in mental endowments."

(Paragraph 1)

"It is in our posterity enjoying the same privileges with your own, that you ought to look for better things."

(Paragraph 2)

"If you love your children, if you love your country, if you love the God of love, clear your hands from slaves, burthen not your children or your country with them."

(Paragraph 5)

Allen was married twice, the first time to a former enslaved woman named Flora (who died in 1801) and the second time to a former enslaved woman from Virginia named Sarah Bass. With his second wife, he had six children. Allen owned several rental properties and country property outside Philadelphia, making him one of the wealthiest black Philadelphians of the early Republic. When he died on March 26, 1831, Allen was hailed by African Americans throughout the country as a seminal black abolitionist. None other than the former slave Frederick Douglass considered Allen a heroic precursor to the more famous generation of black and white abolitionists to which he belonged.

Explanation and Analysis of the Document

Richard Allen's antislavery address remains striking for its brevity and focus on a few main ideas. Unlike many antebellum African American reformers (most notably Douglass, whose elaborate speech "What to the Slave Is the Fourth of July?" (delivered on July 5, 1852) arguably remains the epitome of nineteenth-century black political commentary), Allen did not train himself in the art of extended rhetorical analysis. As a preacher, he wanted to craft an essay that was direct and calculated to appeal to learned statesmen as well as average Americans. The cogency of his argument notwithstanding (the entire tract being less than a thousand words), Allen's antislavery address had broad relevance in early national reform circles.

♦ The Bible and the Declaration of Independence

Allen was convinced that both the Bible and the Declaration of Independence were antislavery documents. Indeed, his 1794 address offers several allusions to biblical antislavery. The story of Exodus, he believed, foretold the divine retribution that would accompany unrepentant slaveholding. For just as Egyptian masters faced eternal damnation, so too would recalcitrant American slaveholders invite harsh retribution by a just God. As Allen states, "I do not wish to make you angry, but excite attention to consider how hateful slavery is, in the sight of that God who hath destroyed kings and princes, for their oppression of the poor slaves." By comparing black bondage to the plight of ancient Israelites, Allen attempts to show that an almighty being would intervene in human affairs. Remember, he argues, "that God himself was the first pleader of the cause of slaves." Allen also focuses on the New Testament book of the Acts of the Apostles, which declares that God "hath made of one blood all nations of men for to dwell on all the face of the earth." Like other early black leaders, Allen believed that this proclamation sanctioned universal equality.

On the secular front, Allen criticizes American slaveholders who refused to concede the contradiction of slavery in a republic devoted to freedom. He observes, "Men must be wilfully blind, and extremely partial, that cannot see the contrary effects of liberty and slavery upon the mind of man." For a country born of revolutionary liberty, Allen concludes, slavery's maintenance is nothing short of hypocritical.

♦ The Problem of Slave Vengeance

Allen also critiques the psychology of American slaveholders. In particular, he tries to diminish masters' fears of slave vengeance. Many slaveholders, he realized, refused to consider abolitionism because they worried about black retribution. Thomas Jefferson had once asked (in *Notes on the State of Virginia*), "Why not retain and incorporate the blacks into the state?" Part of the answer was "deep-rooted prejudices entertained by the whites," but cited as equally dangerous were the "10,000 recollections by the blacks of the injuries they have sustained" in bondage. One issue framing Jefferson's fears was massive slave runaways from Virginia to British lines during the late 1770s. For the rest of his life, the Virginian conjured these (and other) images of black unrest when thinking about African American freedom. Allen refutes these fears by pointing out that enslaved people would be grateful for liberation. In addition, the increasing number of enslaved Christians in the United States would realize that they were forbidden to retaliate by the same Bible that condemned slaveholding as a sin. Referring again to Egypt's enslaved Israelites, Allen comments, "That God who knows the hearts of all men, and the propensity of a slave to hate his oppressor, hath strictly forbidden it to his chosen people"; Allen cites this admonition from Deuteronomy 23:7.

As for secular solutions, Allen asks slaveholders to treat enslaved people not as enemies to be controlled but as family members to be educated. He explains,

> We believe if you would try the experiment of taking a few black children, and cultivate their minds with the same care, and let them have the same prospect in view as to living in the world, as you would wish for your own children, you would find upon the trial, they were not inferior in mental endowments.

Put another way, Allen suggests that if slaveholders altered the conditions in which people of color lived, then African Americans would thrive as citizens of the United States. Here, then, Allen offers one of the first and most significant examples of the concept of nurture over nature in American racial sociology.

♦ Thomas Jefferson

In his address, Allen also takes on Jefferson himself, the slaveholding Revolutionary who hated slavery in theory but feared abolitionism even more. Allen declares, "If you love your children, if you love your country, if you love the God of love, clear your hands from slaves, burthen not your children or your country with them." This reference alludes to Jefferson's *Notes on the State of Virginia*, a survey of Virginia's political, social, and geographical makeup originally prepared for a foreign diplomat in the 1780s. Jefferson comments under Query XVIII, "I tremble for my country when I reflect that God is just." In that section he pensively observes, "The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other. Our children see this, and learn to imitate it." Despite these worries, Jefferson would not support any government-backed abolition program throughout the 1790s.

The Virginia founder (who lived briefly in Philadelphia before the yellow fever epidemic of 1793) exemplified the slaveholder's dilemma: Although he recognized that slavery was wrong, he feared that universal emancipation might undermine American democracy by allowing former slaves with little education to claim equal citizenship. In subsequent years, Jefferson embraced the colonization of freed blacks as the only safe route to a liberated—and lily-white—America. The historian William Freehling calls this notion "conditional termination": slavery would go only when emancipated blacks themselves could be removed. Allen refused to let such logic go unchallenged, declaring abolition-without-colonization safe in southern as well as northern states.

Allen read Jefferson's views in *Benjamin Banneker's Pennsylvania, Delaware, Maryland and Virginia Almanack and Ephemeris*, produced by the free black Baltimorean Banneker. In 1792 Banneker printed Jefferson's thoughts on slavery, and that edition of the almanac was also reprinted in Philadelphia. Allen thus saw that Jefferson feared the wrath of the just God to whom he and other American Revolutionaries once appealed for freedom from the British. In 1794, Allen tried to use Jefferson's hatred of slavery in the abstract as an argument for national emancipation.

♦ Legitimizing Emancipation and Black Protest

In confronting Jeffersonian doubts about slave emancipation, Allen also attacks the intellectual foundations of bondage, especially those that saw African Americans as brute machines unprepared for liberty. He deconstructs such beliefs by arguing that slaveholders perpetuated black ignorance and therefore generated their own fears about abolitionism. "Will you," Allen wonders, "plead our incapacity for freedom, and our contented condition under oppression, as a sufficient cause for keeping us under the grievous yoke"? When blacks "plead with our masters" for liberty, it is "deemed insolence." Yet when blacks did not rebel en masse, whites believed they were "contented" simpletons. The matter need not be so complicated, Allen concludes. African Americans now offered ample evidence of their desire for freedom, providing sacred and secular justifications for emancipation. Slaveholders should stop delaying and get on with the business of emancipating their Christian brethren.

♦ Black Abolitionism

Allen's antislavery address exemplifies a hallmark of black abolitionism: the belief that racial equality must accompany emancipation. Envisioning the antislavery cause

as patriotic and pious, Allen tries to show it to be compatible with American religious and political doctrine. Far from ruining the American Republic, abolitionism would save it by aligning black and white interests in freedom. He states, "It is in our posterity enjoying the same privileges with your own, that you ought to look for better things." White abolitionists, in fact, did not always agree that equality must follow emancipation. The well-respected Pennsylvania Abolition Society believed that former slaves needed the equivalent of a probationary period in freedom, including white guidance and oversight, before gaining access to full political rights. Moreover, the group did not admit black members until the 1840s.

Black abolitionism also diverged stylistically from the elite legal and political maneuvering that often characterized white abolitionism. Whereas members of the Pennsylvania Abolition Society had access to courts of law and political salons, black abolitionists like Allen had to craft printed appeals in the public realm. Like proto–civil rights pamphlets written by Prince Hall, James Forten, Daniel Coker, and others, Allen's antislavery address was polemical rather than autobiographical. Yet while ostensibly different from the slave narratives that dominated antebellum letters, black abolitionists' pamphlets of protest prefigured them by seeking to raise Americans' consciousness about the grievous wrongs of racial oppression. As would Douglass before the Civil War, Allen uses words that would alarm any Christian or patriotic citizen: Slavery was "oppression" and "dominion" of the worst sort, slaves longed for "freedom," and "the God of love" commanded American masters to abolish bondage and institute equality.

Audience

While he hoped to persuade as many Americans as possible to become abolitionists through his antislavery essay, Allen was particularly interested in reaching the nation's governing elite. To do this, he couched his address in statesmanlike language calculated to illustrate African Americans' reasoning ability. Though he directly challenged American masters, the black preacher also moderated his anger against whites in an attempt to prove that blacks were rational and intelligent beings. His opening sets the tone of the piece: "The judicious part of mankind will think it unreasonable that a superior good conduct is looked for from our race, by those who stigmatize us as men, whose baseness is incurable, and may therefore be held in a state of servitude, that a merciful man would not doom a beast to." Yet, he continues, "a black man, although reduced to the most abject state human nature is capable of, short of real madness, can think, reflect and feel injuries." By utilizing the polished discourse of Enlightenment-era statesmen, Allen showed that he and other blacks could produce an acceptable form of intellectual resistance. Indeed, in an age of heroic rhetoric, he hoped his carefully chosen words would reshape the oppressive world around him.

Impact

Despite its artful argumentation, Allen's antislavery address did not lead to federal abolitionist legislation in the 1790s. Although he likewise attempted to stir American consciences in subsequent antislavery addresses—most notably in his eulogy of George Washington of December 1799—Allen watched as slavery expanded during his lifetime. By 1830, the enslaved population had grown to roughly 1.5 million and remained an important part of the American economy.

When an aging Allen began dictating his autobiography, he instructed his son to include his antislavery address in the hope of reinvigorating abolitionism. Allen saw much promise in the vanguard of new antislavery leaders now on the scene, including the radical abolitionist printer William Lloyd Garrison, who launched *The Liberator* in Boston in 1831. But Allen also sought to ensure that racial equality remained a key part of present abolitionists' agenda. Allen's antislavery appeal of 1794 shows that black abolitionism dated to the founding era, demonstrating African Americans' coequal status within the radical antislavery struggle.

See also John Woolman's *Some Considerations on the Keeping of Negroes* (1754); Lord Dunmore's Proclamation (1775); Pennsylvania: An Act for the Gradual Abolition of Slavery (1780); Thomas Jefferson's *Notes on the State of Virginia* (1784); Slavery Clauses in the U.S. Constitution (1787); Fugitive Slave Act of 1793; William Lloyd Garrison's First *Liberator* Editorial (1831); Frederick Douglass's "What to the Slave Is the Fourth of July?" (1852).

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—Richard Newman

Questions for Further Study

1. Compare this document with John Woolman's *Some Considerations on the Keeping of Negroes* (1754). What similar arguments do the two documents make?

2. Compare this document with a later antislavery tract, such as Peter Williams, Jr.'s "Oration on the Abolition of the Slave Trade" (1808), David Walker's *Appeal to the Coloured Citizens of the World* (1829), or William Lloyd Garrison's First *Liberator* Editorial (1831). Do you see any changes taking place in the nature of the arguments used to oppose slavery that are brought about by changed historical circumstances? Explain.

3. What developments created momentum behind the abolitionist movement in the late eighteenth century? What developments slowed that momentum?

4. What role did international events have on the abolition movement at this time?

5. Compare this document with Thomas Jefferson's *Notes on the State of Virginia* written ten years earlier. In what specific ways did Allen respond to Jefferson?

Document Text

Richard Allen: "An Address to Those Who Keep Slaves, and Approve the Practice"

The judicious part of mankind will think it unreasonable that a superior good conduct is looked for from our race, by those who stigmatize us as men, whose baseness is incurable, and may therefore be held in a state of servitude, that a merciful man would not doom a beast to; yet you try what you can, to prevent our rising from a state of barbarism you represent us to be in, but we can tell you from a degree of experience, that a black man, although reduced to the most abject state human nature is capable of, short of real madness, can think, reflect, and feel injuries, although it may not be with the same degree of keen resentment and revenge, that you who have been, and are our great oppressors would manifest, if reduced to the pitiable condition of a slave. We believe if you would try the experiment of taking a few black children, and cultivate their minds with the same care, and let them have the same prospect in view as to living in the world, as you would wish for your own children, you would find upon the trial, they were not inferior in mental endowments.

I do not wish to make you angry, but excite your attention to consider how hateful slavery is, in the sight of that God who hath destroyed kings and princes, for their oppression of the poor slaves. Pharaoh and his princes with the posterity of king Saul, were destroyed by the protector and avenger of slaves. Would you not suppose the Israelites to be utterly unfit for freedom, and that it was impossible for them, to obtain to any degree of excellence? Their history shews how slavery had debased their spirits. Men must be wilfully blind, and extremely partial, that cannot see the contrary effects of liberty and slavery upon the mind of man; I truly confess the vile habits often acquired in a state of servitude, are not easily thrown off; the example of the Israelites shews, who with all that Moses could do to reclaim them from it, still continued in their habits more or less; and why will you look for better from us, why will you look for grapes from thorns, or figs from thistles? It is in our posterity enjoying the same privileges with your own, that you ought to look for better things.

When you are pleaded with, do not you reply as Pharaoh did, "Wherefore do ye Moses and Aaron let the people from their work, behold the people of the land now are many, and you make them rest from their burthens." We wish you to consider, that God himself was the first pleader of the cause of slaves.

That God who knows the hearts of all men, and the propensity of a slave to hate his oppressor, hath strictly forbidden it to his chosen people, "Thou

Glossary

burthens	burdens
Deut.	the Christian Old Testament book of Deuteronomy
Israelites	the Jewish people whose history is chronicled in the Christian Old Testament
Moses	the Christian Old Testament leader, prophet, and lawgiver who led the Israelites out of bondage in Egypt
Pharaoh	the ruler of the Egyptians in biblical times
Saul	a king of the Israelites in biblical times
shew	show
"Wherefore do ye Moses …"	loosely quoted from the Christian Old Testament book of Exodus, chapter 5, verses 4–5

Document Text

shalt not abhor an Egyptian, because thou wast a stranger in his land." Deut. 23.7. The meek and humble Jesus, the great pattern of humanity, and every other virtue that can adorn and dignify men, hath commanded to love our enemies, to do good to them that hate and despitefully use us. I feel the obligations, I wish to impress them on the minds of our colored brethren, and that we may all forgive you, as we wish to be forgiven, we think it a great mercy to have all anger and bitterness removed from our minds; I appeal to your own feelings, if it is not very disquieting to feel yourselves under dominion of wrathful disposition.

If you love your children, if you love your country, if you love the God of love, clear your hands from slaves, burthen not your children or your country with them, my heart has been sorry for the bloodshed of the oppressors, as well as the oppressed, both appear guilty of each others' blood, in the sight of him who hath said, he that sheddeth man's blood, by man shall his blood be shed.

Will you, because you have reduced us to the unhappy condition our color is in, plead our incapacity for freedom, and our contented condition under oppression, as a sufficient cause for keeping us under the grievous yoke? I have shown the cause,—I will also shew why they appear contented; were we to attempt to plead with our masters, it would be deemed insolence, for which cause they appear as contented as they can in your sight, but the dreadful insurrections they have made when opportunity has offered, is enough to convince a reasonable man, that great uneasiness and not contentment, is the inhabitant of their hearts. God himself hath pleaded their cause, he hath from time to time raised up instruments for that purpose, sometimes mean and contemptible in your sight, at other times he hath used such as it hath pleased him, with whom you have not thought it beneath your dignity to contend. Many have been convinced of their error, condemned their former conduct, and become zealous advocates for the cause of those, whom you will not suffer to plead for themselves.

Prince Hall: *A Charge Delivered to the African Lodge*

1797

"What was the reason that our African kings ... plung'd millions of their fellow countrymen into slavery?"

Overview

On June 24, 1797, Prince Hall delivered a speech to the African American Masonic lodge at Menotomy (now Arlington), Massachusetts, the scene of a Revolutionary War battle on April 19, 1775, as British troops returned to Boston from the battles at nearby Lexington and Concord. The lodge had been formed by former members of a British-based lodge that had admitted African American members but had removed to England at the start of the Revolutionary War. Colonial Masonic lodges did not admit African Americans, prompting Hall and others who had developed an interest in Freemasonry to form an entirely African American lodge that received its official sanction from Great Britain. Hall, speaking to an audience that probably consisted of freed former slaves and indentured servants and many former Revolutionary soldiers, exhorted his free brethren to support those of African descent still held in slavery. He did so by reference primarily to scriptural passages and to the successful slave revolt that was taking place in Haiti. The speech was later printed and bound and issued as a "charge" to the lodge. A copy of the booklet is housed in the Library of Congress's Rare Book and Special Collections Division.

Context

Understanding the context of Prince Hall's speech requires at least a brief survey of the history of Freemasonry in general and Prince Hall Freemasonry in particular. The male-only fraternal organization began in the late sixteenth or early seventeenth century, possibly in Scotland. The organization requires that all members express a belief in a Supreme Being, though, interestingly, discussion of religion is forbidden in Masonic lodges, so that no one is forced to defend a particular set of beliefs. Most lodges keep on display a copy of what is called a "Volume of Sacred Law"; often, this volume is a Christian Bible (King James Version in the Anglophone world), but many lodges display various religious texts, and Muslims, Hindus, and adherents of other religions—as well as those who practice no formal religion—are invited to become Masons. The Masons not only provide fraternal activities for their members, including informal philosophical discussion, but also engage in extensive charitable work.

The word *Masons* reflects the organization's extensive use of the symbolism of architecture and building, some of which Hall mentions in his address. The Supreme Being, for example, is referred to as the Architect of the Universe. Common symbols used in Masonic rituals are the carpenter's square and the drafting compass. The underlying concept is that members are to "square" their lives with a sense of morality and good conduct and to circumscribe their passions. An important feature of Freemasonry is that it is entirely without dogma. Each lodge, for example, is free to conduct its rituals as it sees fit. Members are encouraged to speculate on the philosophical meaning of the organization's symbols. No one person or text "speaks" for all Freemasons.

Freemasonry is organized into grand lodges and lower-ranked lodges. The first Grand Lodge of England was formed in 1717, but in 1751 a schism between the "Moderns" (who advocated modernization) and the traditionalist "Antients" (or Ancients) resulted in two competing grand lodges. Thus, there were two competing grand lodges when Freemasonry gained a foothold in the North American colonies in the 1730s. After the Revolutionary War, independent grand lodges were formed in each state, with no overall grand lodge in the United States, although one, to be presided over by George Washington, was proposed.

Throughout its history, Freemasonry has been ridiculed, opposed, and subjected to harsh criticism. The organization's reliance on codes, handshakes, and secret words has likely contributed to the belief that Freemasonry is somehow nefarious and has to be "exposed." The Roman Catholic Church has long opposed Freemasonry because of the sense that its vision of the Creator is opposed to church teachings. The organization has been accused of corruption, political conspiracies, and anti-Semitism and has been suppressed at various times and in various places. Yet the roster of Freemasons in history is extensive, including many U.S. presidents, senators, congressmen, and Supreme Court justices as well as classical musicians, entertainers, and others.

Time Line

1735/1738

- Prince Hall is born in Barbados, Massachusetts, or England.

1749

- Hall is known to have lived in the home of William Hall in Boston.

1770

- **April 9**
  Hall is given manumission papers.

1775

- **March 6**
  Hall and fourteen other free African Americans join a British Army Freemasons lodge.
- **April 19**
  Skirmishes at Lexington and Concord, Massachusetts, signal the start of the American Revolutionary War.
- **June 17**
  At the Battle of Bunker Hill, Hall may have fought for the colonials.
- **July 3**
  Hall forms African Lodge No. 1, the first recognized African American Masonic lodge.

1777

- **April 24**
  Hall sells leather drumheads to the Boston Regiment of Artillery of the Continental army.

1783

- **September 3**
  The Treaty of Paris is signed, ending the Revolutionary War.

1784

- **January 14**
  The United States ratifies the Treaty of Paris.

1791

- **August 22**
  A slave revolt begins in the French colony of Saint Domingue (now Haiti).

African American Freemasonry is often called Prince Hall Freemasonry. In 1775 Prince Hall and fourteen other free African Americans were initiated into the Irish Constitution Military Lodge No. 441, a British army lodge that was part of the Thirty-eighth Foot Regiment, then resident in Boston. (British lodges had a policy of admitting blacks and did so up to the time of the Revolution, when they left the colony, forcing blacks to start their own lodges.) The others, who were all born free, were Cyrus Johnston, Bueston Slinger, Prince Rees, John Canton, Peter Freeman, Benjamin Tiler, Duff Ruform, Thomas Santerson, Prince Rayden, Cato Speain, Boston Smith, Peter Best, Forten Horward, and Richard Titley. When the regiment moved from the area (the Revolutionary War was just three months away), the lodge was given permission to function independently as a Masonic lodge. On July 3, 1775, Hall formed the group into the African Lodge No. 1, the first recognized African American lodge. In 1784 the group was given a charter by the Grand Lodge of England and became African Lodge No. 459. After 1813 the African Lodge was separated from the Grand Lodge of England, hence giving rise to the appellation Prince Hall Freemasonry. In the modern era, however, U.S. lodges recognize Prince Hall Freemasonry as a legitimate branch of the organization.

In Prince Hall's time and until the late twentieth century, Masonic lodges were heavily segregated. This was in part because new members could be initiated only after a secret ballot, often using white and black balls and a ballot box. Just one racially motivated negative vote could "blackball" an applicant. In addition, one membership rule (not always followed) required that the applicant be born a free man (one possible explanation for the origin of the term *Freemason*), excluding former slaves from membership. Prince Hall had been denied membership in a white Massachusetts Masonic lodge prior to being admitted to the Irish lodge.

Black Freemasonry was part of a broader effort on the part of black Americans at the time of the Revolutionary War and beyond to provide cultural, educational, and economic aid to the black community through churches, schools, benevolent societies, and mutual-aid groups. During the middle part of the eighteenth century, the number of African slaves in the United States had increased dramatically. Many slaves and free blacks felt strong cultural affinities with the large number of people arriving from Africa. Many organizations included the words *Africa* or *African* in their names. As slaves were freed, particularly throughout New England and in such states as New York and New Jersey (often because these slaves had fought for the new nation in the Revolutionary War), black households were being formed, extended black kinship groups were being established, and a sense of a black community was developing—characteristics that could not have existed under slavery, where families were separated, parents were sold away from their children, blacks were almost universally illiterate, and slaves lived in relative isolation from one another. The Revolutionary War, with its ideals of equality, held out some hope, however slim, that the new nation would have a place for free African Americans, and in the

years following the war, there was a spirit of hope and vigor in the free black communities of such cities as New York, Boston, Philadelphia, and others.

Prince Hall was a vital and energetic part of this community. In 1777, for example, he petitioned for the abolition of slavery in Massachusetts. He also petitioned the governor of New York to allow the military help of some seven hundred blacks in putting down Shays's Rebellion in 1786. He joined with seventy-three other blacks in petitioning the state government for financial help for blacks who wanted to immigrate to Africa. He also petitioned the state for free public education for taxpaying citizens, of which he was one. The African Lodge, then, with Prince Hall's charge for its members to support blacks who were still enslaved, was part of a broad effort to ameliorate the condition of African Americans in the post–Revolutionary War era.

Time Line

1797

■ **June 24**
Hall delivers a speech later published as *A Charge Delivered to the African Lodge, June 24, 1797 at Menotomy.*

1807

■ **December 4**
Hall dies and is buried in Copp's Hill Burying Ground in Boston.

About the Author

There is substantial dispute about the birth date and place of Prince Hall. He may have been born in Barbados, Massachusetts, or England. It is possible that he was born in Barbados but came to America by way of England rather than directly from Barbados, thus giving rise to conjecture as to the site of his birth. His date of birth is reported as either 1735 or 1738. Misinformation about Prince Hall's life is widespread, much of it deriving from William Grimshaw's *The Official History of Freemasonry among the Colored People of North America* (1903). At least his date of death is known with certainty: December 4, 1807.

It is also unclear whether Hall was ever a slave. In 1749 he began living in the home of William Hall of Boston and working for him. On April 9, 1770, he was given his manumission papers—documents, signed by the slave owner, that protected the freed slave from recapture and also released the owner from any obligation to take care of the slave. However, Hall's manumission papers stated that "he is no longer to be reckoned a slave, but has been always accounted as a freeman by us." This suggests—and some biographical materials state as a fact—that Hall was never a slave and that the papers were signed simply to prove that he was a free man. He certainly could have been a slave in Boston; slavery in Massachusetts Colony did not end until a 1783 court case interpreted the 1780 state constitution as being inconsistent with slavery. However, even the relevance of these papers is uncertain, since there were twenty-one individuals named Prince Hall who lived in Massachusetts during that time period.

Hall is reported to have been married three times, although, once again, sources are in dispute as to the details. One source states that his first marriage was to Flora Gibbs, and this union produced his only child, Prince Africanus, who was baptized November 4, 1784. Nothing else is known about his first wife or son. He married a woman named Sarah in 1763. Sarah died in 1769, and he married Sylvia Johnson on June 28, 1804. Another source states that had a son, Primus, with a servant named Delia in 1756, married Sarah Ritchie some time after 1762 (on this marriage the two sources seem to agree), and married Flora Gibbs in 1780.

William Hall was a leather dresser, and Prince Hall learned this trade from his employer (or master) in the period 1749–1770 and became a leather dresser in Boston in his own right thereafter. He later became a caterer. As is typical of many facets of Prince Hall's biography, it is reported but not verified that Hall fought for independence in the American Revolution. Skirmishes at Lexington and Concord, Massachusetts, signaled the start of the American Revolutionary War on April 19, 1775. One source places Hall at the Battle of Bunker Hill on June 17, 1775, in which some twelve hundred colonial soldiers attempted to hold the hills surrounding besieged Boston against an attack by a superior British force. Although the colonial forces were ultimately driven back, the British suffered significant losses, and the colonial troops demonstrated their ability to withstand a sustained attack by regular army troops. Although it cannot be confirmed that Hall was at the battle, it is known that some three dozen freed former slaves were in the force, including Barzillai Lew, Salem Poor, and Peter Salem. It is known for certain that Prince Hall sold leather drumheads to the Boston Regiment of Artillery, as a bill of sale dated April 24, 1777, provides proof and the sale is consistent with Hall's known trade as a leather dresser. It does, however, seem unusual that Hall would engage in combat against the British army just three months after enrolling in a British Army Freemason lodge. He died in Boston.

Explanation and Analysis of the Document

Hall's speech was published as *A Charge Delivered to the African Lodge, June 24, 1797 at Menotomy*, but it is called by various names. The informal title of the text, "Thus Doth Ethiopia Stretch Forth Her Hand from Slavery, to Freedom and Equality" is taken from Psalm 68:31, which in the King James Version of the Bible says, "Princes shall come out of Egypt; Ethiopia shall soon stretch out her hands unto God." Various translations substitute "envoys" or "bronze" for "princes" and "Kush" or sometimes "Sudan" for "Ethio-

George Washington as a Freemason (Library of Congress)

pia." The Kush of the Christian Old Testament is sometimes considered to be part of modern-day Sudan, Egypt, or Ethiopia and may or may not correspond with the documented historical kingdom of Kush, which emerged from Egyptian control around 1000 BCE and began to decline in the second century CE. The biblical references spring from Cush the son of Ham (and grandson of Noah), traditionally considered the progenitor of the black race. Perhaps it is best to consider Ethiopia (or Kush) as the archetype of ancient black civilizations of northeastern Africa. From the time of the American Revolution, slaves equated Ethiopia with salvation for the black race.

After indicating that five years previously he had issued a "charge" to his fellow Masons (that is, a directive reminding Masons of their obligations to others), Hall calls upon his fellow Masons to show charity to all humankind regardless of race, but he also specifically exhorts them to consider "the numerous sons and daughters of distress," that is, those Africans still held in slavery. In making his point, he invokes the biblical character of Job, whose name is associated with the torments that he had to bear.

Hall makes a second biblical reference in connection with the slave trade. Revelation 18:11–13, in the King James Version, states:

> And the merchants of the earth shall weep and mourn over her [Babylon]; for no man buyeth their merchandise any more: The merchandise of gold, and silver, and precious stones, and of pearls, and fine linen, and purple, and silk, and scarlet, and all thyine wood [an evergreen, also called citron wood, burned in sacrifices because of its fragrance], and all manner vessels of ivory, and all manner vessels of most precious wood, and of brass, and iron, and marble, And cinnamon, and odours, and ointments, and frankincense, and wine, and oil, and fine flour, and wheat, and beasts, and sheep, and horses, and chariots, and slaves, and souls of men.

Babylon, in a variety of contexts from Revelation to Rastafarianism, has long been a metaphor for governments and institutions in rebellion against the rule of God, beginning with the Tower of Babel. Here, Hall uses the biblical metaphor in reference to the slave trade, though he also notes that there is cause for hope because events taking place in the West Indies will put an end to the "African traffick." At this point he makes reference to the "Ethiopeans," expressing hope that God will change their condition. He also mentions to the "bloody wars" taking place throughout the world and urges his listeners to "sympathize with them in their troubles" and to "weep with those that weep."

Hall describes what he calls a "chequered world," one in which bounty alternates with deprivation, festivity alternates with mourning, health and prosperity alternates with sickness and adversity. States and kingdoms experience similar ups and down, suggesting that "there is not an independent mortal on earth." All people, Hall says, are dependent on one another, in this way reinforcing the Masonic goal of mutual aid.

Hall makes further biblical allusions. He notes that in the book of Exodus, Moses, the lawgiver, received instruction from his father-in-law, an Ethiopian named Jethro. He narrates two stories from the Old Testament, one involving a captive servant who was able to cure her master of leprosy, despite his haughtiness and disdain for the direction of the biblical prophets. In contrast is the story of Obadiah from the first book of Kings, whose lesson is that "great and good men have, and always will have, a respect for ministers and servants of God." A similar story is told in the New Testament Acts of the Apostles, in which a white man is not afraid to accept the aid of a black man. Hall also cites the story of King Solomon of the Old Testament, who accepted the Queen of Sheba, the African queen who traveled to visit and bear gifts to Solomon because she had heard of his great wisdom.

Hall then describes the "daily insults" African Americans experience on the streets of Boston and calls upon his fellow Masons to pray to God for patience in the face of present troubles. This is a reference to antiblack riots in Boston led by "a mob or horde of shameless, low-lived, envious, spiteful persons." Reminding his listeners that "the darkest hour is just before the break of day," Hall turns to the events of "six years ago in the French West-Indies"—a slave rebellion on the island of Saint Domingue (Hispaniola) that began in 1791 and would eventually lead to the independent nation of Haiti. African Americans would have

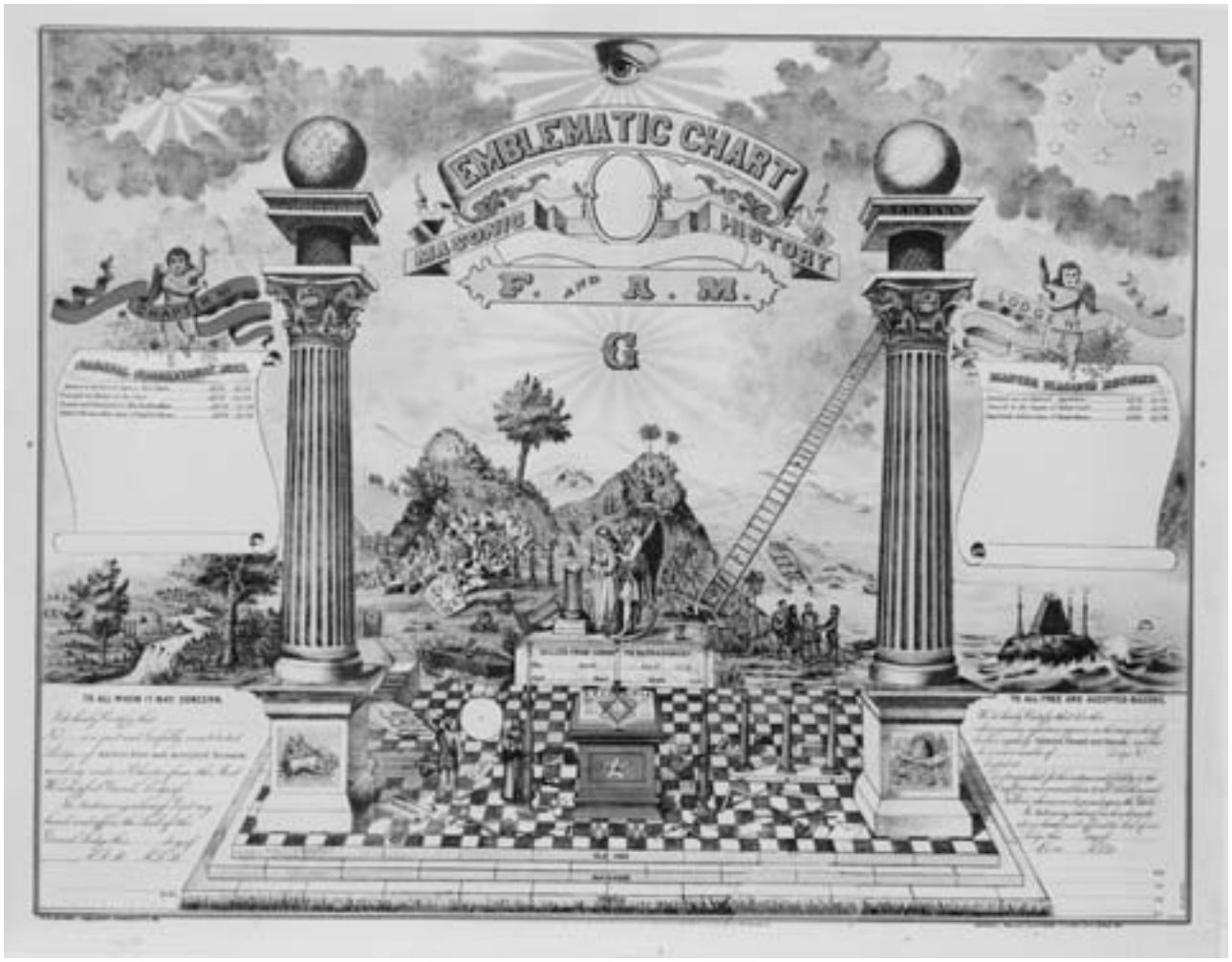

Chart of Masonic emblems and history (L brary of Congress)

followed the events in Haiti with keen interest, for it was the only successful slave rebellion in the Western Hemisphere. Saint Domingue was a leading supplier of sugar and France's most lucrative colony. White landowners developed enormous plantations, where they grew not only sugarcane but also coffee, indigo, and other export crops, all labor-intensive industries that depended on slaves imported from Africa. The plantation owners were vastly outnumbered, so they lived in fear of slave rebellions. Accordingly, they passed repressive laws that created, in effect, a caste system. Although Hall did not make this explicit connection, the situation could be seen as an analogy to the plight of free blacks in Massachusetts, who were relegated to second-class status despite being technically free. Throughout the middle and late 1700s, whites and blacks engaged in a series of violent clashes. Escaped slaves, called maroons, formed gangs that lived in the forests and repeatedly attacked French plantations.

Complicating matters was competition for the colony among the French, Spanish, and British and the French Revolution, which began in 1789. Free people of color were emboldened by the revolutionary government's 1789 Declaration of the Rights of Man and of the Citizen and consequently were often called Black Jacobins, a reference to political radicals in revolutionary France. Free blacks agitated for civil rights, particularly the right to vote. In May 1791 the French revolutionary government granted French citizenship and civil rights to free blacks. White colonists refused to recognize the government's decision (which was later revoked). The result was a high state of tension between Haiti's former slaves and whites. The Haitian Revolution erupted on August 22, 1791, under the leadership of François-Dominique Toussaint-Louverture By the time hostilities were suspended in 1794, about one hundred thousand blacks and twenty-four thousand whites had lost their lives. That year, the French National Convention abolished slavery and granted full civil and political rights to all blacks in Haiti.

This was the state of affairs in Haiti at the time Hall gave his address. Blacks, particularly free blacks, in the United States would have followed the ongoing events in Haiti with keen interest and would have seen that nation's successful

Essential Quotes

"And this is not to be confined to parties or colours; not to towns or states; not to a kingdom, but to the kingdoms of the whole earth, over whom Christ the king is head and grand master."

(Paragraph 3)

"Among these numerous sons and daughters of distress, I shall begin with our friends and brethren; and first, let us see them dragg'd from their native country, by the iron hand of tyranny and oppression, from their dear friends and connections, with weeping eyes and aching hearts, to a strange land and strange people."

(Paragraph 4)

"Patience I say, for were we not possess'd of a great measure of it you could not bear up under the daily insults you meet with in the streets of Boston… how are you shamefully abus'd, and that at such a degree that you may truly be said to carry your lives in your hands; and the arrows of death are flying about your heads."

(Paragraph 13)

"Thus doth Ethiopia begin to stretch forth her hand, from the sink of slavery to freedom and equality."

(Paragraph 14)

"What was the reason that our African kings and princes have … plung'd millions of their fellow countrymen into slavery and cruel bondage?"

(Paragraph 16)

"Give the right hand of affection and fellowship to whom it justly belongs let their colour or complexion be what it will: let their nation be what it may, for they are your brethren, and it is your indispensible duty so to do."

(Paragraph 19)

efforts to end slavery as a beacon of hope. On an optimistic note, Hall says, "Thus doth Ethiopia stretch forth her hand from slavery, to freedom and equality," suggesting that those ideals (again with Ethiopia used as the archetype of ancient black civilizations) would eventually be realized by all victims of the African diaspora. He urges his listeners to avoid the "slavish fear of man," alluding then to African kingdoms, where "the fear of the report of a great gun or the glittering of arms and swords" induces fear, panic and disorder and leads African kings and princes to sell their countrymen into bondage. Hall cautions his listeners against fear, urging them to respect others but to worship none. The duty of Christians and Masons is to worship God.

Having discussed the biblical and historical backdrop for his remarks, Hall then issues the core of his charge to his listeners. He calls on them to "have a fellow feeling for our distress'd brethren of the human race." He cites examples of neighbors coming to the relief of a person whose house has burned or rescuers of a person who has been shipwrecked. He makes reference to the "captives among the Algerines," possibly an allusion to *The Algerine Captive; or, The Life and Adventures of Doctor Updike Underhill: Six Years a Prisoner among the Algerines*, a fictitious memoir published the same year by Royall Tyler and one that reflected Americans' interest in events in and around the Mediterranean Sea. Alternatively, he could be referring more generally to the ransoming of captives held by the Barbary Coast pirates (a region that included Algiers). Again, Hall's theme is that the hand of God can and will deliver people from distress.

Hall concludes by calling on his fellows to "live and act as Masons" by extending the hand of friendship to all people "let their colour or complexion be what it will." He sees the people of the United States as the Mason's "brethren," and states that it is the duty of all Masons to do the same.

Audience

The speech was printed as a booklet in 1797 and sold in Prince Hall's shop in Boston. Hall was speaking to a closed audience of his fellow African American Masons in Boston. The African American population living in the area at that time would have consisted of escaped slaves, freed slaves, former indentured servants, and former residents of various Caribbean colonies.

Impact

While it is difficult to trace the precise impact that a speech delivered behind closed doors would have had, in a general sense it can be said that black Freemasonry and the "charges" of Prince Hall helped sustain and create broader efforts to improve the condition of the nation's post-Revolutionary black community. As such, the African Lodge was one of numerous benevolent societies and other organizations that were formed to help blacks, both free blacks and slaves. Boston, for example, was the home of the African Society. The African Marine Fund for the Relief of the Distressed Orphans, and Poor Members of This Fund was an early example of a black relief agency. The Brotherly Union Society was instituted in Philadelphia, a city that in the 1790s was home to an estimated two thousand free blacks and would have over fourteen thousand within a generation. The African Church of Saint Thomas and the Free African Society were also formed in Philadelphia. In Rhode Island, the Free African Benevolent Society provided mutual aid to Newport's large black community.

Although Hall's speech would have been scarcely noted, if at all, outside the confines of African Lodge No. 459, the

Questions for Further Study

1. What political and social circumstances made Freemasonry and other benevolent organizations attractive to many African Americans in the late eighteenth century?

2. What impact did the events in Haiti have on African Americans? Why were these events considered important?

3. Compare this document to the Petition of Prince Hall and Other African Americans to the Massachusetts General Court. Do the two documents make similar arguments? What picture do the two documents, taken together, give you of African American life in the North in the late eighteenth century?

4. Why do you think Prince Hall made so many biblical references in his charge? What do these biblical references add to his argument?

5. To this day, black Freemasonry is often called Prince Hall Freemasonry. Does it trouble you that there appears to be a separate organization for blacks?

fact that a line of African Masonic lodges continues to this day is ample demonstration of the success of Hall's early efforts at continuing African American Masonic activities after the Revolutionary War ended. The roster of Prince Hall Freemasons since then has included William Wells Brown, W. E. B. Du Bois, Martin R. Delany, T. Thomas Fortune, Jesse Jackson, Sr., Thurgood Marshall, A. Philip Randolph, Booker T. Washington, and numerous other African American leaders. Hall's heartfelt call for sympathy toward and unity with those still in slavery must have had a significant impact on his listeners.

See also Petition of Prince Hall and Other African Americans to the Massachusetts General Court (1777).

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—Keith E. Sealing

Document Text

Prince Hall: *A Charge Delivered to the African Lodge*

'Tis now five years since I deliver'd a Charge to you on some parts and points of Masonry. As one branch or superstructure on the foundation; when I endeavoured to shew you the duty of a Mason to a Mason, and charity or love to all mankind, as the mark and image of the great God, and the Father of the human race.

I shall now attempt to shew you, that it is our duty to sympathise with our fellow men under their troubles: the families of our brethren who are gone: we hope to the Grand Lodge above, here to return no more. But the cheerfulness that you have ever had to relieve them, and ease their burdens, under their sorrows, will never be forgotten by them; and in this manner you will never be weary in doing good.

But my brethren, although we are to begin here, we must not end here; for only look around you and you will see and hear of numbers of our fellow men crying out with holy Job, Have pity on me, O my friends, for the hand of the Lord hath touched me. And this is not to be confined to parties or colours; not to towns or states; not to a kingdom, but to the kingdoms of the whole earth, over whom Christ the king is head and grand master.

Among these numerous sons and daughters of distress, I shall begin with our friends and brethren; and first, let us see them dragg'd from their native country, by the iron hand of tyranny and oppression, from their dear friends and connections, with weeping eyes and aching hearts, to a strange land and strange people, whose tender mercies are cruel; and there to bear the iron yoke of slavery & cruelty till death as a friend shall relieve them. And must not the unhappy condition of these our fellow men draw forth our hearty prayer and wishes for their deliverance from these merchants and traders, whose characters you have in the xviii chap. of Revelations, 11, 12, & 13 verses, and who knows but these same sort of traders may in a short time, in the like manner, bewail the loss of the African traffick, to their shame and confusion: and if I mistake not, it now begins to dawn in some of the West-India islands; which puts me in mind of a nation (that I have somewhere read of) called Ethiopeans, that cannot change their skin: But God can and will change their conditions, and their hearts too; and let Boston and the world know, that He hath no respect of persons; and that that bulwark of envy, pride, scorn and contempt; which is so visible to be seen in some and felt, shall fall, to rise no more.

When we hear of the bloody wars which are now in the world, and thousands of our fellow men slain; fathers and mothers bewailing the loss of their sons; wives for the loss of their husbands; towns and cities burnt and destroy'd; what must be the heart-felt sorrow and distress of these poor and unhappy people! Though we cannot help them, the distance begin too great, yet we may sympathize with them in their troubles, and mingle a tear of sorrow with them, and do as we are exhorted to—weep with those that weep.

Thus my brethren we see what a chequered world we live in. Sometimes happy in having our wives and children like olive-branches about our tables; receiving the bounties of our great Benefactor. The next year, or month, or week, we may be deprived of some of them, and we go mourning about the streets: so in societies; we are this day to celebrate this Feast of St. John's, and the next week we might be called upon to attend a funeral of some one here, as we have experienced since our last in this Lodge. So in the common affairs of life, we sometimes enjoy health and prosperity; at another time sickness and adversity, crosses and disappointments.

So in states and kingdoms; sometimes in tranquility; then wars and tumults; rich today and poor tomorrow; which shews that there is not an independent mortal on earth; but dependent one upon the other, from the king to the beggar.

The great law-giver, Moses, who instructed by his father-in-law, Jethro, an Ethiopean, how to regulate his courts of just, and what sort of men to choose for the different offices; hear now my words, said he, I will give you counsel, and God shall be with you; be thou for the people to Godward, that thou mayest bring the causes unto God, and thou shall teach them ordinances and laws, and shall shew the way wherein the must walk; and the work that they must do: moreover thou shall provide out of all the people, able men, such as fear God, men of truth, hating covetousness, and place such over them, to be rulers of the thousands, and hundreds and of tens.

So Moses hearkened to the voice of his father-in-law, and did all that he said.—Exodus xviii, 22–24.

Document Text

This is the first and grandest lecture that Moses ever received from the mouth of man; for Jethro understood geometry as well as laws, *that* a Mason may plainly see: so a little captive servant maid by whose advice Nomen, the great general of Syria's army was healed of his leprosy.… The feelings of this little captive, for this great man, her captor, was so great, that she forgot her state of captivity, and felt for the distress of her enemy. Would to God (said she to her mistress) my lord were with the prophets in Samaria, he should be healed of his leprosy: So after he went to the prophet, his proud host was so haughty that he not only disdain'd the prophets' direction, but derided the good old prophet.; and had it not been for his servant, he would have gone to his grave.…

How unlike was this great general's behaviour to that of as grand a character, and as well beloved by his prince as he was; I mean Obadiah, to a like prophet. See for this 1st Kings, xviii. from 7 to the 16th.

And as Obadiah was in the way, behold Elijah met him, and he knew him, and fell on his face, and said, Art not thou, my Lord, Elijah, and he told him, Yea, go and tell thy Lord, behold Elijah is here.…Thus we see, that great and good men have, and always will have, a respect for ministers and servants of God. Another instance of this is in Acts viii. 27 to 31, of the European Eunich, a man of great authority, to Philip, the apostle: here is mutual love and friendship between them. This minister of Jesus Christ did not think himself too good to receive the hand, and ride in a chariot with a black man in the face of day.… So our Grand Master, Solomon, was not asham'd to take the Queen of Sheba by the hand, and lead her into his court, at the hour of high twelve, and there converse with her on points of masonry (for if ever there was a female mason in the world she was one) and other curious matters; and gratified her, by shewing her all his riches and curious pieces of architecture in the temple, and in his house.…

Now my brethren, as we see and experience, that all things here are frail and changeable and nothing here to be depended upon: Let us seek those things which are above … and at the same time let us pray to almighty God, while we remain in the tabernacle, that he would give us the grace of patience and strength to bear up under all our troubles, which at this day God knows we have our share. Patience I say, for were we not possess'd of a great measure of it you could not bear up under the daily insults you meet with in the streets of Boston … how are you shamefully abus'd, and that at such a degree that you may truly be said to carry your lives in your hands; and the arrows of death are flying about your heads; helpless old women have their clothes torn off their backs, even to the exposing of their nakedness; and by whom are these disgraceful and abusive actions committed, not by the men born and bred in Boston, for they are better bred; but by a mob or horde of shameless, low-lived , envious, spiteful persons, some of them not long since servants in gentlemen's kitchings [*sic*], scouring knives, tending horses, and driving chaise. 'Twas said by a gentleman who saw that filthy behaviour in the common, that in all the places he had been in, he never saw so cruel behaviour in all his life, and that a slave in the West-Indies, on Sunday or holidays enjoys himself and friends without molestation. Not only this man, but many in town … have wonder'd at the patience of the Blacks: 'tis not for want of courage in you, for they know that they dare not face you man for man, but in a mob, which we despise, and had rather suffer wrong than to do wrong, to the disturbance of the community and the disgrace of our reputation: for every good citizen doth honor to the laws of the State where resides.

My brethren, let us not be cast down under these and many other abuses we at present labour under: for the darkest is before the break of day: My brethren, let us remember what a dark day it was with our African brethren six years ago, in the French West-Indies. Nothing but the snap of the whip was heard from morning to evening: hanging, broken on the wheel, burning, and all manner of tortures inflicted on those unhappy people, for nothing else but to gratify their masters pride, wantonness and cruelty: but blessed be God, the scene is changed; they now confess that God hath no respect of persons, and therefore receive them as their friends, and treat them as brothers. Thus doth Ethiopia begin to stretch forth her hand, from the sink of slavery to freedom and equality.…

Another thing I would warn you against, is the slavish fear of man, which bringest a snare, saith Solomon. This passion of fear, like pride and envy, hath slain its thousands ….

What was the reason that our African kings and princes have plunged themselves and their peaceable kingdoms into bloody wars, to the destroying of towns and kingdoms, but the fear of the report of a great gun or the glittering of arms and swords, which struck these kings near the seaports with such a panic of fear, as not only to destroy the peace and happiness of their inland brethren, but plung'd millions of their fellow countrymen into slavery and cruel bondage.…

Thus we see my brethren, what a miserable condition it is to be under the slavish fear of men; it is of

Document Text

such a destructive nature to mankind, that the scriptures every where from Genesis to the Revelations warns us against it; and even our blessed Saviour himself forbids us from this slavish fear of man, in his sermon on the mount.… My brethren let us pay all due respect to all whom God hath put in places of honor over us: do justly and be faithful to them that hire you, and treat them with that respect they may deserve; but worship no man. Worship God, this much is your duty as Christians and as masons.

We see then how becoming and necessary it is to have a fellow feeling for our distress'd brethren of the human race, in their troubles, both spiritual and temporal.…How doth it cheer up the heart of a man when his house is on fire, to see a number of friends coming to his relief.… So a man wreck'd at sea, how must it revive his drooping heart to see a ship bearing down for his relief.…Where is the man that has the least spark of humanity, that will not rejoice … and bless a righteous God who knows how and when to relieve the oppressed, as we see he did in the deliverance of the captives among the Algerines; how sudden were they delivered by the sympathising members of the Congress of the United States, who now enjoy the free air of peace and liberty, to their great joy and surprise.… Here we see the hand of God in various ways, bringing about his own glory for the good of mankind, by the mutual help of their fellow men; which ought to teach us in all our straits, be they what they may, to put our trust in Him, firmly believing that he is able and will deliver us.…

Live and act as Masons, that you may die as Masons.… If they will let us we shall call ourselves a charter'd lodge, of just and lawful Masons.… Give the right hand of affection and fellowship to whom it justly belongs let their colour or complexion be what it will: let their nation be what it may, for they are your brethren, and it is your indispensible duty so to do; let them as Masons deny this, and we & the world know what to think of them be they ever so grand: for we know this was Solomon's creed.… It is the decree of the Almighty, and all Masons have learnt it: plain market language and plain and true facts need no apologies.

Glossary

Algerines	Algerians
Ethiopians	a name commonly used at the time for Africans
Feast of St. John's	the feast of Saint John the Baptist, celebrated typically on June 24
French West-Indies	islands in the Caribbean under French control, at the time primarily Hispaniola, which comprised the nations of Haiti and Saint-Domingue
Moses	the Christian Old Testament lawgiver who led the Israelites out of bondage in Egypt
Nomen	usually spelled Naamen, a Syrian general
Queen of Sheba	an African queen who visited Solomon
Samaria	a portion of biblical Israel corresponding roughly to today's West Bank
shew	an antique spelling of "show"
Solomon	the Christian Old Testament king of the Israelites, legendary for his wisdom

Ohio Black Code

1803–1807

"No black or mulatto person, shall be permitted to ... reside in this state, unless he [produces a] certificate ... of his or her actual freedom."

Overview

Immediately after Ohio achieved statehood in 1802, the Ohio legislature tried to define the meaning and limitations of freedom for African Americans in the new state. Between 1803 and 1807 the legislature passed and subsequently amended a series of laws known as the Black Code. With these laws, white Ohioans legislated the second-class status of African Americans in the state. The laws foremost required immigrating African Americans to register their freedom with the county courts. In addition, the laws dictated that as residents of the state, African Americans could not vote, bear arms, testify in court, or attend public schools.

Ohio's Black Code demonstrates the ways in which white Americans sought to limit the freedom of blacks in antebellum America. In other northern states as well, the gradual emancipation of African Americans was coupled with restrictions on black rights. While chattel slavery was never legal in Ohio, the Black Code in this nominally free state highlights the pervasiveness of racism throughout the country. Many historians point to economic factors as contributory to the antiblack sentiment that grew among white Ohioans: Jobs in early nineteenth-century Ohio were scarce, and whites opposed the prospect of competing with blacks for the limited employment opportunities available in the state. In addition, as the first state carved out of the federally governed Northwest Territory, Ohio set the precedent for other midwestern states. Indiana and Illinois similarly passed Black Codes upon moving to statehood. Over time, however, black Ohioans organized resistance to the Black Codes; the ultimate repeal of these restrictive laws highlights the power of black protest in pre–Civil War America.

Context

In 1787 the American nation was in its infancy. The land west of the Appalachian Mountains was a territory largely unsettled by white Americans. On July 13, 1787, just two months before the signing of the U.S. Constitution, the American Confederation passed the Northwest Ordinance, which arranged for the orderly settlement of the territory north of the Ohio River.

The Northwest Territory would eventually become the states of Ohio, Indiana, Illinois, Michigan, and Wisconsin. Article 6 of the ordinance banned slavery and involuntary servitude in the territory. This was significant because slavery was legal south of the Ohio River in Kentucky and Virginia. The Ohio River itself is the confluence of two rivers, the Allegheny and Monongahela rivers in western Pennsylvania. Along its thousand-mile course to the Mississippi River, the river borders West Virginia, Ohio, Kentucky, Indiana, and Illinois. The Ohio River, therefore, served as the divide between slave and free territory. In the summer of 1795 Native Americans ceded the southern two-thirds of what would become Ohio to the United States in the Treaty of Greenville. Once the treaty opened the region to settlement, white Americans streamed into the new territory. As they entered the future state, white and black Americans tried to define the meaning of the border between slavery and freedom.

When Ohioans wrote their state constitution in 1802, they affirmed Article 6 of the Northwest Ordinance and banned slavery and involuntary servitude in the new state. The Ohio River was not a very strict barrier between slave and free states, however. Although political leaders banned slavery in Ohio, they did not support racial equality. Many of the white residents of Ohio in the early 1800s came from states that allowed slavery, including nearby Virginia and Kentucky. In fact, early statehood leaders such as Edward Tiffin and Thomas Worthington brought freed slaves with them to Ohio and bound them as servants. Some southern Ohioans worshiped at the same churches as their southern neighbors, socialized with them at local taverns, and clearly shared racist beliefs with their neighbors in bordering slave states.

Indeed, it could be said that white Ohioans feared the immigration of African Americans. In the early 1800s Americans throughout the country feared the notion of dependency. Wage labor was uncommon in the early republic. Instead, laborers worked for others, sometimes as tenants on farms or bound to skilled craftsmen as apprentices. Therefore, Americans believed that land ownership was the

Time Line

1787	■ **July 13** The Northwest Ordinance is passed, providing for settlement of the territory north of the Ohio River.
1788	■ **June 21** The U.S. Constitution is officially ratified.
1792	■ Kentucky becomes the fifteenth American state.
1793	■ **February 12** Congress passes the Fugitive Slave Act, meant to enforce the return of runaway slaves.
1795	■ **August 3** The Treaty of Greenville opens Ohio to white settlement.
1799	■ Kentucky's government formally protects slavery within the state.
1802	■ Ohio becomes the seventeenth American state.
1803	■ The Ohio legislature passes a law forming a state militia, but it limits the militia to white men.
1804	■ The Ohio legislature passes a law in 1804 that strictly limits the rights of African Americans, especially former slaves, who migrate to the state.
1807	■ Further restrictions are placed on African Americans in Ohio when the state legislature passes a law in 1807 that serves as a deterrent to black migration to the state.
1808	■ The U.S. Congress officially bans transatlantic slave trade to America.

only way for a person to be truly independent. Otherwise, one would be dependent on another for his livelihood.

When Ohio became a state, the legislators formed the Overseers of the Poor to keep tabs on dependent residents. The specific responsibilities of the Overseers of the Poor included offering financial relief to those who needed it, paying residents for boarding homeless Ohioans, binding children and unemployed men and women to established residents, and expelling unruly paupers from the community. The overall purpose of the Overseers was to maintain the virtue of the community by keeping men and women from becoming charges of the county. Their primary means of accomplishing this goal was to keep everyone working. President Thomas Jefferson believed that the United States should be a country of independent farmers. Many white Ohioans believed that African Americans were racially inferior to whites and therefore predisposed to a life of dependency—a condition that threatened the social fabric of the republic. According to this theory, the influx of African Americans into the state would also be an influx of dependent citizens. These dependent citizens would then become liabilities—burdens on the state who could potentially break down the social order. Clearly, the racial ideas of the time were directly linked to the creation of the laws known collectively as the Black Code.

About the Author

The Ohio legislature wrote and approved the laws known as the Black Code. Many of the representatives in Ohio's first legislature were Jeffersonian Republicans originally from slaveholding states such as Virginia and Kentucky. Philemon Beecher authored the original bill proposal in 1803. James Dunlap served as chairman of the committee responsible for drafting the statute. Stephen Wood and James Smith also helped draft the statute, and William Gaffs advised the senate about the legislation.

Philemon Beecher was primarily responsible for the 1807 amendments. In 1806, Beecher authored the bill to revise the 1804 act. Beecher was born in Connecticut, where he was also educated as a lawyer. He moved to Lancaster, Ohio, in 1801 and continued to practice law; two years later he was elected to the first of two terms in the state house of representatives. Beecher identified with the Federalist Party, which stood for a strong central government and the growth of industry in the United States. He was elected to the U.S. House of Representatives as a Federalist in 1817, serving until 1821. During this time he participated in the debates over the admission of Missouri to the Union as a slave state. He voted for the Missouri Compromise, which brought Missouri into the Union as a slave state and Maine as a free state. Beecher was unseated in 1820 but won again in 1823 after running as a member of another political party. He served as an Ohio representative until 1829.

Explanation and Analysis of the Document

There were two primary goals of Ohio's Black Code: first, to discourage the migration of African Americans to the state and, second, to legislate the second-class citizenship of free African Americans. These two goals related directly to Ohio's position along the Ohio River. Ohio's proximity to Virginia and Kentucky, where tens of thousands of slaves resided, made the migration of African Americans to Ohio a logical move for freed blacks. The Ohio legislature made it difficult for African Americans to take up residency in Ohio by forcing them to register with county courts and find two property holders to vouch for their good behavior. Blacks in Ohio had to carry proof of their freedom at all times—a stipulation meant to discourage fugitive slaves from taking refuge in the nominally free state. In addition, by legislating the second-class citizenship of African Americans, the Ohio legislature defined the limits of American freedom along racial lines. African Americans in Ohio could not vote, bear arms, testify in court, or attend public schools.

♦ "An Act to Organize and Discipline the Militia"

The Ohio Black Code consisted of a series of laws meant to define African Americans as inferior to whites. In 1803 Ohioans passed what was termed an Act to Organize and Discipline the Militia. This law required all able-bodied "white male citizens" to enroll in the militia. In 1792 the U.S. Congress had barred blacks from military service. Ohio's militia law was thus consistent with federal militia policy.

In the early republic, Americans viewed militia service as both an obligation and a right. The Bill of Rights established the right to keep and bear arms as a fundamental privilege of American citizenship. Thus, the denial of blacks from the militia in Ohio was an explicit statement that African Americans did not share the same status as whites. In addition, in 1803 much of Ohio and the Northwest Territory remained unsettled by white Americans. Americans viewed guns as an essential tool of settlement, primarily for protection against the Native Americans who already occupied the area. Therefore, the right to bear arms and the obligation to serve in the militia were fundamental components of male citizenship on the early frontier. In denying African American men the honor of joining the militia, this law prevented them from fulfilling their social duty as male citizen protectors.

♦ "An Act to Regulate Black and Mulatto Persons"

Another of Ohio's black laws, an Act to Regulate Black and Mulatto Persons, was passed in January of 1804. This law more explicitly outlines the second-class citizenship of African Americans. The 1804 law addresses four issues: immigration, residency, fugitive reclamation, and kidnapping.

The law of 1804 required all blacks entering the state to provide proof of their freedom and to register with the county court. Only those certificates of freedom issued by a court and approved, signed, and sealed by the clerk of the court counted as viable proof of freedom. In order to establish residency, all blacks living in Ohio had to register with the county court and pay a registration fee of twelve and a half cents to the court clerk. African Americans living in Ohio prior to the passage of the 1804 code, as well as new immigrants, were required to register with the court. The law granted all blacks a two-year grace period to register their freedom. African Americans were expected to keep their court-issued certificates of residency with them at all times. The law also made court-issued certificates a requirement for free blacks to find employment. Whites faced a potential fine of fifty dollars for employing African Americans without a certificate or an alternative way to prove their freedom. In addition, if whites hired a fugitive slave, they could be fined fifty cents a day, payable to the owner, for every day of employment.

The immigration and residency requirements established in the 1804 law can be seen as white Ohioans' efforts to control immigration to the state. It is important to note that the law, while restricting immigration, did not completely prohibit blacks from entering Ohio. In the first decades of the nineteenth century the Ohio River was at best a fluid barrier: Whites and blacks regularly crossed this border as migrants and especially as laborers. Ohio's consti-

Time Line

1820
- The admission of Missouri to the United States as a slave state precipitates sectional conflict over slavery in the halls of Congress.

1829
- The first of three major race riots breaks out in Cincinnati, Ohio.

1836
- Cincinnati is the site of an antiabolitionist riot.

1841
- **August**
  Racial violence erupts again in Cincinnati when blacks refuse to turn over an alleged fugitive slave.

1849
- The Ohio legislature repeals the laws of 1804 and 1807.

1850
- **September 18**
  In an effort to strengthen the original law, this Fugitive Slave Act makes it a duty of federal marshals and other law-enforcement officials to arrest alleged runaway slaves.

James Birney (Library of Congress)

tution banned slavery in the state, but early settlers continued to hire slaves from Kentucky to work on their farms in Ohio. In fact, historians estimate that Ohioans hired about two thousand slaves per year during the first decade of the nineteenth century. In response to this constant movement across the river, white Ohioans attempted to regulate the border between their free state and the slave states to the south. By forcing free African Americans entering the state to pay a fee, register their freedom, and provide their freedom papers when finding work, whites sought to ensure that all black immigrants were, in fact, free when they entered the state. This made it clear that Ohio was not a refuge for escaping slaves.

There are four reasons why the 1804 law should be seen as an attempt to restrict but not entirely prevent the immigration of African Americans. First, the registration fee was twelve and half cents, which provided only a small burden for immigrants. A higher fee would certainly have indicated an effort to prohibit immigration. Second, the law granted African Americans two years to register their freedom. This window allowed African Americans to obtain official manumission papers from former owners in slave states and gave them the chance to earn enough money to pay the registration fee. Third, the law offered no penalty for noncompliance, and county clerks only sporadically attempted to enforce registration. Finally, other states prohibited the immigration of African Americans outright. Many states in the South moved to this position in the antebellum period, and Indiana, Ohio's western neighbor, prohibited black immigration in its 1851 constitution.

The law of 1804 also made Ohio's policy for the reclamation of fugitive slaves consistent with federal law. Early in 1793 the federal government passed the Fugitive Slave Act, which established the rights of owners to retrieve escaped slaves outside their state of residence. Ohio's law allowed masters or their agents to appeal to state judges or local justices of the peace for a certificate of removal to retrieve a runaway slave. Claimants provided some form of proof that the person was a runaway, and the judicial officer issued a warrant for the arrest of the alleged fugitive. Sheriffs were required to execute these orders. In addition, the law made people convicted of harboring or in any way hindering the retrieval of an alleged fugitive subject to a fine of ten to fifty dollars.

The final provision of the law dealt specifically with the kidnapping of free African Americans. The law dictated that a $1,000 fine be imposed on anyone who removed, attempted to remove, or assisted in the removal of a black person without following the legal process. Half of this fine went to the informer and the other half to the state. The fugitive reclamation and kidnapping provisions of the 1804 law deal directly with Ohio's long border with slaveholding states. The law confirmed the right of slaveholders to cross the border and retrieve escaped slaves. This was a clear statement that Ohio was not a refuge for fugitives. Therefore, while Ohio may have been a free state, white Ohioans placated their southern neighbors with their willingness to accommodate the peculiar needs of the so-called peculiar institution of slavery. However, the kidnapping provision also indicated that white Ohioans would not allow slaveholders complete liberty in their state. The law offered a stiff penalty for those attempting to kidnap and remove free African Americans. White Ohioans did, in fact, come to the aid of free blacks when Kentuckians came to carry them back across the border. This suggests that while many whites in Ohio may not have accepted African Americans as equals, at the very least many recognized African Americans as human beings who deserved the most basic level of liberty.

African Americans used the antikidnapping provision in combination with the registration requirement to protect themselves. While probably not the intention of legislators, the registration of their freedom in the courts provided free blacks in Ohio with documented proof of their freedom, which protected them from potential kidnapping.

♦ "An Act to Amend the Last Named Act 'An Act to Regulate Black and Mulatto Persons'"

In an effort led by Representative Beecher, the Ohio legislature amended the Act to Regulate Black and Mulatto Persons in January 1807. The 1807 amendments made a clearer statement about the second-class status of African Americans in Ohio. Under the new law, African Americans had to enter into a bond with two or more property holders "in the penal sum of five hundred dollars" within twenty days of immigrating to Ohio. This did not mean that African

Illustration of pioneers on the Ohio River settling the old Northwest Territory in the late 1700s (AP/Wide World Photos)

Americans had to pay five hundred dollars upon entry to the state; in fact, no money had to be posted by anyone. The bond required that the two property holders agree to pay five hundred dollars only if the migrating person of color failed to maintain "good behavior" and became a burden on the community. In addition, the law raised the fine for employing or harboring unregistered African Americans from fifty to one hundred dollars. Half of this fine was paid to the informant.

The 1804 law did not outline a penalty for African Americans who failed to register with the court. The amendment fixed this loophole and granted the Overseers of the Poor the authority to remove any noncompliant blacks from the township. The Overseers was a state agency charged with the responsibility of regulating paupers; essentially, this law extended the authority of the Overseers to include African Americans. The Overseers of the Poor had the authority to remove paupers, but the law did not require them to do so. In addition, paupers could avoid removal by posting a bond.

Whereas the 1804 laws were aimed primarily at controlling the immigration of African Americans, the 1807 amendments defined the place of African Americans within the state. Many white residents of Ohio had migrated from the slave states of Kentucky and Virginia, where it was widely believed that slavery had made African Americans incapable of enjoying the privileges of freedom. Whites who held these beliefs feared that social anarchy would accompany any form of black emancipation. At the same time, they recognized the value of black labor—provided the terms of employment placed whites in a position of authority. Ohio's constitution allowed indentured servitude as long as both parties entered into the agreement in a perfect state of freedom. This demonstrates that while white Ohioans rejected chattel slavery in their state, they accepted, and perhaps even embraced, contractually bound black labor.

The 1807 amendment reflected this ambivalence. The 1804 law had failed to slow the tide of black migration, and Ohio legislators like Beecher feared that the state would be overrun by black migrants. The 1807 amendment made immigration more prohibitive by binding new migrants to established citizens. The law should be viewed as an attempt to apply the regulatory procedures of a slave system to Ohio's free society. Ohio's black laws put an agency and citizens, rather than slaveholders, directly in charge of regulating the African American population in order to ensure the "good behavior" of its members.

In reality, the immigration restrictions of the 1807 law were seldom enforced. In addition, the Overseers of the Poor received little support for the forceful eviction of unregistered African Americans from the state. The African American population in Ohio grew substantially throughout the pre–Civil War years. Between 1800 and 1830 the state's black population grew from roughly 340 to over 9,500, a fact that has led historians to conclude that the Black Code was much harsher on paper than in practice. Nonetheless, the code made it clear that African Americans were not welcome and, perhaps even more significant, not trusted in Ohio. The laws put the burden of proof of freedom on African Americans and were indicative of the precarious position of blacks in Ohio.

The final provisions of the 1807 amendment further restricted the rights of African Americans in Ohio: "No black or mulatto person or persons shall hereafter be permitted to be sworn or give evidence in any court of record, or elsewhere, in this state, in any cause depending, or matter of controversy, where either party to the same is a white person." A white person could testify in an Ohio court against a black person, but a black person could testify only in a case that involved another African American; thus, blacks could not offer testimony for or against white defendants. By denying them complete access to the justice system, this final provision further defined African Americans as second-class citizens in Ohio. African Americans were the only group specifically excluded from the courts. As a result of this law, whites were not prosecuted for crimes committed against African Americans. Free African Americans vehemently complained about this restriction in newspapers such as the *Colored American* and during the reformist convention movement of the 1840s—a movement to pressure local governments and the federal government to enfranchise black men and protect the civil rights of African Americans. Blacks believed that this law, perhaps more than any other, left them susceptible to persecution and even reenslavement.

Audience

Despite the fact that few Ohioans likely read the actual text of the laws, the Black Code addressed all Ohio residents and visitors. The laws also targeted two specific audiences: First, because they were meant to deter black migration to the state, the laws addressed free black residents and migrants to Ohio. Second, they addressed Ohio's neighbors to the south. The laws defined the procedures for African American movement across the border between slavery and freedom and thus were directed at white Kentuckians and Virginians.

Impact

Ohio's Black Code had little immediate impact on the movement of African Americans into the state. The immigration laws were seldom enforced, and African Americans continued to migrate to the state. The black population in Ohio grew steadily throughout the antebellum period, with the city of Cincinnati developing a vibrant African American community. However, the laws did make clear that white Ohioans did not welcome African Americans into their state, and the statutes legislating the second-class status of African Americans, particularly their inability to testify in court in cases involving whites, had a stronger impact. African Americans were effectively unable to use the law to protect themselves from assaults by white Americans. Blacks repeatedly expressed their hatred of this law in newspapers such as the *Colored American*.

The Ohio Black Code gained symbolic importance throughout the antebellum period. White abolitionists such as James Birney and John Rankin joined free African Americans in attacking the injustice of the laws. Salmon P. Chase, an American lawyer who would later serve on the U.S. Supreme Court, made legal efforts to define Ohio's free soil and undermine the Black Code. The movement to repeal the laws gained steam in the 1830s, when free African Americans, led by the American educator and diplomat John Mercer Langston, launched the State Convention of Colored Men to formally protest the laws. At these conventions, black leaders targeted education, suffrage, and the right to testify in court in their petitions to the state government. The Ohio government repealed the black laws of 1804 and 1807 in 1849. While black and white antislavery leaders applied pressure on the government, ultimately the repeal was the result of a political deal between the Democratic Party and the Free Soil Party. Chase brought these parties together, bargaining for his own election as senator and the repeal of the Black Code in return for the election of two Democrats as Ohio's congressional representatives. Immediately on the heels of this repeal, however, the federal government enacted the Fugitive Slave Act of 1850, requiring law-enforcement officials to arrest alleged fugitive slaves and greatly undermining the security of black freedom throughout the country.

Historians have long understood Ohio's Black Code as symptomatic of the racist undertones that tainted northern claims of antislavery ideals. Most famously, Eugene Berwanger argues that white midwesterners were against slavery *because* they were antiblack. Essentially, Berwanger makes the argument that midwesterners' antislavery sentiment stemmed from their racial prejudice. Thus, they sought to keep slavery isolated to the South, with the hope of its eventual termination, because they believed that the end of slavery would also lead to the elimination of the African American population from the country. Specialists in the field of African American history have similarly used Ohio's Black Code to highlight the national scope of racism in early America and the limits on black freedom. More recently, experts have looked at the limitations and contradictions of these laws. Historians such as Stephen Middleton point to the ways in which African Americans challenged the legality of the Black Code and even used it to protect their freedom. Paul Finkelman highlights the relative weakness of the Ohio's Black Code in light of other laws dealing with race in northern states

Essential Quotes

"Each and every free, able-bodied, white male citizen of the state, who is or shall be of the age of eighteen and under the age of forty-five years, except as hereinafter excepted, shall severally and respectively be enrolled in the militia."

(An Act to Organize and Discipline the Militia)

"From and after the first day of June next [1804], no black or mulatto person, shall be permitted to settle or reside in this state, unless he or she shall first produce a fair certificate from some court with the United States, of his or her actual freedom, which certificate shall be attested by the clerk of said court."

(An Act to Regulate Black and Mulatto Persons)

"No person or persons' residents of this state, shall be permitted to hire, or in any way employ any black or mulatto person, unless such black or mulatto person shall have one of the certificates as aforesaid."

(An Act to Regulate Black and Mulatto Persons)

"In case any person or persons, his or their agents, claiming any black or mulatto person that now are, or hereafter may be in this state, may apply, upon making satisfactory proof that such black or mulatto person or persons is the property of him or her … the associate judge or justice is thereby empowered … to arrest such black or mulatto person or persons."

(An Act to Regulate Black and Mulatto Persons)

"No negro or mulatto person shall be permitted to … settle within this state, unless such negro or mulatto person shall, within twenty days thereafter, enter into bond … in the penal sum of five hundred dollars."

(An Act to Amend the Last Named Act "An Act to Regulate Black and Mulatto Persons")

"No black or mulatto person or persons shall hereafter be permitted to be sworn or give evidence in any court of record, or elsewhere, in this state, in any cause depending, or matter of controversy, where either party to the same is a white person."

(An Act to Amend the Last Named Act "An Act to Regulate Black and Mulatto Persons")

and the lack of enforcement as evidence of white Ohioans' ambivalence about the presence of African Americans in the state. Still, much work remains to be done on the social and cultural impact of the Black Code outside of the legal system.

See also Fugitive Slave Act of 1793; Fugitive Slave Act of 1850; Black Code of Mississippi (1865).

Further Reading

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—Matthew Salafia

Questions for Further Study

1. Typically, the phrase *Black Code* is used to refer to the legal and social system that kept African Americans in subservient positions in the South after the Reconstruction period following the Civil War. Using this document in connection with the discussion surrounding the Ku Klux Klan Act, discuss the similarities and differences between the post-Reconstruction Black Codes and the Ohio Black Code.

2. In what way did the attitudes of the southern slave states makes themselves felt in Ohio, a nominally free state?

3. While the Ohio Black Code legislated the second-class status of African Americans, it at least afforded some measure of protection to African Americans and was not as severe as the laws in other states. Which provisions of the Ohio Black Code represented at least some measure of accommodation to African Americans? What steps were taken by individuals to lessen the severity of the Ohio Black Code?

4. Do you agree with Eugene Berwanger's thesis that midwesterners wanted to isolate slavery in the South because in that way African Americans would eventually disappear—thus suggesting that racism was as endemic in the North as it was in the South?

5. What effect did the Fugitive Slave Act of 1850 have in undermining the security of African Americans, despite the repeal of the Ohio Black Code in 1849?

Document Text

Ohio Black Code

♦ An Act to Organize and Discipline the Militia

Section 1. Be it enacted by the General Assembly of the State of Ohio, That each and every free, able-bodied, white male citizen of the state, who is or shall be of the age of eighteen and under the age of forty-five years, except as hereinafter excepted, shall severally and respectively be enrolled in the militia; by the captain or commanding officer of the company within whose bounds such citizens shall reside, within twenty days next after such residence.

♦ An Act to Regulate Black and Mulatto Persons

Section 1. Be it enacted by the General Assembly of the State of Ohio, that from and after the first day of June next, no black or mulatto person, shall be permitted to settle or reside in this state, unless he or she shall first produce a fair certificate from some court with the United States, of his or her actual freedom, which certificate shall be attested by the clerk of said court, and the seal thereof annexed thereto, by the said clerk.

Section 2. That every black or mulatto person residing within this state, on or before the first day of June, one thousand eight hundred and four, shall enter his or her name together with the name or names of his or her children, in the clerk's office in the county in which he, she, or they reside, which shall be entered on record by said clerk, and thereafter the clerk's certificate of such record shall pay to the clerk twelve and an half cents: Provided nevertheless, That nothing in this act contained shall bar the lawful claim to any black or mulatto person.

Section 3. That no person or persons' residents of this state, shall be permitted to hire, or in any way employ any black or mulatto person, unless such black or mulatto person shall have one of the certificates as aforesaid, under pain of forfeiting and paying any sum not less than ten nor more than fifty dollars, at the discretion of the court, for every such offense, one half thereof for the use of the informer, and the other half for the use of the state; and shall moreover pay to the owner, if any there be, of such black or mulatto person, the sum of fifty cents for every day he, she or they shall in otherwise employ, harbor or be recoverable before any court having cognizance thereof.

Section 4. That if any person or persons shall harbor or secret any black or mulatto person, the property of any person whatever, or shall in anywise hinder or prevent the lawful owner or owners from retaking and possessing his or her black or mulatto servant or servants, shall, upon conviction thereof, by indictment or information, be fined in any sum not less than ten nor more than fifty dollars, at the discretion of the court, one-half thereof for the use of the informer and the other half for the use of the state.

Section 5. That every black or mulatto person who shall come to reside in this state with such certificates as is required in the first section of this act, shall, within two years, have the same recorded in the clerk's office, in the county in which he or she means to reside, for which he or she shall pay to the clerk twelve and an half cents, and the clerk shall give him or her a certificate of such record.

Section 6. That in case any person or persons, his or their agent or agents, claiming any black or mulatto person that now are, or hereafter may be in this state, may apply, upon making satisfactory proof that such black or mulatto person or persons is the property of him or her who applies to any associate judge or justice of the pace within this state, the associate judge or justice is thereby empowered and required, by his precept, to direct the sheriff or constable to arrest such black or mulatto person or persons, and deliver the same in the county or township where such officers shall reside, to the claimant or claimants or his or their agents, for which service the sheriff or constable shall receive such compensation as they are entitled to receive in other cases for similar services.

Section 7. That any person or persons who shall attempt to remove or shall remove from this state, or who shall aid and assist in removing, contrary to the provisions of this act, any black or mulatto person or persons, without first proving as herein before directed, that he, she or they, is or are legally entitled so to do, shall on conviction thereof, before any court having cognizance of the same, forfeit and pay the sum of one thousand dollars, one-half to the use of the informer and the other half to the use of the state to be recovered by action of debt, *qui tam*, or indictment, and moreover be liable to the action of the party injured.

Document Text

♦ An Act to Amend the Last Named Act "An Act to Regulate Black and Mulatto Persons"

Section 1. Be it enacted by the General Assembly of the State of Ohio, that no negro or mulatto person shall be permitted to emigrate into, and settle within this state, unless such negro or mulatto person shall, within twenty days thereafter, enter into bond with two or more freehold sureties, in the penal sum of five hundred dollars, before the clerk of the court of common pleas of the county in which such negro or mulatto person may wish to reside, (to be approved of by the clerk), conditioned for the good behavior of such negro or mulatto, and moreover to pay for the support of such person, in case he, she or they should thereafter be found within any township in this state, unable to support themselves. And if any negro or mulatto person shall migrate in this state, and not comply with the provisions of this act, it shall be the duty of the overseer of the poor of the township where such negro or mulatto person may be found to remove immediately such black or mulatto person, in the same manner as is required in the case of paupers.

Section 2. That it shall be the duty of the clerk, before whom such bond may be given as given as aforesaid, to file the same in his office, and give a certificate thereof to such negro or mulatto person; and the said clerk shall be entitled to receive the sum of one dollar for the bond and certificate aforesaid, on the delivery of the certificate.

Section 3. That if any person, being a resident of this state, shall employ, harbor or conceal any such negro or mulatto person aforesaid, contrary to the provisions of the first section of this act, any person offending shall forfeit and pay, for every such offence, any sum not exceeding one hundred dollars, the one half to the informer, and the other half for the use of the poor of the township in which such person may reside, to be recovered by action of debt, before any court having competent jurisdiction; and moreover be liable for the maintenance and support of such negro or mulatto, provided be, she or they shall become unable to support themselves.

Section 4. That no black or mulatto person or persons shall hereafter be permitted to be sworn or give evidence in any court of record, or elsewhere, in this state, in any cause depending, or matter of controversy, where either party to the same is a white person.

Section 5. That so much of the act, entitled "an act to regulate black and mulatto persons," as is contrary to this act, together with the sixth section thereof, be and the same is hereby repealed. This act shall take effect and be in force from and after the first day of April next.

Glossary

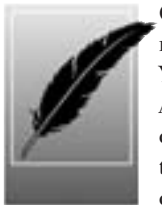
qui tam	a legal instrument whereby an individual who assists a prosecution can receive all or part of the monetary penalty imposed

Peter Williams, Jr.'s "Oration on the Abolition of the Slave Trade"

1808

"By [education], and similar methods, with divine assistance they assailed the dark dungeon of slavery."

Overview



On January 1, 1808, as part of the forenoon service at the African Church in New York City, Peter Williams, Jr., a young, free African American abolitionist, gave an address entitled "An Oration on the Abolition of the Slave Trade." The church was celebrating the implementation that day of a law passed the year before, banning the external slave trade in the United States. The day's events included two services with prayers, hymns, and orations as well as a reading of the 1807 act. Williams's oration tells some of the history of the African slave trade and the sorrows of slavery, but it also praises God for hearing the slaves' prayers and expresses gratitude to all the white abolitionists who had been striving for the end of the Atlantic slave trade and emancipation for African American slaves. After delivery of this oration, very little time was wasted before Williams was asked to put together a copy for publication. The result was one of the earliest publications on abolition by an African American.

Context

When the British colonies in North America declared their independence from the mother country in 1776, every colony except Rhode Island had, to some extent, a system of slave labor. During and shortly after the time of the Revolution, many northern states decided to adopt programs of gradual emancipation for their slaves. However, when the Constitutional Convention met in 1787, there was debate about whether the legislative branch of government, which would have power over trade, would be able to prohibit the importation of slaves into the country. The southern states would have none of this, and the northern states knew that if Congress were allowed to prohibit the slave trade right away, many of the slave states would not ratify the Constitution. Thus, a provision was made for keeping open the Atlantic slave trade until at least the year 1808 (Article I, Section 9). This served as a compromise between slaving interests and their opponents: The trade would be banned, but not for twenty years—giving the slave states ample time to build up their labor supply from sources outside the country and to develop a self-sustaining system. Although it was not the best news for southern states, which still earned their economic livelihood through agriculture based upon slave labor, it was better than having the importation of slaves prohibited outright.

Many people opposed the Atlantic slave trade because of the manner in which it was conducted. Africans to be auctioned in the Americas were crowded into a ship so tightly packed that they could not turn over when they slept. The Middle Passage, as the trip across the Atlantic was called, was an ordeal in itself, as sickness was prevalent, conditions horrible, malnutrition rampant, and fresh air and exercise rare. Indeed, every so often one of these human cargo—for they were treated more like cargo than humans—would cast himself overboard rather than see what might lie at the trip's end.

Philanthropists and humanitarians found this trade abhorrent and worked to stop it. Northern states began to pass their own laws against the external slave trade, and New York itself, the home of Peter Williams, passed legislation ending the overseas importation of slaves into the state in 1788. The pressure of abolitionist groups upon President Thomas Jefferson caused him to recommend strongly in his 1806 year-end address that Congress adopt the bill that Senator Stephen Roe Bradley of Vermont had introduced the year before, designed to ensure the end of the Atlantic slave trade to the United States as soon as the Constitution would allow. On the second day of March in 1807, Congress passed the act that would prohibit the importation of slaves into the United States, effective January 1, 1808. On the very next day President Jefferson signed it into law.

This formal prohibition was hailed as a milestone in abolitionist and antislavery circles. It was tantamount to national recognition of the evils of the slave trade and perhaps slavery itself. The day it took effect in 1808, African Americans and white abolitionists alike celebrated all over the North; New York, with its great numbers of freed slaves and free blacks, was a particularly festive place to be. Nevertheless, an illicit international slave trade persisted in the United States wherever dealers could make a sale, and the legal buying and selling of slaves across state lines continued un-

Time Line

1787

- The Constitutional Convention at Philadelphia adopts a clause, in Article I, Section 9, that prohibits Congress from restricting the external slave trade until 1808.

1788

- New York State passes a law banning the importation of slaves into the state from outside the country.

1796

- Peter Williams, Sr., helps found, in New York City, the institution that would become the African Methodist Episcopal Zion Church.

1799

- New York adopts a policy of gradual emancipation for all the slaves in the state, to be complete by July 1827.

1805

- **December**
  Senator Stephen Roe Bradley of Vermont introduces a bill in Congress to ban U.S. participation in the external slave trade, starting in 1808.

1806

- **December**
  In his annual message, President Thomas Jefferson urges Congress to enact the ban.

1807

- **March**
  Congress passes Bradley's bill, and President Jefferson signs it into law.
- **March 25**
  The Abolition Act of Great Britain prohibits the slave trade on British ships throughout the empire.

1808

- **January 1**
  The law banning the external slave trade in the United States goes into effect; Peter Williams, Jr., gives his "Oration on the Abolition of the Slave Trade" at the New York African Church, and publishes it later in the month

abated in the parts of the country where slavery still existed. Not until the formal end of slavery, with the passage of the Thirteenth Amendment in December 1865, would all slave trade, internal and external, legal or not, end.

About the Author

Peter Williams, Jr., was born around 1780, in Brunswick, New Jersey. His mother, Mary Durham, was an indentured servant from Saint Kitts, and his father, Peter Williams, Sr., was a slave who purchased his freedom in 1785. Williams, Sr., had fought on the side of the Patriots in the Revolutionary War and instilled in his son a love for the nation and its government. The family moved to New York, where a growing number of free blacks were living. There the elder Williams sold tobacco, while young Peter attended the African Free School and had private tutors. In 1796, Williams, Sr., helped found the first African Methodist Episcopal Zion Church in New York.

As an adult, Williams helped in the tobacco business and kept his father's books. He also began to participate in activism against slavery and joined the Episcopal Church. On the first day of the new year in 1808, the young man delivered "An Oration on the Abolition of the Slave Trade" at the African Church in New York, in order to celebrate the occasion of the official end of the legal Atlantic slave trade of Africans. Within a week, Williams was asked to provide a copy for publication.

In 1818, frustrated with the segregation in the Episcopal church he attended in New York (they could use the church only at certain times of the week), Williams established Saint Philip's African Church, which soon relocated to the village of Harlem in the north of Manhattan. He was consecrated as an Episcopal deacon and, in 1826, was ordained as the first black priest in the New York diocese (the second in the United States, after Absalom Jones). Although other Episcopal clergymen did not show Williams the customary respect and the congregation was not allowed into to the diocesan convention, Williams's church continued to grow and came to include several future notable abolitionists, like James McCune Smith and Alexander Crummell.

Williams was very active in different societies for abolition and for black education and relief, including the New York African Society for Mutual Relief and the American Anti-Slavery Society. The year after he was ordained a priest, Williams cofounded the *Freedom's Journal*, the first African American newspaper in the United States, to which some of the leading black writers and activists of the day submitted work. In 1830 he helped organize the Philadelphia National Negro Convention's first session. He founded the Phoenix Society in 1833 to further the education of African Americans. The society aided both children and adults, enrolling them in classes, programs, lectures, and apprenticeships as well as putting together libraries for their use, providing self-improvement groups, and supplying clothing to children who could not otherwise participate.

In July of 1834, as part of a series of area assaults on New York abolitionists, African Americans, and their organizations, Saint Philip's Church was attacked by a mob and damaged. Soon thereafter, Williams received a letter from his bishop advising him to resign from the Anti-Slavery Society for the good of the Episcopal Church and the community. This Williams did, in a public letter, humbly and respectfully. Throughout the rest of his life Williams supported and encouraged education for African Americans and the end of their oppression in all its forms across the nation. He died in New York City on October 17, 1840, a respected and beloved member of the community, remembered for his activism on behalf of African Americans and for his moral courage.

Explanation and Analysis of the Document

At the start of his oration, Williams exhorts his audience to be joyful that the day has come that the Atlantic slave trade—"this inhuman branch of commerce"—has ended and to be grateful to God and to all those who had worked to help it happen, along with those who would continue to work on behalf of black Americans. He also paints a picture of what Africans experienced when ripped from their homes and families and how societies within Africa had changed because of the slave trade. By juxtaposing the joyous news with the mournful and oppressive conditions of those who had been victims of the international slave trade, Williams highlights the gratitude and joy of those who can now celebrate its end.

In the first three paragraphs, Williams introduces the theme of happiness, which "must be extremely consonant to every philanthropic heart." He states that "to us, Africans, and descendants of Africans, this period is deeply interesting." "We are the ones," he goes on, "who have really borne the oppression of the slave trade on our backs; we have been the victims." For this, he notes, African Americans "owe a debt of gratitude to those who have steadily worked for the end of the Atlantic slave trade."

Next Williams describes the history of the slave trade, beginning with a depiction of the Africans before the intrusion of the Europeans on the western coast of Africa: simple, honest, hospitable, affectionate, happy, and close to nature, in a sort of paradise. This depiction may reflect a certain amount of naïveté; on the part of Williams, since Africans had practiced slavery in one form or another for centuries, namely, in the form of debt slavery and slavery as a consequence of war. Or the depiction may simply serve to provide a more dramatic contrast between the earlier West Africa, which practiced a relatively tame form of slavery, and the later West Africa, which seemed to cater to European desires upon its introduction of the economically driven overseas slave trade.

Starting with Christopher Columbus, he traces the history of "civilized man" in Europe and the way in which greed led people to cross the ocean and put the Native Americans to work for them in the mines. In this they "violated the sacred injunctions of the gospel." When these first settlers found the Native Americans unsuited for such heavy labor, they sought some other way to carry on the mining and other work. The means was found in the African slave trade.

African captives leaping off a slave ship near the coast of Africa in the 1700s (AP/Wide World Photos)

Begun on a regular basis by the Genoese in 1517, according to Williams (following William Robertson's *History of America*, 1777), the slave trade "has increased to an astonishing, and almost incredible degree." The Africans to be sold were obtained at first by surprising and overwhelming coastal towns. Once the coastal towns realized what was happening, the people moved inland, joining with their fellows to defend their whole society. The intruders knew that if they could not separate the Africans, they could not capture any more slaves. So, feigning "a friendly countenance," they offered the people gifts and "gaudy trifles." By giving such gifts, they also gave them a spirit of avarice. Avarice, Williams laments in elaborate rhetoric, was the downfall of Greece, of Rome, and now of Africa.

Because of the spread of greed, the Africans started to turn on each other, make war on each other, and enforce stricter laws, since, according to the deal struck with the

Essential Quotes

"[The Slave Trade's] baneful footsteps are marked with blood; its infectious breath spreads war and desolation; and its train is composed of the complicated miseries, of cruel and unceasing bondage."

(Paragraph 4)

"A spectacle so truly distressing, is sufficient to blow into a blaze, the most latent spark of humanity: but, the adamantine heart of avarice, dead to every sensation of pity, regards not the voice of the sufferers, but hastily drives them to market for sale."

(Paragraph 16)

"[The African slaves'] lives, imbittered by reflection, anticipation, and present sorrows, they feel burthensome; and death, (whose dreary mansions appal the stoutest hearts) they view as their only shelter."

(Paragraph 17)

"By [education], and similar methods, with divine assistance they assailed the dark dungeon of slavery; shattered its rugged wall, and enlarging thousands of the captives, bestowed on them the blessings of civil society."

(Paragraph 29)

"Notwithstanding [our benefactors'] endeavours, they have yet remaining, from interest and prejudice, a number of opposers. These, carefully watching for every opportunity to injure the cause, will not fail to augment the smallest defects in our lives and conversation; and reproach our benefactors with them.… Let us, therefore, by a steady and upright deportment, by a strict obedience and respect to the laws of the land, form an invulnerable bulwark against the shafts of malice."

(Paragraph 31)

Europeans, they could keep getting their trifles in return for prisoners of war and convicts. As bad as this system already was—in that Africa had always had slaves as the result of debts and wars—it was made worse by the greed that encouraged the African people to engage in gratuitous wars with one another, to kidnap and sell one another to the slave traders.

Here Williams tells how the best rulers in Africa were made into tyrants, raiding the villages of their own allies in search of people to sell to the traders. Using rich imagery of the "shrieks of the women; the cries of the children," he conjures up an image of a town ravaged by war—a war started with a neighbor by a ruler who used to be a friend. He describes the different people affected by the battle, the

fire that would settle upon the town in order to force them out. Whoever did not fall would go with the ally-turned-enemy as a captive to be sold to the slave traders. Aware that most people with any sort of heart would react with sympathy to the evocative emotional scenes he conjures up, Williams writes that he knows that those with the "adamantine heart of avarice, dead to every sensation of pity" would not be moved at all. Avarice made these scenes, and avarice would continue to harden and make cold the hearts of those who benefit.

Moving on to the trader's ship, he vividly describes what the people in the slave ships must have felt as they, "with aching hearts, bid adieu, to every prospect of joy and comfort." And here, on this journey, they know that "though defeated in the contest for liberty, their magnanimous souls scorn the gross indignity, and choose death in preference to slavery." They would rather die than become slaves. Williams turns to those in the audience who had come from Africa themselves, saying that they are even better qualified to describe the scenes of wretched parting than he. They know what it is like. But for those who are descendants of Africans, he begins to portray, so they can imagine, the picture of their misery on the slave ship and the forced parting of families once they had arrived at their destination: "See the parting tear, rolling down their fallen cheeks: hear the parting sigh, die on their quivering lips."

By ending the section on slavery with this image of the separation of families, Williams brings the audience back into the present. Although he does not say so specifically, the image is one that could be applied to arrival at port after bringing slaves to America or to the auction block in any town that deals in the internal slave trade. This type of separation would still happen as long as there was buying and selling of slaves in the United States. But this day, at least, they could celebrate one step in the right direction. With this image, Williams brings the audience back to the joyful occasion without letting them forget the work that was still ahead.

"Rejoice, Oh! Africans! ... Rejoice, Oh, ye descendants of Africans!" Williams proclaims. There no longer would be blood shed on African soil for the sake of the avarice of Americans. With eloquent repetition of the phrases "Rejoice!" and "No longer shall," Williams enumerates the atrocities committed by those engaged in the international slave trade—atrocities that would "no longer" happen on African soil. For that, Africans and anyone with "the smallest drop of African blood" should rejoice!

Since there is cause to rejoice, there is also cause to express gratitude. First, Williams prays in thanks to God for hearing the anguished voices of the Africans and for calling those forward who would help stop the slave trade. He thanks God for those who fought in the Revolutionary War and espoused the words of the Declaration of Independence (slightly misquoted) "that all men are created equal; that they are endowed by their Creator with certain unalienable rights; among which are life, liberty, and the pursuit of happiness." He thanks God for listening "when the bleeding African, lifting his fetters, exclaimed, 'am I not a man and a brother[?]'" and sending help his way.

Here Williams starts to name some of the warriors against avarice—"they dared to despise the emoluments of ill gotten wealth, and to sacrifice much of their temporal interests at the shrine of benevolence"—and against slavery. The benefactors he names are John Woolman, Anthony Benezet, and William Wilberforce. John Woolman (1720–1772) was a Quaker abolitionist who traveled over America, exhorting "the denomination of friends" to give up slavery and to rally against it, which they eventually did. Anthony Benezet (1713–1774) believed that all people truly were equal, and because of this belief he founded the first school for African Americans in Philadelphia. A French-born Quaker, he was also an abolitionist as well as the founder of the first public girls' school in America. William Wilberforce (1759–1833), an abolitionist member of the British Parliament, helped put into effect the Abolition Act of Great Britain, which became law on March 25, 1807. This act, like the law passed in the United States earlier that same month, prohibited the carrying of slaves for trade on British ships, effectively limiting if not completely ending the Atlantic slave trade for the British and their colonies.

These are not the only benefactors of the African Americans, Williams asserts. "I have given but a few specimens of a countless number, and no more than the rude outlines of the beneficence of these." Here, the published version (accessible via the University of Nebraska Web site) appends a note naming also the Reverend Mr. Thomas Clarkson (1760–1846), an English abolitionist and Anglican deacon who was a great influence on Wilberforce. Williams begins to speak of the particular endeavors of the benefactors of the African American, both slave and free, basically stating that they had left no legal action untried or avenue untraveled. They had set up schools, worked to end slavery in several states, and helped former slaves make their way in the world with good virtues.

For all this, for the day "which we now celebrate," Williams points out that Africans and descendants of Africans owe these benefactors their utmost gratitude: They should "return to them from the altars of our hearts, the fragrant incense of incessant gratitude." This phrase recalls Psalm 141, verse 2—"let my prayer rise before you as incense"—used in the Episcopal liturgy, showing the influence of the church on Williams's oratory.

Williams closes with an exhortation to his fellow African Americans to learn as much as they can, to follow the laws of their country, and to "form an invulnerable bulwark against the shafts of malice" that others can use to hurt them. This is particularly important in order to keep their benefactors from criticism by their opponents. If anything African Americans do gives any fuel to the "opposers," it would be a poor thanks for all the help the benefactors have given them.

The printed version appends an explanation from Peter Williams that he understands there are some people who would not believe that a young African American had written this oration himself, so he would add here the certifica-

tions of four different white men, including Bishop Benjamin Moore, to vouch for his authorship. All four attest to the authenticity of the publication and to its author.

Audience

The audience gathered on January 1, 1808, in the African Church of New York likely consisted of church members as well as guests who had come to celebrate the ban on the external slave trade. Many of the people were African American, as Williams indicates in his speech—some even with the memory of being taken from Africa and brought to America to be slaves. No doubt the audience also included some of the white benefactors of whom Williams speaks, along with other abolitionists and sympathizers.

After its publication, the oration gained a wider audience. Abolitionist societies would have made sure of this. Many abolitionists held the opinion that the end of the external slave trade would lead to the emancipation of all slaves. The publication of this oration advanced the cause of abolitionists by demonstrating the intelligence of African Americans and by convincing skeptics that freed slaves, when educated properly—as Williams had been—would be an asset to society rather than a burden.

Impact

Not more than a week had passed before Peter Williams received a letter urging him to provide a copy of the oration, as "[The Committee of arrangements] apprehend a usefulness will arise from its publication." According to this letter, the reception of the oration was warm, and the audience was pleased. This committee hoped that the publication would be "a means of enlightening the minds of some, and of promoting the great work of emancipation, as it relates to the African race in general, who are still held in bondage in the United States, and in other parts of the world." As one of the first publications on abolition by an African American, the oration continues to hold a place of honor in African American history.

The prohibition of the slave trade had a positive, if not ideal, impact on the practice of slavery where it still existed. No longer did a slave master have a steady supply of slaves coming in from Africa and the West Indies. This limit to the supply chain forced slave masters to improve their treatment of slaves and their children—to treat them at least as well as they did their valued livestock—or else to pay higher prices for slaves traded internally. Cutting off the ready supply caused the price of slaves to increase, thus giving slaveholders an incentive to keep their slaves healthy, if not happy. It became more difficult to replace a slave who died or became incapacitated. Thus, slaveholders had to rethink their practices.

Of course, the end of the legal external slave trade was only a step. A large area of the country continued practicing slavery, even in the North (though Peter Williams's home state, New York, had adopted a policy of gradual emancipation in 1799, to be completed by July 4, 1827). Much discrimination and prejudice against free African Americans also persisted in the North. The abolitionists simply kept going, trying to raise awareness—particularly among the increasingly oblivious northerners—about slavery and its evils. Unfortunately, in 1808 abolitionist societies were not quite ready to take on the proslavery arguments coming from the South. These societies had not come together yet to present a united front against the proslavery forces, with solid counterarguments, and so they did not have the power necessary to adequately fight these arguments. This would come about only over the next several decades. There were others in the wider antislavery movement who were not necessarily abolitionists but who were for eventual emancipation and against the spread of slavery to new areas of the country. When the country began to ponder whether territories added to United States would allow slavery, these other antislavery forces began to lend credence to some of the abolitionist arguments against slavery and its spread, as well as add new arguments. Thus, both abolitionist and antislavery forces were strengthened during this debate over the introduction of slavery into new territories (started in earnest because of Missouri's application for statehood and the resulting Missouri Compromise of 1820); it forced them to define themselves as a unified movement. Until this happened, however, abolitionist societies had limited power to persuade many in the North, much less the South, that slavery should be abolished in the entire nation.

In the early decades of the nineteenth century, abolitionist societies came together especially to educate freed slaves and poor African Americans and help them support themselves and their families. By educating African Americans, these societies sought to make them more acceptable in an overwhelmingly white North. This campaign succeeded, but only to a limited extent. Even Peter Williams himself, an educated, respected, and active abolitionist, was denied admittance to the 1806 Convention of Abolitionist Societies in Philadelphia because he was not white. There was still a great deal of work to be done.

See also John Woolman's "Some Considerations on the Keeping of Negroes" (1754); Slavery Clauses in the U.S. Constitution (1787); *Twelve Years a Slave: Narrative of Solomon Northup* (1853).

Further Reading

■ Books

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Foner, Philip S., and Robert James Branham. *Lift Every Voice: African American Oratory, 1787–1900*. Tuscaloosa: University of Alabama Press, 1998.

Horton, James O. *In Hope of Liberty: Culture, Community, and Protest Among Northern Free Blacks, 1700–1860*. New York: Oxford University Press, 1998.

■ Web Sites

"Peter Williams, Jr." *Slavery in New York: Life Stories—Profiles of Black New Yorkers during Slavery and Emancipation*. New-York Historical Society Web site.
http://www.slaveryinnewyork.org/PDFs/Life_Stories.pdf.

Williams, Peter, Jr. "An Oration on the Abolition of the Slave Trade; Delivered in the African Church in the City of New-York, January 1, 1808." DigitalCommons@University of Nebraska—Lincoln Web site.
http://digitalcommons.unl.edu/cgi/viewcontentcgi?article=1015&context=etas.

—Angela M. Alexander

Questions for Further Study

1. Explain the difference between the abolition of slavery and the abolition of the slave trade.

2. How did the constitutional provisions for legally ending the slave trade represent a compromise between northern and southern interests? Why did the free states of the North acquiesce in part to southern demands to continue the slave trade?

3. Compare and contrast Williams's oration with David Walker's *Appeal to the Coloured Citizens of the World* (1829). Do the two documents have different emphases? Different tones? Explain.

4. According to Williams, what was the effect of the slave trade on Africa? How, for example, did it lead to the corruption of the people and their rulers?

5. The international slave trade was abolished, but that did not entirely eliminate the movement of people for the purposes of slavery. How did Americans respond to the abolition of the slave trade? How did an incident such as that discussed in the entry *United States v. Amistad* (1841) indicate that the horrors of the slave trade had not entirely ended?

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Peter Williams, Jr.'s "Oration on the Abolition of the Slave Trade"

Fathers, Brethren, and Fellow Citizens,

At this auspicious moment, I felicitate you, on the abolition of the Slave-Trade. This inhuman branch of commerce, which, for some centuries past, has been carried on to a considerable extent, is, by the singular interposition of Divine Providence, this day extinguished. An event so important, so pregnant with happy consequences, must be extremely consonant to every philanthropic heart.

But to us, Africans, and descendants of Africans, this period is deeply interesting. We have felt, sensibly felt, the sad effects of this abominable traffic. It has made, if not ourselves, our forefathers and kinsmen its unhappy victims; and pronounced on them, and their posterity, the sentence of perpetual slavery. But benevolent men, have voluntarily stepped forward, to obviate the consequences of this injustice and barbarity. They have striven, assiduously, to restore our natural rights; to guaranty them from fresh innovations; to furnish us with necessary information; and to stop the source from whence our evils have flowed.

The fruits of these laudable endeavors have long been visible; each moment they appear more conspicuous; and this day has produced an event which shall ever be memorable and glorious in the annals of history. We are now assembled to celebrate this momentous era; to recognize the beneficial influences of humane exertions; and by suitable demonstrations of joy, thanksgiving, and gratitude, to return to our heavenly Father, and to our earthly benefactors, our sincere acknowledgements.

Review, for a moment, my brethren, the history of the Slave Trade, engendered in the foul recesses of the sordid mind, the unnatural monster inflicted gross evils on the human race. Its baneful footsteps are marked with blood; its infectious breath spreads war and desolation; and its train is composed of the complicated miseries, of cruel and unceasing bondage.

Before the enterprising spirit of European genius explored the western coast of Africa, the state of our forefathers was a state of simplicity, innocence, and contentment. Unskilled in the arts of dissimulation, their bosoms were the seats of confidence; and their lips were the organs of truth. Strangers to the refinements of civilized society, they followed with implicit obedience, the (simple) dictates of nature. Peculiarly observant of hospitality, they offered a place of refreshment to the weary, and an asylum to the unfortunate. Ardent in their affections, their minds were susceptible of the warmest emotions of love, friendship, and gratitude.

Although unacquainted with the diversified luxuries and amusements of civilized nations, they enjoyed some singular advantages, from the bountiful hand of nature; and from their own innocent and amiable manners, which rendered them a happy people. But, alas! this delightful picture has long since vanished; the angel of bliss has deserted their dwelling; and the demon of indescribable misery, has rioted, uncontrolled, on the fair fields of our ancestors.

After Columbus unfolded to civilized man, the vast treasures of this western world, the desire of gain, which had chiefly induced the first colonists of America, to cross the waters of the Atlantic, surpassing the bounds of reasonable acquisition, violated the sacred injunctions of the gospel, frustrated the designs of the pious and humane; and enslaving the harmless aborigines, compelled them to drudge in the mines.

The severities of this employment was so insupportable to men who were unaccustomed to fatigue, that, according to Robertson's "History of America," upwards of nine hundred thousand, were destroyed in the space of fifteen years, on the island of Hispaniola. A consumption so rapid, must, in a short period, have deprived them of the instruments of labour; had not the same genius, which first produced it, found out another method to obtain them. This was no other than the importation of slaves, from the coast of Africa.

The Genoese made the first regular importation, in the year 1517, by virtue of a patent granted by Charles, of Austria, to a Flemish favorite; since which, this commerce has increased to an astonishing, and almost incredible degree.

After the manner of ancient piracy, descents were first made on the African coast; the towns bordering on the ocean were surprised, and a number of the inhabitants carried into slavery.

Alarmed at these depredations, the natives fled to the interior; and there united to secure themselves

from the common foe. But the subtle invaders, were not easily deterred from their purpose. Their experience, corroborated by historical testimony, convinced them, that this spirit of unity, would baffle every violent attempt; and that the most powerful method to dissolve it, would be to diffuse in them, the same avaricious disposition which they themselves possessed; and to afford them the means of gratifying it, by ruining each other. Fatal engine: fatal thou hast proved to man in all ages: where the greatest violence has proved ineffectual, thy undermining principles have wrought destruction. By thy deadly power, the strong Grecian arm, which bid the world defiance, fell nerveless; by thy potent attacks, the solid pillars of Roman grandeur shook to their base; and, Oh! Africans! by this parent of the Slave Trade, this grandsire of misery, the mortal blow was struck, which crushed the peace and happiness of our country. Affairs now assumed a different aspect; the appearances of war were changed into the most amicable pretensions; presents apparently inestimable were made; and all the bewitching and alluring wiles of the seducer, were practised. The harmless African, taught to believe a friendly countenance, the sure token of a corresponding heart, soon disbanded his fears, and evinced a favourable disposition, towards his flattering enemies.

Thus the foe, obtaining an intercourse, by a dazzling display of European finery, bewildered their simple understandings, and corrupted their morals. Mutual agreements were then made; the Europeans were to supply the Africans, with those gaudy trifles which so strongly affected them; and the Africans in return, were to grant the Europeans, their prisoners of war, and convicts, as slaves. These stipulations naturally tending to delude the mind, answered the two-fold purpose of enlarging their criminal code, and of exciting incessant war, at the same time, that it furnished a specious pretext, for the prosecution of this inhuman traffic. Bad as this may appear, had it prescribed the bounds of injustice, millions of unhappy victims might have still been spared. But, extending widely beyond measure, and without control, large additions of slaves were made, by kidnapping, and the most unpalliated seizures.

Trace the past scenes of Africa, and you will manifestly perceive, these flagrant violations of human rights. The prince who once delighted in the happiness of his people; who felt himself bound by a sacred contract to defend their persons and property; was turned into their tyrant and scourge: he, who once strove to preserve peace, and good understanding with the different nations; who never unsheathed his sword, but in the cause of justice; at the signal of a slave ship, assembled his warriors, and rushed furiously upon his unsuspecting friends. What a scene does that town now present, which a few moments past was the abode of tranquillity. At the approach of the foe, alarm and confusion pervade every part; horror and dismay are depicted on every countenance; the aged chief starting from his couch, calls forth his men, to repulse the hostile invader: all ages obey the summons; feeble youth, and decrepit age, join the standard; while the foe, to effect his purpose, fires the town.

Now, with unimaginable terror the battle commences: hear now the shrieks of the women; the cries of the children; the shouts of the warriors; and the groans of the dying. See with what desperation the inhabitants fight in defence of their darling joys. But, alas! overpowered by a superior foe, their force is broken; their ablest warriors fall; and the wretched remnant are taken captives.

Where are now those pleasant dwellings, where peace and harmony reigned incessant? where those beautiful fields, whose smiling crops, and enchanting verdure, enlivened the heart of every beholder? Alas! those tenements are now enveloped in destructive flames; those fair fields are now bedewed with blood, and covered with mangled carcasses. Where are now those sounds of mirth and gladness, which loudly rang throughout the village? where those darling youth, those venerable aged, who mutually animated the festive throng? Alas! those exhilarating peals, are now changed into the dismal groans of inconceivable distress: the survivors of those happy people, are now carried into cruel captivity. Ah! driven from their native soil, they cast their languishing eyes behind, and with aching hearts, bid adieu, to every prospect of joy and comfort.

A spectacle so truly distressing, is sufficient to blow into a blaze, the most latent spark of humanity: but, the adamantine heart of avarice, dead to every sensation of pity, regards not the voice of the sufferers, but hastily drives them to market for sale.

Oh, Africa, Africa! to what horrid inhumanities have thy shores been witness; thy shores, which were once the garden of the world, the seat of almost paradisiacal joys, have been transformed into regions of woe: thy sons, who were once the happiest of mortals, are reduced to slavery, and bound in weighty shackles, now fill the trader's ship. But, though defeated in the contest for liberty, their magnanimous souls scorn the gross indignity, and choose death in preference to slavery. Painful; Ah! painful, must be that existence, which the rational mind can deliber-

ately doom to self-destruction. Thus, the poor Africans, robbed of every joy, while they see not the most transient, glimmering, ray of hope, to cheer their saddened hearts, sink into the abyss of consummate misery. Their lives, imbittered by reflection, anticipation, and present sorrows, they feel burthensome; and death, (whose dreary mansions appal the stoutest hearts) they view as their only shelter.

You, my brethren, beloved Africans, who had passed the days of infancy, when you left your country; you best can tell the aggravated sufferings, of our unfortunate race: your memories can bring to view these scenes of bitter grief. What, my brethren, when dragged from your native land, on board the slave ship; what was the anguish which you saw, which you felt? what the pain, what the dreadful forebodings, which filled your throbbing bosoms?

But you, my brethren, descendants of African forefathers, I call upon you, to view a scene of unfathomable distress. Let your imagination carry you back to former days. Behold a vessel, bearing our forefathers and brethren, from the place of their nativity, to a distant and inhospitable clime: behold their dejected countenances; their streaming eyes; their fettered limbs: hear them, with piercing cries, and pitiful moans, deploring their wretched fate. After their arrival in port, see them separated without regard to the ties of blood or friendship: husband from wife; parent from child; brother from sister; friend from friend. See the parting tear, rolling down their fallen cheeks: hear the parting sigh, die on their quivering lips.

But, let us no longer pursue a theme of boundless affliction. An enchanting sound now demands your attention. Hail! hail! glorious day, whose resplendent rising, disperseth the clouds, which have hovered with destruction over the land of Africa; and illumines it, by the most brilliant rays of future prosperity. Rejoice, Oh! Africans! No longer shall tyranny, war, and injustice, with irresistible sway, desolate your native country: no longer shall torrents of human blood deluge its delightful plains: no longer shall it witness your countrymen, wielding among each other the instruments of death; nor the insidious kidnapper, darting from his midnight haunt, on the feeble and unprotected: no longer shall its shores resound, with the awful howlings of infatuated warriors, the death-like groans of vanquished innocents, nor the clanking fetters of woe-doomed captives. Rejoice, Oh, ye descendants of Africans! No longer shall the United States of America, nor the extensive colonies of Great-Britain, admit the degrading commerce, of the human species: no longer shall they swell the tide of African misery, by the importation of slaves. Rejoice, my brethren, that the channels are obstructed through which slavery, and its direful concomitants, have been entailed on the African race. But, let incessant strains of gratitude be mingled with your expressions of joy. Through the infinite mercy of the great Jehovah, this day announces the abolition of the Slave-Trade. Let, therefore, the heart that is warmed by the smallest drop of African blood, glow in grateful transports; and cause the lofty arches of the sky to reverberate eternal praise to his boundless goodness.

Oh, God! we thank thee, that thou didst condescend to listen to the cries of Africa's wretched sons; and that thou didst interfere in their behalf At thy call humanity sprang forth, and espoused the cause of the oppressed: one hand she employed in drawing from their vitals the deadly arrows of injustice; and the other in holding a shield, to defend them from fresh assaults: and at that illustrious moment, when the sons of 76 pronounced these United States free and independent; when the spirit of patriotism, erected a temple sacred to liberty; when the inspired voice of Americans first uttered those noble sentiments, "we hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; among which are life, liberty, and the pursuit of happiness;" and when the bleeding African, lifting his fetters, exclaimed, "am I not a man and a brother;" then with redoubled efforts, the angel of humanity strove to restore to the African race, the inherent rights of man.

To the instruments of divine goodness, those benevolent men, who voluntarily obeyed the dictates of humanity, we owe much. Surrounded with innumerable difficulties, their undaunted spirits, dared to oppose a powerful host of interested men. Heedless to the voice of fame, their independent souls dared to oppose the strong gales of popular prejudice. Actuated by principles of genuine philanthropy, they dared to despise the emoluments of ill gotten wealth, and to sacrifice much of their temporal interests at the shrine of benevolence.

As an American, I glory in informing you, that Columbia boasts the first men, who distinguished themselves eminently, in the vindication of our rights, and the improvement of our state.

Conscious that slavery was unfavourable to the benign influences of christianity, the pious Woolman, loudly declaimed against it; and although destitute of fortune, he resolved to spare neither time nor pains to check its progress. With this view he

Document Text

travelled over several parts of North America on foot, and exhorted his brethren, of the denomination of friends, to abjure the iniquitous custom. These, convinced by the cogency of his arguments, denied the privileges of their society to the slave-holder; and zealously engaged in destroying the aggravated evil. Thus, through the beneficial labours of this pattern of piety and brotherly kindness, commenced a work which has since been promoted, by the humane of every denomination. His memory ought therefore to be deeply engraven on the tablets of our hearts; and ought ever to inspire us with the most ardent esteem.

Nor less to be prized are the useful exertions of Anthony Benezet. This inestimable person, sensible of the equality of mankind, rose superior to the illiberal opinions of the age; and, disallowing an inferiority in the African genius, established the first school to cultivate our understandings, and to better our condition.

Thus, by enlightening the mind, and implanting the seeds of virtue, he banished, in a degree, the mists of prejudice; and laid the foundations of our future happiness. Let, therefore, a due sense of his meritorious actions, ever create in us, a deep reverence of his beloved name. Justice to the occasion, as well as his merits, forbid me to pass in silence over the name of the honorable William Wilberforce. Possessing talents capable of adorning the greatest subjects, his comprehensive mind found none more worthy his constant attention, than the abolition of the Slave-Trade. For this he soared to the zenith of his towering eloquence, and for this he struggled with perpetual ardour. Thus, anxious in defence of our rights, he pledged himself never to desert the cause; and, by his repeated and strenuous exertions, he finally obtained the desirable end. His extensive services have, therefore, entitled him to a large share of our affections, and to a lasting tribute of our unfeigned thanks.

But think not, my brethren, that I pretend to enumerate the persons who have proved our strenuous advocates, or that I have pourtrayed the merits of those I have mentioned. No, I have given but a few specimens of a countless number, and no more than the rude outlines of the beneficence of these. Perhaps there never existed a human institution, which has displayed more intrinsic merit, than the societies for the abolition of slavery.

Reared on the pure basis of philanthropy, they extend to different quarters of the globe; and comprise a considerable number of humane and respectable men. These, greatly impressed with the importance of the work, entered into it with such disinterestedness, engagedness, and prudence, as does honour to their wisdom and virtue. To effect the purposes of these societies no legal means were left untried, which afforded the smallest prospects of success. Books were disseminated, and discourses delivered, wherein every argument was employed which the penetrating mind could adduce, from religion, justice or reason, to prove the turpitude of slavery, and numerous instances related, calculated to awaken sentiments of compassion. To further their charitable intentions, applications were constantly made, to different bodies of legislature, and every concession improved to our best possible advantage. Taught by preceding occurrences, that the waves of oppression are ever ready to overwhelm the defenceless, they became the vigilant guardians of all our reinstated joys. Sensible that the inexperienced mind, is greatly exposed to the allurements of vice, they cautioned us, by the most salutary precepts, and virtuous examples, against its fatal encroachments: and the better to establish us, in the paths of rectitude they instituted schools to instruct us in the knowledge of letters, and the principles of virtue.

By these, and similar methods, with divine assistance they assailed the dark dungeon of slavery; shattered its rugged wall, and enlarging thousands of the captives, bestowed on them the blessings of civil society. Yes, my brethren, through their efficiency, numbers of us now enjoy the invaluable gem of liberty; numbers have been secured from a relapse into bondage; and numbers have attained an useful education.

I need not, my brethren, take a farther view of our present circumstances, to convince you of the providential benefits which we have derived from our patrons; for if you take a retrospect of the past situation of Africans, and descendants of Africans, in this and other countries, to your observation our advancements must be obvious. From these considerations, added to the happy event, which we now celebrate, let us ever entertain the profoundest veneration for our munificent benefactors, and return to them from the altars of our hearts, the fragrant incense of incessant gratitude. But let not, my brethren, our demonstrations of gratitude, be confined to the mere expressions of our lips.

The active part which the friends of humanity have taken to ameliorate our sufferings, has rendered them in a measure, the pledges of our integrity. You must be well aware that notwithstanding their endeavours, they have yet remaining, from interest and prejudice, a number of opposers. These, carefully

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watching for every opportunity to injure the cause, will not fail to augment the smallest defects in our lives and conversation; and reproach our benefactors with them, as the fruits of their actions.

Let us, therefore, by a steady and upright deportment, by a strict obedience and respect to the laws of the land, form an invulnerable bulwark against the shafts of malice. Thus, evincing to the world that our garments are unpolluted by the stains of ingratitude, we shall reap increasing advantages from the favours conferred; the spirits of our departed ancestors shall smile with complacency on the change of our state; and posterity shall exult in the pleasing remembrance.

May the time speedily commence, when Ethiopia shall stretch forth her hands; when the sun of liberty shall beam resplendent on the whole African race; and its genial influences, promote the luxuriant growth of knowledge and virtue.

Glossary

"am I not a man and a brother"	the words on the seal of the Quaker-led Society for Effecting the Abolition of the Slave Trade, which met in London in 1787, when the seal was designed
Anthony Benezet	an eighteenth-century Quaker abolitionist
Columbia	America
Flemish favorite	Lorenzo de Gorrevod, who obtained a license to transport four thousand slaves
Hispaniola	the island consisting of present-day Haiti and the Dominican Republic
Jehovah	a name for God, commonly used in the Old Testament of the Bible
Robertson's "History of America"	a text by the Scottish historian William Robertson first published in 1777
sons of 76	the American colonists who proclaimed independence in 1776
tenements	dwelling places
William Wilberforce	a British member of Parliament who worked to abolish the slave trade in the late eighteenth and early nineteenth centuries
Woolman	John Woolman, an eighteenth-century Quaker abolitionist and itinerant preacher

Woodcut image of a supplicant male slave in chains, adopted as the seal of the Society for the Abolition of Slavery in England in the 1780s (Library of Congress)

Samuel Cornish and John Russwurm's First *Freedom's Journal* Editorial

1827

"Useful knowledge of every kind, and everything that relates to Africa, shall find a ready admission into our columns."

Overview

On March 16, 1827, the first edition of the first African American newspaper in the United States, *Freedom's Journal*, was published. In this debut issue, the editors Samuel Cornish and John Russwurm set out their goals for the newspaper: to give a voice to African Americans, to help improve their minds and inform them of national and international events and issues in an impartial way, to encourage political and social activism among blacks, and to connect black Americans to a greater community of people beyond their own cities and regions. In the two years that it was in print, *Freedom's Journal* endeavored to do just that, publishing stories about lynchings and slavery; the latest national and international news, particularly about Haiti, Africa, and Sierra Leone; notices of school events and employment and housing opportunities; biographies of black men and women; essays, short stories, and poetry; and sermons, orations, and announcements of deaths, births, and weddings.

Even after the paper ceased publication, *Freedom's Journal* left its mark by changing the environment of the times and opening up a whole new way for African Americans to be heard—through the printed word. Having access to a newspaper that voiced their opinions and views in print was a valuable and empowering tool for African Americans: It helped them forge a new path toward freedom from their oppressive environment. Black Americans realized that people who could write and get their writing out into the world could change things.

Context

Post–Revolutionary War America was a world of deep paradox. On the one hand, American colonists had issued a Declaration of Independence proclaiming that "all men are created equal." On the other hand, America was a land entrenched in slavery, where free blacks did not seem to have a place and therefore were subject to racism, segregation, discrimination, and prejudice. The citizens of the newly formed United States attempted in these early years to find their identity as a nation and as a people. There were those in the country who wanted to define themselves without slavery, or at least to try to eradicate the system in the future. These individuals were mainly from the northern states, which started to abolish slavery as early as the 1770s; the southern states maintained their slave societies until after the Civil War.

Slavery was prohibited in the constitution of Vermont when it became an independent republic in 1777. Other northern states abolished slavery, some of them gradually, in the following decades, beginning with Pennsylvania in 1780. In the northern states, during and after abolition, racism was common. The new competition between whites and free African Americans for jobs, land, and political power translated into white hostility. Because of this hostility, African Americans faced challenges in educational, employment, and civil rights, along with threats to their personal safety. Some northern states adopted laws to keep African Americans out of their states completely, and so there were limits to where they could live and work. Blacks in the north were also more likely to be arrested, convicted, and imprisoned, and their prison sentences tended to be longer than those given to whites. Consequently, African Americans were grossly overrepresented in prisons, and this was often cited as proof of their degraded status.

In the midst of this hostility and discrimination, African American aid and antislavery societies started springing up among northern whites. In the late eighteenth century, these societies excluded black people from membership while inviting white slaveholders to join. Even members of these antislavery societies had grave reservations about what mass emancipation would mean for American society. It was in this atmosphere that African Americans sought to form their own perceptions of what was going on in America and how they might fit in. They believed in the rhetoric of the American Revolution and the Declaration of Independence and that this rhetoric could apply to them as Americans as well as it could to whites. Thus, the African Americans of the late eighteenth century started to build communities and political awareness and began to nurture true leaders, educate themselves, and endeavor to understand who they were and what they wanted. They began to petition for their rights, and, as they did, they developed a

Time Line

1804

- Haiti becomes an independent nation.

1808

- **January 1**
  The international slave trade in the United States is abolished.

1816

- The American Colonization Society (ACS) is founded.

1827

- Slavery is abolished in New York.
- **March 16**
  Freedom's Journal, based in New York City, publishes its first issue, with Cornish as the senior editor and Russwurm as the junior editor.
- **September**
  Cornish announces his resignation as editor of *Freedom's Journal*, leaving Russwurm as the sole editor.

1829

- **February**
  Russwurm announces in *Freedom's Journal* his support for the ACS's efforts to relocate free African Americans to Liberia.
- **March 28**
  The last edition of *Freedom's Journal* is published.

language to help claim those rights. They attempted to figure out how to address problems on their own terms while still working with those who were trying to help them. This was difficult because of the overwhelmingly paternalistic attitude of white benefactors, who assumed that they knew what was best for the African American population. The black community was left feeling that their destinies were still being decided by whites.

The early nineteenth century brought even more obstacles for free African Americans. Northern states became increasingly restrictive in legislation concerning black citizens. Even as restrictions on low-income whites were lifting, those states that did allow free African Americans to vote added more requirements to the voting process, such as proving a certain minimum value of land owned or possessing papers that had to be drawn up by lawyers at prohibitive fees.

However, two particular events gave African Americans hope. In 1804 the independent nation of Haiti was formed, after more than ten years of rebellion against colonial oppressors. The rebels were people of color who lived in slavery on the island. The establishment of Haiti inspired African Americans to stand up for their rights in the United States. The second cause for hope was the 1808 abolition of the international slave trade to the United States. For many African Americans this signaled the beginning of the end of slavery altogether. Black orators and ministers gave speeches and sermons on the event, celebrating it annually, and they published them as pamphlets. Through these orations, they began to assert their rightful place as Americans while also honoring their African ties.

In 1816 the American Colonization Society (ACS), also known as the American Society for Colonizing the Free People of Color in the United States, was founded. This society, dominated by whites, aimed to help free African Americans relocate to the western coast of Africa, especially the colony of Liberia. Although some freedpeople joined this endeavor and even relocated, most African Americans were opposed to the idea. First, since the ACS was predominantly white, African Americans felt that they were having an identity forced upon them by outsiders. Second, the ACS eventually wanted to relocate all free blacks to Africa, whether they wanted to go or not. This appealed to some whites as a foolproof way to sidestep the problem of race in the United States. However, many African Americans strongly resented this attempt to get them out of the country, believing that it was a scheme on the part of proslavery forces to rid themselves of any blacks who might help other slaves run away or work for emancipation.

As African American opponents of colonization banded together, their sense of national consciousness and solidarity increased dramatically. Some opponents were not necessarily against colonization per se, they simply were against letting a white society dictate the terms of colonization; to them, the African American plan of immigration to Haiti was far more acceptable. It was their plan under their rules, and it also showed black pride in the success of the Haitian Revolution. Whether to go or not, too, was their own choice.

In the 1820s, in addition to community building organizations and mutual aid societies, free African Americans began founding literary societies, libraries, and reading rooms. They read to those who could not read, and they began to teach one another how to read and write. Literacy gave black Americans a sense of power and control over their destinies. In addition, it gave them another way to fight oppression. Early-nineteenth-century newspapers rarely showed African Americans in a favorable light. Coverage of the black community in white papers typically focused on criminal or illicit acts or racist parodies. Nevertheless, newspapers were enjoying wide circulation, and new periodicals were springing up, thanks to the fact that paper was inexpensive. Many marginalized groups were starting their own papers to make their own views and perspectives visible to a wider audience.

From this setting emerged the first African American newspaper, the New York–based *Freedom's Journal*, on March 16, 1827. The editors of the periodical intended

A view of Bass Cove, Liberia (Library of Congress)

to appeal to and reach a wide audience. The building of community institutions, the formation of literary societies, and the development of rhetoric in the struggle to gain basic civil and personal rights all came together to make possible the creation of this newspaper by and for African Americans. *Freedom's Journal* was not so much a reaction to racism as it was a forum for African Americans to communicate and learn. Realizing that writing was an instrument of freedom, black entrepreneurs decided it was time to use it in a bigger way.

About the Author

The first editorial in *Freedom's Journal* was penned by the senior and junior editors, Samuel E. Cornish and John B. Russwurm, respectively. They edited the paper together for six months, until Cornish decided to resign, leaving full editorship to Russwurm. The paper went on under Russwurm for another year and a half before it ceased publication, mainly for financial reasons.

Samuel Cornish was born a free African American in Delaware around 1795. In 1815 he moved to Philadelphia, where he taught in a Presbyterian school. He started his studies with ministers in the Philadelphia Presbytery in 1817 and had earned his license to preach by 1819. During the summer and fall of 1820, Cornish went to live on the Eastern Shore of Maryland as a missionary to slaves but found the hypocrisy of the so-called Christian slaveholders unspeakably horrible. Cornish later moved to New York City and founded the First Colored Presbyterian Church, the state's first African American Presbyterian church; in 1824 he was installed as its pastor.

Cornish participated actively in New York's African American community. For a time he was part of the Haytian Emigration Society, but after seeing so many black Americans return to the United States extremely disillusioned with life in Haiti, he came to oppose the idea of colonization altogether. Realizing that his church was having financial problems, Cornish asked to be released from his position. The New York Presbytery refused, telling him to try to raise more funds. At this point, in March 1827, Cornish became the senior editor of *Freedom's Journal*, but he stayed on as pastor at his church. In September of that same year, after only six months, Cornish resigned as editor of the paper, although he continued to support it by being an agent, and news of his ministry could be found on its pages.

Essential Quotes

"We wish to plead our own cause. Too long have others spoken for us. Too long has the public been deceived by misrepresentations, in things which concern us dearly."

(Paragraphs 3–4)

"It is surely time that we should awake from this lethargy of years, and make a concentrated effort for the education of our youth. We form a spoke in the human wheel, and it is necessary that we should understand our pendence on the different parts, and theirs on us, in order to perform our part with propriety."

(Paragraph 6)

"The world has grown too enlightened, to estimate any man's character by his personal appearance. Though all men acknowledge the excellency of [Benjamin] Franklin's maxims, yet comparatively few practice upon them."

(Paragraph 6)

"Useful knowledge of every kind, and everything that relates to Africa, shall find a ready admission into our columns; and as that vast continent becomes daily more known, we trust that many things will come to light, proving that the natives of it are neither so ignorant nor stupid as they have generally been supposed to be."

(Paragraph 12)

"Men whom we equally love and admire have not hesitated to represent us disadvantageously, without becoming personally acquainted with the true state of things, nor discerning between virtue and vice among us. The virtuous part of our people feel themselves sorely aggrieved under the existing state of things—they are not appreciated. Our vices and our degradation are ever arrayed against us, but our virtues are passed by unnoticed."

(Paragraphs 14–15)

Throughout the rest of the 1820s and all of the 1830s, Cornish worked variously as an editor, a writer, and an activist. In May of 1829 he started another paper, *Rights of All*, which lasted for just six months. In 1840, Cornish, along with eight other African American clergymen, created the American and Foreign Anti-Slavery Society. Throughout the 1840s and 1850s, Cornish kept on with ministerial work, helping to organize missionary associations. With Theodore Wright, a fellow minister and protégé, he wrote an important anticolonization pamphlet, *The Colonization Scheme Considered*. Cornish died in 1858.

John Russwurm was born a freeperson in Jamaica in 1799, the son of a black woman and a Virginia-born, English-educated white plantation owner. He was educated at a boarding school in Quebec from 1807 to 1812 and at private schools in Maine. In 1824 Russwurm became the first African American student admitted to Bowdoin College in Maine. Upon being invited, Russwurm joined the college's literary fraternity, the Athenian Society, whose president was the future short-story writer and novelist Nathaniel Hawthorne. The young Russwurm planned to study medicine in Boston and become a physician after graduation. His intention was to move to Haiti and open a practice there, but he ended up shifting his emigration focus from Haiti to Liberia and indicated interest in relocating there to teach or assist the colony's resident agent. However, when the ACS offered him a position in Liberia in late 1826, he declined for reasons he would not disclose. Instead, he moved New York and soon thereafter took the position as junior editor of *Freedom's Journal*.

After Cornish resigned in September 1827, Russwurm became the sole editor of the paper. Financial problems led to the paper's demise about a year and a half later. The last edition of *Freedom's Journal* was published on March 28, 1829. Shortly thereafter, Russwurm decided it was time to immigrate to Liberia. He left in September of that year, arrived in November, and became the superintendent of schools there. He also revived the *Liberia Herald* in March 1830. In 1833 he was married and also established a business partnership with a colonist from Virginia named Joseph Daily. Although he resolved to remain in Liberia, Russwurm was disappointed by the small role that African American colonists played in the Liberian government. In 1836 the board of the Maryland Colonization Society appointed Russwurm governor of Cape Palmas colony on the West African coast. Affairs in the new colony did not run exactly smoothly, largely because of conflict with neighboring African tribes. Russwurm persevered as well as he could, earning praise from the board for the way he handled the governance of the colony. He died in 1851.

Explanation and Analysis of the Document

When the first issue of *Freedom's Journal* appeared on March 16, 1827, Samuel Cornish and John Russwurm included an editorial headed "To Our Patrons," which served as an introduction to the newspaper's format and goals. The editors made it clear that their main concern was not reacting to white racism but instead concentrating on construction of an African American identity.

First, Cornish and Russwurm acknowledge both the audacity and the potential of what they are endeavoring to do. Since no newspaper for or by African Americans had ever existed, it was certainly a "new and untried business." Nevertheless, they had a real sense that it was time to try such a thing, since there were "so many schemes … in action concerning our people"—most likely a reference to colonization and the overall paternalistic attitude that whites had toward African Americans at that time. *Freedom's Journal*, they say, existed for the education, edification, and progress of people of color, so it had to be a good thing—something to which no decent human being could object.

A very important goal for *Freedom's Journal* was providing African Americans with a voice of their own. "Too long have others spoken for us," note Cornish and Russwurm in paragraph 3, referring to those who may have wanted to help promote black rights and so spoke on behalf of the black community in the United States. The editors go on to explain in paragraph 4 that these "others" did not truly understand or represent the needs and wants of African Americans. They then point out that the sins of one black person were far too often blown out of proportion by whites, casting doubt over the good character of African Americans collectively. Cornish and Russwurm acknowledge that "there are many instances of vice among us," but they suggest that such people had not been properly taught or educated in the ways outside a life of slavery.

Education was another important goal of *Freedom's Journal*, it "being an object of the highest importance to the welfare of society." The editors state in paragraph 5 that through the paper, they would support African Americans who were trying to teach their children good habits, encourage them in useful work, and give them the education they needed to become a constructive part of society.

Beginning with paragraph 7, the editors point out that people should not be judged by their outward appearance. In a reference to Benjamin Franklin's aphorisms (as put forward in *Poor Richard's Almanack*), they go on to say that "all men acknowledge the excellency of Franklin's maxims, yet comparatively few practice upon them." When "our brethren" did make the mistake of neglecting these truths, it would be the task of the editors to correct them. The paper would also do its best to make African Americans aware of their civil rights and civic responsibilities as participants in the U.S. government. Russwurm and Cornish go on to advise anyone who is qualified to vote to do so but pointed out that no one should be coerced into voting for a specific party. They should decide for themselves how they would cast their ballots.

In paragraphs 9 through 13, the editors stress the importance of reading, saying that young people should read works of substance. They intended to include useful and educational pieces in *Freedom's Journal* and express their wish to foster communication among people of color in different states in the nation. There were so

many issues to debate and discuss, and here was a forum in which to do it. Here, according to Cornish and Russwurm, was a place where African Americans could exchange thoughts and present their own viewpoints, without the fear that those views would be sifted through the perspective of white society—even if it was an altruistic one. The editors would weigh in on the issues as well. Additionally, they planned to include coverage of any and all news available about Africa. As more became known of the continent, its people would be seen as "neither so ignorant nor stupid as they have generally been supposed to be." Cornish and Russwurm express confidence that an enlightened view of Africa and its people would translate into a more positive view of Africa's sons and daughters in the United States. Furthermore, those sons and daughters of Africa who remained in bondage in the South would not be forgotten by *Freedom's Journal*. They were brethren as well, and although the paper's subscribers could do little to ease their afflictions or change their situation, the newspaper would provide a forum for readers' "sympathies [to] be poured forth."

Paragraphs 14 and 15 revisit the themes of paragraphs 3 and 4—of African Americans finding and using their own voices and putting forward their perspectives on issues in which they had a vested interest. According to the editors, even well-meaning whites were sometimes unsuccessful in their attempts to represent the black cause accurately because they failed to listen to "the true state of things" before they spoke. Paragraph 15 opens with the line "Our vices and our degradation are ever arrayed against us, but our virtues are passed by unnoticed," indicating Cornish and Russwurm's disappointment with the snowballing effects of prejudice and discrimination. They lament the fact that the negative actions of a single member of the black community could poison the minds of whites against all blacks. They also express disappointment with those who claim to fight prejudice but seem to practice it. One of the goals of the newspaper would be to make the perceptions and wishes of African Americans known and dispel prejudice in the process. The editors acknowledge that even as they wished to upset no one, they most likely would; that could not stop them from putting forth their views and following their principles.

In paragraph 16, Cornish and Russwurm ask why black people alone have lived so long in "ignorance, poverty, and degradation," while other people learn and progress, making their own lives better. They proceed to answer the question, saying that the travels and tales of Dixon Denham and Hugh Clapperton, the first European explorers to make it across the Sahara and back alive, as well as the results of the Haitian Revolution and the progress of South America's people all point to the eventual end to the legacy of oppression foisted upon people of color. This newspaper could improve the lives of African Americans by helping to lift the veil of "ignorance, poverty, and degradation" to which they were not necessarily destined. The African American community needed a newspaper that would address its own set of needs.

The editors intended the newspaper to be impartial—not to divide but to bring the people together. Whatever would help or educate or might be of interest to anyone in the African American community was to be printed in the paper. Readers were encouraged to write, to subscribe, and to support *Freedom's Journal*, and in doing so they would help themselves. Cornish and Russwurm end the editorial by stating that if they were ever too fervent, readers should "attribute our zeal to the peculiarities of our situation; and our earnest engagedness in their well-being."

Audience

Freedom's Journal was published primarily for an African American audience, whether or not they were literate. The editors understood that those who could read would read it to those who could not. Certainly the support of white subscribers and readers was welcome, as one of the motives of the paper was to put forward the opinions, views, and voices of African Americans "to the publick." The newspaper was written principally for African American edification and enlightenment as well as to provide a forum for events and issues particular to their community.

This community, their audience, was envisioned as expanding well beyond New York. The paper employed fourteen to forty-four agents, who sold subscriptions for a fee of $3 per year; by the end of the paper's two-year stint, there were agents in eleven states—including the proslavery states of Virginia and North Carolina—along with the District of Columbia, Haiti, England, and Sierra Leone.

Approximately three hundred thousand African Americans lived in the northern states, and most would have had access to this paper. It is very possible that at least some issues of *Freedom's Journal* made their way into the South as well, touching the lives of both free and enslaved African Americans living there. Historians tie the probability of the paper's circulation in the South to the fact that one of the agents working for *Freedom's Journal* in Boston, David Walker, wrote the pamphlet *Appeal to the Coloured Citizens of the World*. This highly incendiary work found its way into the Deep South despite those states' banning its circulation.

Impact

Freedom's Journal gave a stronger, more authentic voice to African Americans. Since the periodical was written and edited by African Americans, their perspectives could be presented to a much wider audience with accuracy. Not only news pertinent to their communities and world but also essays, stories, sermons, and poetry, along with biographies of influential or inspiring African Americans, were presented in the paper. It was a place for African Americans to communicate—with one another and with any white readers—and to converse with one another on issues important to them. Although black

writers and orators had published orations, sermons, and various pamphlets in the past, it was even more powerful to see a weekly newspaper for African Americans from the pens of African Americans. This weekly newspaper connected black people all over the country and even beyond it, building a greater community beyond city and region and giving voice to it. *Freedom's Journal* also shows that as early as 1827, African Americans were already organizing and endeavoring to improve their own lives and the lives of their brethren still in bondage well before white abolitionists started to make a concentrated effort in the 1830s with associations like the American Anti-Slavery Society.

Even though the paper itself did not continue beyond 1829, it led the way for the publication of future African American newspapers. *Freedom's Journal* proved that there was a true need in the United States for a wider African American forum for the encouragement of black activism and the fight for self-determination, civil rights, and freedom. It also allowed African Americans to debate issues among themselves and exchange views. Because of this need and the way in which an independent newspaper answered it, no fewer than twenty-four other black newspapers were started between the run of *Freedom's Journal* and the Civil War.

See also Pennsylvania: An Act for the Gradual Abolition of Slavery (1780); Peter Williams, Jr.'s "Oration on the Abolition of the Slave Trade" (1808); David Walker's *Appeal to the Coloured Citizens of the World* (1829); First Editorial of the *North Star* (1847).

Further Reading

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■ Web Sites

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—Angela M. Alexander

Questions for Further Study

1. What contribution did *Freedom's Journal* make to African American life as the United States inched away from the slave system and toward abolition of slavery?

2. What was the American Colonization Society? Why did some, perhaps many, African Americans oppose the goals of the society?

3. What political events in the United States and abroad led to greater hope and aspirations for African Americans during this time period?

4. *Freedom's Journal* was one of a long line of newspapers and other publications that had as their audience black Americans. How do you think the goals of the journal were similar to or different from those of such contemporary publications as *Jet*, *Essence*, *Ebony*, or *The Washington Afro-American* newspaper?

5. Compare this document with a similar document, the First Editorial of the *North Star*, written by Frederick Douglass. Which do you think was more persuasive? More eloquent? Why has Douglass's name survived to be widely recognized in the twenty-first century while the names of Cornish and Russwurm are less well known?

Document Text

Samuel Cornish and John Russwurm's First *Freedom's Journal* Editorial

To Our Patrons

In presenting our first number to our Patrons, we feel all the diffidence of persons entering upon a new and untried line of business. But a moment's reflections upon the noble objects, which we have in view by the publication of this Journal; the expediency of its appearance at this time, when so many schemes are in action concerning our people—encourage us to come boldly before an enlightened public. For we believe, that a paper devoted to the dissemination of useful knowledge among our brethren, and to their moral and religious improvement, must meet with the cordial approbation of every friend to humanity.

The peculiarities of this Journal, renders it important that we should advertise to the world our motives by which we are actuated, and the objects which we contemplate.

We wish to plead our own cause. Too long have others spoken for us.

Too long has the public been deceived by misrepresentations, in things which concern us dearly, though in the estimation of some mere trifles; for though there are many in society who exercise towards us benevolent feelings; still (with sorrow we confess it) there are others who make it their business to enlarge upon the least trifle, which tends to the discredit of any person of color; and pronounce anathemas and denounce our whole body for the misconduct of this guilty one. We are aware that there are many instances of vice among us, but we avow that it is because no one has taught its subjects to be virtuous; many instances of poverty, because no sufficient efforts accommodate to minds contracted by slavery, and deprived of early education have been made, to teach them how to husband their hard earnings, and to secure to themselves comfort.

Education being an object of the highest importance to the welfare of society, we shall endeavor to present just and adequate views of it, and to urge upon our brethren the necessity and expedience of training their children, while young, to habits of industry, and thus forming them for becoming useful members of society.

It is surely time that we should awake from this lethargy of years, and make a concentrated effort for the education of our youth. We form a spoke in the human wheel, and it is necessary that we should understand our pendence on the different parts, and theirs on us, in order to perform our part with propriety.

Though not desiring of dictating, we shall feel it our incumbent duty to dwell occasionally upon the general principles and rules of economy. The world has grown too enlightened, to estimate any man's character by his personal appearance. Though all men acknowledge the excellency of Franklin's maxims, yet comparatively few practice upon them. We may deplore when it is too late, the neglect of these self-evident truths, but it avails little to mourn. Ours will be the task of admonishing our brethren on these points.

The civil rights of a people being of the greatest value, it shall ever be our duty to vindicate our brethren, when oppressed; and to lay the case before the public. We shall also urge upon our brethren, (who are qualified by the laws of the different states) the expediency of using their elective franchise; and of making an independent use of the same. We wish them not to become the tools of party.

And as much time is frequently lost, and wrong principles instilled, by the perusal of works of trivial importance, we shall consider it a part of our duty to recommend to our young readers, such authors as will not only enlarge their stock of useful knowledge, but such as will also serve to stimulate them to higher attainments in science.

We trust also, that through the columns of the *Freedom's Journal*, many practical pieces, having for their bases, the improvements of our brethren, will be presented to them, from the pens of many of our respected friends, who have kindly promised their assistance.

It is our earnest wish to make our Journal a medium of intercourse between our brethren in the different states of this great confederacy: that through its columns an expression of our sentiments, on many interesting subjects which concern us, may be offered to the public: that plans which apparently are beneficial may be candidly discussed and properly weighted; if worth, receive our cordial approbation; if not, our marked disapprobation.

Useful knowledge of every kind, and everything that relates to Africa, shall find a ready admission

Document Text

into our columns; and as that vast continent becomes daily more known, we trust that many things will come to light, proving that the natives of it are neither so ignorant nor stupid as they have generally been supposed to be.

And while these important subjects shall occupy the columns of the *Freedom's Journal*, we would not be unmindful of our brethren who are still in the iron fetters of bondage. They are kindred by all the ties of nature; and though but little can be effected by us, still let our sympathies be poured forth, and our prayers in their behalf, ascend to Him who is able to succor them.

From the press and the pulpit we have suffered much by being incorrectly represented. Men whom we equally love and admire have not hesitated to represent us disadvantageously, without becoming personally acquainted with the true state of things, nor discerning between virtue and vice among us. The virtuous part of our people feel themselves sorely aggrieved under the existing state of things—they are not appreciated.

Our vices and our degradation are ever arrayed against us, but our virtues are passed by unnoticed. And what is still more lamentable, our friends, to whom we concede all the principles of humanity and religion, from these very causes seem to have fallen into the current of popular feelings and are imperceptibly floating on the stream—actually living in the practice of prejudice, while they abjure it in theory, and feel it not in their hearts. Is it not very desirable that such should know more of our actual condition; and of our efforts and feelings, that in forming or advocating plans for our amelioration, they may do it more understandingly? In the spirit of candor and humility we intend by a simple representation of facts to lay our case before the public, with a view to arrest the progress of prejudice, and to shield ourselves against the consequent evils. We wish to conciliate all and to irritate none, yet we must be firm and unwavering in our principles, and persevering in our efforts.

If ignorance, poverty and degradation have hitherto been our unhappy lot; has the Eternal decree forth, that our race alone are to remain in this state, while knowledge and civilization are shedding their enlivening rays over the rest of the human family? The recent travels of Denham and Clapperton in the interior of Africa, and the interesting narrative which they have published; the establishment of the republic Hayti after years of sanguinary warfare; its subsequent progress in all the arts of civilization; and the advancement of liberal ideas in South America, where despotism has given place to free governments, and where many of our brethren now fill important civil and military stations, prove the contrary.

The interesting fact that there are five hundred thousand free persons of color, one half of whom might peruse, and the whole be benefitted by the publication of the Journal; that no publication, as yet, has been devoted exclusively to their improvement—that many selections from approved standard authors, which are within the reach of few, may occasionally be made—and more important still, that this large body of our citizens have no public channel—all serve to prove the real necessity, at present, for the appearance of the *Freedom's Journal*.

It shall ever be our desire so to conduct the editorial department of our paper as to give offence to none of our patrons; as nothing is farther from us than to make it the advocate of any partial views, either in politics or religion. What few days we can number, have been devoted to the improvement of our brethren; and it is our earnest wish that the remainder may be spent in the same delightful service.

Glossary

Denham and Clapperton	Dixon Denham and Hugh Clapperton, the first European explorers to cross the Sahara and return
elective franchise	the right to vote
Franklin's maxims	the aphorisms of Benjamin Franklin, one of the nation's founders, published notably in *Poor Richard's Almanack*
Hayti	the Caribbean nation of Haiti, the scene of a revolt against French colonial masters in the late eighteenth and early nineteenth centuries
pendence	dependence

Document Text

In conclusion, whatever concerns us as a people, will ever find a ready admission into the *Freedom's Journal*, interwoven with all the principal news of the day.

And while every thing in our power shall be performed to support the character of our Journal, we would respectfully invite our numerous friends to assist by their communications, and our colored brethren to strengthen our hands by their subscriptions, as our labor is one of common cause, and worthy of their consideration and support. And we most earnestly solicit the latter, that if at any time we should seem to be zealous, or too pointed in the inculcation of any important lesson, they will remember, that they are equally interested in the cause in which we are engaged, and attribute our zeal to the peculiarities of our situation; and our earnest engagedness in their well-being.

David Walker's *Appeal to the Coloured Citizens of the world*

1829

"They have no more right to hold us in slavery than we have to hold them."

Overview

David Walker, a free black man living in Boston, Massachusetts, published the first edition of his *Appeal to the Coloured Citizens of the World* in 1829, and the third and last revised edition of the pamphlet in June 1830. In this *Appeal* Walker encouraged his fellow African Americans in the United States, slave and free, to see themselves as human beings and to do something to elevate themselves from their "wretched state." In doing so, the arguments for slavery, racial slavery in particular, would be torn down, thus weakening the power of the slaveholders.

Because Walker was not beyond advocating the use of violence to help free slaves in America, his pamphlet was banned from several states in the South. Even some abolitionists were appalled by the suggestion that violence would be acceptable in the cause of emancipation. Called "incendiary" and "subversive" in the 1830s, the arguments put forth by Walker continued to provide a foundation upon which later generations of workers for abolition and civil rights in America would make their stand.

Context

Slave rebellion in the Americas is as old as slavery itself. Although rebellions were generally planned by word of mouth, by the Revolutionary War period slaves and freedmen even sometimes wrote secret notes to one another about potential revolts. Most revolts were thwarted before they could even get started, and some simply failed. Very few got off the ground, and fewer succeeded. Nonetheless, the ones that succeeded struck fear into the hearts of not only slaveholders but even whites who owned no slaves, all over the American South.

The revolt of the Haitian slaves against their French colonial masters was the most heart-stopping for southern slaveholders. This mass uprising of black and mulatto slaves in 1791 resulted in the burning of numerous cities and buildings and the massacre of a great portion of the white population. Over the next twelve years these former slaves became an effective army, known for its guerrilla tactics; they fought off not only the white planters and French colonial troops but also a British expeditionary force, a Spanish invasion, and even Napoléon Bonaparte's "invincible" army. After defeating the latter in 1803, Haiti declared its independence as a black republic.

For the planters of the American South, the horror of this event was threefold: There was the massacre of whites and burning of property in the beginning, the seeming invincibility of the Haitians, and the ominous transformation of a French colony controlled by slaveholding whites into a black republic. If it could happen in Haiti, it could happen in the American South. Most slaveholders in the South treated their slaves far better than the slaves in Haiti had been treated (where the trend was to work the slaves to death so that the planters would not have to care for them in old age), and so perhaps there would be less reason to revolt, particularly in such a violent manner. However, American slaves were generally more educated than those in Haiti, which meant they might get ideas from places outside the South. And, of course, the very example of the Haitians' success could not help but give the southern slaves something to think about.

Proving that the slaveholders' fears were not totally unfounded, a slave rebellion plot was uncovered in August 1800, in Richmond, Virginia. Gabriel Prosser, the ringleader, spent months gathering perhaps several thousand men and organizing them. The plan was to distract the whites with several fires and then take over the armory and government buildings of the city. Thus armed, the group would slaughter most of the whites and then make Virginia their kingdom, with Prosser as the king. Two slaves revealed the plot the day it was supposed to take place. Thus warned and aided by a fortuitous rainstorm that flooded the roads, making Prosser postpone the attack until the next day, the city armed itself. The rebels scattered. About thirty-five of them, including Prosser, were executed. Prosser, who could read, had been inspired by the Exodus of the Hebrew slaves in the Bible and by the revolution in Haiti.

Slaveholders invariably reacted to such rebellions by imposing harsher restrictions on their own slaves. Slaves would not be allowed to read or write, their religious services would be supervised, visitation of other farms or towns

Time Line

ca. 1784	■ David Walker is born in Wilmington, North Carolina. (Some sources say 1785, 1796, or 1797.)
1791	■ **August 22** A slave rebellion initiates the Haitian Revolution.
1800	■ **August 30** Gabriel Prosser's slave rebellion in Richmond, Virginia, is suppressed.
1804	■ **January 1** Haiti declares itself a free republic.
1820s	■ **Early** Walker moves to Charleston, South Carolina.
1822	■ **May 30** A slave betrays Denmark Vesey's plot to revolt, leading to the execution of Vesey and thirty-six of the conspirators in July.
1825	■ Walker relocates to Boston, Massachusetts.
1827	■ Walker becomes a contributor for the New York–based *Freedom's Journal*, the first black newspaper in the United States.
1829	■ **September** *David Walker's Appeal. In Four Articles; Together with a Preamble to the Coloured Citizens of the World, but in Particular, and Very Expressly, to Those of the United States of America* appears in pamphlet form.

would be curtailed, curfews would be strictly enforced, any type of slave gathering would be subject to suspicion and perhaps banned altogether, and freedmen would be watched more closely. While these restrictions tended to relax over time, each new upset would invite further harsh measures.

The next great upset, of which David Walker may have even been part, was Denmark Vesey's rebellion plot in Charleston, South Carolina, in 1822. Vesey, a former slave, was a relatively prosperous carpenter with some land. Hating slavery and slaveholding society, Vesey read all he could about antislavery arguments and agitated for freedom and equality for his fellow African Americans. He began to assemble a circle of leaders for a massive rebellion. By the time the plan was to go into effect, Vesey had enlisted about nine thousand free and slave blacks in and around Charleston. As with Prosser's rebellion, however, the scheme was betrayed by a participant, and Vesey was executed, along with thirty-six coconspirators.The reaction of whites was fierce enough to cause many free blacks to flee to the North.

Into this highly charged environment, Walker dropped his *Appeal* in 1829. Because of his own father's enslavement, Walker had seen firsthand the cruelty and barbarity involved in the American slave system. Once Walker left that environment for one where he could be educated and involved with antislavery efforts, he seemed to realize that his voice could count for something among his fellow African Americans. In the resulting pamphlet, he encouraged them to stop at nothing—including violence—to get free from slavery. Judging by the reaction of many white southerners, Walker might as well have plotted and implemented his own rebellion, rather than merely publishing a pamphlet. The *Appeal* evoked thoughts of Haiti, Prosser, and Vesey, and the fear of what could happen if the slave population—which was, in many southern states, the majority population—were to act on Walker's ideas. After Nat Turner's partially successful rebellion in 1831 (which resulted in a temporary escape and the death of some whites), many southern slaveholders felt their fears about Walker's pamphlet were confirmed.

About the Author

David Walker was born in Wilmington, North Carolina, to a free mother and a slave father. Because the status of the mother determined the status of the child, Walker was considered a free black. He was, however, fully familiar with slave life in his hometown, since his father was still in bondage. Sources conflict on the subject of his birth year; some sources give the year 1784 or 1785, and others maintain it was 1796 or 1797.

Early in the 1820s (when, by the later date of birth, he would have been in his twenties), Walker moved to Charleston, South Carolina. Historians speculate that he may have been involved in Denmark Vesey's plot to revolt against slaveholders in 1822. In any event, Walker moved again shortly after the execution of Vesey and his coconspirators—this time to the North, where many

African Americans were heading because of the trouble in Charleston.

In Boston, Massachusetts, Walker made a living for himself by running a used clothing store in the Fisherman's Wharf section of the city. It is there that he likely learned to read and write. In 1826 he married Eliza Butler, with whom he eventually had three children (including a daughter who died of consumption just days before her father's death). Very involved in the black community, Walker was a member of the May Street Methodist Church; the Prince Hall African (Masonic) Lodge No. 459; and the Massachusetts General Colored Association, Boston (later absorbed into the New England Anti-Slavery Society), of which he was a leader. Walker used his home and shop to provide shelter for fugitive slaves. He also began writing, and he submitted some of his work to the New York–based black newspaper *Freedom's Journal*.

In 1829, Walker published his *Appeal to the Coloured Citizens of the World*. He rewrote the pamphlet twice, publishing the third and final edition in June 1830. Many southern state governments put a price on Walker's head, offering $3,000 for his head and $10,000 to the one who could bring him to the South alive. His friends entreated him to go to Canada, but he refused. Instead, he used his secondhand clothes shop to help get banned copies of his *Appeal* into the South, sewing the pamphlets into the clothing so that sailors could take them to ports south.

Two months after the third edition of Walker's *Appeal* came out, the man mysteriously died. His death certificate states the cause as consumption (tuberculosis), of which his daughter had died a few days earlier. Historians have wondered whether he was poisoned by his enemies, but no reliable evidence has surfaced to support that hypothesis.

Time Line

1830

- **June**
  The third and final edition of the *Appeal* is published.
- The North Carolina General Assembly, upon receiving a copy of David Walker's *Appeal,* enact a ban against his writings and any other works that could be construed as "seditious" or that "might excite insurrection."
- The North Carolina General Assembly restricts the activities of free and slave African Americans through Black Codes.
- **August**
  David Walker dies mysteriously; his death certificate states that the cause is consumption.

1831

- The North Carolina General Assembly passes legislation forbidding black preachers to speak at gatherings of slaves from different owners and forbidding anyone to teach slaves to read and write.
- **August 21**
  Nat Turner's Rebellion breaks out in Virginia.

Explanation and Analysis of the Document

The structure of David Walker's *Appeal* emulates, in part, the Constitution of the United States, having five parts—a preamble and four articles. In the preamble, Walker outlines his arguments in a very general way. The articles' titles reflect their content, each explicating a reason for the "wretchedness" of the slaves' lives and experiences: "Our Wretchedness in Consequence of Slavery," "Our Wretchedness in Consequence of Ignorance," "Our Wretchedness in Consequence of the Preachers of the Religion of Jesus Christ," and "Our Wretchedness in Consequence of the Colonizing Plan." The present volume reproduces only the Preamble, Article I, and a small part of Article IV.

♦ Preamble

In the preamble, Walker addresses what seems to him the greatest and most unbearable paradox of the United States: The misery of Walker's brethren comes at the hands of those who call themselves Christians. The causes of slavery are myriad, so much so that Walker states that he will not even try to lay them all out, but he will at least try to examine some of the worst of those causes. He knows that many people—particularly slaveholders, but not they alone—will label him uninformed, a troublemaker. But Walker is determined to proceed with his appeal nonetheless.

Another contradiction in the United States is that of a slaveholding society existing within a "*Republican Land of Liberty*." Worse still is the resistance of slaves and free African Americans to change, because they believe that things can only get worse for them. Walker puts to them the question: "Can our condition be any worse?"

At this point in the preamble, he says that he will be breaking the pamphlet into separate sections, each illuminating a particular cause of their "wretchedness" for the reader. The first section will be on the subject of slavery itself, since it is the direct source of their misery. Their misery, however, will not go unchecked; likewise, the happiness of their masters and those participating in the slave culture will not continue forever. For, he says, God will appear on behalf of the oppressed, and he will make sure that the oppressors receive their rewards—whether from the hands of the oppressed or by other means: "Will he not cause the very children of the oppressors to rise up against them, and oftimes put them to death?"

Jean-Jacques Dessalines, a leader of the Haitian Revolution and the first ruler of an independent Haiti
(AP/Wide World Photos)

Next Walker refers to the biblical Exodus of the Hebrew slaves from Egypt and the plagues visited on the Egyptian slaveholders. He then touches on the history of ancient Sparta and of the Roman Empire and how those slaveholding empires, too, eventually met their downfall. He mentions the wars going on in Spain and Portugal—slaveholding empires—where people are slaughtering one another. In Walker's eyes, there can be no question as to the reason for these things: These societies were receiving "the judgments of God" for holding slaves and being oppressors.

In the closing paragraphs, Walker points out that anyone who is not blinded by the prejudices of the avaricious world can see that he and his brethren are *men* with feelings, just as white people have, and that God has them in his care too: "God Almighty is the *sole proprietor* or *master* of the WHOLE human family." And he hears their cries of misery: "Has He not the hearts of all men in His hand?"

♦ Article I: Our Wretchedness in Consequence of Slavery

Walker acknowledges that there have been slaves in many parts of the world at many times. His point, however, is that the slaves in the United States are the worst off of them all, despite having an ostensibly "enlightened and Christian people" for masters. His goal with this article is to show any skeptic the truth of his claim through the use of history.

His first example is from the Bible, taken as a history of the Hebrew people and their time of slavery in Egypt as told in the books of Genesis and Exodus. Walker points out that even these heathen Egyptians—Africans—gave the Hebrews fertile land to live on. Unlike the American slaveholders, they never denied that the Hebrews were human beings. In contrast, even the admired Thomas Jefferson, in his *Notes on the State of Virginia*, said that those of African descent were inferior both mentally and physically to white people. The Egyptians did not seem to hold this view, much less voice it, for Pharaoh's daughter even adopted the Hebrew child Moses into the royal household, raising him as her own. He might even have attained the throne if he had not decided instead to cast his lot with his own people, groaning under bondage, to help them free themselves. Walker asks his own people at this point why they do not throw *their* lots in with their own, rather than snitching on their brethren behind their backs and helping keep one another in bondage.

Walker digresses from his examination of history, exhorting those in chains to pray and watch for the right time to free themselves. He tells them to watch but also to act: "Be not afraid or dismayed; for be you assured that Jesus Christ the King of heaven and of earth who is the God of justice and of armies, will surely go before you." This is by no means his most explicit call to action. In Article II, in fact, he presses black people to defend themselves when someone seeks to murder them, saying that they should kill or be killed. He next asks his audience if they wish they were white. He states they should not wish to be anything other than what God made them, even if white people suppose otherwise. And why should whites have any more right to hold black people in bondage than black people should to hold white people? Why could it not be the other way around? Additionally, the audience should not be afraid of their enemies, who happen to be greater in number and more educated. They may have the law on their side, but the wretched slaves of the nation have, if they are humble, God on theirs. Those who would not fight for their freedom should remain in chains.

Returning to history, Walker asks if there is anything that their African fathers had done to deserve being held in perpetual slavery along with their children. Their masters say that the Spartans held the Helots (a member of the Spartan class of serfs) in slavery and were cruel to them as well. Walker, demonstrating his impressive education, rejoins with the documented fact that the Helots had caused trouble in Sparta, even though they had been welcomed there. Thus, the Spartans sentenced them to slavery, along with their offspring. And even the pre-Christian Spartans never shackled their Helots or "dragged them from their wives and children."

Here Walker states that African American children should read books like Jefferson's *Notes*, so that they can

Essential Quotes

"But against all accusations which may or can be preferred against me, I appeal to Heaven for my motive in writing—who knows that my object is, if possible, to awaken in the breasts of my afflicted, degraded and slumbering brethren, a spirit of inquiry and investigation respecting our miseries and wretchedness in this Republican Land of Liberty!!!!!!*"*

(Preamble)

"We are men, *notwithstanding our* improminent noses *and* woolly heads, *and believe that we feel for our fathers, mothers, wives and children, as well as the whites do for theirs."*

(Preamble)

"They have no more right to hold us in slavery than we have to hold them, we have just as much right, in the sight of God, to hold them and their children in slavery and wretchedness, as they have to hold us, and no more."

(Article I)

"And those enemies who have for hundreds of years stolen our rights, *and kept us ignorant of Him and His divine worship, he will remove. Millions of whom, are this day, so ignorant and avaricious, that they cannot conceive how God can have an attribute of justice, and show mercy to us because it pleased Him to make us black—which colour, Mr. Jefferson calls unfortunate !!!!!!"*

(Article I)

"I have been for years troubling the pages of historians, to find out what our fathers have done to the white Christians of America, *to merit such condign punishment as they have inflicted on them.… But I must aver, that my researches have hitherto been to no effect. I have therefore, come to the immoveable conclusion, that they (Americans) have, and do continue to punish us for nothing else, but for enriching them and their country."*

(Article I)

be the ones to refute such arguments; he asks each brother to "buy a copy of Mr. Jefferson's 'Notes on Virginia,' and put it in the hand of his son." Although it can be beneficial to have white friends refute Jefferson's arguments, these friends are not black and therefore cannot argue as well as African Americans can: "We, and the world, wish to see the charges of Mr. Jefferson refuted by the blacks *themselves*." Looking again at Jefferson's book, Walker points out Jefferson's example that Greek slaves under Roman rule made great strides in science, despite their condition, and this was because they were *whites*. At least the Romans, Walker asserts, let slaves buy their freedom, and once they were free, treated them like equals, even letting them take places in the government. Not only can slaves not buy their freedom in many states (or are stopped by extremely prohibitive laws) but also, if they did, they would not be allowed in the government.

Why are black men treated as brutes? They will meet the same maker when they die, and they are under the same supreme master as white men: "Have we any other Master but Jesus Christ alone? Is he not their Master as well as ours?" Somehow, Walker states, under Christianity white men have become much more brutal and cruel than they ever were before. The barbarians of Europe—Gaul, Britain, Spain—grew worse after becoming Christians. His theory is that heathens who are educated and enlightened learn new ways of being cruel and greedy. If this is true, then if God "were to give [white Christians] more sense, what would they do?" Walker thinks they would rebel against God himself: "Would they not *dethrone* Jehovah and seat themselves upon his throne?" African-American people, on the other hand, tend to become better people under Christianity, not worse.

♦ Article IV: Our Wretchedness in Consequence of the Colonizing Plan

Walker's *Appeal* also includes, at the end of Article IV, a portion on the Declaration of Independence. Here he speaks to "Americans," meaning the white population of the United States. He tells them they should take a look at their own Declaration of Independence, which states that "all men are created equal" and are "endowed with unalienable rights." How can white Americans reconcile these words with their actions toward black people? If these white Americans found British rule too much for them, how much worse must African Americans find American slavery in its brutality and oppression? And if it is any surprise to white Americans that African Americans might rise up "to throw off such government, and to provide new guards for their future security," then it must be the devil deceiving them. Walker tells these Americans that if he must be humble, so should they, since both answer to the same God. White Americans cannot hide from God, no matter how cautious they might be.

Audience

For David Walker, the title of his pamphlet announced his intended audience: *David Walker's Appeal. In Four Articles; Together with a Preamble to the Coloured Citizens of the World, but in Particular, and Very Expressly, to Those of the United States of America*. He directly addressed the men and women held in bondage in the South. It can be surmised that he wrote so that the *Appeal* could be read aloud to the many illiterate slaves by those few who could read. In order to put the pamphlet in the hands of his intended audience, Walker relied on a few contacts in the South as well as the sailors who bought used clothing in his shop. Even after southern state and local governments banned his writings, he concealed pamphlets in the linings of the clothing he sold to sailors bound for southern ports.

Besides the intended audience, Walker's *Appeal* engaged—or, in the case of southern whites, repelled—a much wider range of readers. Both northerners and southerners read the pamphlet, with a wide range of reactions, from abhorrence to admiration. Walker's message certainly reached more than the enslaved people of the South.

Impact

Not long after the initial publication of the *Appeal*, the police of Savannah, Georgia, declared that they had confiscated sixty copies of the document. The governor asked the state legislature to prohibit the distribution of the *Appeal* and all other "incendiary publications." Lawmakers in North Carolina, South Carolina, Virginia, and Louisiana followed suit. A $3,000 reward would be issued for Walker's head and $10,000 for his entire person transported to the South alive.

Walker's publication frightened slaveholders to a new extreme. Already terrified of a bloody slave rebellion like the one in Haiti, they began restricting the few freedoms some had permitted their slaves. Slaves would no longer be taught to read or write, and unsupervised black religious services were banned in some areas, for fear that the ministers would spread Walker's arguments to their congregants. It was even rumored that southern planters plotted to kill Walker—which has led some historians to question the death certificate's statement that his death was by natural causes.

Many slaveholders also thought that Nat Turner's 1831 rebellion in Virginia was influenced by Walker's *Appeal*. At least fifty-five white people died in that revolt. Several years after Turner had a vision that revealed to him that he was to kill his enemies, Turner and six men started at the home of Turner's owner, killing all the whites in the household while they slept and then moved on from house to house in the same way. By the next day this force of seven had grown to about forty, most on horseback. A group of militia men then confronted them, causing the group to scatter. Eventually Turner and many of the rebels were captured and executed. Most historians doubt that Turner was directly influenced by Walker's *Appeal*. Nevertheless, the ideas in Walker's pamphlet were undoubtedly discussed in Virginia, as was the Haitian Revolution so feared by the southern planter culture.

The North reacted somewhat less vehemently than the South. Although abolitionist movements began to coalesce at this time, presenting a much stronger front, these groups tended to favor nonviolent ways of destroying the institution of slavery. One of the most prominent advocates for abolition, William Lloyd Garrison, wrote an editorial in his newspaper, *The Liberator*, in January 1831, saying that while he understood and sympathized with Walker's reasoning, he could not condone the author's encouragement of violent behavior from his brethren or his heated prose. Garrison did not want Walker's *Appeal* to be associated with the wider northern abolition movement precisely because its encouragement of hostility and rebellion only hardened slaveholders' hearts against the abolitionist message.

See also *The Confessions of Nat Turner* (1831).

Further Reading

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—Angela M. Alexander

Questions for Further Study

1. In what ways are the views expressed in David Walker's *Appeal to the Coloured Citizens of the World* similar to and different from those expressed in Malcolm X's "After the Bombing" speech in 1965?

2. Compare this document with the third chapter of W. E. B. Du Bois's *The Souls of Black Folk*—"Of Mr. Booker T. Washington and Others"—or Alain Locke's "Enter the New Negro." To what extent can Walker's speech be regarded as a precursor to the views expressed by Du Bois or Locke?

3. In what ways did the rebellion led by Nat Turner, discussed in *The Confessions of Nat Turner*, confirm the fears that Walker's speech evoked?

4. In what ways did Walker use the Judeo-Christian Bible to illustrate and buttress his points? Why do you think he included so many biblical references?

5. What was the reaction of northern abolitionists to Walker's appeal? Why do you believe they reacted in this way?

Document Text

David Walker's *Appeal to the Coloured Citizens of the world*

My dearly beloved Brethren and Fellow Citizens.

Preamble

Having travelled over a considerable portion of these United States, and having, in the course of my travels, taken the most accurate observations of things as they exist—the result of my observations has warranted the full and unshaken conviction, that we, (coloured people of these United States,) are the most degraded, wretched, and abject set of beings that ever lived since the world began; and I pray God that none like us ever may live again until time shall be no more. They tell us of the Israelites in Egypt, the Helots in Sparta, and of the Roman Slaves, which last were made up from almost every nation under heaven, whose sufferings under those ancient and heathen nations, were, in comparison with ours, under this enlightened and Christian nation, no more than a cipher—or, in other words, those heathen nations of antiquity, had but little more among them than the name and form of slavery; while wretchedness and endless miseries were reserved, apparently in a phial, to be poured out upon our fathers, ourselves and our children, by *Christian* Americans!

These positions I shall endeavour, by the help of the Lord, to demonstrate in the course of this *Appeal*, to the satisfaction of the most incredulous mind—and may God Almighty, who is the Father of our Lord Jesus Christ, open your hearts to understand and believe the truth.

The *causes*, my brethren, which produce our wretchedness and miseries, are so very numerous and aggravating, that I believe the pen only of a Josephus or a Plutarch, can well enumerate and explain them. Upon subjects, then, of such incomprehensible magnitude, so impenetrable, and so notorious, I shall be obliged to omit a large class of, and content myself with giving you an exposition of a few of those, which do indeed rage to such an alarming pitch, that they cannot but be a perpetual source of terror and dismay to every reflecting mind.

I am fully aware, in making this appeal to my much afflicted and suffering brethren, that I shall not only be assailed by those whose greatest earthly desires are, to keep us in abject ignorance and wretchedness, and who are of the firm conviction that Heaven has designed us and our children to be slaves and *beasts of burden* to them and their children. I say, I do not only expect to be held up to the public as an ignorant, impudent and restless disturber of the public peace, by such avaricious creatures, as well as a mover of insubordination—and perhaps put in prison or to death, for giving a superficial exposition of our miseries, and exposing tyrants. But I am persuaded, that many of my brethren, particularly those who are ignorantly in league with slave-holders or tyrants, who acquire their daily bread by the blood and sweat of their more ignorant brethren—and not a few of those too, who are too ignorant to see an inch beyond their noses, will rise up and call me cursed—Yea, the jealous ones among us will perhaps use more abject subtlety, by affirming that this work is not worth perusing, that we are well situated, and there is no use in trying to better our condition, for we cannot. I will ask one question here.—Can our condition be any worse?—Can it be more mean and abject? If there are any changes, will they not be for the better, though they may appear for the worst at first? Can they get us any lower? Where can they get us? They are afraid to treat us worse, for they know well, the day they do it they are gone. But against all accusations which may or can be preferred against me, I appeal to Heaven for my motive in writing—who knows that my object is, if possible, to awaken in the breasts of my afflicted, degraded and slumbering brethren, a spirit of inquiry and investigation respecting our miseries and wretchedness in this *Republican Land of Liberty*!!!!!!

The sources from which our miseries are derived, and on which I shall comment, I shall not combine in one, but shall put them under distinct heads and expose them in their turn; in doing which, keeping truth on my side, and not departing from the strictest rules of morality, I shall endeavour to penetrate, search out, and lay them open for your inspection. If you cannot or will not profit by them, I shall have done *my* duty to you, my country and my God.

And as the inhuman system of *slavery*, is the *source* from which most of our miseries proceed, I shall begin with that *curse to nations*, which has spread terror and devastation through so many na-

tions of antiquity, and which is raging to such a pitch at the present day in Spain and in Portugal. It had one tug in England, in France, and in the United States of America; yet the inhabitants thereof, do not learn wisdom, and erase it entirely from their dwellings and from all with whom they have to do. The fact is, the labour of slaves comes so cheap to the avaricious usurpers, and is (as they think) of such great utility to the country where it exists, that those who are actuated by sordid avarice only, overlook the evils, which will as sure as the Lord lives, follow after the good. In fact, they are so happy to keep in ignorance and degradation, and to receive the homage and the labour of the slaves, they forget that God rules in the armies of heaven and among the inhabitants of the earth, having his ears continually open to the cries, tears and groans of his oppressed people; and being a just and holy Being will at one day appear fully in behalf of the oppressed, and arrest the progress of the avaricious oppressors; for although the destruction of the oppressors God may not effect by the oppressed, yet the Lord our God will bring other destructions upon them—for not unfrequently will he cause them to rise up one against another, to be split and divided, and to oppress each other, and sometimes to open hostilities with sword in hand. Some may ask, what is the matter with this united and happy people?—Some say it is the cause of political usurpers, tyrants, oppressors, &c. But has not the Lord an oppressed and suffering people among them? Does the Lord condescend to hear their cries and see their tears in consequence of oppression? Will he let the oppressors rest comfortably and happy always? Will he not cause the very children of the oppressors to rise up against them, and oftimes put them to death? "God works in many ways his wonders to perform."

I will not here speak of the destructions which the Lord brought upon Egypt, in consequence of the oppression and consequent groans of the oppressed—of the hundreds and thousands of Egyptians whom God hurled into the Red Sea for afflicting his people in their land—of the Lord's suffering people in Sparta or Lacaedemon, the land of the truly famous Lycurgus—nor have I time to comment upon the cause which produced the fierceness with which Sylla usurped the title, and absolutely acted as dictator of the Roman people—the conspiracy of Cataline—the conspiracy against, and murder of Caesar in the Senate house—the spirit with which Marc Antony made himself master of the commonwealth—his associating Octavius and Lipidus with himself in power—their dividing the provinces of Rome among themselves—their attack and defeat, on the plains of Philippi, of the last defenders of their liberty, (Brutus and Cassius)—the tyranny of Tiberius, and from him to the final overthrow of Constantinople by the Turkish Sultan, Mahomed II, AD 1453. I say, I shall not take up time to speak of the *causes* which produced so much wretchedness and massacre among those heathen nations, for I am aware that you know too well, that God is just, as well as merciful!—I shall call your attention a few moments to that *Christian* nation, the Spaniards—while I shall leave almost unnoticed, that avaricious and cruel people, the Portuguese, among whom all true hearted Christians and lovers of Jesus Christ, must evidently see the judgments of God displayed. To show the judgments of God upon the Spaniards, I shall occupy but a little time, leaving a plenty of room for the candid and unprejudiced to reflect.

All persons who are acquainted with history, and particularly the Bible, who are not blinded by the God of this world, and are not actuated solely by avarice—who are able to lay aside prejudice long enough to view candidly and impartially, things as they were, are, and probably will be—who are willing to admit that God made man to serve Him *alone*, and that man should have no other Lord or Lords but Himself—that God Almighty is the *sole proprietor* or *master* of the Whole human family, and will not on any consideration admit of a colleague, being unwilling to divide his glory with another—and who can dispense with prejudice long enough to admit that we are men, notwithstanding our *improminent noses* and *woolly heads*, and believe that we feel for our fathers, mothers, wives and children, as well as the whites do for theirs.—I say, all who are permitted to see and believe these things, can easily recognize the judgments of God among the Spaniards. Though others may lay the cause of the fierceness with which they cut each other's throats, to some other circumstance, yet they who believe that God is a God of justice, will believe that Slavery *is the principal cause*.

While the Spaniards are running about upon the field of battle cutting each other's throats, has not the Lord an afflicted and suffering people in the midst of them, whose cries and groans in consequence of oppression are continually pouring into the ears of the God of justice? Would they not cease to cut each other's throats, if they could? But how can they? The very support which they draw from government to aid them in perpetrating such enormities, does it not arise in a great degree from the wretched victims of oppression among them? And yet they are calling for

Peace!—Peace!! Will any peace be given unto them? Their destruction may indeed be procrastinated awhile, but can it continue long, while they are oppressing the Lord's people? Has He not the hearts of all men in His hand? Will he suffer one part of his creatures to go on oppressing another like brutes always, with impunity? And yet, those avaricious wretches are calling for *Peace!!!!* I declare, it does appear to me, as though some nations think God is asleep, or that he made the Africans for nothing else but to dig their mines and work their farms, or they cannot believe history, sacred or profane. I ask every man who has a heart, and is blessed with the privilege of believing—Is not God a God of justice to *all* his creatures? Do you say he is? Then if he gives peace and tranquillity to tyrants, and permits them to keep our fathers, our mothers, ourselves and our children in eternal ignorance and wretchedness, to support them and their families, would he be to us a God of *justice?* I ask, O ye *Christians!!!* who hold us and our children in the most abject ignorance and degradation, that ever a people were afflicted with since the world began—I say, if God gives you peace and tranquillity, and suffers you thus to go on afflicting us, and our children, who have never given you the least provocation—would he be to us *a God of justice?* If you will allow that we are Men, who feel for each other, does not the blood of our fathers and of us their children, cry aloud to the Lord of Sabaoth against you, for the cruelties and murders with which you have, and do continue to afflict us. But it is time for me to close my remarks on the suburbs, just to enter more fully into the interior of this system of cruelty and oppression.

Article I. Our Wretchedness in Consequence of Slavery

My beloved brethren:—The Indians of North and of South America—the Greeks—the Irish, subjected under the king of Great Britain—the Jews, that ancient people of the Lord—the inhabitants of the islands of the sea—in fine, all the inhabitants of the earth, (except however, the sons of Africa) are called *men*, and of course are, and ought to be free. But we, (coloured people) and our children are *brutes!!* and of course are, and *ought to be* Slaves to the American people and their children forever!! to dig their mines and work their farms; and thus go on enriching them, from one generation to another with our *blood* and our *tears!!!!*

I promised in a preceding page to demonstrate to the satisfaction of the most incredulous, that we, (coloured people of these United States of America) are the *most wretched, degraded* and *abject* set of beings that *ever lived* since the world began, and that the white Americans having reduced us to the wretched state of *slavery*, treat us in that condition *more cruel* (they being an enlightened and Christian people), than any heathen nation did any people whom it had reduced to our condition. These affirmations are so well confirmed in the minds of all unprejudiced men, who have taken the trouble to read histories, that they need no elucidation from me. But to put them beyond all doubt, I refer you in the first place to the children of Jacob, or of Israel in Egypt, under Pharaoh and his people. Some of my brethren do not know who Pharaoh and the Egyptians were—I know it to be a fact, that some of them take the Egyptians to have been a gang of *devils*, not knowing any better, and that they (Egyptians) having got possession of the Lord's people, treated them *nearly* as cruel as *Christian Americans* do us, at the present day. For the information of such, I would only mention that the Egyptians, were Africans or coloured people, such as we are—some of them yellow and others dark—a mixture of Ethiopians and the natives of Egypt—about the same as you see the coloured people of the United States at the present day.—I say, I call your attention then, to the children of Jacob, while I point out particularly to you his son Joseph, among the rest, in Egypt.

"And Pharaoh said unto Joseph, thou shalt be over my house, and according unto thy word shall all my people be ruled: only in the throne will I be greater than thou."

"And Pharaoh said unto Joseph, see, I have set thee over all the land of Egypt."

"And Pharaoh said unto Joseph, I am Pharaoh, and without thee shall no man lift up his hand or foot in all the land of Egypt."

Now I appeal to heaven and to earth, and particularly to the American people themselves, who cease not to declare that our condition is not *hard*, and that we are comparatively satisfied to rest in wretchedness and misery, under them and their children. Not, indeed, to show me a coloured President, a Governor, a Legislator, a Senator, a Mayor, or an Attorney at the Bar.—But to show me a man of colour, who holds the low office of a Constable, or one who sits in a Juror Box, even on a case of one of his wretched brethren, throughout this great Republic!!—But let us pass Jo-

Document Text

seph the son of Israel a little farther in review, as he existed with that heathen nation.

"And Pharaoh called Joseph's name Zaphnath-paaneah; and he gave him to wife Asenath the daughter of Potipherah priest of On. And Joseph went out over all the land of Egypt."

Compare the above, with the American institutions. Do they not institute laws to prohibit us from marrying among the whites? I would wish, candidly, however, before the Lord, to be understood, that I would not give a *pinch of snuff* to be married to any white person I ever saw in all the days of my life. And I do say it, that the black man, or man of colour, who will leave his own colour (provided he can get one, who is good for any thing) and marry a white woman, to be a double slave to her, just because she is *white*, ought to be treated by her as he surely will be, viz: as a Niger!!!! It is not, indeed, what I care about inter-marriages with the whites, which induced me to pass this subject in review; for the Lord knows, that there is a day coming when they will be glad enough to get into the company of the blacks, notwithstanding, we are, in this generation, levelled by them, almost on a level with the brute creation: and some of us they treat even worse than they do the brutes that perish. I only made this extract to show how much lower we are held, and how much more cruel we are treated by the Americans, than were the children of Jacob, by the Egyptians.—We will notice the sufferings of Israel some further, under *heathen Pharaoh*, compared with ours under the *enlightened Christians of America*.

"And Pharaoh spake unto Joseph, saying, thy father and thy brethren are come unto thee:"

"The land of Egypt is before thee: in the best of the land make thy father and brethren to dwell; in the land of Goshen let them dwell: and if thou knowest any men of activity among them, then make them rulers over my cattle."

I ask those people who treat us so *well*, Oh! I ask them, where is the most barren spot of land which they have given unto us? Israel had the most fertile land in all Egypt. Need I mention the very notorious fact, that I have known a poor man of colour, who laboured night and day, to acquire a little money, and having acquired it, he vested it in a small piece of land, and got him a house erected thereon, and having paid for the whole, he moved his family into it, where he was suffered to remain but nine months, when he was cheated out of his property by a white man, and driven out of door! And is not this the case generally? Can a man of colour buy a piece of land and keep it peaceably? Will not some white man try to get it from him, even if it is in a *mud hole*? I need not comment any farther on a subject, which all, both black and white, will readily admit. But I must, really, observe that in this very city, when a man of colour dies, if he owned any real estate it most generally falls into the hands of some white person. The wife and children of the deceased may weep and lament if they please, but the estate will be kept snug enough by its white possessor.

But to prove farther that the condition of the Israelites was better under the Egyptians than ours is under the whites. I call upon the professing philanthropist, I call upon the very tyrant himself, to show me a page of history, either sacred or profane, on which a verse can be found, which maintains, that the Egyptians heaped the *insupportable insult* upon the children of Israel, by telling them that they were not of the *human family*. Can the whites deny this charge? Have they not, after having reduced us to the deplorable condition of slaves under their feet, held us up as descending originally from the tribes of *Monkeys* or *Orang-Outangs*? O! my God! I appeal to every man of feeling—is not this insupportable? Is it not heaping the most gross insult upon our miseries, because they have got us under their feet and we cannot help ourselves? Oh! pity us we pray thee, Lord Jesus, Master.—Has Mr. Jefferson declared to the world, that we are inferior to the whites, both in the endowments of our bodies and of minds? It is indeed surprising, that a man of such great learning, combined with such excellent natural parts, should speak so of a set of men in chains. I do not know what to compare it to, unless, like putting one wild deer in an iron cage, where it will be secured, and hold another by the side of the same, then let it go, and expect the one in the cage to run as fast as the one at liberty. So far, my brethren, were the Egyptians from heaping these insults upon their slaves, that Pharaoh's daughter took Moses, a son of Israel for her own, as will appear by the following.

"And Pharaoh's daughter said unto her, [Moses' mother] take this child away, and nurse it for me, and I will pay thee thy wages. And the woman took the child [Moses] and nursed it."

"And the child grew, and she brought him unto Pharaoh's daughter and he became her son. And she called his name Moses: and she said because I drew him out of the water."

In all probability, Moses would have become Prince Regent to the throne, and no doubt, in process of time but he would have been seated on the

throne of Egypt. But he had rather suffer shame, with the people of God, than to enjoy pleasures with that wicked people for a season. O! that the coloured people were long since of Moses' excellent disposition, instead of courting favour with, and telling news and lies to our *natural enemies*, against each other—aiding them to keep their hellish chains of slavery upon us. Would we not long before this time, have been respectable men, instead of such wretched victims of oppression as we are? Would they be able to drag our mothers, our fathers, our wives, our children and ourselves, around the world in chains and hand-cuffs as they do, to dig up gold and silver for them and theirs? This question, my brethren, I leave for you to digest; and may God Almighty force it home to your hearts. Remember that unless you are united, keeping your tongues within your teeth, you will be afraid to trust your secrets to each other, and thus perpetuate our miseries under the *Christians*!!!!! Addition.—

Remember, also to lay humble at the feet of our Lord and Master Jesus Christ, with prayers and fastings. Let our enemies go on with their butcheries, and at once fill up their cup. Never make an attempt to gain our freedom of *natural right*, from under our cruel oppressors and murderers, until you see your way clear*

[*It is not to be understood here, that I mean for us to wait until God shall take us by the hair of our heads and drag us out of abject wretchedness and slavery, nor do I mean to convey the idea for us to wait until our enemies shall make preparations, and call us to seize those preparations, take it away from them, and put every thing before us to death, in order to gain our freedom which God has given us. For you must remember that we are men as well as they. God has been pleased to give us two eyes, two hands, two feet, and some sense in our heads as well as they. They have no more right to hold us in slavery than we have to hold them, we have just as much right, in the sight of God, to hold them and their children in slavery and wretchedness, as they have to hold us, and no more.]

—when that hour arrives and you move, be not afraid or dismayed; for be you assured that Jesus Christ the King of heaven and of earth who is the God of justice and of armies, will surely go before you. And those enemies who have for hundreds of years stolen our *rights*, and kept us ignorant of Him and His divine worship, he will remove. Millions of whom, are this day, so ignorant and avaricious, that they cannot conceive how God can have an attribute of justice, and show mercy to us because it pleased Him to make us black—which colour, Mr. Jefferson calls unfortunate!!!!!! As though we are not as thankful to our God, for having made us as it pleased himself, as they, (the whites,) are for having made them white. They think because they hold us in their infernal chains of slavery, that we wish to be white, or of their color—but they are dreadfully deceived—we wish to be just as it pleased our Creator to have made us, and no avaricious and unmerciful wretches, have any business to make slaves of, or hold us in slavery. How would they like for us to make slaves of, and hold them in cruel slavery, and murder them as they do us?—

But is Mr. Jefferson's assertions true? viz. "that it is unfortunate for us that our Creator has been pleased to make us black." We will not take his say so, for the fact. The world will have an opportunity to see whether it is unfortunate for us, that our Creator *has made us* darker than the *whites*.

Fear not the number and education of our *enemies*, against whom we shall have to contend for our lawful right; guaranteed to us by our Maker; for why should we be afraid, when God is, and will continue, (if we continue humble) to be on our side?

The man who would not fight under our Lord and Master Jesus Christ, in the glorious and heavenly cause of freedom and of God—to be delivered from the most wretched, abject and servile slavery, that ever a people was afflicted with since the foundation of the world, to the present day—ought to be kept with all of his children or family, in slavery, or in chains, to be butchered by his *cruel enemies*.

I saw a paragraph, a few years since, in a South Carolina paper, which, speaking of the barbarity of the Turks, it said: "The Turks are the most barbarous people in the world—they treat the Greeks more like brutes than human beings." And in the same paper was an advertisement, which said: "Eight well built Virginia and Maryland Negro fellows and four wenches will positively be sold this day, *to the highest bidder*!" And what astonished me still more was, to see in this same *humane* paper!! the cuts of three men, with clubs and budgets on their backs, and an advertisement offering a considerable sum of money for their apprehension and delivery. I declare, it is really so amusing to hear the Southerners and Westerners of this country talk about *barbarity*, that it is positively, enough to make a man *smile*.

The sufferings of the Helots among the Spartans, were somewhat severe, it is true, but to say that theirs, were as severe as ours among the Americans, I do most strenuously deny—for instance, can any man show me an article on a page of ancient history which specifies,

Document Text

that, the Spartans chained, and hand-cuffed the Helots, and dragged them from their wives and children, children from their parents, mothers from their suckling babes, wives from their husbands, driving them from one end of the country to the other? Notice the Spartans were heathens, who lived long before our Divine Master made his appearance in the flesh. Can Christian Americans deny these barbarous cruelties? Have you not, Americans, having subjected us under you, added to these miseries, by insulting us in telling us to our face, because we are helpless, that we are not of the human family? I ask you, O! Americans, I ask you, in the name of the Lord, can you deny these charges? Some perhaps may deny, by saying, that they never thought or said that we were not men. But do not actions speak louder than words?—have they not made provisions for the Greeks, and Irish? Nations who have never done the least thing for them, while *we*, who have enriched their country with our blood and tears—have dug up gold and silver for them and their children, from generation to generation, and are in more miseries than any other people under heaven, are not seen, but by comparatively, a handful of the American people? There are indeed, more ways to kill a dog, besides choking it to death with butter. Further—The Spartans or Lacedaemonians, had some frivolous pretext, for enslaving the Helots, for they (Helots) while being free inhabitants of Sparta, stirred up an intestine commotion, and were, by the Spartans subdued, and made prisoners of war. Consequently they and their children were condemned to perpetual slavery.

I have been for years troubling the pages of historians, to find out what our fathers have done to the *white Christians of America*, to merit such condign punishment as they have inflicted on them, and do continue to inflict on us their children. But I must aver, that my researches have hitherto been to no effect. I have therefore, come to the immoveable conclusion, that they (Americans) have, and do continue to punish us for nothing else, but for enriching them and their country. For I cannot conceive of any thing else. Nor will I ever believe otherwise, until the Lord shall convince me.

The world knows, that slavery as it existed among the Romans, (which was the primary cause of their destruction) was, comparatively speaking, no more than a *cypher*, when compared with ours under the Americans. Indeed I should not have noticed the Roman slaves, had not the very learned and penetrating Mr. Jefferson said, "when a master was murdered, all his slaves in the same house, or within hearing, were condemned to death."

—Here let me ask Mr. Jefferson, (but he is gone to answer at the bar of God, for the deeds done in his body while living,) I therefore ask the whole American people, had I not rather die, or be put to death, than to be a slave to any tyrant, who takes not only my own, but my wife and children's lives by the inches? Yea, would I meet death with avidity far! far!! in preference to such servile submission to the murderous hands of tyrants. Mr. Jefferson's very severe remarks on us have been so extensively argued upon by men whose attainments in literature, I shall never be able to reach, that I would not have meddled with it, were it not to solicit each of my brethren, who has the spirit of a man, to buy a copy of Mr. Jefferson's "Notes on Virginia," and put it in the hand of his son. For let no one of us suppose that the refutations which have been written by our white friends are enough—they are *whites*—we are *blacks*. We, and the world, wish to see the charges of Mr. Jefferson refuted by the blacks *themselves*, according to their chance; for we must remember that what the whites have written respecting this subject, is other men's labours, and did not emanate from the blacks. I know well, that there are some talents and learning among the coloured people of this country, which we have not a chance to develop, in consequence of oppression; but our oppression ought not to hinder us from acquiring all we can. For we will have a chance to develop them by and by. God will not suffer us, always to be oppressed. Our sufferings will come to an *end*, in spite of all the Americans this side of *eternity*. Then we will want all the learning and talents among ourselves, and perhaps more, to govern ourselves.— "Every dog must have its day," the American's is coming to an end.

But let us review Mr. Jefferson's remarks respecting us some further. Comparing our miserable fathers, with the learned philosophers of Greece, he says: "Yet notwithstanding these and other discouraging circumstances among the Romans, their slaves were often their rarest artists. They excelled too, in science, insomuch as to be usually employed as tutors to their master's children; Epictetus, Terence and Phaedrus, were slaves,—but they were of the race of whites. It is not their *condition* then, but *nature*, which has produced the distinction."

See this, my brethren!! Do you believe that this assertion is swallowed by millions of the whites? Do you know that Mr. Jefferson was one of as great character as ever lived among the whites? See his writings for the world, and public labours for the United States of America. Do you believe that the assertions of such a man, will pass away into oblivion unobserved by this people and the world? If you do you are much mistak-

Document Text

en—See how the American people treat us—have we souls in our bodies? Are we men who have any spirits at all? I know that there are many *swell-bellied* fellows among us, whose greatest object is to fill their stomachs. Such I do not mean—I am after those who know and feel, that we are Men, as well as other people; to them, I say, that unless we try to refute Mr. Jefferson's arguments respecting us, we will only establish them.

But the slaves among the Romans. Every body who has read history, knows, that as soon as a slave among the Romans obtained his freedom, he could rise to the greatest eminence in the State, and there was no law instituted to hinder a slave from buying his freedom. Have not the Americans instituted laws to hinder us from obtaining our freedom? Do any deny this charge? Read the laws of Virginia, North Carolina, &c. Further: have not the Americans instituted laws to prohibit a man of colour from obtaining and holding any office whatever, under the government of the United States of America? Now, Mr. Jefferson tells us, that our condition is not so hard, as the slaves were under the Romans!!!!!!

It is time for me to bring this article to a close. But before I close it, I must observe to my brethren that at the close of the first Revolution in this country, with Great Britain, there were but thirteen States in the Union, now there are twenty-four, most of which are slave-holding States, and the whites are dragging us around in chains and in handcuffs, to their new States and Territories to work their mines and farms, to enrich them and their children—and millions of them believing firmly that we being a little darker than they, were made by our Creator to be an inheritance to them and their children for ever—the same as a parcel of *brutes*.

Are we Men!!—I ask you, O my brethren! are we Men? Did our Creator make us to be slaves to dust and ashes like ourselves? Are they not dying worms as well as we? Have they not to make their appearance before the tribunal of Heaven, to answer for the deeds done in the body, as well as we? Have we any other Master but Jesus Christ alone? Is he not their Master as well as ours?—What right then, have we to obey and call any other Master, but Himself? How we could be so *submissive* to a gang of men, whom we cannot tell whether they are *as good* as ourselves or not, I never could conceive. However, this is shut up with the Lord, and we cannot precisely tell—but I declare, we judge men by their works.

The whites have always been an unjust, jealous, unmerciful, avaricious and blood-thirsty set of beings, always seeking after power and authority.—We view them all over the confederacy of Greece, where they were first known to be any thing, (in consequence of education)

Glossary

"And Pharaoh said unto Joseph …"	quotations from the biblical book of Genesis, chapter 41
"And Pharaoh's daughter said unto her …"	quotations from the biblical book of Exodus, chapter 2
"And Pharaoh spake unto Joseph …"	quotation from the biblical book of Genesis, chapter 47
Caesar	Julius Caesar, Roman statesman and general of the first century BCE
Cataline	Lucius Sergius Catilina, a Roman who conspired to overthrow the Roman Republic
Epictetus	an ancient Stoic philosopher who was probably born a slave
Ethiopians	a term commonly used to refer to non-Egyptian Africans
"God works in many ways …"	loose quotation from William Cowper's 1774 hymn
Helots	the slave class in ancient Sparta
Jacob	the third patriarch of the Jewish people in the biblical Old Testament

Document Text

we see them there, cutting each other's throats—trying to subject each other to wretchedness and misery—to effect which, they used all kinds of deceitful, unfair, and unmerciful means. We view them next in Rome, where the spirit of tyranny and deceit raged still higher. We view them in Gaul, Spain, and in Britain.—In fine, we view them all over Europe, together with what were scattered about in Asia and Africa, as heathens, and we see them acting more like devils than accountable men. But some may ask, did not the blacks of Africa, and the mulattoes of Asia, go on in the same way as did the whites of Europe. I answer, no—they never were half so avaricious, deceitful and unmerciful as the whites, according to their knowledge.

But we will leave the whites or Europeans as heathens, and take a view of them as Christians, in which capacity we see them as cruel, if not more so than ever. In fact, take them as a body, they are ten times more cruel, avaricious and unmerciful than ever they were; for while they were heathens, they were bad enough it is true, but it is positively a fact that they were not quite so audacious as to go and take vessel loads of men, women and children, and in cold blood, and through devilishness, throw them into the sea, and murder them in all kind of ways. While they were heathens, they were too ignorant for such barbarity. But being Christians, enlightened and sensible, they are completely prepared for such hellish cruelties. Now suppose God were to give them more sense, what would they do? If it were possible, would they not *dethrone* Jehovah and seat themselves upon his throne? I therefore, in the name and fear of the Lord God of Heaven and of earth, divested of prejudice either on the side of my colour or that of the whites, advance my suspicion of them, whether they are *as good by nature* as we are or not. Their actions, since they were known as a people, have been the reverse, I do indeed suspect them, but this, as I before observed, is shut up with the Lord, we cannot exactly tell, it will be proved in succeeding generations.—The whites have had the essence of the gospel as it was preached by my master and his apostles—the Ethiopians have not, who are to have it in its meridian splendor—the Lord will give it to them to their satisfaction. I hope and pray my God, that they will make good use of it, that it may be well with them.

It is my solemn belief, that if ever the world becomes Christianized, (which must certainly take place before

Glossary

Joseph	one of Jacob's sons, sold into slavery in Egypt
Josephus	a Jewish historian of the first century
Lacedaemon	the name the ancient Greeks gave to Sparta
Lord of Sabaoth	God, literally the "Lord of Hosts," or armies
Lycurgus	a legendary law giver of ancient Sparta
Marc Antony	often spelled "Mark Anthony," a Roman politician and general who formed the Second Triumvirate with Octavian ("Octavius" in the document) and Marcus Lepidus
Mr. Jefferson	Thomas Jefferson, third U.S. president and author of *Notes on Virginia*.
Phaedrus	a writer of ancient Roman fables
plains of Philippi	the site of a battle in northern ancient Greece between Mark Anthony and the Second Triumvirate and Caesar's assassins, Marcus Junius Brutus and Gaius Cassius Longinus
Plutarch	a Greek philosopher of the first and second centuries CE
Sparta	a city-state in ancient Greece
Sylla	Lucius Sylla (more often spelled "Lucius Sulla"), a dictator of ancient Rome
Terence	a playwright in the ancient Roman Republic (whose Roman name was Publius Terentius Afer)
Tiberius	Tiberius Julius Caesar Augustus, a first-century Roman emperor

long) it will be through the means, under God of the Blacks, who are now held in wretchedness, and degradation, by the white Christians of the world, who before they learn to do justice to us before our Maker—and be reconciled to us, and reconcile us to them, and by that means have clear consciences before God and man.—Send out Missionaries to convert the Heathens, many of whom after they cease to worship gods, which neither see nor hear, become ten times more the children of Hell, then ever they were, why what is the reason? Why the reason is obvious, they must learn to do justice at home, before they go into distant lands, to display their charity, Christianity, and benevolence; when they learn to do justice, God will accept their offering, (no man may think that I am against Missionaries for I am not, my object is to see justice done at home, before we go to convert the Heathens).…

Article IV. Our Wretchedness in Consequence of the Colonizing Plan....

A declaration made July 4, 1776.

It says,

"When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them. A decent respect for the opinions of mankind requires, that they should declare the causes which impel them to the separation.—We hold these truths to be self evident—that all men are created equal, that they are endowed by their Creator with certain unalienable rights: that among these, are life, liberty, and the pursuit of happiness that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty to throw off such government, and to provide new guards for their future security." See your Declaration Americans!!! Do you understand your own language? Hear your language, proclaimed to the world, July 4th, 1776—"We hold these truths to be self evident—that All Men Are Created Equal!! that they *are endowed by their Creator with certain unalienable rights*; that among these are life, *liberty*, and the pursuit of happiness!!" Compare your own language above, extracted from your Declaration of Independence, with your cruelties and murders inflicted by your cruel and unmerciful fathers and yourselves on our fathers and on us—men who have never given your fathers or you the least provocation!!!!!!

Hear your language further! "But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their *right*, it is their *duty*, to throw off such government, and to provide new guards for their future security."

Now, Americans! I ask you candidly, was your sufferings under Great Britain, one hundredth part as cruel and tyrannical as you have rendered ours under you? Some of you, no doubt, believe that we will never throw off your murderous government and "provide new guards for our future security." If Satan has made you believe it, will he not deceive you? …

Do the whites say, I being a black man, ought to be humble, which I readily admit? I ask them, ought they not to be as humble as I? or do they think that they can measure arms with Jehovah? Will not the Lord yet humble them? or will not these very coloured people whom they now treat worse than brutes, yet under God, humble them low down enough? Some of the whites are ignorant enough to tell us, that we ought to be submissive to them, that they may keep their feet on our throats. And if we do not submit to be beaten to death by them, we are bad creatures and of course must be damned, &c. If any man wishes to hear this doctrine openly preached to us by the American preachers, let him go into the Southern and Western sections of this country—I do not speak from hear say—what I have written, is what I have seen and heard myself. No man may think that my book is made up of conjecture—I have travelled and observed nearly the whole of those things myself, and what little I did not get by my own observation, I received from those among the whites and blacks, in whom the greatest confidence may be placed.

The Americans may be as vigilant as they please, but they cannot be vigilant enough for the Lord, neither can they hide themselves, where he will not find and bring them out.

State v. Mann

1830

"The power of the master must be absolute to render the submission of the slave perfect."

Overview

State v. Mann has endured as perhaps the most important case in the entire body of American jurisprudence involving slavery. Of all the cases dealing with slaves and their masters, it is unrivaled for the stark, brutal coldness with which the master's authority is articulated. Writing for the North Carolina Supreme Court, Judge Thomas Ruffin gave masters (including those who merely hired the slaves of others) virtually unbridled physical dominion over their slaves. Ironically, the opinion's widest circulation emerged among abolitionists, who pointed to its rhetoric as confirmation of slavery's basic immorality. A body of criticism that reached a high note with Harriet Beecher Stowe in the 1850s was embraced, more than a century later, by revisionist legal historians for whom *State v. Mann* became emblematic of all that was wrong with the antebellum South.

The case arose from an incident that occurred in Edenton, North Carolina, on March 1, 1829. John Mann, a poor white, had in his possession a female slave who was actually owned by an underage orphan girl. Frustrated with the slave's resistance to his "chastisement" over what the trial court concluded was "a small offense," Mann shot her as she fled. The extent of her wounds is unknown. Mann was indicted for assault and battery. The trial took place in the fall in the Chowan County Superior Court. Upon an instruction that Mann, as one in possession of a slave owned by someone else, had only a "special property" in the slave, the jury found him guilty. Although the appeal to the North Carolina Supreme Court was filed during the fall 1829 term (hence its publication in a volume dated 1829), it was not heard until February 15, 1830. At that time, Ruffin had been serving on the court for little more than a month.

Context

State v. Mann arose against a backdrop of rising concerns about the security of the slave labor system. By 1829, North Carolina and Virginia were the only two states that continued to base voting rights on substantial property ownership. Pressure to broaden access to the vote created alarm among the conservative slaveholding elite, who dominated the eastern parts of both states. They feared that expansion of the franchise to all white male citizens would open the door to increased rights for the enslaved. The political unrest that ultimately led to new constitutions in both states was reflected in incidents and threats of slave revolt. Well before Nat Turner's failed uprising of 1831, such revolts had become a constant threat. Both of these developments are important to understanding the context of *State v. Mann*.

The debate over voting rights came to a head first in Virginia. The Virginia Constitution of 1776, in effect, gave legislative control to the eastern region and its established plantation owners. As the population of small farmers in the western part of the state grew, however, the issue of the power imbalance demanded a resolution: Two-thirds of the state's white males were disenfranchised under this constitution. Arguing for reform, western Virginians appealed to the same abstract notions of the universal "rights of man" that had inspired the American Revolution.

In later years, Virginia's landed elite understood this appeal to fundamental human rights as an implicit challenge to the institution of slavery: "Were not slaves men?" one of them was prompted to ask. For these eastern plantation owners, the appeal to abstract "rights" that had driven the American Revolution was no longer compelling or convenient. Rather, they cited the disastrous outcome of such "rights" discourse in the French Revolution of 1789–1799 as well as the bloody slave revolt in Haiti (1791). For this argument, Edmund Burke's *Reflections on the Revolution in France* (1790) proved especially useful. Burke, an Anglo-Irish political philosopher, registered deep suspicions about appeals to idealized "rights": such notions, he concluded, were too easily abused. He argued for a politics of moderation and restraint that would tolerate certain inequities, with the understanding that no system was perfect.

Following Burke and other conservative thinkers, the slave owners of eastern Virginia counseled a kind of resignation that effectively justified the status quo. They privileged a social ethos in which individual will was subordinated to the good of the larger community, favoring the stability of tradition. After a protracted debate, in January 1830 a new

Time Line

1787

■ **November 17**
Thomas Ruffin is born at Newington, in the Tidewater region of Virginia.

1808

■ Ruffin is admitted to the North Carolina bar.

1813

■ Ruffin serves in the North Carolina House of Commons (to 1816).

1816

■ Ruffin is elected as a judge of the North Carolina Superior Court, serving to 1818 (and also 1825–1828).

1822

■ **June**
Denmark Vesey, inspired by the 1791 revolution in Saint Domingue (Haiti), is arrested in Charleston, S.C., charged with plotting insurrection.

1828

■ Ruffin assumes the presidency of the State Bank of North Carolina, rescuing it from bankruptcy.

1829

■ **Fall**
John Mann is found guilty in Chowan County (North Carolina) Superior Court of assault and battery upon a hired slave.

1830

■ **January**
Ruffin joins the North Carolina Supreme Court.

■ **January**
Virginia approves a new constitution that preserves the political dominance of eastern slave-owning conservatives.

■ **February**
The appeal of John Mann's conviction is heard in the Supreme Court; subsequently Ruffin's opinion is published.

■ **March**
David Walker's *Appeal to the Coloured Citizens of the World*, published in 1829, becomes widely known in North Carolina.

constitution was approved reflecting only minimal changes; the conservative majority had held its own.

Thomas Ruffin, a son of the eastern Virginia elite, would have been aware of Virginia's constitutional debates as well as the one closer to his North Carolina home. A similar demand for reform was heard in North Carolina beginning around 1820, though the eastern slaveholding establishment managed to hold off constitutional changes until 1835. Ruffin would also have known about the threats of slave insurrection that were troubling the region. Denmark Vesey's conspiracy in South Carolina, discovered in 1822, provoked widespread alarm. In North Carolina, one planned revolt was discovered in Onslow County in 1821 and another in Tarboro in 1825; from other counties into 1829 and early 1830 came anxious reports of the mobilization of runaway slaves. Surrounding Edenton (where the shooting had occurred) lived several thousand fugitive slaves, from the Albemarle Sound to the Great Dismal Swamp. They posed a constant threat.

Other signs of a restless political climate were the increased restrictions that North Carolina lawmakers placed on slaves and free blacks beginning in the 1820s. In 1827, for example, the legislature passed a law prohibiting the migration of any free blacks into the state, as well as an antivagrancy law requiring all able-bodied free blacks to be put to work.

David Walker's *Appeal to the Coloured Citizens of the World*, published in 1829 but not widely known in North Carolina until at least March 1830, is a text to which Ruffin may have been reacting. Walker, a free black born in North Carolina, was a lay evangelist closely associated with the African Methodist Episcopal minister Richard Allen. He combined revolutionary with biblical rhetoric to urge the enslaved to take freedom into their own hands, by force if necessary. Whether or not Ruffin knew about this incendiary publication before he wrote his opinion in *State v. Mann*, the greater circumstances place him squarely within the class of conservative planters who by the late 1820s held grave anxieties about the future of slavery.

State v. Mann can be read as part of a pattern reflected in the writings of an increasingly defensive slaveholding elite. The opinion can be situated along a continuum of proslavery polemics, between the positions taken by the conservative Virginians in 1829–1830, who sought at least to contain slavery as part of their successful campaign against efforts to dilute their power, and the full-throttle defense of slavery mounted by the educator and writer Thomas Dew in the aftermath of the Virginia slavery debates of 1831–1832.

About the Author

Thomas Carter Ruffin was born in 1787 in King and Queen County, Virginia, to a family with strong ties to the Virginia planter establishment. He graduated with honors in 1805 from Princeton University and studied law in Petersburg, Virginia, from 1806 to 1807, when he followed his family to Rockingham County, North Carolina. Admit-

ted to the North Carolina bar in 1808, he moved the following year to Hillsborough. In December 1809 he married Anne Kirkland, daughter of a wealthy Scottish merchant. He joined the Episcopal Church, over time becoming one of the leading Episcopalians of the state. His daughter Anne married Paul Carrington Cameron, who reputedly became the wealthiest man in the state.

Ruffin quickly forged relationships with the lawyers, planters, and businessmen who were seeking to modernize the state's railroads and banking interests. In 1813 he was elected to the North Carolina House of Commons, becoming Speaker of the House in 1816. After two years' service on the superior court bench (1817–1818), he resigned to pursue private practice. In 1825 he returned to the superior court, and in 1828 he accepted a call to leave the bench to take charge of the failing State Bank of North Carolina, a task at which he succeeded handily.

The legal historian Eric Muller has investigated Ruffin's participation in the slave trade. Ruffin partnered with one Benjamin Chambers, who traded in slaves, selling them for profit in the Lower South. Ruffin provided the equity for this speculative venture but sought to avoid notice: The business was to be carried out in Chambers's name only. Muller has also expanded the scholarship documenting Ruffin's own abuse of certain slaves in his own household.

Meanwhile, Ruffin's public reputation remained strong. In December 1829 he was elected by the legislature to the Supreme Court of North Carolina. The court had been criticized throughout the 1820s by populist legislators who sought the popular election of judges and a variety of other anticourt measures. All of these proposals were defeated. Historians of the court have contended that the legal talent and personal integrity of Thomas Ruffin, combined with similar qualities possessed by his colleague William Gaston, were integral to the survival of the court during this challenging period.

Ruffin presided as chief justice of North Carolina from 1833 to 1852. Notably, he used the tools of the common law to hasten economic progress. Particularly notable was his decision in *Raleigh and Gaston Railroad Company v. Davis* (1837), a seminal case establishing the use of eminent domain for the taking of private land on behalf of a railroad. The twentieth-century legal historian Roscoe Pound named Ruffin one of the ten greatest judges of American history.

Off the bench, in an address before the Agricultural Society of North Carolina in 1855, Ruffin shared his thoughts about slavery. He acknowledged the existence of "cruel and devilish masters" but claimed that their numbers were kept in check by the power of public opinion, combined with the master's economic self-interest. Reflecting an evolution of thought that he shared with his fellow planters, in this address he went so far as to argue for slavery's positive good: "I appeal to everyone, if our experience [with slavery] is not in accordance with the divine statute."

During the secession crisis Ruffin proclaimed loyalty to the Union (and to the institution of slavery), lending his voice to the call for compromise. He served as delegate to a peace conference convened by Senator John J. Crittenden of Kentucky in February 1861. But the failure to achieve a workable middle ground disillusioned him. As the war broke out, he sided with the North Carolina secessionists.

After the war, Ruffin successfully sought a pardon from President Andrew Johnson, but on one important point he remained unreconciled: the drafting of North Carolina's postwar constitution. In 1866 Ruffin vigorously opposed the new method of apportioning representation, which was on the basis of the white population only, no longer including three-fifths of the enslaved population under the old federal formula. The new formula threatened a dramatic power shift. Ruffin challenged the very legitimacy of this constitution, holding fast to his commitment to the antebellum political structure. His Haw River plantation having been ravaged by Union occupation, he retired to Hillsborough, where he died in 1870.

Time Line

1831	■ **August** Nat Turner leads a violent slave rebellion in Southampton, Virginia.
1832	Thomas Dew's "Review of the Debate [on the abolition of slavery] in the Virginia Legislature, 1831 and 1832" is published.
1837	■ *State v. Mann* gains a northern audience via Jacob Wheeler's *Practical Treatise on the Law of Slavery*.
1853	■ Ruffin and *State v. Mann* are discussed in Harriet Beecher Stowe's *Key to Uncle Tom's Cabin.*
1856	■ A thinly veiled Thomas Ruffin appears in Stowe's novel *Dred: A Tale of the Great Dismal Swamp*.

Explanation and Analysis of the Document

State v. Mann overturned a Chowan County jury's conviction of a slave hirer, John Mann, for assault and battery upon a slave named Lydia, who belonged to Elizabeth Jones, a minor. (The hiring out of an orphan's enslaved property was part of a guardian's duties to maintain the value of the orphan's estate.) The record does not disclose why a criminal charge rather than a civil claim for damages was pursued, but Mann's poverty may have been a factor.

Frontispiece to* Reflections on the French Revolution, *showing Edmund Burke on bended knee before Marie Antoinette
(Library of Congress)

A jury of twelve men, most if not all of them slave owners, convicted him upon an instruction requiring them to assume that the assault had been "cruel and unreasonable" and, further, to recognize that as a hirer, he had only a "special property," or limited license, in the slave. Mann took an immediate appeal to the North Carolina Supreme Court, where he prevailed.

The four numbered statements that precede the opinion proper represent standard legal format of the time and are self-explanatory. In the first paragraph of the opinion proper, Ruffin purports to be deeply troubled by the decision that he is about to announce, emphasizing that "the duty of the magistrate" is to take responsibility for imposing the law of the state. Yet a careful analysis reveals that the law of North Carolina on this particular question was not at all clear: Ruffin could have upheld Mann's conviction through the application of settled common-law principles.

The key move that Ruffin makes in setting up the terms of his reversal is to declare the distinction between a hirer and an owner of a slave irrelevant: The hirer "is, for the time being, the owner." No precedent dictated this conclusion. Nonetheless, having restated the issue as the extent to which any slave master might be answerable for criminal assault, Ruffin asserts, again without citing a legal authority, that the courts were powerless to limit a master's authority. "The power of the master must be absolute," Ruffin writes, "to render the submission of the slave perfect." Although he claims "a sense of harshness" over the severity of the decision, he seals the master's behavior from judicial interference.

The arguments that Ruffin employs echo those that conservative Virginia planters were making to defend the status quo—arguments that incorporated deeply held fears that expansion of the right to vote was a slippery slope that could result in a persuasive argument for the enfranchisement of slaves. The first justification presented for the master's "absolute" power is an appeal not to precedent but to the judgment of "the established habits and uniform practice of the country." Ruffin contrasts the abstract "principle of moral right" with "the actual condition of things," which dictates that "it must be so." That community standards must take precedence over slippery notions of abstract justice is reiterated in the penultimate paragraph of the opinion: Ruffin disdains "any rash expositions of abstract truths by a judiciary tainted with a false and fanatical philanthropy, seeking to redress an acknowledged evil by means still more wicked and appalling than that evil." His judgment thus accords with the conservative constitutionalist political philosophy of Edmund Burke.

This important distinction between the actual and the abstract was clearly expressed in the Virginia debate. Following Burke, conservatives argued that "truth" was a function of community norms established through actual, time-honored experience. Correspondingly, Ruffin declines to engage in the kind of case-by-case reasoning that would have allowed guilt to be decided by a jury: "We are forbidden to enter upon a train of general reasoning on the subject. We cannot allow the right of the master to be brought into discussion in the courts of justice."

Ruffin is not saying that a case in which a master has abused his authority might never arise—only that the question cannot be subjected to the uncertainties of a jury trial. Similarly in Virginia in 1828, although the eastern conservatives recognized that the westerners had a point as a matter of principle, as one eastern gentleman wrote to another, the argument for reform was not compelling enough to overcome "the actual condition of things."

The prosecution's argument that the master's authority should be subject to the same limits as that of a parent over a child, a tutor over a student, or a master over an apprentice is judged not persuasive: According to Ruffin, "There is no likeness between the cases." The difference is that in the master-slave relationship, the objective is "the profit of the master." The slave's obedience, he continues, "is a consequence only of uncontrolled authority over the body."

Within this assertion lies one of the most startling aspects of the opinion: the way in which Ruffin punctures the romantic fiction of the happy slaveholding "family." Although he appeals to the moral responsibility of the master to treat his slaves with restraint, he does not rest his argu-

Essential Quotes

"The established habits and uniform practice of the country in this respect is the best evidence of the portion of power deemed by the whole community requisite to the preservation of the master's dominion."

"The end [of slavery] is the profit of the master, his security and the public safety; the subject, one doomed in his own person and his posterity, to live without knowledge and without the capacity to make anything his own, and to toil that another may reap the fruits."

"The power of the master must be absolute to render the submission of the slave perfect."

"The slave, to remain a slave, must be made sensible that there is no appeal from his master; that his power is in no instance usurped; but is conferred by the laws of man at least, if not by the law of God."

ment on any notions of paternalism. Recognizing that the slave's loyalty is coerced, he acknowledges that the system of slavery is inherently unstable. Slavery had to be protected from external threats—and a legal constraint on the master's authority would have been seen as such a threat.

The trial court's conviction of John Mann for callously taking aim against a hired slave would seem an unlikely threat to the integrity of the entire slave system. Mann, an old seaman mired in debt, was a dubious torchbearer for the "absolute" rights of the master. But his conviction, while it vindicated the rights of Lydia's owner, also sent a message of sympathy—perhaps even reward—regarding a slave who had been shot while fleeing a white man's control. If Ruffin was indeed troubled by fears of political unrest and slave revolt, *State v. Mann* provided him with a ready platform: The case afforded an opportunity to consolidate the authority of white men, without regard to social rank. The reversal of Mann's conviction may be seen as a dramatic, preemptive expansion of the numbers of white men with an unqualified right of discipline over slaves.

Ruffin's elision of the difference between a slave owner and a slave hirer was a crucial strategic and rhetorical move that enabled him to avoid nuance, to expound upon the issue of the master's authority in broad, firm strokes. The sense of inevitability that pervades the decision is another characteristic that aligns the opinion with the hardening positions of Ruffin's contemporaries in response to perceived threats to the institution of slavery. Such a sense is conveyed from the opinion's very opening lines: "It is impossible that the reasons on which [such cases] go can be appreciated, but where institutions similar to our own exist and are thoroughly understood.… It is useless, however, to complain of things inherent in our political state." In the passage citing physical force as the ultimate foundation for slavery, we find, again, a tone of somber resignation: "I most freely confess my sense of the harshness of this proposition; I feel it as deeply as any man can," Ruffin writes, but "this discipline belongs to the state of slavery."

The consequence of such fatalistic rhetoric is to preclude real debate—not simply to declare that one party is right (as a legal opinion must) but, indeed, to present the argument as closed from the beginning. Ruffin's opinion rejects the notion that any claim of assault brought on behalf of a slave against any "person having command of the slave"

could prevail against the combined interest of "the property of the master, his security and the public safety." It avoids an analysis of conflicting principles. It is not seriously engaged in a balancing of competing interests (although the opportunity to weigh the interest of the hirer against that of the owner was certainly available). Within the conventions of a judicial opinion, it is a discourse upon the rules of behavior "while slavery exists among us in its present state," written with a wary eye toward those who would challenge its very existence.

Ruffin concludes by returning to his initial claim of regret for the necessity of addressing such a troubling issue. He asserts (again without citation to legal authority) that a limit to a slave master's physical power of correction could be established only by an act of the state legislature.

Audience

The immediate audience for the opinion would have been the defendant, John Mann, and the citizens of Chowan County. But the sweeping nature of Ruffin's rhetoric suggests that he intended a much broader audience. Ruffin's Virginia background, his position as a prominent North Carolina lawyer and planter, and evidence from the text itself all suggest that he was responding to an emerging resistance to pressures upon the planter elite to become a more inclusive polity (raising the theoretical possibility of voting rights for slaves), pressures accompanied by continuing threats of slave revolt. Certain passages explicitly suggest that he was addressing northern abolitionists. For example, his assertion at the beginning that a case such as this one cannot be fully "appreciated" except "where institutions similar to our own exist" can be seen as an appeal for the understanding of readers who lived beyond the regions in which slavery was practiced. (As noted, the opinion did reach abolitionists, but for the most part their interpretation was at odds with his intention. They took serious issue with the claim that the law required the reversal of Mann's conviction.) Within this uneasy context he also appears to have been speaking broadly to fellow southerners, strengthening the basis for their defense of slavery by explaining its foundation in "the actual condition of things."

Impact

As legal precedent, the impact of *State v. Mann* is unclear. Unquestionably, the opinion sanctioned the harsh, even reckless treatment of slaves. But subsequent opinions of the North Carolina Supreme Court chipped away at the master's "absolute" power. In *State v. Will* (1834), for example, the court recognized a slave's right of self-defense against a master's aggression.

The opinion owes its lasting fame, ironically, to northern abolitionists. Citing the text as reproduced in Jacob Wheeler's *Practical Treatise on the Law of Slavery* (1837), they turned Ruffin's opinion on its head. What the abolitionists found interesting in *State v. Mann* was not so much its defense of the inviolability of the master-slave relationship as its tacit admission of slavery's inherent immorality. Ruffin had removed the veneer of "big house" gentility—the notion that slaves, presumably incapable of higher pursuits, lived happily under the benevolent, paternal rule of plantation owners. His concession that the basis for slavery lay ultimately in a brutal power relationship became, for the abolitionists, a testament to the evil at the root of the system. The opinion came to be cited by the likes of William Lloyd Garrison and Theodore Weld in what might today be called sound bites—isolated quotations selected for their extraordinary rhetorical force. (The particulars of the case were of little interest to these writers.) The assertion that the purpose of slavery was "the profit of the master" was considered especially revealing. Within the growing body of abolitionist literature, *State v. Mann* stood for quite the opposite of what its author intended. It came to be cited so often that allusions could be made to it without naming the judge or the case.

In her *Key to Uncle Tom's Cabin* (1853), Harriet Beecher Stowe quoted from *State v. Mann* at length as she built her own argument on the immorality of slavery. In her ideological interpretation, Ruffin was a moral man trapped within an immoral system. She believed him when he wrote of "the struggle … in the Judge's own breast between the feelings of the man and the duty of the magistrate." Influencing generations of readers, Stowe took Ruffin at his word that something larger than his own moral code, something vast and immovable called "the law," compelled him to overturn Mann's conviction.

Stowe's novel *Dred: A Tale of the Great Dismal Swamp* (1865) inscribes the very text of *State v. Mann* within its plot. The case in the novel comes to be decided by Judge Clayton, a character who does genuinely engage in a moral struggle in which his heart is finally overcome by fidelity to an unbending law. His own son, an attorney who prosecuted the case in his father's court, responds by fleeing with his slaves to Canada. Thus recast as a morality tale demonstrating the failure of the laws of men, Ruffin's words reached an even broader audience than before.

The body of criticism initiated by the early abolitionists and amplified by Stowe was embraced and expanded in the twentieth century by academic legal historians. Speaking in 1996 about the first conference on the American law of slavery, held in 1971, the historian Stanley N. Katz noted, "It was as though a group of people who had never seen one another before discovered that they had all been raised in the same little village.… It was named *State v. Mann*."

See also David Walker's *Appeal to the Coloured Citizens of the World* (1829); *The Confessions of Nat Turner* (1831).

Further Reading

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—Sally Greene

Questions for Further Study

1. Describe the political issues that formed the backdrop for Ruffin's opinion in *State v. Mann*.

2. What events and documents dating back to the eighteenth century gave rise to the climate in which *State v. Mann* arose? How did these events and documents influence attitudes toward slavery in Virginia and North Carolina in the 1820s and 1830s?

3. Compare this document to David Walker's *Appeal to the Coloured Citizens of the World* (1829). Explain the extent to which Ruffin's opinion may have been a response to Walker.

4. Explain the distinction between "community standards" and "abstract justice" and how the distinction affected the outcome of *State v. Mann*.

5. In what way did the opinion in *State v. Mann* actually serve the interests of abolitionists in the antebellum North?

Document Text

State v. Mann

1. The master is not liable to an indictment for a battery committed upon his slave.

2. One who has a right to the labor of a slave has also a right to all the means of controlling his conduct which the owner has.

3. Hence one who has hired a slave is not liable to an indictment for a battery on him, committed during the hiring.

4. But this rule does not interfere with the owner's right to damages for an injury affecting the value of a slave, which is regulated by the law of bailment.

The defendant was indicted for an assault and battery upon Lydia, the slave of one Elizabeth Jones.

On the trial it appeared that the defendant had hired the slave for a year; that during the term the slave had committed some small offense, for which the defendant undertook to chastise her; that while in the act of so doing the slave ran off, whereupon the defendant called upon her to stop, which being refused, he shot and wounded her.

His Honor, Judge Daniel, charged the jury that if they believed the punishment inflicted by the defendant was cruel and unwarrantable, and disproportionate to the offense committed by the slave, that in law the defendant was guilty, as he had only a special property in the slave.

A verdict was returned for the State, and the defendant appealed.

No counsel for the defendant.

The *Attorney-General*, for the State.

Ruffin, J. A Judge cannot but lament when such cases as the present are brought into judgment. It is impossible that the reasons on which they go can be appreciated, but where institutions similar to our own exist and are thoroughly understood. The struggle, too, in the Judge's own breast between the feelings of the man and the duty of the magistrate is a severe one, presenting strong temptation to put aside such questions, if it be possible. It is useless, however, to complain of things inherent in our political state. And it is criminal in a Court to avoid any responsibility which the laws impose. With whatever reluctance, therefore, it is done, the Court is compelled to express an opinion upon the extent of the dominion of the master over the slave in North Carolina.

The indictment charges a battery on Lydia, a slave of Elizabeth Jones. Upon the face of the indictment, the case is the same as *S. v. Hall [Hale]*.... No fault is found with the rule then adopted; nor would be, if it were now open. But it is not open; for the question, as it relates to a battery on a slave by a stranger, is considered as settled by that case. But the evidence makes this a different case. Here the slave had been hired by the defendant, and was in his possession; and the battery was committed during the period of hiring. With the liabilities of the hirer to the general owner for an injury permanently impairing the value of the slave no rule now laid down is intended to interfere. That is left upon the general doctrine of bailment. The inquiry here is whether a cruel and unreasonable battery on a slave by the hirer is indictable. The Judge below instructed the Jury that it is.

He seems to have put it on the ground that the defendant had but a special property. Our laws uniformly treat the master or other person having the possession and command of the slave as entitled to the same extent of authority. The object is the same—the services of the slave; and the same powers must be confided. In a criminal proceeding, and indeed in reference to all other persons but the general owner, the hirer and possessor of a slave, in relation to both rights and duties, is, for the time being, the owner. This opinion would, perhaps, dispose of this particular case; because the indictment, which charges a battery upon the slave of Elizabeth Jones, is not supported by proof of a battery upon defendant's own slave; since different justifications may be applicable to the two cases. But upon the general question whether the owner is answerable *criminaliter* for a battery upon his own slave, or other exercise of authority or force not forbidden by statute, the Court entertains but little doubt. That he is so liable has never yet been decided; nor, as far as is known, been hitherto contended. There have been no prosecutions of the sort. The established habits and uniform practice of the country in this respect is the best evidence of the portion of power deemed by the whole community requisite to the preservation of the master's dominion. If we thought differently we could not set our notions in array against the judgment of every body else, and say that this or that authority may be

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safely lopped off. This has indeed been assimilated at the bar to the other domestic relations; and arguments drawn from the well-established principles which confer and restrain the authority of the parent over the child, the tutor over the pupil, the master over the apprentice, have been pressed on us. The Court does not recognize their application. There is no likeness between the cases. They are in opposition to each other, and there is an impassable gulf between them. The difference is that which exists between freedom and slavery—and a greater cannot be imagined. In the one, the end in view is the happiness of the youth, born to equal rights with that governor, on whom the duty devolves of training the young to usefulness in a station which he is afterwards to assume among freemen. To such an end, and with such a subject, moral and intellectual instruction seem the natural means; and for the most part they are found to suffice. Moderate force is superadded, only to make the others effectual. If that fail it is better to leave the party to his own headstrong passions, and the ultimate correction of the law than to allow it to be immoderately inflicted by a private person. With slavery it is far otherwise. The end is the profit of the master, his security and the public safety; the subject, one doomed in his own person and his posterity, to live without knowledge and without the capacity to make anything his own, and to toil that another may reap the fruits. What moral considerations shall be addressed to such a being, to convince him what it is impossible but that the most stupid must feel and know can never be true—that he is thus to labor upon a principle of natural duty, or for the sake of his own personal happiness, such services can only be expected from one who has no will of his own; who surrenders his will in implicit obedience to that of another. Such obedience is the consequence only of uncontrolled authority over the body. There is nothing else which can operate to produce the effect. The power of the master must be absolute to render the submission of the slave perfect. I most freely confess my sense of the harshness of this proposition; I feel it as deeply as any man can; and as a principle of moral right every person in his retirement must repudiate it. But in the actual condition of things it must be so. There is no remedy. This discipline belongs to the state of slavery. They cannot be disunited without abrogating at once the rights of the master and absolving the slave from his subjection. It constitutes the curse of slavery to both the bond and free portion of our population. But it is inherent in the relation of master and slave.

That there may be particular instances of cruelty and deliberate barbarity where, in conscience, the law might properly interfere, is most probable. The difficulty is to determine where a Court may properly begin. Merely in the abstract it may well be asked, which power of the master accords with right? The answer will probably sweep away all of them. But we cannot look at the matter in that light. The truth is that we are forbidden to enter upon a train of general reasoning on the subject. We cannot allow the right of the master to be brought into discussion in the courts of justice. The slave, to remain a slave, must be made sensible, that there is no appeal from his master; that his power is in no instance usurped; but is conferred by the laws of man at least, if not by the law of God. The danger would be great, indeed, if the tribunals of justice should be called on to graduate the punishment appropriate to every temper and every dereliction of menial duty. No man can anticipate the many and aggravated provocations of the master which the slave would be constantly stimulated by his own passions or the instigation of others to give; or the consequent wrath of the master, prompting him to bloody vengeance upon the turbulent traitor—a vengeance generally practiced with impunity by reason of its privacy. The Court, therefore, disclaims the power of changing the relation in which these parts of our people stand to each other.

We are happy to see that there is daily less and less occasion for the interposition of the Courts. The protection already afforded by several statutes, that all-powerful motive, the private interest of the owner, the benevolences towards each other, seated in the hearts of those who have been born and bred together, the frowns and deep execrations of the community upon the barbarian who is guilty of excessive and brutal cruelty to his unprotected slave, all combined, have produced a mildness of treatment and attention to the comforts of the unfortunate class of slaves, greatly mitigating the rigors of servitude and ameliorating the condition of the slaves. The same causes are operating and will continue to operate with increased action until the disparity in numbers between the whites and blacks shall have rendered the latter in no degree dangerous to the former, when the police now existing may be further relaxed. This result, greatly to be desired, may be much more rationally expected from the events above alluded to, and now in progress, than from any rash expositions of abstract truths by a judiciary tainted with a false and fanatical philanthropy, seeking to redress an acknowledged evil by means still more wicked and appalling than even that evil.

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I repeat that I would gladly have avoided this ungrateful question. But being brought to it the Court is compelled to declare that while slavery exists amongst us in its present state, or until it shall seem fit to the Legislature to interpose express enactments to the contrary, it will be the imperative duty of the Judges to recognize the full dominion of the owner over the slave, except where the exercise of it is forbidden by statute. And this we do upon the ground that this dominion is essential to the value of slaves as property, to the security of the master, and the public tranquility, greatly dependent upon their subordination; and, in fine, as most effectually securing the general protection and comfort of the slaves themselves.

Per Curiam. Reversed and judgment entered for the defendant.

Glossary

bailment	delivery of property by the owner to someone else, who holds the property for special purposes and then returns it to the owner
criminaliter	criminally, as opposed to civilly
per curiam	Latin for "by the court," referring to an opinion rendered by the entire appellate court (or a majority) rather than by justices individually
special property	property that a temporary holder has a limited right to use

William Lloyd Garrison (Library of Congress)

William Lloyd Garrison's First *Liberator* Editorial

1831

"Let all the enemies of the persecuted blacks tremble."

Overview

On January 1, 1831, a twenty-five-year-old editor named William Lloyd Garrison leaped to prominence as an advocate of immediate slave emancipation with the first publication of the *Liberator*. Garrison's new weekly journal was only four pages in size and boasted few initial subscribers, but it sent shock waves through the nation by virtue of its relentless attacks upon slavery and its unwillingness to make peace with more moderate slavery opponents. The *Liberator*'s inaugural editorial spelled out Garrison's essential beliefs, ones he adhered to during the thirty-five years of his publication's existence. Provocative, accusatory, and steeped in religious fervor, the editorial's words served as the opening shot in a campaign of ideas that would cease only with the emancipation of America's slaves.

Slavery did not rank high among the controversies that troubled America's political life during the 1830s. A desire to keep peace within the Union, a preoccupation with such issues as the tariff and westward expansion, and a pervasive racism in both the North and South kept slavery largely out of the public debate. Until the publication of the *Liberator*, the antislavery sentiment that existed was largely channeled into supporting the colonization of freed slaves overseas, with only a few dedicated souls actively working to free the millions of African Americans in bondage.

Context

In 1776 the newly approved Declaration of Independence asserted "that all men are created equal, that they are endowed by their Creator with certain unalienable rights." By the time the U.S. Constitution was officially declared in effect in 1789, however, it was clear that this statement of equality did not include the millions of slaves held in both the northern and southern states. Thomas Jefferson, Patrick Henry, and other Revolutionary leaders of southern birth considered slavery a moral evil and wished—in theory—to see it eradicated. While antislavery sentiment existed in Virginia and other southern states in the early nineteenth century, the growing profitability of the slave-based plantation system helped keep the South wedded to the institution. The northern states gradually freed their own slaves, but they showed no real inclination to interfere with slavery south of the Mason-Dixon Line. Few organized bodies of private citizens cared to oppose slavery publicly. Among the established religious denominations, only the Quakers sought to convince others that slavery was wrong. The nation's unease over the idea of human servitude was reflected in the federal suppression of the African slave trade in 1808 (with a supplementary act in 1819) and in the controversy over slavery's extension leading up to the Missouri Compromise of 1820. For the most part, though, the subject was not a matter of wide concern among America's free white citizens. Abolitionists—those dedicated to abolishing slavery—were looked upon as impractical dreamers or dangerous fanatics.

Still, there were signs of a slowly growing antislavery sentiment scattered around the country. The mildest form was represented by the American Colonization Society, an organization established in 1816 to encourage the resettlement of freed slaves in overseas colonies. Those who favored more vigorous efforts to end slavery took encouragement from the work of Benjamin Lundy, a Quaker abolitionist who began publishing his newspaper the *Genius of Universal Emancipation* in 1821. Although he advocated gradual rather than immediate emancipation, Lundy won a small band of converts for his courage in attacking slavery at all. This group included a young William Lloyd Garrison, who became the coeditor of the *Genius* in 1829. That same year, David Walker, a free black man living in Boston, asserted the right of slaves to rebel against their masters in his pamphlet *Walker's Appeal … to the Coloured Citizens of the World*. This angry document—which even Garrison condemned—marked the early stirrings of a new militancy among antislavery forces.

By 1830 a number of social, political, and religious trends in America increased sympathy for antislavery views. Such evangelical Protestant preachers as Charles G. Finney advocated the doctrine of perfectionism, which stressed personal responsibility for one's own salvation and encouraged involvement in humanitarian causes. Finney's teachings were widely embraced in the North during the 1820s

Time Line

1775

■ **April 14**
The first U.S. antislavery society formed in Philadelphia, with Benjamin Franklin as the president.

1808

■ **January 1**
Importation of slaves into the United States is prohibited.

1816

■ **December**
First meeting of American Colonization Society is held.

1820

■ **March 3**
Missouri Compromise is passed by Congress, banning slavery west of the Mississippi River north of the 36°30' latitude line.

1829

■ **July 4**
William Lloyd Garrison delivers an important antislavery address at Park Street Church in Boston.

1831

■ **January 1**
First issue of the *Liberator* is published.

■ **November 11**
Nat Turner is hanged for leading a slave rebellion in Virginia.

1833

■ **December 4**
The American Anti-Slavery Society is organized in Philadelphia.

1835

■ **October 21**
Garrison is attacked by a mob at the Female Anti-Slavery Society meeting in Boston.

1848

■ **March 10**
U.S. Senate ratifies the Treaty of Guadalupe Hidalgo, ending the Mexican-American War and potentially opening new territories to slavery.

and helped spread abolitionist beliefs to newly founded communities in the Midwest. In New England, writers like Ralph Waldo Emerson and Margaret Fuller spearheaded an emerging transcendentalist movement during the mid-1830s that stressed the natural rights and individual worth of every man and woman—ideas with obvious antislavery implications. These stirrings began to affect American politics as well. The right of citizens to have antislavery petitions received by the U.S. Congress was vigorously debated in 1835, which in turn led to a larger debate over the rights of free speech, press, and assembly for abolitionists. The launching of Garrison's *Liberator* in January 1831 both benefited from these trends and helped advance them further.

About the Author

William Lloyd Garrison was born on December 10, 1805, in Newburyport, Massachusetts. His early years were disrupted when his father, the sailor Abijah Garrison, deserted his wife, Fanny, and their three children and disappeared into Canada. Childhood poverty shaped Garrison's youth and contributed to his later resentment of New England's ruling elite. His deeply religious mother instilled in her son an intense Christian faith, one that guided his life and work as an adult. After an unsuccessful apprenticeship to a Baltimore shoemaker, Garrison came home to Newburyport in 1818 and learned to set type at a local newspaper office. He quickly advanced to writing for and occasionally editing the publication. He went on to edit a series of periodicals before establishing the *Journal of the Times* in Bennington, Vermont, in 1828. He made his deepening antislavery views known in the *Journal* and began to lecture on the topic as well. His talk on slavery at Boston's Park Street Church on July 4, 1829, was particularly well received. His eloquence attracted the notice of the abolitionist Benjamin Lundy, who later that year asked Garrison to relocate to Baltimore and edit his *Genius of Universal Emancipation*, a small but influential antislavery paper.

As the editor of the *Genius*, Garrison grew increasingly hostile both toward slave owners and toward those who aided them. His condemnation of a Newburyport ship owner who carried slaves to the South led to a libel suit, resulting in Garrison's serving a forty-nine-day jail sentence. Lundy felt that Garrison's legal troubles had harmed his paper, and the two parted ways in July 1830. Garrison returned to Massachusetts in 1830 and began to attract followers through a series of antislavery lectures in Boston. By that time, he had become an advocate of immediate emancipation, rejecting Lundy's gradualist views. His tone of uncompromising righteousness (as well as his humble beginnings) earned him the opposition of many upper-class Bostonians, who considered his provocation of the South dangerous both to the Union and to their own financial interests. After considering a move to Washington, D.C., Garrison remained in Boston and, together with his business partner, Isaac Knapp, launched a new publication on January 1, 1831. Far more ambitious and militant than the

Genius, the *Liberator* set out to attack slavery within the broader context of universal human rights. The publication's masthead declared, "Our Country Is the World—Our Countrymen Are Mankind." This motto—so much at variance with the pervasive American nationalism of the time—served notice that the *Liberator*'s scope would be as wide as it would be controversial.

From the start, Garrison risked legal action and physical harm by publishing the *Liberator*. Rather than hide behind his editor's chair, he traveled and spoke widely during the 1830s to promote his causes. After meeting with antislavery leaders in England during the summer of 1833, he was determined to help found an effective abolitionist group in America. In December 1833, he played a key role in organizing the American Anti-Slavery Society at its first convention in Philadelphia. By the end of the decade, though, Garrison was embroiled in a series of controversies with fellow abolitionists over a range of issues. His advocacy of full equality for blacks and women and his attacks upon organized Christianity for its tolerance of slavery made him enemies within the antislavery movement. At an 1838 peace conference, he helped write a statement rejecting allegiance to all governments and calling for the abolition of all military forces—views that added to his reputation as an extremist. He also disagreed with those who sought to organize an abolitionist political party, believing that it was impossible to deal with a moral issue through electoral politics. To his detractors, Garrison was unrealistic, arrogant, and domineering; to his supporters, he was selfless, inspired, and heroic. The latter image was reinforced by his near escape from a violent Boston mob after an antislavery meeting in October 1835.

By most accounts, Garrison was personally warm and mild mannered. His marriage to Helen Benson in 1834 and the birth of his seven children allowed him to take refuge in a peaceful and satisfying family life. As an advocate for what he believed in, however, he only grew more confrontational as he aged. At a meeting of the Massachusetts Anti-Slavery Society in the spring of 1843, he offered a resolution advocating separation between the North and South, declaring the U.S. Constitution "a covenant with death and an agreement with Hell." His refusal to take part directly in political events of his era placed him on the sidelines as Americans debated the annexation of Texas, the Compromise of 1850, and the Kansas-Nebraska Act. As tempers rose in the North and South, he reiterated his disunionist stance, going so far as to publicly burn a copy of the Constitution in 1854.

Reactions to the U.S. Supreme Court's 1857 decision in the *Dred Scott* case and John Brown's 1859 raid on Harpers Ferry drove the North and South further apart and made Garrison's views seem less extreme. When the Civil War broke out in 1861, he gave qualified support to the Union cause as the best hope of abolishing slavery. When President Lincoln issued his preliminary Emancipation Proclamation in September 1862, Garrison offered guarded approval of this limited measure. By the close of the war, however, he took satisfaction in seeing slavery abolished at last. The final issue of the *Liberator* was published on December 29, 1865, shortly after the ratification of the Thirteenth Amendment ended slavery. Believing that his work was largely done, Garrison resigned the presidency of the Massachusetts Anti-Slavery Society in January 1866. He continued to write and travel into the 1870s; financial gifts by admirers helped ensure a comfortable old age. Garrison died on May 24, 1879, in New York and is buried in Boston. At the funeral, his fellow antislavery crusader Wendell Phillips addressed Garrison: "Your heart, as it ceased to beat, felt certain, *certain*, that whether one flag or two shall rule this continent in time to come, one thing is settled—it never henceforth can be trodden by a slave!"

Time Line

1854

- **May 30** President Franklin Pierce signs the Kansas-Nebraska Act, reigniting the slavery controversy.
- **July 4** Garrison publicly burns the U.S. Constitution at a Framingham, Massachusetts, antislavery protest.

1859

- **October 16** The radical abolitionist John Brown seizes the federal armory at Harpers Ferry, Virginia.

1861

- **April 12** The Civil War begins with the Confederate attack on Fort Sumter in Charleston, South Carolina.

1863

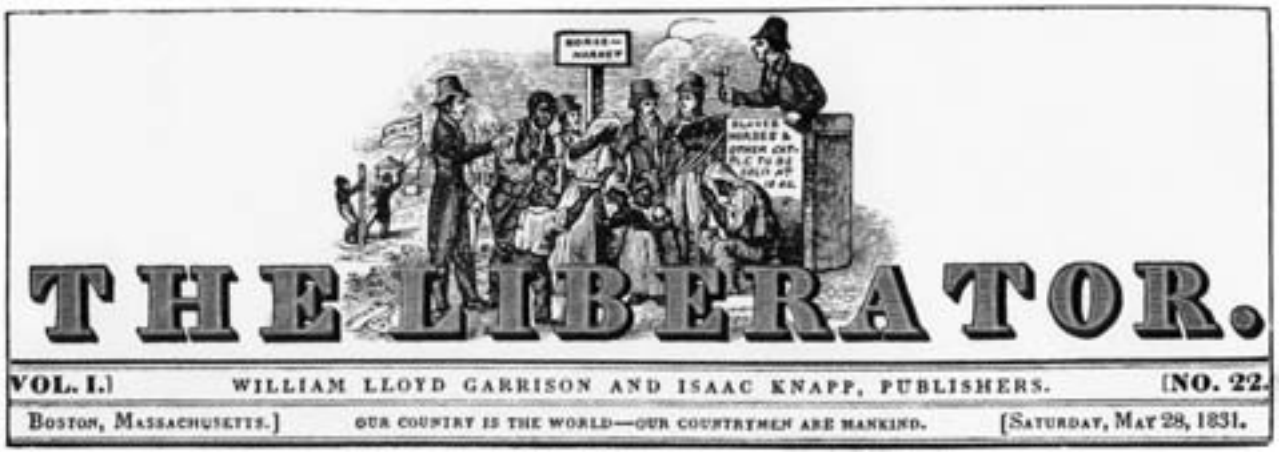
- **January 1** The Emancipation Proclamation takes effect.

1865

- **December 18** Thirteenth Amendment to U.S. Constitution becomes law, abolishing slavery.
- **December 29** Final issue of the *Liberator* is published.

Explanation and Analysis of the Document

Garrison opens his editorial by noting that his initial attempt to launch the *Liberator* in Washington, D.C., was



***Masthead of the* Liberator, *1831* (Library of Congress)**

thwarted by "public indifference." In August 1830 he had circulated a proposal for a periodical to be called the *Public Liberator, and Journal of the Times*, to be published in the nation's capital. Although he raised modest funds, the American Colonization Society blocked him by buying out the printing establishment Garrison had hoped to purchase. This action—as well as the relocation of the *Genius of Universal Emancipation* to Washington—helped motivate him to try Boston as a base of operations.

However, Garrison found New England far from hospitable to his views. In the second paragraph, he states that opposition to the antislavery cause is greater in the North than in the South. This statement seems based upon his recent experience of denouncing (and being successfully sued by) a New Englander who profited from the interstate slave trade as well as the efforts of conservative civic leaders to stop him from speaking in Boston and Newburyport. Despite the "detraction" and "apathy" he faced, Garrison stated, he intended to preach his message in the shadow of Bunker Hill, the birthplace of America's struggle for freedom. (His statement was literally true; the famous battlefield was within sight of his office.) In the paragraph's final two sentences, Garrison adopts the tone that readers of the *Liberator* came to know well: militant, righteous, unyielding. He uses the language of a crusader, stating emphatically that his fight will continue until slavery is ended. It is indicative of Garrison's unshakable moral certainty that he—a poor and obscure advocate of an unpopular cause—demands that his foes "tremble" before him.

In paragraph 3, Garrison reaffirms the goals mentioned in his August 1830 proposal, which include "the abolition of slavery" and the "elevation of our colored population." To these aims he adds his intention to avoid partisan politics. This stance eventually placed him in opposition to other abolitionists, particularly the founders of the Liberty Party, who nominated James G. Birney for president on an antislavery platform in 1840 and 1844. From Garrison's perspective, participation in the political system established under the U.S. Constitution (a document which, in his view, upheld the legality of slavery) compromised an abolitionist's moral authority. Supporting a candidate with personal ambitions would degrade the integrity of the antislavery cause. Instead, Garrison takes an expansive view and seeks to influence individuals no matter what their religious or political affiliations might be.

In contrast to the fatally flawed Constitution, the Declaration of Independence offered confirmation that Garrison's antislavery position aligned with American ideals. In paragraph 4, Garrison quotes the declaration's preamble to bolster his advocacy of the immediate enfranchisement (a stronger word than mere *emancipation*) of slaves. In homing in on this theme, he makes it clear that his abolitionist views have changed over the past two years. He specifically renounces the position he advocated in his landmark address on July 4, 1829, at Park Street Church in Boston. While his remarks that day vigorously condemned slavery and the hypocrisy of supposedly Christian Americans in tolerating it, Garrison stopped short of advocating immediate emancipation. Further reading and consideration convinced him that gradual methods only represented a compromise with evil. By the time he had moved to Baltimore in August 1829, he had come to consider his earlier position one of "timidity, injustice and absurdity." By publicly asking forgiveness from God, his country, and "my brethren the poor slaves," he makes it plain that his dedication to the abolitionist cause is both a personal spiritual commitment and a larger humanitarian obligation.

The fifth paragraph contains the most frequently quoted lines of the editorial. Garrison acknowledges that his way of speaking is severe, but he immediately goes on to say that the times call for nothing less. With the fervor of a biblical prophet, he pledges to embody the principles of Truth and Justice. The direct, forceful words that follow have the cadence and visual impact of poetry. They pointedly ridi-

cule the idea of attacking the evil of slavery with "moderation," drawing upon intensely emotional images (a burning house, a rape victim, a threatened child) to make his case. The tone of the language here is reminiscent of the Old Testament's book of Jeremiah in its denunciations of sin and moral blindness. As Garrison builds to a crescendo and declares, "I WILL BE HEARD," the defiance in his editorial voice is palpable. The reason for his wrathful tone is the public indifference toward evil; the apathy around him is wicked enough to hasten Judgment Day upon the world.

Garrison dismisses the idea that his intemperate language and uncompromising stance will do the abolitionist cause more harm than good. In paragraph 6, he asserts that his efforts will yield positive results in the short term and will be judged favorably by history in the long term. He quotes Proverbs 29:25 from the Old Testament in reaffirming his refusal to cower before public opinion. Finally, he closes his editorial with the poem "To Oppression," from the 1828 collection *Ephemerides; or, Occasional Poems* by Thomas Pringle. Well known in abolitionist circles, Pringle had championed the rights of native Africans as a British colonist in South Africa before serving as the secretary for the Anti-Slavery Society in London.

Audience

Garrison had no illusions about the willingness of the American people to consider the possibility of abolishing slavery in 1831. He considered the vast majority of his countrymen—especially his fellow New Englanders—to be selfish materialists who practiced a smug, lazy form of Christianity. In earlier years, his antislavery efforts had been condemned by respectable clergymen and hampered by government authorities. Even antislavery groups like the American Colonization Society had proved timid and hypocritical. It was not to institutions that Garrison spoke. Instead, the first editorial of the *Liberator* was aimed most broadly at the consciences of individuals wherever he could find them. By utilizing language explicitly and implicitly drawn from the Bible, he reached across class and racial lines to stir the most basic shared values of decency and justice. Fundamentally, Garrison desired to touch the common chord of humanity that would link the slaveholder and the slave.

More narrowly, Garrison spoke to the relatively small numbers of Americans who supported emancipation. His work with Lundy had already earned him a measure of notice among reform-minded northern citizens. Despite his complaints of "public indifference" in the editorial, he had already developed a reputation as an energetic (if controversial) opponent of slavery. Garrison knew that his heated advocacy of immediate emancipation would lead to divisions among abolitionists. He also knew that he would receive a sympathetic hearing from free African Americans in Boston, Philadelphia, and other northern cities. They would take heart from his words, even if white Americans turned away.

In a real sense, Garrison's target audience also included God and Garrison himself. His editorial was an act of individual confession and spiritual affirmation as well as a message to the public. The idea of personal responsibility was an essential part of his religious faith; to place himself in the forefront of the antislavery battle without fear of the consequences was vital to his own salvation. Much of the editorial (particularly paragraphs 4–6) is a statement of personal belief as much as an attempt to persuade others. In writing and publishing its words, Garrison was pledging before God to stand firm.

Impact

According to Garrison, the first issue of the *Liberator* was met with "suspicion and apathy." The exception was the free African American community of the Northeast, which gave the publication significant support. Garrison visited Philadelphia, New Haven, Hartford, and other cities to drum up interest; by the end of 1831, he counted more than five hundred free blacks among his subscribers. Although the *Liberator*'s paid circulation remained small for some years, its impact was far greater than the number of copies sold indicated. Its attacks upon the American Colonization Society stirred up debate within abolitionist circles across the North. Newspaper editors across the South reprinted its editorials as examples of northern antislavery extremism, increasing Garrison's influence and importance in the process. (Garrison, in turn, happily reprinted the denunciations of his fellow editors.) Even though it had no subscribers in the South, the *Liberator* was accused of inciting violence among slaves, especially after Nat Turner's slave rebellion in August 1831. A number of southern states and towns took steps to prosecute anyone caught circulating the paper. Garrison received death threats and was targeted for arrest (with a five-thousand-dollar reward offered) by the Georgia state legislature.

As time went on, the *Liberator* helped Garrison build a small but intensely loyal following among antislavery activists. Such notable figures as Wendell Phillips, Samuel J. May, Parker Pillsbury, Lydia Maria Child, and Maria Weston Chapman were among those he inspired to fight for immediate emancipation. He desired to attract allies who were as fervent and unyielding as he was. It has often been said that Garrison's editorials repelled far more than they persuaded. He was well aware of this effect and even reveled in the fact. "My language," he told May, "is exactly such as suits me; it will displease many, I know—to displease them is my intention."

While Garrison's militancy was straightforward, its effect had roundabout consequences that ultimately aided his cause. In 1836 four southern state legislatures sent formal requests to ten northern states asking them to make the publication and distribution of inflammatory antislavery material a penal offense—a move clearly aimed at publications like the *Liberator*. In the North, these actions raised freedom of speech issues and aroused a measure of

Essential Quotes

"Let Southern oppressors tremble—let their secret abettors tremble—let their Northern apologists tremble—let all the enemies of the persecuted blacks tremble."

(Paragraph 2)

"I shall not array myself as the political partisan of any man. In defending the great cause of human rights, I wish to derive the assistance of all religions and of all parties."

(Paragraph 3)

"I will be *as harsh as truth, and as uncompromising as justice."*

(Paragraph 5)

"I am in earnest—I will not equivocate—I will not excuse—I will not retreat a single inch—AND I WILL BE HEARD."

(Paragraph 5)

"I desire to thank God, that he enables me to disregard 'the fear of man which bringeth a snare,' and to speak his truth in its simplicity and power."

(Paragraph 6)

sympathy for Garrison. The refusal to suppress the *Liberator* increased the level of mistrust and resentment between North and South, a situation exacerbated by the acquisition of potential slave territory following the Mexican-American War (1846–1848) and the enforcement of the Compromise of 1850's Fugitive Slave Act provision. The *Liberator* never spoke for the more moderate (and more numerous) elements within the abolitionist community during the controversies of the 1840s and 1850s. Its advocacy of racial equality, women's rights, pacifism, and other causes—as well as its bitter attacks upon organized Christianity and the U.S. Constitution—likewise found little favor. However, it did manage to put many northerners in the position of defending its freedom to publish in the face of southern opposition, which in turn increased doubts among northern public opinion about the South's commitment to basic political and human rights.

The *Liberator* could never claim more than twenty-five hundred subscribers at any point in its thirty-five-year history. Garrison often had to appeal to his followers for financial support to keep his publication going. Yet its impact was pervasive in direct and indirect ways. Its use of highly charged moral language paved the way for such respectable politicians as William H. Seward, a senator from New York, to speak of a higher law than the U.S. Constitution in considering the evils of slavery. Garrison quoted the biblical admonition "A house divided against itself cannot stand" (Matthew 12:25) in his editorials decades before Abraham Lincoln began using the phrase. While the future president did not agree with most of Garrison's views, it is worth noting that Lincoln's law partner, William H. Herndon, was a *Liberator* reader who traveled to Boston to meet its editor in 1858. The Civil War and the Emancipation Proclamation were seen by many as vindications of the publication's views. While visiting Petersburg, Virginia, on April 6, 1865, Lincoln remarked that he was not chiefly responsible for freeing the slaves. "I have been only the instrument," he said. "The logic and moral power of Garrison, and the Anti-slavery people of the country, and the army have done all."

Questions for Further Study

1. The angry, aggressive thrust of the *Liberator*'s inaugural editorial is unmistakable, yet Garrison always claimed he favored nonviolent approaches to ending slavery. Critics charged that despite his public commitment to pacifism, his writings at least indirectly encouraged slaves to revolt. By denouncing moderation in the face of absolute evil, Garrison could be seen as inspiring such militant abolitionists as John Brown to take direct action. How responsible was Garrison for increasing the likelihood of violence over the slavery issue? Were his stated pacifist beliefs in conflict with the content and tone of the first editorial in the *Liberator*?

2. Many southerners (and some northerners) called for the suppression of the *Liberator*. Attempts to stop Garrison from publishing won him defenders, even among those who disagreed with his views. Did the *Liberator* in fact threaten the peace and safety of southern society? If so, were southerners justified in attempting to suppress it? Are there issues involving freedom of the press and speech from Garrison's era that are relevant to America today?

3. Garrison favored ending slavery by appealing to the Christian morality of individuals, rather than by direct political or military action. As it happened, the Civil War ultimately brought about emancipation. Is there any historical evidence that Garrison's nonviolent, conscience-oriented approach could have been successful? In your discussion, contrast America's struggles over ending slavery with those in other countries (including Great Britain and Brazil).

4. As his first *Liberator* editorial makes clear, Garrison was unwilling to compromise over the issue of immediate emancipation. This inflexible stance earned him much criticism, particularly from other abolitionists. Was Garrison ultimately right in rejecting the gradual emancipation of slaves and denouncing those who disagreed with him? Could he have done more good—and possibly helped avert the Civil War—by being more moderate?

5. From its start, the *Liberator* drew heavily from both the Old and New Testaments to define its moral position and fashion its literary style. Garrison's form of Christianity—which led him into opposition with most established churches—stressed individual responsibility and advocated defiance of man-made law when it conflicted with biblical teachings. Southern supporters of slavery also drew upon the Bible to support their positions. What does the debate over slavery say about the role of religion in American politics? How have the religious implications of the antislavery debate been echoed in recent debates over abortion, gay rights, preemptive war, and other issues?

6. Compare the public careers of William Lloyd Garrison and Abraham Lincoln with respect to the slavery issue. Both considered slavery wrong, yet they radically diverged over how to bring about its end. Contrast their words and actions dealing with the subject, particularly during the 1850s as the country headed toward civil war. In retrospect, did Garrison or Lincoln uphold a higher moral standard? Which one had the most rational approach to abolishing slavery?

See also *David Walker's Appeal to the Coloured Citizens of the World* (1829); *The Confessions of Nat Turner* (1831); First Editorial of the *North Star* (1847); Emancipation Proclamation (1863).

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—Barry Alfonso

Document Text

William Lloyd Garrison's First *Liberator* Editorial

♦ **TO THE PUBLIC.**

In the month of August, I issued proposals for publishing "The Liberator" in Washington City; but the enterprise, though hailed in different sections of the country, was palsied by public indifference. Since that time, the removal of the *Genius of Universal Emancipation* to the Seat of Government has rendered less imperious the establishment of a similar periodical in that quarter.

During my recent tour for the purpose of exciting the minds of the people by a series of discourses on the subject of slavery, every place that I visited gave fresh evidence of the fact, that a greater revolution in public sentiment was to be effected in the free States—*and particularly in New-England*—than at the South. I found contempt more bitter, opposition more active, detraction more relentless, prejudice more stubborn, and apathy more frozen, than among slave-owners themselves. Of course, there were individual exceptions to the contrary. This state of things afflicted, but did not dishearten me. I determined, at every hazard, to lift up the standard of emancipation in the eyes of the nation, *within sight of Bunker Hill and in the birthplace of liberty*. That standard is now unfurled; and long may it float, unhurt by the spoliations of time or the missiles of a desperate foe—yea, till every chain be broken, and every bondman set free! Let Southern oppressors tremble—let their secret abettors tremble—let their Northern apologists tremble—let all the enemies of the persecuted blacks tremble.

I deem the publication of my original Prospectus unnecessary, as it has obtained a wide circulation. The principles therein inculcated will be steadily pursued in this paper, excepting that I shall not array myself as the political partisan of any man. In defending the great cause of human rights, I wish to derive the assistance of all religions and of all parties.

Assenting to the "self-evident truth" maintained in the American Declaration of Independence, "that all men are created equal, and endowed by their Creator with certain inalienable rights—among which are life, liberty and the pursuit of happiness," I shall strenuously contend for the immediate enfranchisement of our slave population. In Park-Street Church, on the Fourth of July, 1829, I unreflectingly assented to the popular but pernicious doctrine of *gradual* abolition. I seize this moment to make a full and unequivocal recantation, and thus publicly to ask pardon of my God, of my country, and of my brethren the poor slaves, for having uttered a sentiment so full of timidity, injustice, and absurdity. A similar recantation, from my pen, was published in the *Genius of Universal Emancipation* at Baltimore, in September, 1829. My conscience is now satisfied.

I am aware that many object to the severity of my language; but is there not cause for severity? I *will be* as harsh as truth, and as uncompromising as justice. On this subject, I do not wish to think, or to speak, or write, with moderation. No! no! Tell a man whose house is on fire to give a moderate alarm; tell him to moderately rescue his wife from the hands of the ravisher; tell the mother to gradually extricate her babe from the fire into which it has fallen;—but urge me not to use moderation in a cause like the present. I am in earnest—I will not equivocate—I will not excuse—I will not retreat a single inch—AND I WILL BE HEARD. The apathy of the people is enough to make every statue leap from its pedestal, and to hasten the resurrection of the dead.

It is pretended, that I am retarding the cause of emancipation by the coarseness of my invective and the precipitancy of my measures. *The charge is not true*. On this question of my influence,—humble as it is,—is felt at this moment to a considerable extent, and shall be felt in coming years—not perniciously, but beneficially—not as a curse, but as a blessing; and posterity will bear testimony that I was right. I desire to thank God, that he enables me to disregard "the fear of man which bringeth a snare," and to speak his truth in its simplicity and power. And here I close with this fresh dedication:

Oppression! I have seen thee, face to face,
And met thy cruel eye and cloudy brow,
But thy soul-withering glance I fear not now—
For dread to prouder feelings doth give place
Of deep abhorrence! Scorning the disgrace
Of slavish knees that at thy footstool bow,
I also kneel—but with far other vow
Do hail thee and thy herd of hirelings base:—
I swear, while life-blood warms my throbbing veins,

Document Text

Still to oppose and thwart, with heart and hand,
Thy brutalising sway—till Afric's
chains
Are burst, and Freedom rules the rescued
land,—
Trampling Oppression and his iron rod:
Such is the vow I take—SO HELP ME
GOD!

[by the Scottish poet Thomas Pringle (1789–1834)]
William Lloyd Garrison.
Boston, January, 1831.

Glossary

abettors	those who incite, sanction, or help, especially in wrongdoing
discourses	communications, especially lectures or writings
hirelings	persons whose loyalty or services are for hire
imperious	urgent, imperative
inculcated	impressed upon the mind by frequent repetition or strong urging
pernicious	causing great injury, destruction, or ruin
prospectus	a document outlining the main features of a new enterprise or project
recantation	an act of withdrawal or renunciation, especially in a public setting

The Confessions of Nat Turner

1831

"On the appearance of the sign, (the eclipse of the sun last February) I should arise and prepare myself, and slay my enemies with their own weapons."

Overview

In late 1831 Thomas Ruffin Gray published *The Confessions of Nat Turner, the Leader of the Late Insurrection in Southampton, Va.* Gray was the court-appointed attorney who represented Nat Turner, the leader of a bloody slave revolt in the summer of that year, in his subsequent legal defense. The pamphlet was based on Gray's own investigations after the revolt and on the interview he conducted with Turner after his arrest in October 1831, and most of the pamphlet purportedly consists of Turner's own words. Gray's pamphlet is the principal surviving document about the revolt and is a primary source of information about Turner's motivations for and activities in launching the revolt. Gray's contemporary account is not to be confused with the Pulitzer Prize–winning novel of the same (shortened) title, *The Confessions of Nat Turner*, published by William Styron in 1967.

Nat Turner's Rebellion, sometimes called the Southampton Insurrection after the Virginia county in which it took place, was the latest in a series of slave rebellions that struck fear into the hearts of southern slave owners. Turner organized a small group of slaves who, beginning late in the day on August 21, 1831, and into the early-morning hours of August 22, roamed from house to house liberating slaves and killing white people they encountered. By the time they were finished, the band consisted of about seventy slaves and free blacks; they killed about fifty-five to sixty people, including children, before the rebellion was suppressed by the Virginia militia. Most of the participants in the revolt were tried and executed. Turner, who later claimed that he personally killed only one person during the revolt, went into hiding, but he was captured in late October. On November 1 he spoke with Gray, narrating events from his point of view before his execution later that month. Gray was immediately able to find a publisher, and the pamphlet came out just days after Turner's execution.

Context

Nat Turner's Rebellion was the latest in a string of slave revolts in the United States and throughout the Americas that dated back to the early eighteenth century. In 1712 a slave revolt was suppressed in New York City. In 1733 a revolt took place on Saint John, in the Danish West Indies (now in the U.S. Virgin Islands). One of the largest rebellions, the Stono Rebellion (also called Cato's Rebellion or Cato's Conspiracy), took place in 1739 in South Carolina. The Conspiracy of 1741 (also called the Negro Plot of 1741 or the Slave Insurrection of 1741) was an alleged plot on the part of slaves in New York City to level the city by fire. Tacky's War, named after its leader, was suppressed in Jamaica in 1760. One of the most significant rebellions, led by Toussaint-Louverture, liberated Haiti from slavery under the French during the years 1791 to 1803. Back in the United States, Virginia—with the help of a storm that postponed the attack—forestalled a rebellion planned by Gabriel Prosser in 1800. In 1815 George Boxley, a white former slave owner, tried to foment a rebellion among slaves in Virginia, and in 1822 Denmark Vesey, a free black, planned what could have been the largest slave revolt in history had authorities in South Carolina not learned of the plot and suppressed it before it materialized. The collective sociological impact of these earlier revolts would play a role in the reactions of southerners and southern legislatures to Turner's revolt.

Nat Turner's Rebellion began late in the day on August 21, 1831, as Turner and his accomplices began traveling through the woods from house to house, liberating slaves and killing whites, though Turner and his men spared some poor whites who, in Turner's view, did not hold themselves out as superior to blacks. As the hours went by, Turner's force grew to about seventy men. Turner and his men conducted themselves quietly, for they did not want to raise any alarms; initially their weapons were knives, clubs, and hatchets rather than firearms. Their methods were particularly brutal. At one home, that of the Waller family, the rebels killed Levi Waller and his wife and decapitated ten of their children, piling their bodies at the front of the house.

As word of the rampage spread, Virginia authorities mobilized local contingents of the state militia. Joining the Virginia militia were detachments from U.S. Navy vessels anchored at Norfolk, Virginia, as well as detachments of militias from other Virginia counties and from North Carolina. Less than forty-eight hours after the revolt began, the

Time Line

1800

- **October 2**
  Nat Turner is born into slavery in Southampton County, Virginia.

1815

- **March 6**
  George Boxley tries to launch a slave rebellion in Virginia.

1822

- **July**
  Denmark Vesey plans a major slave rebellion in South Carolina.

1831

- **February 12**
  Turner interprets a solar eclipse as a sign from God that the time has come for him to take action against his enemies.
- **April 7**
  Virginia passes An Act to Amend the Act concerning Slaves, Free Negroes and Mulattoes to limit slaves' privileges.
- **August 13**
  Turner interprets an atmospheric disturbance as another sign from God that it was time for him to launch a revolt.
- **August 21**
  Turner and his accomplices launch their revolt; it is suppressed less than forty-eight hours later.
- **October 30**
  Turner is captured while hiding on a local farm.
- **November 1**
  Turner meets with his court-appointed attorney, Thomas Ruffin Gray, and narrates the events of the rebellion.
- **November 5**
  Turner is tried and convicted.
- **November 11**
  Turner is executed in Jerusalem, Virginia; days later, Gray publishes *The Confessions of Nat Turner*.

1822

- **October 16**
  The abolitionist John Brown leads a raid on the federal armory at Harpers Ferry, Virginia.

rebels were defeated. In the rebellion's aftermath, extralegal retaliation was widespread, accomplishing the violent deaths of at least a hundred African Americans, though the number was likely much higher. African Americans were openly attacked and killed—and in some instances they were beheaded and their heads were put on poles as a warning. Rumors began to spread that the rebellion was not limited to Southampton County but was in fact part of a more general slave revolt, prompting acts of barbarism against blacks in North Carolina and elsewhere throughout the South. To his credit, General Richard Eppes, who commanded troops in Virginia, ordered all reprisals stopped when he learned of them.

Forty-eight rebels, both men and women, were initially captured and tried on charges of treason, insurrection, and conspiracy; ultimately, fifty-five participants (or alleged participants) in the revolt were executed, while others were banished from the state. A handful of those tried were acquitted. Turner himself eluded capture for over nine weeks, until he was discovered on October 30 hiding on a local farm. He was taken into custody and then tried and convicted in a Southampton County court on November 5. On November 11 he was hanged in Jerusalem (now Courtland), Virginia. Afterward, his body was beheaded and quartered. Shortly thereafter, a firm in Baltimore, Maryland, published Gray's *The Confessions of Nat Turner*.

About the Author

The nominal author of the 1831 pamphlet *The Confessions of Nat Turner* was Thomas Ruffin Gray. Not a great deal is known about Gray's life, particularly after the publication of Turner's confessions. Gray was born in 1800, making him the same age as Turner, but he grew up in dramatically different circumstances. Gray had connections in local and state governments and inherited extensive landholdings and slaves in Southampton County, Virginia. Because of a series of financial reversals, he sold off his land and slaves and moved to Jerusalem, Virginia, where he built a home, married, and practiced law. When the Turner case arose, Gray seized the opportunity to use it to his advantage by publishing a record of the events surrounding the rebellion.

Most of the words in *The Confessions of Nat Turner* are Turner's own, though it is difficult to assess how accurately Gray transcribed them and the extent to which he might have altered Turner's words to suit his purposes. Turner was born on October 2, 1800. At the time, he would have been called simply Nat; it was common practice, however, for slaves to take as a surname that of their masters—in this instance, Samuel Turner. Nat Turner was able to educate himself and could read from an early age. He was deeply religious and spent much of his time in fasting, prayer, and reading the Bible. He came to conduct Baptist services, deliver religious sermons, and instruct his fellow slaves about the Bible—to the extent that they called him "the Prophet." When he was twenty-one years old, he fled from his master, but he returned a

Illustration of the capture of Nat Turner (AP/Wide World Photos)

month later after, as he said, he received a vision ordering him to do so. By the time he was twenty-four, he had a new owner, Thomas Moore, and during this period of his life his religious visions, convincing him that he was destined for some great purpose, increased.

In 1830 Turner was purchased by yet another master, Joseph Travis. Turner never had any particular grievances against Travis and, in fact, confessed that Travis treated him with kindness. Nevertheless, Turner was growing increasingly convinced that his destiny in life was to lead a great slave revolt. He stated that on February 12, 1831, he witnessed a solar eclipse, which he interpreted as a sign from God that it was time for him to take action. In the months that followed he planned an insurrection with the help of four other slaves he had taken into his confidence. Initially the revolt was to take place on July 4, but Turner postponed it to give himself and his collaborators time for further planning. Then, on August 13, a disturbance in the atmosphere cast a bluish-green hue over the sun; it has been speculated that atmospheric dust from an eruption that year of Mount Saint Helens, in Washington State, accounted for this phenomenon. Turner interpreted the event as another sign from God that the time was ripe for him to take action against his enemies. Accordingly, he launched the rebellion on the night of August 21, 1831. After the revolt was suppressed, he went into hiding. He was captured on October 30 and, in jail, narrated his account of events to Thomas Gray on November 1. Turner was tried and convicted on November 5 and executed on November 11, 1831.

Essential Quotes

"As I was praying one day at my plough, the spirit spoke to me … the Spirit that spoke to the prophets in former days—and I was greatly astonished, and for two years prayed continually, whenever my duty would permit—and then again I had the same revelation, which fully confirmed me in the impression that I was ordained for some great purpose in the hands of the Almighty."

(Paragraph 2)

"And on the appearance of the sign, (the eclipse of the sun last February) I should arise and prepare myself, and slay my enemies with their own weapons. And immediately on the sign appearing in the heavens, the seal was removed from my lips, and I communicated the great work laid out for me to do, to four in whom I had the greatest confidence."

(Paragraph 2)

"I gave up all hope for the present; and on Thursday night after having supplied myself with provisions from Mr. Travis's, I scratched a hole under a pile of fence rails in a field, where I concealed myself for six weeks, never leaving my hiding place but for a few minutes in the dead of night to get water which was very near."

(Paragraph 6)

"I shall not attempt to describe the effect of his narrative, as told and commented on by himself, in the condemned hole of the prison. The calm, deliberate composure with which he spoke of his late deeds and intentions, the expression of his fiend-like face when excited by enthusiasm, still bearing the stains of the blood of helpless innocence about him; clothed with rags and covered with chains; yet daring to raise his manacled hands to heaven."

(Paragraph 7)

Explanation and Analysis of the Document

Gray's *The Confessions of Nat Turner* consists predominantly of Turner's own words, although some of Gray's questions to him are presented, and at the end of the account Gray comments on it. Gray asserts at the opening of the document that he visited Turner in his jail cell on November 1, 1831, and that Turner, without prompting, began to narrate the events as he recalled them.

In the long second paragraph, Turner discusses his early life. He emphasizes an incident in his childhood when he told a story to other children based on events that had taken place before he was born. In Turner's view, this was an early indication that he was destined to be a prophet. He goes on to note that his parents confirmed him in the belief that he was destined for great things, and others noted that his uncommon intelligence and powers of observation would make him unsuitable as a slave. A mark of that intelligence was his ability to read and the "most perfect ease" with which he acquired that ability. He discusses the fertility of his imagination and his efforts to use his intelligence to make such things as paper and gunpowder. He also emphasizes that others placed great confidence in his judgment and his ability to plan, so his peers often took him along when they were planning "roguery."

The paragraph continues with Turner describing the role of religion in his life. He spent much of his time in fasting and prayer and notes the impact that certain verses from the Bible had on him. As he reiterates, he came to believe that he was destined to become a great prophet, like the prophets of the Old Testament. He discusses the "communion of the Spirit" that he felt when he arrived at young adulthood and began to consider how he might fulfill his destiny. Because of religious visions, he withdrew himself from his fellow slaves; he cites the year 1825 as the time when he experienced numerous such visions, including Christ on the Cross, blood on the corn in the field, and inspiration from the Holy Spirit. He discusses how he was able to use his religious convictions to help a white man named Etheldred T. Brantley see his wickedness. A key religious vision occurred on May 12, 1828, when, Turner says, he saw that "Christ had laid down the yoke he had borne for the sins of men, and that I should take it on and fight against the Serpent." At the end of the paragraph, he discusses the solar eclipse in February 1831 and his conviction that it was a sign from God for him to begin his fight. He took four other slaves—Henry, Hark, Nelson, and Sam—into his confidence, and they planned the rebellion for July 4. The rebellion was delayed, in part because Turner became sick, but another sign from the heavens—an atmospheric disturbance that colored the sun bluish-green on August 13—convinced him that the time to strike had come.

From the standpoint of southern slave owners, paragraph 3 of the document offers crucial revelations. Here Turner notes that by this time he was owned by Joseph Travis, and he acknowledges that Travis treated him kindly and with "confidence." For defenders of slavery, this was proof that Turner acted neither out of desire for revenge against a cruel master nor out of any considered opposition to the slave system. Turner then begins to detail the events of the rebellion, which began with a dinner on August 20, when the conspirators agreed to meet and form their plans.

After the two one-line paragraphs giving Gray's brief question and Turner's initial answer, paragraph 6 is yet another extremely long paragraph, consisting entirely of details of the men's activities once the revolt started. Turner offers a record of the murders he and his men committed, beginning with the five members of the Travis family, including an infant who was killed only after one of the men went back to the house for that purpose. The men continued to the home of Mr. Salathul Francis and then to the home of Mrs. Reese, where they murdered her and her son in their beds. Numerous other victims followed: the Turners, the Whiteheads (including a daughter, Margaret Whitehead—the only person Turner himself killed during the rampage), T. Doyle, the Wallers (including ten children), and others. Turner details how the marauders gathered guns and ammunition as well as any money and other property they could collect.

By this time, the authorities had been alerted and were on the hunt for the men. Still in paragraph 6, Turner records an encounter with militia under the command of Captain Alexander Peete. After a brief skirmish, the men encountered another military contingent, prompting an aside from Gray, who refers to the men as "barbarous villains." As a result of these skirmishes several of Turner's men were wounded, so Turner and a party of twenty men pursued a path that would take them by a back way into the town of Jerusalem. The men paused to rest, but the military was in pursuit and discovered the men's whereabouts. By this point the killings had stopped, and the men were in flight. Turner knew that at least some of his confederates had been captured, and he suspected that they would be forced to betray him. Accordingly, he went into hiding in a hole he dug under a pile of fence rails. The paragraph continues with details about the time Turner spent in hiding, particularly how his hiding place was discovered by a dog that smelled some meat he had. Fearing that he would be captured, Turner found another hiding place but was eventually discovered by a Mr. Benjamin Phipps. Phipps was armed, so Turner quietly surrendered and allowed Phipps to take him to the local jail.

In paragraph 7, Gray recalls intervening to ask Turner whether his rebellion was part of a larger slave revolt—"if he knew of any extensive or concerted plan." Turner's response was, "I do not." Gray then questioned Turner about a supposed insurrection in North Carolina, but again Turner denied any knowledge of such an insurrection. Again, these responses were a matter of grave concern to people throughout the South, many of whom believed that Turner's rebellion was part of a more widespread slave revolt. Whether they were reassured by Turner's denial is an open question. Gray points out that he questioned Turner about various details, and his statements were corroborated by the accounts of others involved in the rebellion. Gray com-

ments on Turner's intelligence and ability to read, suggesting that Turner was not motivated by greed or the desire for money: "It is notorious, that he was never known to have a dollar in his life; to swear an oath, or drink a drop of spirits." At this point Gray presents his own assessment of Turner. He refers to Turner as a "complete fanatic" with a "fiend-like face." He concludes the paragraph by saying, "I looked on him and my blood curdled in my veins."

In the final paragraph, Gray provides additional details about the revolt, including stories of those who escaped from Turner's men. Gray refers to the revolt as an "unparalleled and inhuman massacre" and cites the men's "fiend-like barbarity." He concludes by saying, "The hand of retributive justice has overtaken them; and not one that was known to be concerned has escaped."

Audience

Gray's *The Confessions of Nat Turner* was a success, eventually selling some fifty thousand copies, primarily to whites who were curious about the rebellion and wanted to gain insight into Turner's motivations. In all, the pamphlet had several different audiences. One audience was northern abolitionists. William Lloyd Garrison, for example, the prominent abolitionist and publisher of *The Liberator* newspaper, saw the work as a valuable tool in the abolition movement, for it could inspire admiration of Turner and turn him into a hero, leading perhaps to other insurrections. The historian Scot French quotes Garrison as writing that the pamphlet would "only serve to rouse up other black leaders and cause other insurrections, by creating among blacks admiration for the character Nat, and a deep undying sympathy for his cause."

At the same time, the pamphlet attracted considerable attention among southerners. They argued that it offered a "lesson" to northern abolitionists, for it documented what many southerners regarded as the fanaticism of the abolition movement. Further, they used the pamphlet to emphasize that the uprising did not stem from mistreatment on the part of slave owners. Indeed, the pamphlet presented plausible alternative motives for the revolt—Turner's own twisted fanaticism combined with a charisma that enabled him to attract followers. It thus provided the southern slave-owning class with a scapegoat other than the institution of slavery—Nat Turner himself.

Impact

It is possible that without Gray's published account, Nat Turner's Rebellion, though it was sensational at the time, might have been largely forgotten, a footnote to the history of slavery in the early nineteenth century. But Gray, who was heavily involved in the official investigation following the rebellion, stated that he wanted to put aside idle speculation and rumor about the event. To that end, he insisted that the account he published was voluntary on Turner's part and that the confession was almost entirely in Turner's own words, with little or no variation. Gray also maintained that he compared Turner's account with the statements of other participants in the rebellion and found them consistent.

The fear that Turner's rebellion created led to intense curiosity about the pamphlet, and Gray's account in time sold some fifty thousand copies. Newspapers in Virginia promoted the pamphlet, running lengthy excerpts and commenting on its importance. Some newspaper editors, though, questioned the veracity of the account, arguing that its eloquence and extensive vocabulary cast doubt on Gray's claim that he recorded Turner's own words. It was known that Gray's law practice was not very successful, so there was speculation that he seized on the rebellion as a way to get his name before the public and build up his law practice.

Before Turner's rebellion, the Virginia General Assembly had debated the issue of slavery. Following the rebellion and the publicity it received from Gray's account, debate began to focus on the question of whether freed slaves should be deported to Africa. Ultimately, the assembly passed strict laws prohibiting slaves from being educated and curtailing the rights of both free and enslaved blacks. The result was widespread illiteracy among Virginia's black population, which continued until after the Civil War.

Contrary to the hopes of abolitionists like Garrison, Turner's rebellion and the publicity it received from Gray virtually ended the antislavery movement in the South. Opponents of slavery were discouraged from questioning the slave system, for they feared that doing so might inspire similar massacres. In the rebellion's aftermath, some states passed laws banning abolitionist material from the mail. In the Upper South, numerous slaveholders sold their slaves to owners in Deep South states to lessen the risk of another bloody revolt. In the North, however, the revolt galvanized abolitionists. Attacks on the slave system grew more heated, offending many southerners who felt that their way of life was under attack. The result was that southerners began to defend slavery as an institution that provided slaves with the necessities of life and with Christian values. The resulting polarization would intensify and, less than three decades later, would rend the nation in civil war. Meanwhile, Turner's rebellion, along with earlier slave revolts, inspired the white abolitionist John Brown to carry out a raid at Harpers Ferry, Virginia, on October 16, 1859. The raid was unsuccessful, and Brown was convicted and executed, but the raid continued to fuel the abolitionist movement and impelled the nation closer to civil war.

Modern readers have been more likely to know about Turner's rebellion through William Styron's novel *The Confessions of Nat Turner* (1967), which won a Pulitzer Prize in 1968. The book is a fictional re-creation for which the author relied heavily on the facts as known from Turner's confession and from other contemporary accounts. The book was enormously successful and came to be used as a textbook in high-school and college classrooms during the turbulent years of the civil rights movement in the late 1960s and early 1970s. During this period, considerable emphasis was being placed on black culture and history

through the creation, for example, of black studies departments at many colleges and universities. In this climate, Styron's book—written by a white southerner whose ancestors had owned slaves—provoked an angry backlash among numerous black intellectuals, although it was defended by such prominent black writers as James Baldwin and Ralph Ellison. Critics accused Styron of racist stereotyping, particularly in his portrayal of a fantasy sequence that depicts Turner as having lust for a white woman.

The controversy ran deeper, however, for the publication of Styron's version prompted a flood of books, scholarly articles, and document collections reexamining the original event—and Gray's account—from a modern perspective. A central question raised concerned who "owns" the history of someone like Nat Turner. Styron's critics at the time argued that because he was white, he had no "ownership," literary or otherwise, of the events—in effect, that he lacked any foundation from which to write about it. By the same line of reasoning, some critics argued that Turner's version of events as recorded by Gray was an instrument in the continued repression of African Americans. According to this view, the notion that Turner and Gray actually collaborated in the production of the original version was absurd, because Gray, like Styron, was a white southerner who was arguably motivated by a desire to preserve the status quo. Accordingly, he manipulated his character to present him as a crazed, bloodthirsty religious zealot who had little interest in the issue of slavery. Put simply, some modern critics yet doubt the veracity of Gray's account, arguing that he distorted Turner's words in a way that confirmed the prejudices of the southern slaveholding class of the early nineteenth century.

See also William Lloyd Garrison's First *Liberator* Editorial (1831).

Further Reading

■ Articles

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Questions for Further Study

1. To what extent was Turner's rebellion actually one based on opposition to slavery? Put differently, was Turner perhaps simply an insane murderer who was not cognizant of the implications of his actions in opposition to slavery? Or was he a hero?

2. The document consists almost entirely of Gray's transcription of Turner's words. To what extent do you think it is possible, or perhaps likely, that Gray edited or even distorted Turner's words? What would have been his motive for doing so?

3. Why did the document offer some comfort to southern slave owners? What did they see in the document that convinced them that Turner's rebellion was not directly specifically against slavery as an institution?

4. What was the response of the Virginia legislature to the publication of Turner's confession?

5. What is your position on the question of who "owns" Nat Turner's story?

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http://www.americanheritage.com/people/articles/web/20051111-nat-turner-slavery-rebellion-virginia-civil-war-thomas-r-gray-abolitionist.shtml.

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—Michael J. O'Neal

Document Text

The Confessions of Nat Turner

Agreeable to his own appointment, on the evening he was committed to prison, with permission of the jailer, I visited NAT on Tuesday the 1st November, when, without being questioned at all, commenced his narrative in the following words:—

Sir,—You have asked me to give a history of the motives which induced me to undertake the late insurrection, as you call it—To do so I must go back to the days of my infancy, and even before I was born. I was thirty-one years of age the 2d of October last, and born the property of Benj. Turner, of this county. In my childhood a circumstance occurred which made an indelible impression on my mind, and laid the ground work of that enthusiasm, which has terminated so fatally to many, both white and black, and for which I am about to atone at the gallows. It is here necessary to relate this circumstance—trifling as it may seem, it was the commencement of that belief which has grown with time, and even now, sir, in this dungeon, helpless and forsaken as I am, I cannot divest myself of. Being at play with other children, when three or four years old, I was telling them something, which my mother overhearing, said it had happened before I was I born—I stuck to my story, however, and related somethings which went, in her opinion, to confirm it—others being called on were greatly astonished, knowing that these things had happened, and caused them to say in my hearing, I surely would be a prophet, as the Lord had shewn me things that had happened before my birth. And my father and mother strengthened me in this my first impression, saying in my presence, I was intended for some great purpose, which they had always thought from certain marks on my head and breast—[a parcel of excrescences which I believe are not at all uncommon, particularly among negroes, as I have seen several with the same. In this case he has either cut them off or they have nearly disappeared]—My grandmother, who was very religious, and to whom I was much attached—my master, who belonged to the church, and other religious persons who visited the house, and whom I often saw at prayers, noticing the singularity of my manners, I suppose, and my uncommon intelligence for a child, remarked I had too much sense to be raised, and if I was, I would never be of any service to any one as a slave—To a mind like mine, restless, inquisitive and observant of every thing that was passing, it is easy to suppose that religion was the subject to which it would be directed, and although this subject principally occupied my thoughts—there was nothing that I saw or heard of to which my attention was not directed—The manner in which I learned to read and write, not only had great influence on my own mind, as I acquired it with the most perfect ease, so much so, that I have no recollection whatever of learning the alphabet—but to the astonishment of the family, one day, when a book was shewn me to keep me from crying, I began spelling the names of different objects—this was a source of wonder to all in the neighborhood, particularly the blacks—and this learning was constantly improved at all opportunities—when I got large enough to go to work, while employed, I was reflecting on many things that would present themselves to my imagination, and whenever an opportunity occurred of looking at a book, when the school children were getting their lessons, I would find many things that the fertility of my own imagination had depicted to me before; all my time, not devoted to my master's service, was spent either in prayer, or in making experiments in casting different things in moulds made of earth, in attempting to make paper, gunpowder, and many other experiments, that although I could not perfect, yet convinced me of its practicability if I had the means. I was not addicted to stealing in my youth, nor have ever been—Yet such was the confidence of the negroes in the neighborhood, even at this early period of my life, in my superior judgment, that they would often carry me with them when they were going on any roguery, to plan for them. Growing up among them, with this confidence in my superior judgment, and when this, in their opinions, was perfected by Divine inspiration, from the circumstances already alluded to in my infancy, and which belief was ever afterwards zealously inculcated by the austerity of my life and manners, which became the subject of remark by white and black. —Having soon discovered to be great, I must appear so, and therefore studiously avoided mixing in society, and wrapped myself in mystery, devoting my time to fasting and prayer—By this time, having arrived to man's estate, and hearing the scriptures commented on at

Document Text

meetings, I was struck with that particular passage which says: "Seek ye the kingdom of Heaven and all things shall be added unto you." I reflected much on this passage, and prayed daily for light on this subject—As I was praying one day at my plough, the spirit spoke to me, saying "Seek ye the kingdom of Heaven and all things shall be added unto you." *Question*—what do you mean by the Spirit. *Ans.* The Spirit that spoke to the prophets in former days—and I was greatly astonished, and for two years prayed continually, whenever my duty would permit—and then again I had the same revelation, which fully confirmed me in the impression that I was ordained for some great purpose in the hands of the Almighty. Several years rolled round, in which many events occurred to strengthen me in this my belief. At this time I reverted in my mind to the remarks made of me in my childhood, and the things that had been shewn me—and as it had been said of me in my childhood by those by whom I had been taught to pray, both white and black, and in whom I had the greatest confidence, that I had too much sense to be raised, and if I was, I would never be of any use to any one as a slave. Now finding I had arrived to man's estate, and was a slave, and these revelations being made known to me, I began to direct my attention to this great object, to fulfil the purpose for which, by this time, I felt assured I was intended. Knowing the influence I had obtained over the minds of my fellow servants, (not by the means of conjuring and such like tricks—for to them I always spoke of such things with contempt) but by the communion of the Spirit whose revelations I often communicated to them, and they believed and said my wisdom came from God. I now began to prepare them for my purpose, by telling them something was about to happen that would terminate in fulfilling the great promise that had been made to me—About this time I was placed under an overseer, from whom I ran away—and after remaining in the woods thirty days, I returned, to the astonishment of the negroes on the plantation, who thought I had made my escape to some other part of the country, as my father had done before. But the reason of my return was, that the Spirit appeared to me and said I had my wishes directed to the things of this world, and not to the kingdom of Heaven, and that I should return to the service of my earthly master—"For he who knoweth his Master's will, and doeth it not, shall be beaten with many stripes, and thus, have I chastened you." And the negroes found fault, and murmured against me, saying that if they had my sense they would not serve any master in the world. And about this time I had a vision—and I saw white spirits and black spirits engaged in battle, and the sun was darkened—the thunder rolled in the Heavens, and blood flowed in streams—and I heard a voice saying, "Such is your luck, such you are called to see, and let it come rough or smooth, you must surely bare it." I now withdrew myself as much as my situation would permit, from the intercourse of my fellow servants, for the avowed purpose of serving the Spirit more fully—and it appeared to me, and reminded me of the things it had already shown me, and that it would then reveal to me the knowledge of the elements, the revolution of the planets, the operation of tides, and changes of the seasons. After this revelation in the year 1825, and the knowledge of the elements being made known to me, I sought more than ever to obtain true holiness before the great day of judgment should appear, and then I began to receive the true knowledge of faith. And from the first steps of righteousness until the last, was I made perfect; and the Holy Ghost was with me, and said, "Behold me as I stand in the Heavens"—and I looked and saw the forms of men in different attitudes—and there were lights in the sky to which the children of darkness gave other names than what they really were—for they were the lights of the Saviour's hands, stretched forth from east to west, even as they were extended on the cross on Calvary for the redemption of sinners. And I wondered greatly at these miracles, and prayed to be informed of a certainty of the meaning thereof—and shortly afterwards, while laboring in the field, I discovered drops of blood on the corn as though it were dew from heaven—and I communicated it to many, both white and black, in the neighborhood—and I then found on the leaves in the woods hieroglyphic characters, and numbers, with the forms of men in different attitudes, portrayed in blood, and representing the figures I had seen before in the heavens. And now the Holy Ghost had revealed itself to me, and made plain the miracles it had shown me—For as the blood of Christ had been shed on this earth, and had ascended to heaven for the salvation of sinners, and was now returning to earth again in the form of dew—and as the leaves on the trees bore the impression of the figures I had seen in the heavens, it was plain to me that the Saviour was about to lay down the yoke he had borne for the sins of men, and the great day of judgment was at band. About this time I told these things to a white man, (Etheldred T. Brantley) on whom it had a wonderful effect—and he ceased from his wickedness, and was attacked immediately with a

cutaneous eruption, and blood oozed from the pores of his skin, and after praying and fasting nine days, he was healed, and the Spirit appeared to me again, and said, as the Saviour had been baptised so should we be also—and when the white people would not let us be baptised by the church, we went down into the water together, in the sight of many who reviled us, and were baptised by the Spirit—After this I rejoiced greatly, and gave thanks to God. And on the 12th of May, 1828, I heard a loud noise in the heavens, and the Spirit instantly appeared to me and said the Serpent was loosened, and Christ had laid down the yoke he had borne for the sins of men, and that I should take it on and fight against the Serpent, for the time was fast approaching when the first should be last and the last should be first.

Ques. Do you not find yourself mistaken now? *Ans.* Was not Christ crucified. And by signs in the heavens that it would make known to me when I should commence the great work—and until the first sign appeared, I should conceal it from the knowledge of men—And on the appearance of the sign, (the eclipse of the sun last February) I should arise and prepare myself, and slay my enemies with their own weapons. And immediately on the sign appearing in the heavens, the seal was removed from my lips, and I communicated the great work laid out for me to do, to four in whom I had the greatest confidence, (Henry, Hark, Nelson, and Sam)—It was intended by us to have begun the work of death on the 4th July last—Many were the plans formed and rejected by us, and it affected my mind to such a degree, that I fell sick, and the time passed without our coming to any determination how to commence—Still forming new schemes and rejecting them, when the sign appeared again, which determined me not to wait longer.

Since the commencement of 1830, I had been living with Mr. Joseph Travis, who was to me a kind master, and placed the greatest confidence in me; in fact, I had no cause to complain of his treatment to me. On Saturday evening, the 20th of August, it was agreed between Henry, Hark and myself, to prepare a dinner the next day for the men we expected, and then to concert a plan, as we had not yet determined on any. Hark, on the following morning, brought a pig, and Henry brandy, and being joined by Sam, Nelson, Will and Jack, they prepared in the woods a dinner, where, about three o'clock, I joined them.

*Q.*Why were you so backward in joining them.

*A.*The same reason that had caused me not to mix with them for years before.

I saluted them on coming up, and asked Will how came he there, he answered, his life was worth no more than others, and his liberty as dear to him. I asked him if he thought to obtain it. He said he would, or lose his life. This was enough to put him in full confidence. Jack, I knew, was only a tool in the hands of Hark, it was quickly agreed we should commence at home (Mr. J. Travis') on that night, and until we had armed and equipped ourselves, and gathered sufficient force, neither age nor sex was to be spared, (which was invariably adhered to.) We remained at the feast until about two hours in the night, when we went to the house and found Austin; they all went to the cider press and drank, except myself. On returning to the house, Hark went to the door with an axe, for the purpose of breaking it open, as we knew we were strong enough to murder the family, if they were awaked by the noise; but reflecting that it might create an alarm in the neighborhood, we determined to enter the house secretly, and murder them whilst sleeping. Hark got a ladder and set it against the chimney, on which I ascended, and hoisting a window, entered and came down stairs, unbarred the door, and removed the guns from their places. It was then observed that I must spill the first blood. On which, armed with a hatchet, and accompanied by Will, I entered my master's chamber, it being dark, I could not give a death blow, the hatchet glanced from his head, he sprang from the bed and called his wife, it was his last word, Will laid him dead, with a blow of his axe, and Mrs. Travis shared the same fate, as she lay in bed. The murder of this family, five in number, was the work of a moment, not one of them awoke; there was a little infant sleeping in a cradle, that was forgotten, until we had left the house and gone some distance, when Henry and Will returned and killed it; we got here, four guns that would shoot, and several old muskets, with a pound or two of powder. We remained some time at the barn, where we paraded; I formed them in a line as soldiers, and after carrying them through all the manoeuvres I was master of, marched them off to Mr. Salathul Francis', about six hundred yards distant. Sam and Will went to the door and knocked. Mr. Francis asked who was there, Sam replied, it was him, and he had a letter for him, on which he got up and came to the door, they immediately seized him, and dragging him out a little from the door, he was dispatched by repeated blows on the head; there was no other white person in the family. We started from there for Mrs. Reese's, maintaining the most perfect silence on our march, where finding the door un-

locked, we entered, and murdered Mrs. Reese in her bed, while sleeping; her son awoke, but it was only to sleep the sleep of death, he had only time to say who is that, and he was no more. From Mrs. Reese's we went to Mrs. Turner's, a mile distant, which we reached about sunrise, on Monday morning. Henry, Austin, and Sam, went to the still, where, finding Mr. Peebles, Austin shot him, and the rest of us went to the house; as we approached, the family discovered us, and shut the door. Vain hope! Will, with one stroke of his axe, opened it, and we entered and found Mrs. Turner and Mrs. Newsome in the middle of a room, almost frightened to death. Will immediately killed Mrs. Turner, with one blow of his axe. I took Mrs. Newsome by the hand, and with the sword I had when I was apprehended, I struck her several blows over the head, but not being able to kill her, as the sword was dull. Will turning around and discovering it, despatched her also. A general destruction of property and search for money and ammunition always succeeded the murders. By this time my company amounted to fifteen, and nine men mounted, who started for Mrs. Whitehead's, (the other six were to go through a by way to Mr. Bryant's and rejoin us at Mrs. Whitehead's,) as we approached the house we discovered Mr. Richard Whitehead standing in the cotton patch, near the lane fence; we called him over into the lane, and Will, the executioner, was near at hand, with his fatal axe, to send him to an untimely grave. As we pushed on to the house, I discovered some one run round the garden, and thinking it was some of the white family, I pursued them, but finding it was a servant girl belonging to the house, I returned to commence the work of death, but they whom I left, had not been idle; all the family were already murdered, but Mrs. Whitehead and her daughter Margaret. As I came round to the door I saw Will pulling Mrs. Whitehead out of the house, and at the step he nearly severed her head from her body, with his broad axe. Miss Margaret, when I discovered her, had concealed herself in the corner, formed by the projection of the cellar cap from the house; on my approach she fled, but was soon overtaken, and after repeated blows with a sword, I killed her by a blow on the head, with a fence rail. By this time, the six who had gone by Mr. Bryant's, rejoined us, and informed me they had done the work of death assigned them. We again divided, part going to Mr. Richard Porter's, and from thence to Nathaniel Francis', the others to Mr. Howell Harris', and Mr. T. Doyles. On my reaching Mr. Porter's, he had escaped with his family. I understood there, that the alarm had already spread, and I immediately returned to bring up those sent to Mr. Doyles, and Mr. Howell Harris'; the party I left going on to Mr. Francis', having told them I would join them in that neighborhood. I met these sent to Mr. Doyles' and Mr. Harris' returning, having met Mr. Doyle on the road and killed him; and learning from some who joined them, that Mr. Harris was from home, I immediately pursued the course taken by the party gone on before; but knowing they would complete the work of death and pillage, at Mr. Francis' before I could there, I went to Mr. Peter Edwards', expecting to find them there, but they had been here also. I then went to Mr. John T. Barrow's, they had been here and murdered him. I pursued on their track to Capt. Newit Harris', where I found the greater part mounted, and ready to start; the men now amounting to about forty, shouted and hurrahed as I rode up, some were in the yard, loading their guns, others drinking. They said Captain Harris and his family had escaped, the property in the house they destroyed, robbing him of money and other valuables. I ordered them to mount and march instantly, this was about nine or ten o'clock, Monday morning. I proceeded to Mr. Levi Waller's, two or three miles distant. I took my station in the rear, and as it 'twas my object to carry terror and devastation wherever we went, I placed fifteen or twenty of the best armed and most to be relied on, in front, who generally approached the houses as fast as their horses could run; this was for two purposes, to prevent their escape and strike terror to the inhabitants—on this account I never got to the houses, after leaving Mrs. Whitehead's, until the murders were committed, except in one case. I sometimes got in sight in time to see the work of death completed, viewed the mangled bodies as they lay, in silent satisfaction, and immediately started in quest of other victims—Having murdered Mrs. Waller and ten children, we started for Mr. William Williams'—having killed him and two little boys that were there; while engaged in this, Mrs. Williams fled and got some distance from the house, but she was pursued, overtaken, and compelled to get up behind one of the company, who brought her back, and after showing her the mangled body of her lifeless husband, she was told to get down and lay by his side, where she was shot dead. I then started for Mr. Jacob Williams, where the family were murdered—Here we found a young man named Drury, who had come on business with Mr. Williams—he was pursued, overtaken and shot. Mrs. Vaughan was the next place we visited—and after murdering the family here, I determined on

starting for Jerusalem—Our number amounted now to fifty or sixty, all mounted and armed with guns, axes, swords and clubs—On reaching Mr. James W. Parkers' gate, immediately on the road leading to Jerusalem, and about three miles distant, it was proposed to me to call there, but I objected, as I knew he was gone to Jerusalem, and my object was to reach there as soon as possible; but some of the men having relations at Mr. Parker's it was agreed that they might call and get his people. I remained at the gate on the road, with seven or eight; the others going across the field to the house, about half a mile off. After waiting some time for them, I became impatient, and started to the house for them, and on our return we were met by a party of white men, who had pursued our blood-stained track, and who had fired on those at the gate, and dispersed them, which I knew nothing of, not having been at that time rejoined by any of them—Immediately on discovering the whites, I ordered my men to halt and form, as they appeared to be alarmed—The white men, eighteen in number, approached us in about one hundred yards, when one of them fired, (this was against the positive orders of Captain Alexander P. Peete, who commanded, and who had directed the men to reserve their fire until within thirty paces). And I discovered about half of them retreating, I then ordered my men to fire and rush on them; the few remaining stood their ground until we approached within fifty yards, when they fired and retreated. We pursued and overtook some of them who we thought we left dead; (they were not killed) after pursuing them about two hundred yards, and rising a little hill, I discovered they were met by another party, and had halted, and were re-loading their guns, (this was a small party from Jerusalem who knew the negroes were in the field, and had just tied their horses to await their return to the road, knowing that Mr. Parker had family were in Jerusalem, but knew nothing of the party that had gone in with Captain Peete; on hearing the firing they immediately rushed to the spot and arrived just in time to arrest the progress of these barbarous villains, and save the lives of their friends and fellow citizens.) Thinking that those who retreated first, and the party who fired on us at fifty or sixty yards distant, had all only fallen back to meet others with ammunition. As I saw them re-loading their guns, and more coming up than I saw at first, and several of my bravest men being wounded, the others became panic struck and squandered over the field; the white men pursued and fired on us several times. Hark had his horse shot under him, and I caught another for him as it was running by me; five or six of my men were wounded, but none left on the field; finding myself defeated here I instantly determined to go through a private way, and cross the Nottoway river at the Cypress Bridge, three miles below Jerusalem, and attack that place in the rear, as I expected they would look for me on the other road, and I had a great desire to get there to procure arms and ammunition. After going a short distance in this private way, accompanied by about twenty men, I overtook two or three who told me the others were dispersed in every direction. After trying in vain to collect a sufficient force to proceed to Jerusalem, I determined to return, as I was sure they would make back to their old neighborhood, where they would rejoin me, make new recruits, and come down again. On my way back, I called at Mrs. Thomas's, Mrs. Spencer's, and several other places, the white families having fled, we found no more victims to gratify our thirst for blood, we stopped at Maj. Ridley's quarter for the night, and being joined by four of his men, with the recruits made since my defeat, we mustered now about forty strong. After placing out sentinels, I laid down to sleep, but was quickly roused by a great racket; starting up, I found some mounted, and others in great confusion; one of the sentinels having given the alarm that we were about to be attacked, I ordered some to ride round and reconnoiter, and on their return the others being more alarmed, not knowing who they were, fled in different ways, so that I was reduced to about twenty again; with this I determined to attempt to recruit, and proceed on to rally in the neighborhood, I had left. Dr. Blunt's was the nearest house, which we reached just before day; on riding up the yard, Hark fired a gun. We expected Dr. Blunt and his family were at Maj. Ridley's, as I knew there was a company of men there; the gun was fired to ascertain if any of the family were at home; we were immediately fired upon and retreated, leaving several of my men. I do not know what became of them, as I never saw them afterwards. Pursuing our course back and coming in sight of Captain Harris', where we had been the day before, we discovered a party of white men at the house, on which all deserted me but two, (Jacob and Nat,) we concealed ourselves in the woods until near night, when I sent them in search of Henry, Sam, Nelson, and Hark, and directed them to rally all they could, at the place we had had our dinner the Sunday before, where they would find me, and I accordingly returned there as soon as it was dark and remained until Wednesday evening, when discovering white men riding around the place as though they were

looking for some one, and none of my men joining me, I concluded Jacob and Nat had been taken, and compelled to betray me. On this I gave up all hope for the present; and on Thursday night after having supplied myself with provisions from Mr. Travis's, I scratched a hole under a pile of fence rails in a field, where I concealed myself for six weeks, never leaving my hiding place but for a few minutes in the dead of night to get water which was very near; thinking by this time I could venture out, I began to go about in the night and eaves drop the houses in the neighborhood; pursuing this course for about a fortnight and gathering little or no intelligence, afraid of speaking to any human being, and returning every morning to my cave before the dawn of day. I know not how long I might have led this life, if accident had not betrayed me, a dog in the neighborhood passing by my hiding place one night while I was out, was attracted by some meat I had in my cave, and crawled in and stole it, and was coming out just as I returned. A few nights after, two negroes having started to go hunting with the same dog, and passed that way, the dog came again to the place, and having just gone out to walk about, discovered me and barked, on which thinking myself discovered, I spoke to them to beg concealment. On making myself known they fled from me. Knowing then they would betray me, I immediately left my hiding place, and was pursued almost incessantly until I was taken a fortnight afterwards by Mr. Benjamin Phipps, in a little hole I had dug out with my sword, for the purpose of concealment, under the top of a fallen tree. On Mr. Phipps' discovering the place of my concealment, he cocked his gun and aimed at me. I requested him not to shoot and I would give up, upon which he demanded my sword. I delivered it to him, and he brought me to prison. During the time I was pursued, I had many hair breadth escapes, which your time will not permit you to relate. I am here loaded with chains, and willing to suffer the fate that awaits me.

I here proceeded to make some inquiries of him after assuring him of the certain death that awaited him, and that concealment would only bring destruction on the innocent as well as guilty, of his own color, if he knew of any extensive or concerted plan. His answer was, I do not. When I questioned him as to the insurrection in North Carolina happening about the same time, he denied any knowledge of it; and when I looked him in the face as though I would search his inmost thoughts, he replied, "I see sir, you doubt my word; but can you not think the same ideas, and strange appearances about this time in the heaven's might prompt others, as well as myself, to this undertaking." I now had much conversation with and asked him many questions, having forborne to do so previously, except in the cases noted in parenthesis; but during his statement, I had, unnoticed by him, taken notes as to some particular circumstances, and having the advantage of his statement before me in writing, on the evening of the third day that I had been with him, I began a cross examination, and found his statement corroborated by every circumstance coming within my own knowledge or the confessions of others whom had been either killed or executed, and whom he had not seen nor had any knowledge since 22d of August last, he expressed himself fully satisfied as to the impracticability of his attempt. It has been said he was ignorant and cowardly, and that his object was to murder and rob for the purpose of obtaining money to make his escape. It is notorious, that he was never known to have a dollar in his life; to swear an oath, or drink a drop of spirits. As to his ignorance, he certainly never had the advantages of education, but he can read and write, (it was taught him by his parents,) and for natural intelligence and quickness of apprehension, is surpassed by few men I have ever seen. As to his being a coward, his reason as given for not resisting Mr. Phipps, shews the decision of his character. When he saw Mr. Phipps present his gun, he said he knew it was impossible for him to escape as the woods were full of men; he therefore thought it was better to surrender, and trust to fortune for his escape. He is a complete fanatic, or plays his part most admirably. On other subjects he possesses an uncommon share of intelligence, with a mind capable of attaining any thing; but warped and perverted by the influence of early impressions. He is below the ordinary stature, though strong and active, having the true negro face, every feature of which is strongly marked. I shall not attempt to describe the effect of his narrative, as told and commented on by himself, in the condemned hole of the prison. The calm, deliberate composure with which he spoke of his late deeds and intentions, the expression of his fiend-like face when excited by enthusiasm, still bearing the stains of the blood of helpless innocence about him; clothed with rags and covered with chains; yet daring to raise his manacled hands to heaven, with a spirit soaring above the attributes of man; I looked on him and my blood curdled in my veins.

I will not shock the feelings of humanity, nor wound afresh the bosoms of the disconsolate sufferers in this unparalleled and inhuman massacre, by detailing the deeds of their fiend-like barbarity.

Document Text

There were two or three who were in the power of these wretches, had they known it, and who escaped in the most providential manner. There were two whom they thought they left dead on the field at Mr. Parker's, but who were only stunned by the blows of their guns, as they did not take time to reload when they charged on them. The escape of a little girl who went to school at Mr. Waller's, and where the children were collecting for that purpose. excited general sympathy. As their teacher had not arrived, they were at play in the yard, and seeing the negroes approach, ran up on a dirt chimney (such as are common to log houses,) and remained there unnoticed during the massacre of the eleven that were killed at this place. She remained on her hiding place till just before the arrival of a party, who were in pursuit of the murderers, when she came down and fled to a swamp, where, a mere child as she was, with the horrors of the late scene before her, she lay concealed until the next day, when seeing a party go up to the house, she came up, and on being asked how she escaped, replied with the utmost simplicity, "The Lord helped her." She was taken up behind a gentleman of the party, and returned to the arms of her weeping mother. Miss Whitehead concealed herself between the bed and the mat that supported it, while they murdered her sister in the same room, without discovering her. She was afterwards carried off, and concealed for protection by a slave of the family, who gave evidence against several of them on their trial. Mrs. Nathaniel Francis, while concealed in a closet heard their blows, and the shrieks of the victims of these ruthless savages; they then entered the closet where she was concealed, and went out without discovering her. While in this hiding place, she heard two of her women in a quarrel about the division of her clothes. Mr. John T. Baron, discovering them approaching his house, told his wife to make her escape, and scorning to fly, fell fighting on his own threshold. After firing his rifle, he discharged his gun at them, and then broke it over the villain who first approached him, but he was overpowered, and slain. His bravery, however, saved from the hands of these monsters, his lovely and amiable wife, who will long lament a husband so deserving of her love. As directed by him, she attempted to escape through the garden, when she was caught and held by one of her servant girls, but another coming to her rescue, she fled to the woods, and concealed herself. Few indeed, were those who escaped their work of death. But fortunate for society, the hand of retributive justice has overtaken them; and not one that was known to be concerned has escaped.

Glossary

Calvary	the site of Christ's Crucifixion
"For he who knoweth his Master's will …"	loosely quoted from the biblical book of Luke, Chapter 12, verses 47–48
infancy	childhood, youth
Jerusalem	a nearby town in Virginia
Saviour	Jesus Christ
"Seek ye the kingdom of Heaven …"	loosely quoted from the biblical books of Matthew (Chapter 6, verse 33) and Luke (Chapter 12, verse 31)
shewn	an antique form of "shown"

Portrait of Joseph Cinqué (Library of Congress)

United States v. Amistad

1841

"Supposing these African negroes not to be slaves, but kidnapped, and free negroes, the treaty with Spain cannot be obligatory upon them."

Overview

Issued on March 9, 1841, the decision of the U.S. Supreme Court in the *Amistad* case was the most significant one issued by the Court on the question of slavery before the *Dred Scott* decision of 1857. The case arose from the seizure of the schooner *La Amistad*, its passengers, and cargo in 1839 by a U.S. naval vessel. Among the passengers were fifty-three Africans, a slave named Antonio owned by the captain, and two Spaniards. The Spaniards claimed that the Africans were their slaves, but the Africans asserted they were free. For the next two years, American abolitionists provided legal counsel to the Africans, hoping to secure their freedom and to record a legal victory in the battle against slavery. Unlike the *Dred Scott* decision, in which Chief Justice Roger Taney would say that blacks "had no rights which the white man was bound to respect," Justice Joseph Story's opinion in *Amistad*, based on "the eternal principles of justice and international law," held that "these negroes ought to be deemed free" because they were entitled to equal justice in America's courts, just like any other foreign subject, no matter his or her color. The abolitionist movement claimed a victory and termed it a triumph of justice. The decision freed the Africans but not Antonio. In other words, the case was limited to its facts. The Africans were entitled to their freedom because they had been kidnapped and illegally sold into slavery, but those held legally to be slaves could not be freed.

Context

In the early days of the Republic many Americans believed that slavery would eventually disappear, and there was some basis for such hope. As early as 1780, Pennsylvania began gradually emancipating all slaves born after that year, and Massachusetts banned slavery. Even Maryland and North Carolina banned the importation of slaves in the 1780s. But after the Revolution, the slave-based economy of the South did not diminish. The invention of the cotton gin and other agricultural advances increased the demand for slave labor. While the northern states had mixed economies based on small farmers and merchants and a growing industrial base, the South's economy had become even more dependent on slave labor. Instead of becoming more united, the regions grew more polarized.

In 1820 the Missouri Compromise formalized the great divide between the regions on the issue of slavery. Under the terms of the Missouri Compromise, the North would consist of free states, but the South would consist of states where slavery remained legal. The growth of slavery also engendered a growth in antislavery sentiment outside the South. By the 1830s the American Anti-Slavery Society had attracted thousands of abolitionists. While abolitionists enjoyed little early political success, they resorted to aggressive propaganda campaigns and vigorous legal attacks to secure freedom for as many blacks as possible.

In the South, there was less antislavery sentiment among whites. The Denmark Vesey Uprising in South Carolina in 1822 and Nat Turner's Rebellion in Virginia in 1831 demonstrated that there was strong desire for freedom among the South's slaves. But this black resistance was met with white resistance. Southern planters drew inward and more strident in their support for slavery. Abolitionist literature was banned in some southern communities, and some states made it illegal to teach slaves to read and write. Throughout the 1830s numerous southern legislatures pleaded with northern states to control the abolitionists.

Slavery was also a troubling issue diplomatically. Even though the U.S. Congress banned the importation of slaves as of January 1, 1808, the slave population in the South grew from about 1 million in 1808 to over 2.4 million in 1840. The increase came primarily through natural population growth, but the illegal Caribbean slave trade provided inexpensive African slaves. Treaties between Spain and other countries prohibited the slave trade, but Cuba, a Spanish colony, became a major source of illegal slaves. With Cuba so close and white Americans so divided, America's slave trade ban was difficult to enforce and often simply ignored.

In this context it is not surprising that the plight of the Africans from *La Amistad* became both a national and an international issue. In the spring of 1839, more than five hundred Africans were kidnapped on the west coast of Af-

Time Line

1836

- Martin Van Buren is elected president as a proslavery Democrat.

1839

- More than five hundred Africans are enslaved on the ship *Tecora*, an illegal Portuguese slaver, and begin crossing the Atlantic; after two months, only two-thirds of the Africans survive to arrive in Cuba.
- **June**
  José Ruiz and Pedro Montez hire the schooner *La Amistad* to transport the slaves they claim to have purchased.
- **July 2**
  The Africans aboard *La Amistad* mutiny and take over the ship.
- **August 26**
  The *Amistad* is seized by the captain of the USS *Washington* and taken to Connecticut; the Africans are jailed and admiralty actions begin.
- **September**
  Abolitionists form a committee to free the Africans.

1840

- **January 13**
  Judge Andrew T. Judson rules that the Africans are free.
- **September**
  The cases are appealed to the U.S. Supreme Court.
- **November**
  President Martin Van Buren is defeated for reelection by William Henry Harrison.

1841

- **February–March**
  The *Amistad* case is argued before the U.S. Supreme Court.
- **March 9**
  The Supreme Court issues its decision in the *Amistad* case.
- **November**
  The Africans sail for home accompanied by missionaries.

rica and loaded onto the Portuguese slaver *Tecora* for the voyage to Cuba. During the 4,500-mile journey fewer than two-thirds survived. From the survivors, forty-nine adult men and four children were purchased by José Ruiz and Pedro Montez. Montez procured passports that permitted him to transport his "slaves" from Havana to Puerto Principe, Cuba, on *La Amistad*. If the "slaves" had been born in Cuba, these passports would have been legal. However, these blacks were native-born Africans and were free under Spanish law. After the Africans were herded onto *La Amistad*, the schooner waited until nightfall to set sail, to avoid British patrols. Once the ship was under way, the Africans, under the leadership of a young man named Joseph Cinqué, overpowered the crew and killed the captain, two crewmen, and the cook. They spared the captain's slave, Antonio, as well as Montez and Ruiz because the two Spaniards promised to sail the Africans back to Africa. But the two men had other plans. At daylight they sailed east, but after dark they reversed course so that the vessel zigzagged west and north for two months. On August 25, 1839, the ship neared the coast of Long Island. When the ship anchored there, Cinqué and three others went ashore to obtain water. There they met two New Yorkers who tried to trick the Africans into bringing the schooner ashore so that the boat and its "cargo" could be claimed as salvage. But a U.S. naval officer spotted the schooner and intervened. The crew of the cutter USS *Washington* boarded *La Amistad* and discovered that it was a slave ship. Lieutenant Thomas Gedney ordered the seizure of *La Amistad*, its passengers, and its cargo and transported the ship to Connecticut. So began the complex legal case that ensued.

U.S. district court judge Andrew T. Judson conducted an inquiry. Montez and Ruiz asserted their claim using the Cuban passports and by informing the court that the Africans were slaves who had mutinied and murdered the captain and crew. Judson ordered that the Africans be held over for grand jury proceedings in September and said that the property claims could be decided then. Formal legal proceedings soon intensified. Numerous claims to salvage rights on the vessel and its cargo were filed on behalf of the crew of the USS *Washington*. A petition for a writ of habeas corpus was begun on behalf of the Africans. Federal criminal charges were filed against the Africans, and four civil actions in the courts of New York were filed by the Africans against the two Spaniards. Fortunately for the Africans, the seizure drew the interest of American abolitionists, who provided legal counsel and translators. Consequently, the subsequent legal proceedings pitted the Africans against an array of whites. Under admiralty law, the naval officers and the two New Yorkers theoretically had a claim for rescuing the distressed ship and claiming the ship as well as its cargo as salvage. However, if the Africans were not slaves, the claims would be greatly diminished in value. So even at the earliest stages of the case, the fight was over whether the Africans were free or slaves. If they were slaves, they could be seized and sold. If not, the Africans were free.

U.S. Supreme Court justice Smith Thompson, sitting as a circuit court judge, ruled that the alleged offenses had oc-

curred on the high seas beyond the jurisdiction of American courts. However, Thompson refused to release the Africans and referred the matter to the U.S. district court to decide whether the Africans were slaves under Spanish law. Then Judson heard the salvage cases, which were drawn out, contentious, and dramatic. The parties to the cases included the U.S. government headed by President Martin Van Buren, the queen of Spain, the vice-consul of Spain, four Spanish civilians, more than forty Africans, two naval officers, and two white civilians from New York. Each had varying interests. Van Buren was up for reelection in 1840 and needed proslavery, southern votes. Under a treaty with Spain, the administration asserted that the U.S. government was obligated to seize the Africans and return them to Spain. The queen of Spain claimed that the ship and the Africans were property under Spanish law. The two Spaniards claimed the Africans as their property. Three other Spanish residents of Cuba also filed claims to certain goods. The vice-consul of Spain claimed Antonio as a slave on behalf of the deceased captain's heirs. The naval officers and the two New Yorkers claimed *La Amistad*, its cargo, and the Africans as salvage.

While the courts had to decide who had rights to the vessel and its nonhuman cargo, the real battle was between the Africans, represented by lawyers recruited by abolitionists, and the Spanish Crown, as represented by the U.S. government. Based on that evidence, the lawyers for the Africans argued that the passports presented by Montez and Ruiz were fraudulent. Sensing that public sentiment seemed to favor the Africans, the Van Buren administration tried to end the case. In an attempt to have the blacks turned over to the administration as quickly as possible, U.S. District Attorney William S. Holabird contended that the Africans were "free men" whom the government must send back to Africa. That concession did not end the matter, because Ruiz and Montez still contended that the Africans were their property. Also, the Africans and their lawyers knew that allowing the Van Buren administration to take custody of them might result in their persecution by the Spanish for murder and piracy. Based on the evidence and the government's concession, the lower courts determined that the Africans had been born free in Sierra Leone and therefore had been illegally kidnapped into slavery.

By the time the case came to the U.S. Supreme Court, most of the admiralty claims had been resolved. The only parties left were Spain, represented by the government of the United States; Gedney, represented by private counsel; and the Africans, represented by Roger Baldwin and John Quincy Adams. By this time the administration had reversed course and argued that the Africans were slaves and thus that the administration was obligated to return them to Spain. Baldwin argued that international law guaranteed equal rights to all free men. He pointed out that the Africans had never resided in Cuba and never were subject to Spanish law. Baldwin continued to request that the case against the Africans be dismissed and that they be freed from jail. He urged the Supreme Court to reverse the lower court ruling that the Africans should be turned over to the president for return to Africa.

***Replica of the schooner* Amistad** (AP/Wide World Photos)

About the Author

When the *Amistad* case was argued beginning in February 1841, the U.S. Supreme Court was composed of Chief Justice Roger Taney of Maryland, Smith Thompson of New York, John McLean of Ohio, Henry Baldwin of Pennsylvania, James Wayne of Georgia, Philip Barbour of Virginia, John Catron of Tennessee, John McKinley of Alabama, and Joseph Story of Massachusetts. Taney, Barbour, Catron, McKinley, and Wayne had all owned slaves. Moreover, McLean, Wayne, Baldwin, Taney, and McKinley had been appointed to the Court by Democratic presidents Andrew Jackson and Martin Van Buren. Generally Democrats supported the institution of slavery, and Van Buren's administration was adamantly opposed to freeing the *Amistad* blacks. But there were two members of the Court who were not only less friendly to slavery but were not friendly to Van Buren. Justice Smith Thompson was the circuit justice for Connecticut and as such had heard the petition and the appeals that had confirmed that the blacks were free. The other justice was Joseph Story, author of the opinion in the case. When the case was argued in February and March

Essential Quotes

"We may lament the dreadful acts, by which they asserted their liberty, and took possession of the Amistad, and endeavoured to regain their native country; but they cannot be deemed pirates or robbers in the sense of the law of nations, or the treaty with Spain, or the laws of Spain itself."

(Paragraph 14)

"Supposing these African negroes not to be slaves, but kidnapped, and free negroes, the treaty with Spain cannot be obligatory upon them; and the United States are bound to respect their rights as much as those of Spanish subjects. The conflict of rights between the parties under such circumstances, becomes positive and inevitable, and must be decided upon the eternal principles of justice and international law."

(Paragraph 16)

"Upon the whole, our opinion is, that … the said negroes be declared to be free, and be dismissed from the custody of the Court, and go without delay."

(Paragraph 20)

1841, Justice McKinley was ill, and during the course of the multiday arguments Justice Barbour died. So when the decision was announced, six justices joined in the opinion of Justice Story, and only one justice, Henry Baldwin, dissented.

Joseph Story, born on September 18, 1779, in Marblehead, Massachusetts, was appointed by President James Madison in 1811 at age thirty-two, the youngest person to ever serve on the Court. Despite his inexperience, he became one of the most distinguished justices in the history of the Court. By the time of the *Amistad* decision, he was the senior member. He was also a professor at Harvard Law School and the author of numerous legal treatises. Story had been an ally of Chief Justice John Marshall, and the two laid the cornerstones of the federal government and the judiciary. At the time of the *Amistad* case, Story's views on slavery were well known. He had spoken out publicly in a Salem, Massachusetts, town meeting against slavery and the Missouri Compromise. His judicial record clearly exhibited his distaste for the illegal slave trade. However, there were limits to Story's judicial philosophy. In 1842 he authored the lead opinion in *Prigg v. Pennsylvania*, which held that the Fugitive Slave Act of 1793 preempted all state law to the contrary. Story did attempt to limit his ruling by stating that states were not required to enforce the federal statute, only that states could not enact statutes that tried to subvert the federal act. However, Story's opinion earned him no credit with abolitionists. Despite his personal opinion of slavery, Story's opinions demonstrated his strict adherence to the law and facts. Story died on September 10, 1845.

Explanation and Analysis of the Document

Story's opinion begins by summarizing the facts of the case in paragraph 1. Then, in paragraphs 2 through 7, Story summarizes the convoluted legal proceedings that resulted in the case's being heard before the U.S. Supreme Court. To review briefly: At issue in the case was who was entitled to the ship and its cargo and what was to be the fate of the Africans on the ship. Were the Africans, in fact, slaves to be returned to the owner who claimed them, or were they free men who had been kidnapped from Africa illegally and hence to be freed to return to Africa?

The key paragraph in Story's summary of the legal proceedings to date is paragraph 6, which notes that on January 23, 1840, a district court had ruled on the vari-

ous matters before it. In addition to the salvage claims, the court "decreed that they [that is, the "negroes"] should be delivered to the President of the United States, to be transported to Africa, pursuant to the act of 3d March, 1819." The act in question was the Act of March 3, 1819, Relative to the Slave Trade, which was crucial to the case and which read in part:

> Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be, and he is hereby, authorized, whenever he shall deem it expedient, to cause any of the armed vessels of the United States, to be employed to cruise on any of the coasts of the United States, or territories thereof, or of the coast of Africa, or elsewhere, where he may judge attempts may be made to carry on the slave trade by citizens or residents of the United States, in contravention of the acts of Congress prohibiting the same.

Paragraph 7 then notes that the district court ruling was appealed and that the appellate court simply affirmed the rulings of the district court. Accordingly, the case was appealed to the U.S. Supreme Court.

Story's analysis of the case and his ruling begin with paragraph 8, where he lays out what he perceives to be the two central issues in the case: whether, under the terms of the 1795 treaty with Spain (often called Pinckney's Treaty or, more formally, the Treaty of San Lorenzo or the Treaty of Madrid), sufficient proof was given as the to the ownership of the ship, its cargo, and the Africans; and whether the U.S. government has a right to intervene in the case. It should be noted that at this point in the proceedings, the United States, as one of the parties to the case, was simply attempting to defend the rights of Spain under the treaty; the U.S. government was not, for example, asserting any ownership rights over the ship, cargo, and Africans, nor was it interested in prosecuting the Africans for their mutiny aboard the ship. A second party to the case, Lieutenant Thomas Gedney, was still trying to assert his right to the ship and cargo as salvage; in connection with this claim, the term "libel" is used, but in this context, the word refers simply to an admiralty lawsuit, or a lawsuit brought under the laws of the sea. Finally, the third party to the case consists of the Africans led by Cinqué, who were asserting that they were not slaves and should be granted their freedom.

From the standpoint of African American history and the history of the abolition of the slave trade, the core of Story's opinion begins with paragraph 12. In this paragraph, Story examines the U.S. treaty with Spain and searches for the clause in the treaty that would apply in this case. The treaty was designed to establish rights when, for example, a ship flying under one country's flag was pursued by pirates and had to put into a port of the other country. An alternative case would be a ship of one country that had to be rescued by a ship from the other because it was, for example, sinking. The purpose of the treaty was simply to agree that one country's property should be returned by the other. The facts in the *Amistad* case, though, did not conform precisely to any of the clauses in the treaty with Spain. Accordingly, it was up to the Supreme Court to determine what the property rights were. With regard to the ship and its cargo, the issue was relatively simple. The more complicated issue involved the Africans and whether they were "merchandise" under the terms of the treaty.

In paragraph 13, Story takes up this issue. He uses some Latin legal language, including the phrase *onus probandi*, which means "burden of proof." Additionally, he uses the phrase *casus foederis*, which literally means "case of the alliance" and refers to a situation in which the terms of an alliance between nations come into play. He concludes in this paragraph that "these negroes never were the lawful slaves of Ruiz or Montez, or of any other Spanish subjects." He goes on to say that "they are natives of Africa, and were kidnapped there, and were unlawfully transported to Cuba, in violation of the laws and treaties of Spain, and the most solemn edicts and declarations of that government." But then the question arises as to whether the Africans, because of their mutiny, were "pirates or robbers." In paragraph 14, Story concludes: "If, then, these negroes are not slaves, but are kidnapped Africans, who, by the laws of Spain itself, are entitled to their freedom, and were kidnapped and illegally" then "they cannot be deemed pirates or robbers in the sense of the law of nations, or the treaty with Spain, or the laws of Spain itself."

Paragraph 15 takes up the issue of the evidence that the Africans were the property of the Spaniards who claimed them. Story acknowledges that, in general, the U.S. government is obligated to accept any proof of ownership asserted by the citizens of another country and is not obligated to "look behind" any documents the presumed owner provides. Story concedes that the Spaniards' documents would normally be taken as "prima facie" evidence that they, in fact, owned the Africans. But Story goes on to reject the notion that the documents have to be accepted at face value. Such documents can be "impugned for fraud," and if they are found to be fraudulent, they do not have to be accepted as proof. Put simply, Story asserts that the ownership documents of the Spaniards are fraudulent, and therefore the U.S. government is under no obligation to accept them. In paragraph 16, then, Story concludes that if the Africans are not slaves but "free negroes," then the U.S. treaty with Spain is inoperative and "the United States are bound to respect their rights as much as those of Spanish subjects." He states that "the treaty with Spain never could have intended to take away the equal rights of all foreigners" and, on the basis of "the eternal principles of justice and international law," he concludes that "these negroes ought to be deemed free; and that the Spanish treaty interposes no obstacle to the just assertion of their rights."

Paragraph 17 takes up the question of what is to be done with the Africans. The problem Story faced was this: If Africans were brought into the country illegally in contravention of laws prohibiting the slave trade, then the United States, in the person of the president, was obligated to return them to Africa. The problem here was the circum-

stances under which the Africans had set foot on U.S. soil. They were not brought by slave traders. They, in essence, brought themselves by seizing the ship, and when they arrived in the United States, they had no intention of becoming slaves. Accordingly, Story rules that the United States is under no obligation to return them to Africa.

Paragraph 19 briefly affirms the right of Lieutenant Gedney to salvage. That is, the Court ruled that because of his actions, he was entitled to claim the ship and its cargo under the maritime version of "finders keepers." Of course, Gedney did not want the actual physical property; what he wanted was the value of the property in money. Story affirms his right to salvage.

Audience

When the Supreme Court decided a case, the decision was announced by the reading of the opinion by the justice who authored it. Justice Story's opinion was delivered to a mostly empty courtroom. However, the parties, and the entire country and much of Europe, were interested. The case was of particular interest to abolitionists, who heralded it as a great victory for the cause of abolition, although they were distressed that Antonio, who was in fact a slave, was not freed. The *Amistad* committee took the Africans to Farmington, Connecticut, where abolitionists taught them English, instructed them in Christianity, and raised funds to pay for their return to Africa. Meanwhile, newspapers reporting on the case reflected regional biases. Northern newspapers tended to report on the case from an antislavery perspective, while southern newspapers tended to regard northern reporting as slanted and designed to foment abolitionist sentiment.

Impact

Some historians believe that the *Amistad* case may have helped defeat Martin Van Buren in his quest to be reelected president in 1840. When the case came to his attention, he backed the initial U.S. position as formed by Secretary of State John Forsyth, which favored the claims of Spain and urged that the Africans be returned to Cuba as pirates, murderers, and escaped slaves. Both Van Buren, a Democrat, and his opponent, William Henry Harrison, courted the southern vote, and neither wanted to be perceived as soft on the issue of slavery. Although the *Amistad* case did not figure directly in the election campaign, it formed part of the backdrop of American regional politics in the pre–Civil War decades.

The outcome of the case galvanized the abolition movement, but it angered much of the South. As a legal precedent, the case has been cited only once in a subsequent U.S. Supreme Court decision. The reality was that the case had limited direct impact. It had freed the Africans, but not the slave Antonio. The evidence presented at the initial admiralty trial proved that the Africans were free and not slaves. Moreover, the U.S. attorney had admitted that they were not slaves but free. This admission foreclosed any further argument by the Van Buren administration on behalf of the Spanish. Consequently the case has to be seen as one decided strictly upon its facts. However, Story did use the international law on the slave trade to make clear that a free black man had rights in American courts—an important holding in the ultimate collapse of the slave system.

See also *Dred Scott v. Sandford* (1857).

Questions for Further Study

1. In what sense was the *Amistad* case a victory for abolitionists?

2. The *Amistad* case was a highly complex one. Summarize the facts of the case and the legal issues it presented.

3. What were the international implications of the *Amistad* case? What role did issues involving the transportation of slaves and maritime law play in the outcome of the case?

4. What role did domestic politics play in attitudes toward the case and the U.S. government's position on it?

5. Why were Joseph Cinqué and the other Africans aboard the vessel not put on trial for murder and mutiny?

Further Reading

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—W. Lewis Burke

Document Text

United States v. Amistad

Mr. Justice Story delivered the opinion of the Court.

This is the case of an appeal from the decree of the Circuit Court of the District of Connecticut, sitting in admiralty. The leading facts, as they appear upon the transcript of the proceedings, are as follows: On the 27th of June, 1839, the schooner L'Amistad, being the property of Spanish subjects, cleared out from the port of Havana, in the island of Cuba, for Puerto Principe, in the same island. On board of the schooner were the captain, Ransom Ferrer, and Jose Ruiz, and Pedro Montez, all Spanish subjects. The former had with him a negro boy, named Antonio, claimed to be his slave. Jose Ruiz had with him forty-nine negroes, claimed by him as his slaves, and stated to be his property, in a certain pass or document, signed by the Governor General of Cuba. Pedro Montez had with him four other negroes, also claimed by him as his slaves, and stated to be his property, in a similar pass or document, also signed by the Governor General of Cuba. On the voyage, and before the arrival of the vessel at her port of destination, the negroes rose, killed the captain, and took possession of her. On the 26th of August, the vessel was discovered by Lieutenant Gedney, of the United States brig Washington, at anchor on the high seas, at the distance of half a mile from the shore of Long Island. A part of the negroes were then on shore at Culloden Point, Long Island; who were seized by Lieutenant Gedney, and brought on board. The vessel, with the negroes and other persons on board, was brought by Lieutenant Gedney into the district of Connecticut, and there libelled for salvage in the District Court of the United States. A libel for salvage was also filed by Henry Green and Pelatiah Fordham, of Sag Harbour, Long Island. On the 18th of September, Ruiz and Montez filed claims and libels, in which they asserted their ownership of the negroes as their slaves, and of certain parts of the cargo, and prayed that the same might be "delivered to them, or to the representatives of her Catholic majesty, as might be most proper." On the 19th of September, the Attorney of the United States, for the district of Connecticut, filed an information or libel, setting forth, that the Spanish minister had officially presented to the proper department of the government of the United States, a claim for the restoration of the vessel, cargo, and slaves, as the property of Spanish subjects, which had arrived within the jurisdictional limits of the United States, and were taken possession of by the said public armed brig of the United States; under such circumstances as made it the duty of the United States to cause the same to be restored to the true proprietors, pursuant to the treaty between the United States and Spain: and praying the Court, on its being made legally to appear that the claim of the Spanish minister was well founded, to make such order for the disposal of the vessel, cargo, and slaves, as would best enable the United States to comply with their treaty stipulations. But if it should appear, that the negroes were persons transported from Africa, in violation of the laws of the United States, and brought within the United States contrary to the same laws; he then prayed the Court to make such order for their removal to the coast of Africa, pursuant to the laws of the United States, as it should deem fit.

On the 19th of November, the Attorney of the United States filed a second information or libel, similar to the first, with the exception of the second prayer above set forth in his former one. On the same day, Antonio G. Vega, the vice-consul of Spain, for the state of Connecticut, filed his libel, alleging that Antonio was a slave, the property of the representatives of Ramon Ferrer, and praying the Court to cause him to be delivered to the said vice-consul, that he might be returned by him to his lawful owner in the island of Cuba.

On the 7th of January, 1840, the negroes, Cinque and others, with the exception of Antonio, by their counsel, filed an answer, denying that they were slaves, or the property of Ruiz and Montez, or that the Court could, under the Constitution or laws of the United States, or under any treaty, exercise any jurisdiction over their persons, by reason of the premises; and praying that they might be dismissed. They specially set forth and insist in this answer, that they were native born Africans; born free, and still of right ought to be free and not slaves; that they were, on or about the 15th of April, 1839, unlawfully kidnapped, and forcibly and wrongfully carried on board a certain vessel on the coast of Africa, which was unlawfully engaged in the slave trade, and were unlawfully transported in the same vessel to the island of

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Cuba, for the purpose of being there unlawfully sold as slaves; that Ruiz and Montez, well knowing the premises, made a pretended purchase of them: that afterwards, on or about the 28th of June, 1839, Ruiz and Montez, confederating with Ferrer, (captain of the Amistad,) caused them, without law or right, to be placed on board of the Amistad, to be transported to some place unknown to them, and there to be enslaved for life; that, on the voyage, they rose on the master, and took possession of the vessel, intending to return therewith to their native country, or to seek an asylum in some free state; and the vessel arrived, about the 26th of August, 1839, off Montauk Point, near Long Island; a part of them were sent onshore, and were seized by Lieutenant Gedney, and carried on board; and all of them were afterwards brought by him into the district of Connecticut.

On the 7th of January, 1840, Jose Antonio Tellincas, and Messrs. Aspe and Laca, all Spanish subjects, residing in Cuba, filed their claims, as owners to certain portions of the goods found on board of the schooner L'Amistad.

On the same day, all the libellants and claimants, by their counsel, except Jose Ruiz and Pedro Montez, (whose libels and claims, as stated of record, respectively, were pursued by the Spanish minister, the same being merged in his claims,) appeared, and the negroes also appeared by their counsel; and the case was heard on the libels, claims, answers, and testimony of witnesses.

On the 23d day of January, 1840, the District Court made a decree. By that decree, the Court rejected the claim of Green and Fordham for salvage, but allowed salvage to Lieutenant Gedney and others, on the vessel and cargo, of one-third of the value thereof, but not on the negroes, Cinque and others; it allowed the claim of Tellincas, and Aspe and Laca with the exception of the above-mentioned salvage; it dismissed the libels and claims of Ruiz and Montez, with costs, as being included under the claim of the Spanish minister; it allowed the claim of the Spanish vice-consul for Antonio, on behalf of Ferrer's representatives; it rejected the claims of Ruiz and Montez for the delivery of the negroes, but admitted them for the cargo, with the exception of the above-mentioned salvage; it rejected the claim made by the Attorney of the United States on behalf of the Spanish minister, for the restoration of the negroes under the treaty; but it decreed that they should be delivered to the President of the United States, to be transported to Africa, pursuant to the act of 3d March, 1819.

From this decree the District Attorney, on behalf of the United States, appealed to the Circuit Court, except so far as related to the restoration of the slave Antonio. The claimants, Tellincas, and Aspe and Laca, also appealed from that part of the decree which awarded salvage on the property respectively claimed by them. No appeal was interposed by Ruiz or Montez, or on behalf of the representatives of the owners of the Amistad. The Circuit Court, by a mere pro forma decree, affirmed the decree of the District Court, reserving the question of salvage upon the claims of Tellincas, and Aspe and Laca. And from that decree the present appeal has been brought to this Court.

The cause has been very elaborately argued, as well upon the merits, as upon a motion on behalf of the appellees to dismiss the appeal. On the part of the United States, it has been contended, 1. That due and sufficient proof concerning the property has been made to authorize the restitution of the vessel, cargo, and negroes to the Spanish subjects on whose behalf they are claimed pursuant to the treaty with Spain, of the 27th of October, 1795. 2. That the United States had a right to intervene in the manner in which they have done, to obtain a decree for the restitution of the property, upon the application of the Spanish minister. These propositions have been strenuously denied on the other side. Other collateral and incidental points have been stated, upon which it is not necessary at this moment to dwell.

Before entering upon the discussion of the main points involved in this interesting and important controversy, it may be necessary to say a few words as to the actual posture of the case as it now stands before us. In the first place, then, the only parties now before the Court on one side, are the United States, intervening for the sole purpose of procuring restitution of the property as Spanish property, pursuant to the treaty, upon the grounds stated by the other parties claiming the property in their respective libels. The United States do not assert any property in themselves, or any violation of their own rights, or sovereignty, or laws, by the acts complained of. They do not insist that these negroes have been imported into the United States, in contravention of our own slave trade acts. They do not seek to have these negroes delivered up for the purpose of being transported to Cuba as pirates or robbers, or as fugitive criminals found within our territories, who have been guilty of offences against the laws of Spain. They do not assert that the seizure, and bringing the vessel, and cargo, and negroes into port, by Lieuten-

ant Gedney, for the purpose of adjudication, is a tortious act. They simply confine themselves to the right of the Spanish claimants to the restitution of their property, upon the facts asserted in their respective allegations.

In the next place, the parties before the Court on the other side as appellees, are Lieutenant Gedney, on his libel for salvage, and the negroes, (Cinque, and others,) asserting themselves, in their answer, not to be slaves, but free native Africans, kidnapped in their own country, and illegally transported by force from that country; and now entitled to maintain their freedom.

No question has been here made, as to the proprietary interests in the vessel, and cargo. It is admitted that they belong to Spanish subjects, and that they ought to be restored. The only point on this head is, whether the restitution ought to be upon the payment of salvage or not? The main controversy is, whether these negroes are the property of Ruiz and Montez, and ought to be delivered up; and to this, accordingly, we shall first direct our attention.

It has been argued on behalf of the United States, that the Court are bound to deliver them up, according to the treaty of 1795, with Spain, which has in this particular been continued in full force, by the treaty of 1819, ratified in 1821. The sixth article of that treaty, seems to have had, principally, in view cases where the property of the subjects of either state had been taken possession of within the territorial jurisdiction of the other, during war. The eighth article provides for cases where the shipping of the inhabitants of either state are forced, through stress of weather, pursuit of pirates, or enemies, or any other urgent necessity, to seek shelter in the ports of the other. There may well be some doubt entertained, whether the present case, in its actual circumstances, falls within the purview of this article. But it does not seem necessary, for reasons hereafter stated, absolutely to decide it. The ninth article provides, "that all ships and merchandise, of what nature soever, which shall be rescued out of the hands of any pirates or robbers, on the high seas, shall be brought into some port of either state, and shall be delivered to the custody of the officers of that port, in order to be taken care of and restored entire to the true proprietor, as soon as due and sufficient proof shall be made concerning the, property thereof." This is the article on which the main reliance is placed on behalf of the United States, for the restitution of these negroes. To bring the case within the article, it is essential to establish, First, That these negroes, under all the circumstances, fall within the description of merchandise, in the sense of the treaty. Secondly, That there has been a rescue of them on the high seas, out of the hands of the pirates and robbers; which, in the present case, can only be, by showing that they themselves are pirates and robbers; and, Thirdly, That Ruiz and Montez, the asserted proprietors, are the true proprietors, and have established their title by competent proof.

If these negroes were, at the time, lawfully held as slaves under the laws of Spain, and recognised by those laws as property capable of being lawfully bought and sold; we see no reason why they may not justly be deemed within the intent of the treaty, to be included under the denomination of merchandise, and, as such, ought to be restored to the claimants: for, upon that point, the laws of Spain would seem to furnish the proper rule of interpretation. But, admitting this, it is clear, in our opinion, that neither of the other essential facts and requisites has been established in proof; and the onus probandi of both lies upon the claimants to give rise to the casus foederis. It is plain beyond controversy, if we examine the evidence, that these negroes never were the lawful slaves of Ruiz or Montez, or of any other Spanish subjects. They are natives of Africa, and were kidnapped there, and were unlawfully transported to Cuba, in violation of the laws and treaties of Spain, and the most solemn edicts and declarations of that government. By those laws, and treaties, and edicts, the African slave trade is utterly abolished; the dealing in that trade is deemed a heinous crime; and the negroes thereby introduced into the dominions of Spain, are declared to be free. Ruiz and Montez are proved to have made the pretended purchase of these negroes, with a full knowledge of all the circumstances. And so cogent and irresistible is the evidence in this respect, that the District Attorney has admitted in open Court, upon the record, that these negroes were native Africans, and recently imported into Cuba, as alleged in their answers to the libels in the case. The supposed proprietary interest of Ruiz and Montez, is completely displaced, if we are at liberty to look at the evidence or the admissions of the District Attorney.

If, then, these negroes are not slaves, but are kidnapped Africans, who, by the laws of Spain itself, are entitled to their freedom, and were kidnapped and illegally carried to Cuba, and illegally detained and restrained on board of the Amistad; there is no pretence to say, that they are pirates or robbers. We may lament the dreadful acts, by which they asserted

their liberty, and took possession of the Amistad, and endeavoured to regain their native country; but they cannot be deemed pirates or robbers in the sense of the law of nations, or the treaty with Spain, or the laws of Spain itself; at least so far as those laws have been brought to our knowledge. Nor do the libels of Ruiz or Montez assert them to be such.

This posture of the facts would seem, of itself, to put an end to the whole inquiry upon the merits. But it is argued, on behalf of the United States, that the ship, and cargo, and negroes were duly documented as belonging to Spanish subjects, and this Court have no right to look behind these documents; that full faith and credit is to be given to them; and that they are to be held conclusive evidence in this cause, even although it should be established by the most satisfactory proofs, that they have been obtained by the grossest frauds and impositions upon the constituted authorities of Spain. To this argument we can, in no wise, assent. There is nothing in the treaty which justifies or sustains the argument. We do not here meddle with the point, whether there has been any connivance in this illegal traffic, on the part of any of the colonial authorities or subordinate officers of Cuba; because, in our view, such an examination is unnecessary, and ought not to be pursued, unless it were indispensable to public justice, although it has been strongly pressed at the bar. What we proceed upon is this, that although public documents of the government, accompanying property found on board of the private ships of a foreign nation, certainly are to be deemed prima facie evidence of the facts which they purport to state, yet they are always open to be impugned for fraud; and whether that fraud be in the original obtaining of these documents, or in the subsequent fraudulent and illegal use of them, when once it is satisfactorily established, it overthrows all their sanctity, and destroys them as proof. Fraud will vitiate any, even the most solemn transactions; and an asserted title to property, founded upon it, is utterly void. The very language of the ninth article of the treaty of 1795 requires the proprietor to make due and sufficient proof of his property. And how can that proof be deemed either due or sufficient, which is but a connected and stained tissue of fraud? This is not a mere rule of municipal jurisprudence. Nothing is more clear in the law of nations, as an established rule to regulate their rights, and duties, and Intercourse, than the doctrine, that the ship's papers are but prima facie evidence, and that, if they are shown to be fraudulent, they are not to be held proof of any valid title. This rule is familiarly applied, and, indeed, is of every-days occurrence in cases of prize, in the contests between belligerents and neutrals, as is apparent from numerous cases to be found in the Reports of this Court; and it is just as applicable to the transactions of civil intercourse between nations in times of peace. If a private ship, clothed with Spanish papers, should enter the ports of the United States, claiming the privileges, and immunities, and rights belonging to bona fide subjects of Spain, under our treaties or laws, and she should, in reality, belong to the subjects of another nation, which was not entitled to any such privileges, immunities, or rights, and the proprietors were seeking, by fraud, to cover their own illegal acts, under the flag of Spain; there can be no doubt, that it would be the duty of our Courts to strip off the disguise, and to look at the case according to its naked realities. In the solemn treaties between nations, it can never be presumed that either state intends to provide the means of perpetrating or protecting frauds; but all the provisions are to be construed as intended to be applied to bona fide transactions. The seventeenth article of the treaty with Spain, which provides for certain passports and certificates, as evidence of property on board of the ships of both states, is, in its terms, applicable only to cases where either of the parties is engaged in a war. This article required a certain form of passport to be agreed upon by the parties, and annexed to the treaty. It never was annexed; and, therefore, in the case of the Amiable Isabella, 6 Wheaton, 1, it was held inoperative.

It is also a most important consideration in the present case, which ought not to be lost sight of, that, supposing these African negroes not to be slaves, but kidnapped, and free negroes, the treaty with Spain cannot be obligatory upon them; and the United States are bound to respect their rights as much as those of Spanish subjects. The conflict of rights between the parties under such circumstances, becomes positive and inevitable, and must be decided upon the eternal principles of justice and international law. If the contest were about any goods on board of this ship, to which American citizens asserted a title, which was denied by the Spanish claimants, there could be no doubt of the right of such American citizens to litigate their claims before any competent American tribunal, notwithstanding the treaty with Spain. A fortiori, the doctrine must apply where human life and human liberty are in issue; and constitute the very essence of the controversy. The treaty with Spain never could have intended to take away the equal rights of all foreigners, who

Document Text

should contest their claims before any of our Courts, to equal justice; or to deprive such foreigners of the protection given them by other treaties, or by the general law of nations. Upon the merits of the case, then, there does not seem to us to be any ground for doubt, that these negroes ought to be deemed free; and that the Spanish treaty interposes no obstacle to the just assertion of their rights.

There is another consideration growing out of this part of the case, which necessarily rises in judgment. It is observable, that the United States, in their original claim, filed it in the alternative, to have the negroes, if slaves and Spanish property, restored to the proprietors; or, if not slaves, but negroes who had been transported from Africa, in violation of the laws of the United States, and brought into the United States contrary to the same laws, then the Court to pass an order to enable the United States to remove such persons to the coast of Africa, to be delivered there to such agent as may be authorized to receive and provide for them. At a subsequent period, this last alternative claim was not insisted on, and another claim was interposed, omitting it; from which the conclusion naturally arises that it was abandoned. The decree of the District Court, however, contained an order for the delivery of the negroes to the United States; to be transported to the coast of Africa, under the act of the 3d of March, 1819, ch. 224. The United States do not now insist upon any affirmance of this part of the decree; and, in our judgment, upon the admitted facts, there is no ground to assert that the case comes within the purview of the act of 1819, or of any other of our prohibitory slave trade acts. These negroes were never taken from Africa, or brought to the United States in contravention of those acts. When the Amistad arrived she was in possession of the negroes, asserting their freedom; and in no sense could they possibly intend to import themselves here, as slaves, or for sale as slaves. In this view of the matter, that part of the decree of the District Court is unmaintainable, and must be reversed.

The view which has been thus taken of this case, upon the merits, under the first point, renders it wholly unnecessary for us to give any opinion upon the other point, as to the right of the United States to intervene in this case in the manner already stated. We dismiss this, therefore, as well as several minor points made at the argument.

As to the claim of Lieutenant Gedney for the salvage service, it is understood that the United States do not now desire to interpose any obstacle to the allowance of it, if it is deemed reasonable by the Court. It was a highly meritorious and useful service to the

Glossary

a fortiori	a Latin phrase meaning roughly "with stronger or greater reason"
act of the 3d of March, 1819	Act of March 3, 1819, Relative to the Slave Trade, giving the president the power to block illegal transportation of slaves
casus foederis	Latin for "case of the alliance," referring to a situation in which the terms of an alliance between nations come into play
clothed	in law, refers to a pretense or fraud
information	in law, a lawsuit
libel	in maritime law, a lawsuit
onus probandi	Latin for "burden of proof"
prima facie	Latin for "at first sight," referring to a legal matter not needing proof unless contrary evidence is shown
sitting in admiralty	functioning as an admiralty court, or one that hears cases involving maritime law
tortious act	an act that subjects the doer to liability, or fault, in tort law
treaty between the United States and Spain	Pinckney's Treaty or, more formally, the Treaty of San Lorenzo or the Treaty of Madrid, signed in 1795

proprietors of the ship and cargo; and such as, by the general principles of maritime law, is always deemed a just foundation for salvage. The rate allowed by the Court, does not seem to us to have been beyond the exercise of a sound discretion, under the very peculiar and embarrassing circumstances of the case.

Upon the whole, our opinion is, that the decree of the Circuit Court, affirming that of the District Court, ought to be affirmed, except so far as it directs the negroes to be delivered to the President, to be transported to Africa, in pursuance of the act of the 3d of March, 1819; and, as to this, it ought to be reversed: and that the said negroes be declared to be free, and be dismissed from the custody of the Court, and go without delay.

Mr. Justice Baldwin dissented.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States, for the District of Connecticut, and was argued by counsel. On consideration whereof, it is the opinion of this Court, that there is error in that part of the decree of the Circuit Court, affirming the decree of the District Court, which ordered the said negroes to be delivered to the President of the United States, to be transported to Africa, in pursuance of the act of Congress, of the 3d of March, 1819; and that, as to that part, it ought to be reversed: and, in all other respects, that the said decree of the Circuit Court ought to be affirmed. It is therefore ordered adjudged, and decreed by this Court, that the decree of the said Circuit Court be, and the same is hereby, affirmed, except as to the part aforesaid, and as to that part, that it be reversed; and that the cause be remanded to the Circuit Court, with directions to enter, in lieu of that part, a decree, that the said negroes be, and are hereby, declared to be free, and that they be dismissed from the custody of the Court, and be discharged from the suit, and go thereof quit without delay.

Joseph Story (Library of Congress)

Prigg v. Pennsylvania

1842

"The States ... possesses full jurisdiction to arrest and restrain runaway slaves, and remove them from their borders."

Overview

Prigg v. Pennsylvania was the first decision of the U.S. Supreme Court to interpret the fugitive slave clause of the U.S. Constitution and also the first decision to consider the constitutionality of the Fugitive Slave Act of 1793. In his "opinion of the Court," Justice Joseph Story of Massachusetts reached six major conclusions: that the federal Fugitive Slave Act of 1793 was constitutional in all its provisions; that no state could pass any law that added requirements to the federal law or impeded the return of fugitive slaves, such as requiring that a state judge hear the case; that masters or their agents had a constitutional right of self-help (the technical term was "recaption") to seize any fugitive slave anywhere and to bring that slave back to the South and that this could be done without complying with the provisions of the Fugitive Slave Act or even bringing the alleged fugitive before a judge; that if a captured fugitive slave was brought before a judge, he or she was entitled to only a summary proceeding to determine whether he or she was the person described in the papers provided by the master; that a judge was not to decide whether the person before him was a slave or free but only whether he or she was the person described in the papers; and that state officials should enforce but could not be required to enforce the Fugitive Slave Act.

With the exception of *Dred Scott v. Sandford* (1857), this was the Supreme Court's most important decision concerning slavery and race before the Civil War. Justice Story wrote an overwhelmingly proslavery opinion for the court, with the dissent of only one justice, John McLean of Ohio. However, most of the majority justices could not agree with each other on all the details. Thus, there were five separate opinions agreeing with the outcome but not necessarily agreeing with all of Justice Story's points. Chief Justice Roger B. Taney agreed with the result but so emphatically disagreed with some of Story's points that his opinion is sometimes mistakenly called a dissent. Only two justices in the majority failed to write an opinion.

Context

Prigg v. Pennsylvania came to the U.S. Supreme Court as an appeal from a decision in Pennsylvania, where Edward Prigg, a citizen of Maryland, had been convicted of kidnapping a black woman named Margaret Morgan and her children. Prigg claimed that Morgan and her children were slaves in Maryland, owned by Margaret Ashmore, who was the mother-in-law of one of the other original defendants, Nathan Bemis. In 1837, Prigg, Bemis, and two other men traveled to Pennsylvania and seized Morgan and her children. They brought the group before Pennsylvania justice of the peace Thomas Henderson and asked for a certificate that would allow them to take the fugitive slaves back to Maryland. This was the proper procedure under an 1826 Pennsylvania personal liberty law designed to prevent the kidnapping of free blacks. Henderson refused to issue the certificate because he did not believe that Morgan was a slave. At this point Prigg and Bemis released Morgan and her children and then offered to take them home. Instead, Prigg and his companions took them all to Maryland, where they were eventually sold as slaves. A Pennsylvania grand jury indicted all four Maryland men for kidnapping. After two years of negotiations, Maryland agreed to return just one of them, Prigg, for trial. He was quickly convicted, and the Pennsylvania Supreme Court upheld this result. Prigg then appealed to the U.S. Supreme Court.

The facts of the case were complicated. Margaret Morgan was, in fact, the child of a slave woman, and under Maryland law that made her a slave as well. But shortly after the War of 1812, when she was just a child, her owner, John Ashmore, told Margaret's parents that they were free. From that point on, Margaret always considered herself a free person. In the 1820s she married Jerry Morgan, who was born free in Pennsylvania. In the 1830 census Margaret, her children, and her husband were listed as "free persons of color" living in Harford County, Maryland. In 1832 the Morgans all moved to York, Pennsylvania, where they lived until 1837, when Prigg and Bemis claimed them as slaves. In Pennsylvania, Margaret gave birth to at least one child and perhaps two. Under Pennsylvania law they were free, *even* if Margaret was a fugitive slave.

Time Line

1780

- Pennsylvania's gradual abolition act provides for the return of fugitive slaves who escape into Pennsylvania or who escape from masters who are visiting Pennsylvania.

1787

- **July**
  Meeting in New York under the Articles of Confederation, Congress passes the Northwest Ordinance, which prohibits slavery in the territories north of the Ohio River. The slavery clause also allows for the return of fugitive slaves who escape into the territory.

- **August**
  The Constitutional Convention, meeting in Philadelphia, adds the fugitive slave clause to what would become Article IV of the Constitution. The clause follows a similar clause—the criminal extradition clause—providing for the return of fugitives from justice.

1791

- The governor of Pennsylvania requests that Virginia extradite three white men accused of kidnapping a free black. The request is rejected. The governor of Pennsylvania appeals to President George Washington, who hands it off to the attorney general. Eventually it is given to Congress and leads to the passage of the Fugitive Slave Act of 1793.

1793

- **February**
  Congress passes and President George Washington signs the Fugitive Slave Act of 1793.

1826

- Pennsylvania passes a personal liberty law, requiring that all fugitive slaves be brought before a state magistrate before being removed from the state.

1830

- Margaret Morgan; her husband, Jerry Morgan; and their children are listed in the U.S. census as free blacks living in Harford County, Maryland.

The circumstances of this case illustrate the complexity of returning fugitive slaves. Most people imagine fugitive slaves to have been literally on the run, captured by hard-charging slave hunters in hot pursuit of African Americans seeking their freedom. Certainly there were cases like that. But often those claimed as fugitive slaves had lived in the North for months or years and had established themselves within a community. Even if Margaret Morgan was technically a fugitive slave, by 1837 she was also the wife of a free black citizen of Pennsylvania and the mother of one or two Pennsylvania-born free African American children. Returning her to bondage would affect more than just her life—it would directly affect her family and, indirectly, a whole community.

The return of fugitive slaves presented enormous legal, political, moral, and emotional controversies for the United States. By 1812 the nation had become truly divided into two sections. All of the northern states had either ended slavery or were doing so through gradual abolition acts. The small antislavery movements in the South that sprang up during the Revolution had all but disappeared. The nation had become, as Abraham Lincoln characterized it in his "House Divided" speech (1858), "half slave and half free."

While slavery was dying out in the North, the free black population was growing. Many white northerners were uncomfortable with the presence of free blacks, and discrimination was significant. Still, almost all northerners disliked slavery, and most were appalled at the idea of holding people in bondage. Furthermore, the overwhelming majority of northerners were opposed to seeing their free black neighbors kidnapped and sold as slaves. Many northerners felt the same way about fugitive slaves who were brave, lucky, and enterprising enough to escape from bondage and become free.

The federal Fugitive Slave Act of 1793 provided that masters or their agents could bring an alleged slave before any state or federal judge and obtain a certificate of removal on the basis of an affidavit from the state where the person was allegedly a slave. There was no hearing into the status of the alleged slave, no jury trial, and no real opportunity for the person claimed to prove that he or she was actually free or that the wrong person had been seized. The law contemplated a summary process. In addition, the federal law provided no punishment for people who seized blacks and did not bring them before a judge or magistrate.

Starting in the 1790s there were persistent complaints from northern blacks and their white allies that southerners were roaming the streets of cities like Philadelphia and New York or scouring rural areas near Virginia and Maryland, kidnapping free blacks and hurrying them off to the South. There were also complaints that southerners were falsely claiming free people as fugitive slaves. Some of these people were free-born citizens of the northern states. Others were fugitive slaves who had recently escaped to the North. Some were like Margaret Morgan and her children, whose status was uncertain and murky. In response to kidnappings, starting in the 1820s the legislatures in a number of free states, including New Jersey, Pennsylvania, and New York, passed personal liberty laws to protect free blacks.

These laws made it a crime to remove a black from the state without a judicial hearing by a state official. Thus Prigg was prosecuted under the Pennsylvania law after he removed Morgan and her children from the state without obtaining the proper papers from a state magistrate.

By the time Prigg's case reached the U.S. Supreme Court, state judges in New York and New Jersey had held that the Fugitive Slave Act of 1793 was unconstitutional. The New York courts believed that Congress had no power to pass the law and that the return of fugitive slaves was a matter left entirely to the states. In the case at hand, *Jack v. Martin* (1835), the New York court returned the slave Jack to his owner but did so under state law. In other words, New York accepted its constitutional obligation to return runaway slaves, but the state did not accept the idea that this should be done under federal law. In New Jersey the highly respected Chief Justice Joseph Hornblower questioned the constitutionality of the Fugitive Slave Act of 1793 in an unpublished opinion, complaining that it provided for a "summary and dangerous proceeding" and afforded "but little protection of security to the free colored man, who may be falsely claimed as a fugitive from labor." Hornblower believed that even if the Congress had the power to pass the law, it was unconstitutional because it denied alleged fugitives due process and a jury trial.

Southerners complained that these laws made it impossible for them to recover their runaway slaves. They also argued that since Congress had passed a law on this subject, it was unfair to make them also comply with the rules set out by the different states. This argument was complicated by the fact that Prigg and Bemis had only partially followed the procedures set out under the 1793 law. They did bring Morgan before a judge, as the federal law required, but when he gave them a ruling they did not like, they took the law into their own hands and simply forced Morgan and her children to go to Maryland without any legal documents or the authorization of any court.

By 1841 slavery had become one of the most important and divisive issues in American politics. A small but growing abolitionist movement in the North was noisily calling for an end to slavery everywhere in the nation. The House of Representatives refused to even read antislavery petitions sent by abolitionists. More ominously for the South, northern politicians, such as New York's Governor William H. Seward, Congressmen Joshua Giddings of Ohio, and Congressman (and former president) John Quincy Adams of Massachusetts, were increasingly openly hostile to slavery. Southerners believed that they could never recover fugitive slaves, even though in the late 1830s there were famous cases in Maine and New York where masters did recover runaway slaves. It was in this context that Prigg's case went to the Supreme Court.

About the Author

There are three authors of the opinions reprinted here: Joseph Story, Roger B. Taney, and John McLean. Joseph Story was born in 1779 and raised in a solidly middle-class

Time Line

1832

- The Morgans move to York, Pennsylvania.
- Margaret Ashmore, widow of John Ashmore, sends her son-in-law, Nathan Bemis; Edward Prigg; and two neighbors to find and capture Margaret Morgan. They bring her and her children to Maryland without complying with the Pennsylvania personal liberty law.

1837–1839

- The governors of Maryland and Pennsylvania negotiate over the return of the four men charged with kidnapping in Pennsylvania. Eventually, they agree that Prigg will be returned for trial; if he is found guilty, no sentence will be imposed until his case is heard by the U.S. Supreme Court.

1839

- Prigg is convicted in a trial in York County, and his conviction is upheld by the Pennsylvania Supreme Court without an opinion.

1842

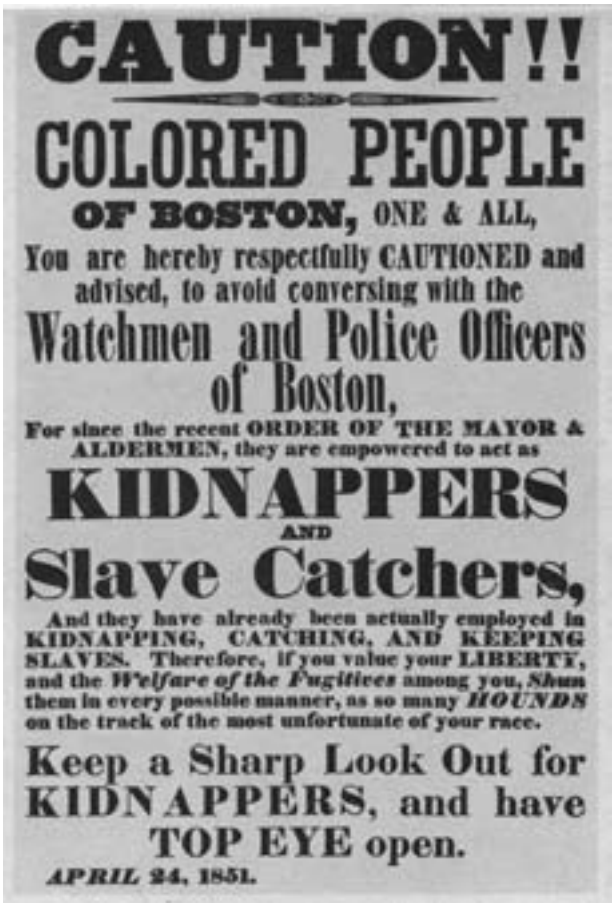
- **March 1**
  The U.S. Supreme Court overturns Prigg's conviction and strikes down the Pennsylvania personal liberty law of 1826.

1843

- Massachusetts passes a new personal liberty law that prohibits state officials from participating in fugitive slave cases or using state facilities, such as jails, to house fugitive slaves.

1850

- **September**
  Congress passes a new fugitive slave law that creates federal officers in every state to hear fugitive slave cases and authorizes the use of federal marshals, the state militias, and even the army or the navy to return fugitive slaves.


CAUTION!!

COLORED PEOPLE

OF BOSTON, ONE & ALL,

You are hereby respectfully CAUTIONED and advised, to avoid conversing with the

Watchmen and Police Officers of Boston,

For since the recent ORDER OF THE MAYOR & ALDERMEN, they are empowered to act as

KIDNAPPERS AND Slave Catchers,

And they have already been actually employed in KIDNAPPING, CATCHING, AND KEEPING SLAVES. Therefore, if you value your LIBERTY, and the *Welfare of the Fugitives* among you, *Shun* them in every possible manner, as so many *HOUNDS* on the track of the most unfortunate of your race.

Keep a Sharp Look Out for KIDNAPPERS, and have TOP EYE open.

APRIL 24, 1851.

A poster warning "Colored People" in Boston, Massachusetts, of the dangers of kidnappers and slave catchers
(AP/Wide World Photos)

family in Marblehead, Massachusetts (outside Boston). A hard-working and brilliant student, he graduated second in his class from Harvard University in 1798, at the age of nineteen. He then became a lawyer, held local offices, and served in Congress in 1808–1809. On November 15, 1811, President James Madison nominated him to the Supreme Court. He remained on the Court until his death on September 10, 1845.

Story was learned, scholarly, and a firm believer in a strong Supreme Court. He was Chief Justice John Marshall's closest ally on the Court. A northerner, Story personally opposed slavery and, in his early years, issued a number of opinions and charges to grand juries that supported a strict suppression of the illegal African slave trade. In 1820 he made a speech opposing the spread of slavery into the western territories. In addition to his Supreme Court duties, Story was a professor at Harvard Law School and the author of more than a dozen books and treatises on law. His most important was *Commentaries on the Constitution of the United States* (1833), a three-volume treatise that argued for a highly nationalist interpretation of the Constitution and rejected notions of states' rights. His decision in *Prigg* was consistent with these values because it nationalized the return of fugitive slaves and rejected the idea that the states could regulate this issue. It was totally at odds, however, with his opposition to slavery and deeply inconsistent with the values of most New Englanders, the section of the nation he represented on the Court.

Chief Justice Roger B. Taney was born in 1777 into a wealthy slaveholding planter family in Maryland. He graduated from Dickinson College in 1795 at age eighteen, practiced law, and served in the state legislature. He was initially a Federalist, but in the 1820s he became an avid supporter of Andrew Jackson. He served as Jackson's attorney general and secretary of the Treasury before becoming chief justice of the United States in 1836. As a young man, Taney had freed most of his own slaves and once defended a minister accused of giving antislavery sermons. However, while serving as Jackson's attorney general, he argued that free blacks were not entitled to passports because they could never be considered citizens of the United States. By the early 1840s he was committed to supporting slavery, even if he did not own slaves. In 1857 he would write the opinion of the Court in *Dred Scott v. Sandford*, holding that free blacks had no rights under the Constitution and could never be considered citizens of the nation. Taney was far more sympathetic to states' rights than Story and less supportive of a strong national government. His opinion in *Prigg* was inconsistent with these legal principles, since he rejected the idea that states should be able to protect their free black citizens in fugitive slave cases. However, his opinion in *Prigg* was consistent with his strong support for slavery. He died in 1864.

John McLean was born in 1785 in New Jersey but grew up on a small farm on the Ohio frontier. He had no formal education until age sixteen and never attended college. He edited a newspaper, practiced law, and then held a series of political offices, serving in Congress, on the Ohio Supreme Court, as commissioner of the General Land Office, and then as postmaster general under three successive presidents: James Monroe, John Quincy Adams, and Andrew Jackson. Even his opponents believed that McLean was the most competent and honest postmaster of his age. Shortly after he took office, President Jackson appointed McLean to the Supreme Court, where he served for thirty-two years, making him the twelfth-longest-serving justice in the first two and a quarter centuries of the Court's history. He died in 1861.

McLean was always antislavery and, as Ohio justice, wrote a strong opinion holding that any slave voluntarily brought into the state was free. Later in life he became related through marriage to Salmon P. Chase, the most important antislavery lawyer in the nation, who was nicknamed "the Attorney General for Fugitive Slaves." At the time McLean was on the Court, justices were required to "ride circuit," where they presided over federal court trials in the states of the circuit to which they were assigned. McLean, riding circuit in Ohio, Indiana, Illinois, and Michigan, heard more fugitive slave cases than any other justice. He took seriously his obligation to enforce

the fugitive slave clause of the Constitution and the 1793 Fugitive Slave Act. However, he also believed in protecting the rights of free blacks and preventing the enslavement of anyone unless there was an absolutely clear legal right to send that person into bondage. His opinion in *Prigg* is consistent with these views and with his vast experience with fugitive slave cases, which far exceeded the combined experience of Taney and Story.

Explanation and Analysis of the Document

As noted, seven of the nine justices wrote opinions in this case. Eight of the nine justices believed that Prigg's conviction should be overturned. The main point of disagreement was between Story and Taney, on whether state officials could be required to participate in the return of fugitive slaves. McLean's dissent argued that the Pennsylvania law was constitutional and thus it was permissible to prosecute Prigg for kidnapping.

In his opinion Story reached six major conclusions: that the federal Fugitive Slave Act of 1793 was constitutional; that no state could pass any law that added requirements to the federal law or impeded the return of fugitive slaves; that people claiming fugitive slaves (masters or their agents) had a constitutionally protected common law right of recaption, or "self-help," which allowed a claimant to seize any fugitive slave anywhere and bring that slave back to the South without complying with the provisions of the Fugitive Slave Act; that a captured fugitive slave was entitled to only a summary proceeding to determine whether he or she was indeed the person described in the papers provided by the claimant; that a judge was not to decide whether the person before him was a slave or free but only whether he or she was the person described in the papers; and that state officials should, but could not be required to, enforce the Fugitive Slave Act.

When combined, these conclusions created an overwhelming proslavery result. Story's notion of self-help was the most important for slave owners and the most dangerous for free blacks. Story claimed that the fugitive slave clause created "a positive, unqualified right on the part of the owner of the slave which no state law or regulation can in any way qualify, regulate, control, or restrain." In Story's view, under the Constitution,

> the owner of a slave is clothed with entire authority, in every State in the Union, to seize and recapture his slave whenever he can do it without any breach of the peace or any illegal violence. In this sense and to this extent, this clause of the Constitution may properly be said to execute itself, and to require no aid from legislation, state or national.

Under this extraordinary conclusion any southerner could seize any black and remove that person to the South without any state interference, as long no "breach of the peace" occurred.

One might presume that a "breach of the peace" would always occur when a black, especially a free one, was seized by a slave catcher or kidnapper, but this was hardly the case. In his dissent, Justice McLean pointed out the logical problems of limiting Story's right of self-help to instances in which there was no breach of the peace:

> But it is said, the master may seize his slave wherever he finds him, if by doing so he does not violate the public peace; that the relation of master and slave is not affected by the laws of the State to which the slave may have fled, and where he is found. If the master has a right to seize and remove the slave without claim, he can commit no breach of the peace by using all the force necessary to accomplish his object.

In other words, the logic of Story's opinion was that no amount of violence against an alleged slave would be illegal. Slavery was based on force, and thus it would never be a breach of the peace for a master to take his slave by brutal force.

Violent seizures at night or in isolated areas could be accomplished without anyone's observing a breach of the peace. This happened with Margaret Morgan and her children. One moment they were in a wagon on their way home after Justice Henderson had released them. The next moment, in the middle of the night on a rural road with no one to help them, they were overpowered by four men and taken to Maryland. Once a black was shackled, intimidated, and perhaps beaten into submission, travel from the North to the South could be accomplished without any obvious breach of the peace. If state officials could not stop whites from transporting a black in chains, then kidnapping of any black could always be accomplished. Under such a rule anyone, especially children, might be kidnapped and enslaved. Kidnappings of this sort had led to the enactment of Pennsylvania's 1826 personal liberty law.

In his majority opinion, Justice Story ignored the fact that one or more of Morgan's children was born free in Pennsylvania. Instead, he held that the fugitive slave clause gave masters an absolute right to claim their runaway slaves without any interference from state laws or state officials. Thus, Pennsylvania's 1826 personal liberty law was unconstitutional. Story held that only Congress could regulate the return of fugitive slaves, as it had in the 1793 law. That law required a master to bring a slave before any magistrate or judge, federal or state, to obtain a certificate of removal to take the slave with him. Even though Story found this law to be constitutional—and all state laws supplementing it to be unconstitutional—he also held that a master did not have to follow the procedure set out in the 1793 law. Instead, Story asserted that under the Constitution itself masters had a right of "self-help." Thus, if a master found it convenient to return a fugitive slave without going before a judge, he could do so, as long as it was accomplished without a "breach of the peace." For free blacks and their white allies this seemed like an invitation for kidnapping.

Story left the states powerless to prevent this type of kidnapping. His opinion effectively made the law of the South

the law of the nation. In the South, race was a presumption of slave status; by giving masters and slave hunters a common law right of "recaption," Story nationalized this presumption. As a result, slave catchers could operate in the North without having to prove the seized person's slave status. The consequences for the nearly one hundred and seventy-five thousand free blacks in the North could have been dire. In his dissenting opinion, Justice McLean protested the result, but his complaints fell on deaf ears.

Story also ruled that northern states should help enforce the federal law, but they could not be forced to do so. This was a logical outcome of his reading of the Constitution. It was also consistent with nineteenth-century notions of states' rights: that the national government could not compel the states to act in a certain way. Story emphatically declared that the northern states *should* enforce the law, but from his perspective whatever they did would be a useful outcome. If the northern states enforced the law, it would prove to the South that it had nothing to fear from a stronger union and a more powerful national government. If, on the other hand, the northern states did not enforce the law, the national government would have to create an enforcement system, and this would have the dual value of strengthening the national government—a lifetime goal of Story's—and emphatically tying the South to support a nationalization of law.

In his concurring opinion, Chief Justice Taney misstated Story's position. He claimed that Story would not allow the states to capture fugitive slaves. As the very end of Story's opinion shows, this is not true. Story wanted the states to help with the return of fugitive slaves. He just did not believe they could be forced to do so.

Audience

Most Supreme Court opinions are directed at lawyers and judges. This one was not. All authors of opinions in this case clearly had a political audience in mind. Justice Story had two audiences: First, he wanted to reach southern leaders and politicians to reassure them that strengthening federal law to empower the national government would not harm slavery or threaten the South. On the contrary, the burden of his opinion was to show that the South would be protected by a strong national government. His second audience was the moderates in the North. He believed that they supported his goals of a stronger national government and stronger national Union. Thus, he wanted them to see that they should voluntarily cooperate with the return of fugitives. His plea to them was that the return of fugitive slaves was an essential bargain for the health of the nation and the success of the Constitution. In the end, he accepted (but not did explicitly state) that the loss of freedom for people like Margaret Morgan and her children was a small price to pay for a stronger Union and sectional harmony.

Chief Justice Taney was speaking to both the South and the North. His position was, of course, different from Story's. He wanted to assure the South that he would fight for their needs to secure slavery at all costs and was, in effect, warning the North that it had to cooperate in the return of fugitive slaves. On the other side, Justice McLean was speaking for the North to the nation, reminding the Court and politicians that northerners were unwilling to allow the unsupervised seizure of their neighbors. The warning was ignored, which helped lead to the fugitive slave crisis of the 1850s, when significant and sometimes violent opposition to the return of fugitive slaves emerged.

Impact

The impact of *Prigg* was mixed. Southerners were generally pleased with the outcome but complained that Justice Story's opinion undermined enforcement of the 1793 Fugitive Slave Act, because Story said that northern judges could not be required to enforce the law. Most northerners, especially abolitionists, other opponents of slavery, and free blacks, were appalled by the decision. Northern opponents of slavery attacked the opinion for protecting slavery and failing to protect the liberties of free blacks. In Story's home state of Massachusetts many of his colleagues were horrified by the opinion. John Quincy Adams spent a whole day reading all the opinions, saddened by the case and the fact the opinion had been written by someone from his own state. Abolitionists, predictably, denounced Story and the decision.

After Justice Story died, his son, who was himself antislavery, claimed that his father believed that the opinion was a "triumph of freedom" because it allowed northern states to refuse to participate in the return of fugitive slaves. However, there is no evidence to support this claim. In fact, it would have been utterly inconsistent for Story to have purposely undermined his opinion in that way. Moreover, there is other evidence to suggest that Story fully backed his opinion. Shortly after the case was decided, he wrote to Senator John M. Berrien of Georgia, urging that he introduce legislation that would allow the federal courts to appoint commissioners to enforce any federal law that a state judge could enforce. Thus, if the state judges refused to hear cases under the 1793 law, the federal court commissioners could do so. Story naively believed such a law could be passed without even mentioning fugitive slaves.

Many northern judges and legislatures acted on Story's single line suggesting that the states *should* enforce the federal law but could not be required to do so. Starting in 1843, a number of free states prohibited law enforcement and judicial officers from hearing fugitive slave cases and closed their jails to slave catchers. This led to increasing demands from the South for a new fugitive slave law, which was finally passed in 1850. That law adopted Story's suggestion to authorize the appointment of federal commissioners in every state to enforce the law.

Justice McLean, who dissented from Story's opinion, may also have been harmed by the case. In 1844 he was proposed as a presidential candidate by the Whig Party. However, southern Whigs blocked any consideration of him

Essential Quotes

"The [Fugitive Slave] clause manifestly contemplates the existence of a positive, unqualified right on the part of the owner of the slave which no state law or regulation can in any way qualify, regulate, control, or restrain. The slave is not to be discharged from service or labor in consequence of any state law or regulation."

(Justice Story's Opinion)

"It is proper to state that we are by no means to be understood … to doubt or to interfere with the police power belonging to the States in virtue of their general sovereignty. That police power extends over all subjects within territorial limits of the States, and has never been conceded to the United States.… The States … possesses full jurisdiction to arrest and restrain runaway slaves, and remove them from their borders."

(Justice Story's Opinion)

"According to the opinion just delivered, the state authorities are prohibited from interfering for the purpose of protecting the right of the master and aiding him in the recovery of his property. I think the States are not prohibited, and that, on the contrary, it is enjoined upon them as a duty to protect and support the owner when he is endeavoring to obtain possession of his property found within their respective territories."

(Chief Justice Taney's Opinion)

"The slave is found in a State where every man, black or white, is presumed to be free, and this State, to preserve the peace of its citizens, and its soil and jurisdiction from acts of violence, has prohibited the forcible abduction of persons of color. Does this law conflict with the Constitution? It clearly does not, in its terms."

(Justice McLean's Dissent)

because, they argued, he was hostile to slavery. McLean very much wanted to be president, and his fidelity to liberty may have cost him dearly.

In the end, this case was a disaster for African Americans. It left all free blacks in the North vulnerable to kidnapping, with no chance that their state or local governments could interfere to protect them. It dramatically threatened the growing population of fugitive slaves in the North, who could now be seized without any warrant or legal procedure. It further allowed for cases of mistaken identity, because even if blacks were brought before a court, alleged fugitives could not get a trial to prove their freedom. The case underscored that the proslavery clauses of the Constitution of 1787 were in full flower in the 1840s.

The greatest cost of the decision was born by the free blacks of the North. They were now subject to capture and enslavement without any hope that local governments could protect them. Like Margaret Morgan and her chil-

dren, they could be swept up by slave catchers, dragged to the South, and sold into lifetime bondage. When the dust from the case finally settled, Edward Prigg remained a free man, while Margaret Morgan and her children, including those born in the free state of Pennsylvania, remained slaves, sold into the Deep South, where they would toil away in anonymity, far from their family and friends.

See also Pennsylvania: An Act for the Gradual Abolition of Slavery (1780); Slavery Clauses in the U.S. Constitution (1787); Fugitive Slave Act of 1793; Fugitive Slave Act of 1850; *Dred Scott v. Sandford* (1857).

Further Reading

■ Articles

Finkelman, Paul. "Sorting Out *Prigg v. Pennsylvania*." *Rutgers Law Journal* 24 (Spring 1993): 605–665.

■ Books

Finkelman, Paul. *An Imperfect Union: Slavery, Federalism, and Comity*. Chapel Hill: University of North Carolina Press, 1981.

———. "Story Telling on the Supreme Court: *Prigg v. Pennsylvania* and Justice Joseph Story's Judicial Nationalism." In *Supreme Court Review, 1994*, ed. Dennis J. Hutchinson et al. Chicago: University of Chicago Press, 1995.

Hyman, Harold M., and William M. Wiecek. *Equal Justice under Law: Constitutional Development, 1835–1875*. New York: Harper and Row, 1982.

Morris, Thomas D. *Free Men All: The Personal Liberty Laws of the North, 1780–1861*. Baltimore: Johns Hopkins University Press, 1974.

Newmyer, R. Kent. *Supreme Court Justice Joseph Story: Statesman of the Old Republic*. Chapel Hill: University of North Carolina Press, 1985.

■ Web Sites

"Notes on the Debates in the Federal Convention." Avalon Project Web site.
http://avalon.law.yale.edu/subject_menus/debcont.asp.

—Paul Finkelman

Questions for Further Study

1. Compare the portion of this opinion written by Justice Joseph Story with his opinion just a year earlier in *United States v. Amistad*. What inferences can you draw about Story's attitude toward slavery from the two cases?

2. Similarly, read the portion of this opinion written by Justice Roger Taney with his opinion in the landmark *Dred Scott v. Sandford*. What consistencies do you see in the two opinions? Are there any significant differences?

3. Read this document in connection with the Fugitive Slave Act of 1793 and the Fugitive Slave Act of 1850. What impact might Story's decision have had, directly or indirectly, on the later law?

4. It is often quipped that if one party to a legal dispute is entirely happy with the outcome, the court has probably not done its job properly. To what extent were both sides—North and South, supporters and opponents of slavery—unhappy with the decision in this case?

5. In what way way, if any, did the Court's decision in *Prigg v. Pennsylvania* contribute to the divisions that led to the U.S. Civil War?

Document Text

Prigg v. Pennsylvania

Mr. Justice Story delivered the opinion of the court

This is a writ of error to the Supreme Court of Pennsylvania, brought under the 25th section of the Judiciary Act of 1789, ch. 20, for the purpose of revising the judgment of that court, in a case involving the construction of the Constitution and laws of the United States. The facts are briefly these:

The plaintiff in error was indicted in the Court of Oyer and Terminer for York County, for having, with force and violence, taken and carried away from that county, to the State of Maryland, a certain negro woman, named Margaret Morgan, with a design and intention of selling and disposing of, and keeping her, as a slave or servant for life, contrary to a statute of Pennsylvania, passed on the 26th of March, 1826. That statute, in the first section, in substance provides that, if any person or persons shall, from and after the passing of the act, by force and violence, take and carry away, or cause to be taken and carried away, and shall, by fraud or false pretence, seduce, or cause to be seduced, or shall attempt to take, carry away or seduce, any negro or mulatto from any part of that Commonwealth, with a design and intention of selling and disposing of, or causing to be sold, or of keeping and detaining, or of causing to be kept and detained, such negro or mulatto, as a slave or servant for life, or for any term whatsoever, every such person or persons, his or their aiders or abettors, shall, on conviction thereof, be deemed guilty of felony, and shall forfeit and pay a sum not less than five hundred, nor more than one thousand dollars, and moreover shall be sentenced to undergo servitude for any term or terms of years, not less than seven years nor exceeding twenty-one years, and shall be confined and kept to hard labor, &c.…

The plaintiff in error pleaded not guilty to the indictment, and, at the trial, the jury found a special verdict which in substance states that the negro woman, Margaret Morgan, was a slave for life, and held to labor and service under and according to the laws of Maryland, to a certain Margaret Ashmore, a citizen of Maryland; that the slave escaped and fled from Maryland into Pennsylvania in 1832; that the plaintiff in error, being legally constituted the agent and attorney of the said Margaret Ashmore, in 1837 caused the said negro woman to be taken and apprehended as a fugitive from labor by a state constable under a warrant from a Pennsylvania magistrate; that the said negro woman was thereupon brought before the said magistrate, who refused to take further cognizance of the case; and thereupon the plaintiff in error did remove, take and carry away the said negro woman and her children out of Pennsylvania into Maryland, and did deliver the said negro woman and her children into the custody and possession of the said Margaret Ashmore. The special verdict further finds that one of the children was born in Pennsylvania more than a year after the said negro woman had fled and escaped from Maryland.…

Before proceeding to discuss the very important and interesting questions involved in this record, it is fit to say that the cause has been conduced in the court below, and has been brought here by the cooperation and sanction, both of the State of Maryland and the State of Pennsylvania in the most friendly and courteous spirit, with a view to have those questions finally disposed of by the adjudication of this Court so that the agitations on this subject in both States, which have had a tendency to interrupt the harmony between them, may subside, and the conflict of opinion be put at rest. It should also be added that the statute of Pennsylvania of 1826 was (as has been suggested at the bar) passed with a view of meeting the supposed wishes of Maryland on the subject of fugitive slaves, and that, although it has failed to produce the good effects intended in its practical construction, the result was unforeseen and undesigned.

1. The question arising in the case as to the constitutionality of the statute of Pennsylvania, has been most elaborately argued at the bar.… Few questions which have ever come before this Court involve more delicate and important considerations, and few upon which the public at large may be presumed to feel a more profound and pervading interest. We have accordingly given them our most deliberate examination, and it has become my duty to state the result to which we have arrived, and the reasoning by which it is supported.…

There are two clauses in the Constitution upon the subject of fugitives, which stands in juxtaposition with each other and have been thought mutually to

illustrate each other. They are both contained in the second section of the fourth Article, and are in the following words:

"A person charged in any State with treason, felony, or other crime who shall flee from justice and be found in another State shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime."

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

The last clause is that the true interpretation whereof is directly in judgment before us. Historically, it is well known that the object of this clause was to secure to the citizens of the slave-holding States the complete right and title of ownership in their slaves, as property, in every State in the Union into which they might escape from the State where they were held in servitude. The full recognition of this right and title was indispensable to the security of this species of property in all the slave-holding States, and indeed was so vital to the preservation of their domestic interests and institutions that it cannot be doubted that it constituted a fundamental article without the adoption of which the Union could not have been formed. Its true design was to guard against the doctrines and principles prevalent in the non-slaveholding States, by preventing them from intermeddling with, or obstructing, or abolishing the rights of the owners of slaves.

By the general law of nations, no nation is bound to recognize the state of slavery as to foreign slaves found within its territorial dominions, when it is in opposition to its own policy and institutions, in favor of the subjects of other nations where slavery is recognized. If it does it, it is as a matter of comity, and not as a matter of international right. The state of slavery is deemed to be a mere municipal regulation, founded upon and limited to the range of the territorial laws. This was fully recognized in *Somerset's Case* [Great Britain, 1771], … which decided before the American revolution. It is manifest from this consideration that, if the Constitution had not contained this clause, every non-slaveholding State in the Union would have been at liberty to have declared free all runaway slaves coming within its limits, and to have given them entire immunity and protection against the claims of their masters—a course which would have created the most bitter animosities and engendered perpetual strife between the different States. The clause was therefore of the last importance to the safety and security of the southern States, and could not have been surrendered by them, without endangering their whole property in slaves. The clause was accordingly adopted into the Constitution by the unanimous consent of the framers of it—a proof at once of its intrinsic and practical necessity.

How then are we to interpret the language of the clause? The true answer is in such a manner as, consistently with the words, shall fully and completely effectuate the whole objects of it. If, by one mode of interpretation, the right must become shadowy and unsubstantial, and without any remedial power adequate to the end, and, by another mode, it will attain its just end and secure its manifest purpose, it would seem, upon principles of reasoning, absolutely irresistible, that the latter ought to prevail. No court of justice can be authorized so to construe any clause of the Constitution as to defeat its obvious ends when another construction, equally accordant with the words and sense thereof, will enforce and protect them.

The clause manifestly contemplates the existence of a positive, unqualified right on the part of the owner of the slave which no state law or regulation can in any way qualify, regulate, control, or restrain. The slave is not to be discharged from service or labor in consequence of any state law or regulation. Now certainly, without indulging in any nicety of criticism upon words, it may fairly and reasonably be said that any state law or state regulation which interrupts, limits, delays, or postpones the right of the owner to the immediate possession of the slave and the immediate command of his service and labor operates *pro tanto* a discharge of the slave therefrom. The question can never be how much the slave is discharged from, but whether he is discharged from any, by the natural or necessary operation of state laws or state regulations. The question is not one of quantity or degree, but of withholding or controlling the incidents of a positive and absolute right.

We have said that the clause contains a positive and unqualified recognition of the right of the owner in the slave, unaffected by any state law or legislation whatsoever, because there is no qualification or restriction of it to be found therein, and we have no right to insert any which is not expressed and cannot be fairly implied. Especially are we estopped from so doing when the clause puts the right to the service or labor upon the same ground, and to the same extent, in every other State as in the State from which the

slave escaped and in which he was held to the service or labor. If this be so, then all the incidents to that right attach also. The owner must, therefore, have the right to seize and repossess the slave, which the local laws of his own State confer upon him, as property, and we all know that this right of seizure and recaption is universally acknowledged in all the slaveholding States. Indeed, this is no more than a mere affirmance of the principles of the common law applicable to this very subject. [Blackstone's Commentaries] … lays it down as unquestionable doctrine.

"Recaption or reprisal [says he] is another species of remedy by the mere act of the party injured. This happens when anyone hath deprived another of his property in goods or chattels personal, or wrongfully detains one's wife, child or servant, in which case the owner of the goods, and the husband, parent or master, may lawfully claim and retake them wherever he happens to find them, so it be not in a riotous manner or attended with a breach of the peace."

Upon this ground, we have not the slightest hesitation in holding that, under and in virtue of the Constitution, the owner of a slave is clothed with entire authority, in every State in the Union, to seize and recapture his slave whenever he can do it without any breach of the peace or any illegal violence. In this sense and to this extent, this clause of the Constitution may properly be said to execute itself, and to require no aid from legislation, state or national.

But the clause of the Constitution does not stop here, nor, indeed, consistently with its professed objects, could it do so. Many cases must arise in which, if the remedy of the owner were confined to the mere right of seizure and recaption, he would be utterly without any adequate redress. He may not be able to lay his hands upon the slave. He may not be able to enforce his rights against persons who either secrete or conceal or withhold the slave. He may be restricted by local legislation as to the mode of proofs of his ownership, as to the courts in which he shall sue, and as to the actions which he may bring or the process he may use to compel the delivery of the slave. Nay, the local legislation may be utterly inadequate to furnish the appropriate redress, by authorizing no process *in rem*, or no specific mode of repossessing the slave, leaving the owner, at best, not that right which the Constitution designed to secure, a specific delivery and repossession of the slave, but a mere remedy in damages, and that, perhaps, against persons utterly insolvent or worthless. The state legislation may be entirely silent on the whole subject, and its ordinary remedial process framed with different views and objects, and this may be innocently, as well as designedly, done, since every State is perfectly competent, and has the exclusive right, to prescribe the remedies in its own judicial tribunals, to limit the time as well as the mode of redress, and to deny jurisdiction over cases which its own policy and its own institutions either prohibit or discountenance.

If, therefore, the clause of the Constitution had stopped at the mere recognition of the right, without providing or contemplating any means by which it might be established and enforced, in cases where it did not execute itself, it is plain that it would have been, in a great variety of cases, a delusive and empty annunciation. If it did not contemplate any action, either through state or national legislation, as auxiliaries to its more perfect enforcement in the form of remedy, or of protection, then, as there would be no duty on either to aid the right, it would be left to the mere comity of the States to act as they should please, and would depend for its security upon the changing course of public opinion, the mutations of public policy, and the general adaptations of remedies for purposes strictly according to the *lex fori*.

And this leads us to the consideration of the other part of the clause, which implies at once a guarantee and duty. It says, "but he [the slave] shall be delivered up on claim of the party to whom such service or labor may be due." Now we think it exceedingly difficult, if not impracticable, to read this language and not to feel that it contemplated some further remedial redress than that which might be administered at the hands of the owner himself. A claim is to be made! What is a claim? It is, in a just juridical sense, a demand of some matter, as of right, made by one person upon another, to do or to forbear to do some act or thing as a matter of duty. A more limited but, at the same time, an equally expressive, definition was given by Lord Dyer, as cited in *Stowel v. Zouch*, … and it is equally applicable to the present case: that "a claim is a challenge by a man of the propriety or ownership of a thing which he has not in possession, but which is wrongfully detained from him."

The slave is to be delivered up on the claim. By whom to be delivered up? In what mode to be delivered up? How, if a refusal takes place, is the right of delivery to be enforced? Upon what proofs? What shall be the evidence of a rightful recaption or delivery? When and under what circumstances shall the possession of the owner, after it is obtained, be conclusive of his right, so as to preclude any further inquiry or examination into it by local tribunals or otherwise, while

the slave, in possession of the owner, is *in transitu* to the State from which he fled?

These and many other questions will readily occur upon the slightest attention to the clause; and it is obvious that they can receive but one satisfactory answer. They require the aid of legislation to protect the right, to enforce the delivery, and to secure the subsequent possession of the slave. If, indeed, the Constitution guaranties the right, and if it requires the delivery upon the claim of the owner (as cannot well be doubted), the natural inference certainly is that the National Government is clothed with the appropriate authority and functions to enforce it. The fundamental principle, applicable to all cases of this sort, would seem to be that, where the end is required, the means are given; and where the duty is enjoined, the ability to perform it is contemplated to exist on the part of the functionaries to whom it is entrusted. The clause is found in the National Constitution, and not in that of any State. It does not point out any state functionaries, or any state action, to carry its provisions into effect. The States cannot, therefore, be compelled to enforce them, and it might well be deemed an unconstitutional exercise of the power of interpretation to insist that the States are bound to provide means to carry into effect the duties of the National Government, nowhere delegated or entrusted to them by the Constitution. On the contrary, the natural, if not the necessary, conclusion is, that the National Government, in the absence of all positive provisions to the contrary, is bound, through its own proper departments, legislative, judicial or executive, as the case may require, to carry into effect all the rights and duties imposed upon it by the Constitution. The remark of Mr. Madison, in the Federalist (No. 43), would seem in such cases to apply with peculiar force. "A right [says he] implies a remedy, and where else would the remedy be deposited than where it is deposited by the Constitution?"—meaning, as the context shows, in the Government of the United States.

It is plain, then, that where a claim is made by the owner, out of possession, for the delivery of a slave, it must be made, if at all, against some other person; and, inasmuch as the right is a right of property, capable of being recognized and asserted by proceedings before a court of justice, between parties adverse to each other, it constitutes, in the strictest sense, a controversy between the parties, and a case "arising under the Constitution" of the United States within the express delegation of judicial power given by that instrument. Congress, then, may call that power into activity for the very purpose of giving effect to that right; and, if so, then it may prescribe the mode and extent in which it shall be applied, and how and under what circumstances the proceedings shall afford a complete protection and guarantee to the right.

Congress has taken this very view of the power and duty of the National Government.... The result of their deliberations was the passage of the act of the 12th of February 1793, ch. 51, which, after having, in the first and second sections, provided by the case of fugitives from justice, by a demand to be made of the delivery, through the executive authority of the State where they are found, proceeds, in the third section, to provide that, when a person held to labor or service in any of the United States, shall escape into any other of the States or territories, the person to whom such labor or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and take him or her before any judge of the circuit or district courts of the United States, residing or being within the State, or before any magistrate of a county, city or town corporate, wherein such seizure or arrest shall be made; and, upon proof to the satisfaction of such judge or magistrate, either by oral evidence or affidavit, &c., that the person so seized or arrested, doth, under the laws of the State or territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney which shall be sufficient warrant for removing the said fugitive from labor to the State or territory from which he or she fled. The fourth section provides a penalty against any person who shall knowingly and willingly obstruct or hinder such claimant, his agent, or attorney in so seizing or arresting such fugitive from labor, or rescue such fugitive from the claimant, or his agent or attorney when so arrested, or who shall harbor or conceal such fugitive after notice that he is such; and it also saves to the person claiming such labor or service his right of action for or on account of such injuries.

In a general sense, this act may be truly said to cover the whole ground of the Constitution, both as to fugitives from justice and fugitive slaves—that is, it covers both the subjects in its enactments, not because it exhausts the remedies which may be applied by Congress to enforce the rights if the provisions of the act shall in practice be found not to attain the object of the Constitution; but because it points out fully all the modes of attaining those objects which Congress, in their discretion, have as yet deemed expedient or

proper to meet the exigencies of the Constitution. If this be so, then it would seem, upon just principles of construction, that the legislation of Congress, if constitutional, must supersede all state legislation upon the same subject and, by necessary implication, prohibit it. For, if Congress have a constitutional power to regulate a particular subject, and they do actually regulate it in a given manner, and in a certain form, it cannot be that the state legislatures have a right to interfere and, as it were, by way of complement to the legislation of Congress, to prescribe additional regulations and what they may deem auxiliary provisions for the same purpose. In such a case, the legislation of Congress, in what it does prescribe, manifestly indicates that it does not intend that there shall be any further legislation to act upon the subject matter. Its silence as to what it does not do is as expressive of what its intention is as the direct provisions made by it.… [Thus,] it is not competent for state legislation to add to the provisions of Congress upon that subject, for that the will of Congress upon the whole subject is as clearly established by what it has not declared as by what it has expressed.

But it has been argued that the act of Congress is unconstitutional because it does not fall within the scope of any of the enumerated powers of legislation confided to that body, and therefore it is void. Stripped of its artificial and technical structure, the argument comes to this—that although rights are exclusively secured by, or duties are exclusively imposed upon, the National Government, yet, unless the power to enforce these rights or to execute these duties can be found among the express powers of legislation enumerated in the Constitution, they remain without any means of giving them effect by any act of Congress, and they must operate solely *proprio vigore*, however defective may be their operation—nay! even although, in a practical sense, they may become a nullity from the want of a proper remedy to enforce them or to provide against their violation. If this be the true interpretation of the Constitution, it must in a great measure fail to attain many of its avowed and positive objects as a security of rights and a recognition of duties. Such a limited construction of the Constitution has never yet been adopted as correct either in theory or practice. No one has ever supposed that Congress could constitutionally, by its legislation, exercise powers or enact laws beyond the powers delegated to it by the Constitution. But it has on various occasions exercised powers which were necessary and proper as means to carry into effect rights expressly given and duties expressly enjoined thereby. The end being required, it has been deemed a just and necessary implication that the means to accomplish it are given also, or, in other words, that the power flows as a necessary means to accomplish the end.…

In respect to fugitives from justice, the Constitution, although it expressly provides that the demand shall be made by the executive authority of the State from which the fugitive has fled, is silent as to the party upon whom the demand is to be made and as to the mode in which it shall be made. This very silence occasioned embarrassments in enforcing the right and duty at an early period after the adoption of the Constitution; and produced a hesitation on the part of the executive authority of Virginia to deliver up a fugitive from justice upon the demand of the executive of Pennsylvania in the year 1791; and, as we historically know from the message of President Washington and the public documents of that period, it was the immediate cause of the passing of the Act of 1793, which designated the person (the state executive) upon whom the demand should be made, and the mode and proofs upon and in which it should be made. From that time down to the present hour, not a doubt has been breathed upon the constitutionality of this part of the act, and every executive in the Union has constantly acted upon and admitted its validity.…

The same uniformity of acquiescence in the validity of the Act of 1793 upon the other part of the subject matter that of fugitive slaves has prevailed throughout the whole Union until a comparatively recent period. Nay, being from its nature and character more readily susceptible of being brought into controversy in courts of justice than the former, and of enlisting in opposition to it the feelings, and it may be, the prejudices, of some portions of the non-slaveholding States, it has naturally been brought under adjudication in several States in the Union, and particularly in Massachusetts, New York, and Pennsylvania, and, on all these occasions, its validity has been affirmed.… Under such circumstances, if the question were one of doubtful construction, such long acquiescence in it, such contemporaneous expositions of it, and such extensive and uniform recognition of its validity would, in our judgment, entitle the question to be considered at rest unless, indeed, the interpretation of the Constitution is to be delivered over to interminable doubt throughout the whole progress of legislation and of national operations. Congress, the executive, and the judiciary have, upon various occasions, acted upon this as a sound and reasonable doctrine.…The remaining question is whether the power of legislation upon this subject is exclusive in the National Govern-

ment or concurrent in the States until it is exercised by Congress. In our opinion, it is exclusive.…

In the first place, it is material to state (what has been already incidentally hinted at) that the right to seize and retake fugitive slaves and the duty to deliver them up, in whatever State of the Union they may be found, and, of course, the corresponding power in Congress to use the appropriate means to enforce the right and duty, derive their whole validity and obligation exclusively from the Constitution of the United States, and are there, for the first time, recognized and established in that peculiar character.

Before the adoption of the Constitution, no State had any power whatsoever over the subject except within its own territorial limits, and could not bind the sovereignty or the legislation of other States.… It is, therefore, in a just sense, a new and positive right … [and the] natural inference deductible from this consideration certainly is, in the absence of any positive delegation of power to the state legislatures that it belongs to the Legislative Department of the National Government, to which it owes its origin and establishment. It would be a strange anomaly and forced construction to suppose that the National Government meant to rely for the due fulfillment of its own proper duties, and the rights it intended to secure, upon state legislation, and not upon that of the Union. *A fortiori*, it would be more objectionable to suppose that a power which was to be the same throughout the Union should be confided to state sovereignty, which could not rightfully act beyond its own territorial limits.…

[If] the States have a right, in the absence of legislation by Congress, to act upon the subject, each State is at liberty to prescribe just such regulations as suit its own policy, local convenience, and local feelings. The legislation of one State may not only be different from, but utterly repugnant to and incompatible with, that of another. The time and mode and limitation of the remedy, the proofs of the title, and all other incidents applicable thereto may be prescribed in one State which are rejected or disclaimed in another. One State may require the owner to sue in one mode, another in a different mode. One State may make a statute of limitations as to the remedy, in its own tribunals, short and summary; another may prolong the period and yet restrict the proofs. Nay, some States may utterly refuse to act upon the subject of all, and others may refuse to open its courts to any remedies *in rem* because they would interfere with their own domestic policy, institutions, or habits. The right, therefore, would never, in a practical sense, be the same in all the States. It would have no unity of purpose or uniformity of operation. The duty might be enforced in some States, retarded or limited in others, and denied as compulsory in many, if not in all. Consequences like these must have been foreseen as very likely to occur in the non-slaveholding States where legislation, if not silent on the subject and purely voluntary, could scarcely be presumed to be favorable to the exercise of the rights of the owner.

It is scarcely conceivable that the slaveholding States would have been satisfied with leaving to the legislation of the non-slaveholding States a power of regulation, in the absence of that of Congress, which would or might practically amount to a power to destroy the rights of the owner. If the argument, therefore, of a concurrent power in the States to act upon the subject matter, in the absence of legislation by Congress, be well founded, then, if Congress had never acted at all, or if the act of Congress should be repealed without providing a substitute, there would be a resulting authority in each of the States to regulate the whole subject at its pleasure, and to dole out its own remedial justice or withhold it at its pleasure and according to its own views of policy and expediency. Surely such a state of things never could have been intended under such a solemn guarantee of right and duty. On the other hand, construe the right of legislation as exclusive in Congress, and every evil and every danger vanishes. The right and the duty are then coextensive and uniform in remedy and operation throughout the whole Union. The owner has the same security, and the same remedial justice, and the same exemption from state regulation and control through however many States he may pass with his fugitive slave in his possession *in transitu* to his own domicile. But, upon the other supposition, the moment he passes the state line, he becomes amenable to the laws of another sovereignty whose regulations may greatly embarrass or delay the exercise of his rights, and even be repugnant to those of the State where he first arrested the fugitive. Consequences like these show that the nature and objects of the provisions imperiously require that, to make it effectual, it should be construed to be exclusive of state authority.…

And we know no case in which the confusion and public inconvenience and mischiefs thereof could be more completely exemplified than the present.

These are some of the reasons, but by no means all, upon which we hold the power of legislation on this subject to be exclusive in Congress. To guard, however, against any possible misconstruction of our

views, it is proper to state that we are by no means to be understood in any manner whatsoever to doubt or to interfere with the police power belonging to the States in virtue of their general sovereignty. That police power extends over all subjects within territorial limits of the States, and has never been conceded to the United States. It is wholly distinguishable from the right and duty secured by the provision now under consideration, which is exclusively derived from and secured by the Constitution of the United States and owes its whole efficacy thereto. We entertain no doubt whatsoever that the States, in virtue of their general police power, possesses full jurisdiction to arrest and restrain runaway slaves, and remove them from their borders, and otherwise to secure themselves against their depredations and evil example, as they certainly may do in cases of idlers, vagabonds and paupers. The rights of the owners of fugitive slaves are in no just sense interfered with or regulated by such a course, and, in many cases, the operations of this police power, although designed generally for other purposes—for protection, safety and peace of the State—may essentially promote and aid the interests of the owners. But such regulations can never be permitted to interfere with or to obstruct the just rights of the owner to reclaim his slave, derived from the Constitution of the United States, or with the remedies prescribed by Congress to aid and enforce the same.

Upon these grounds, we are of opinion that the act of Pennsylvania upon which this indictment is founded is unconstitutional and void. It purports to punish as a public offense against that State the very act of seizing and removing a slave by his master which the Constitution of the United States was designed to justify and uphold. The special verdict finds this fact, and the state courts have rendered judgment against the plaintiff in error upon that verdict. That judgment must, therefore, be reversed, and the cause remanded to the Supreme Court of Pennsylvania with directions to carry into effect the judgment of this Court rendered upon the special verdict, in favor of the plaintiff in error.

Mr. Chief Justice Taney

I concur in the opinion pronounced by the Court that the law of Pennsylvania, under which the plaintiff in error was indicted, is unconstitutional and void, and that the judgment against him must be reversed. But, as the questions before us arise upon the construction of the Constitution of the United States, and as I do not assent to all the principles contained in the opinion just delivered, it is proper to state the points on which I differ.…

The act of February 12th, 1793, is a constitutional exercise of this power, and every state law which requires the master, against his consent, to go before any state tribunal or officer before he can take possession of his property, or which authorizes a state officer to interfere with him when he is peaceably removing it from the State, is unconstitutional and void.

But, as I understand the opinion of the Court, it goes further, and decides that the power to provide a remedy for this right is vested exclusively in Congress, and that all laws upon the subject passed by a State since the adoption of the Constitution of the United States are null and void, even although they were intended in good faith to protect the owner in the exercise of his rights of property, and do not conflict in any degree with the act of Congress.

I do not consider this question as necessarily involved in the case before us, for the law of Pennsylvania under which the plaintiff in error was prosecuted is clearly in conflict with the Constitution of the United States, as well as with the law of 1793. But, as the question is discussed in the opinion of the Court, and as I do not assent either to the doctrine or the reasoning by which it is maintained, I proceed to state very briefly my objections.

The opinion of the Court maintains that the power over this subject is so exclusively vested in Congress that no State, since the adoption of the Constitution, can pass any law in relation to it. In other words, according to the opinion just delivered, the state authorities are prohibited from interfering for the purpose of protecting the right of the master and aiding him in the recovery of his property. I think the States are not prohibited, and that, on the contrary, it is enjoined upon them as a duty to protect and support the owner when he is endeavoring to obtain possession of his property found within their respective territories.

The language used in the Constitution does not, in my judgment, justify this construction given to it by the court. It contains no words prohibiting the several States from passing laws to enforce this right. They are, in express terms, forbidden to make any regulation that shall impair it, but there the prohibition stops.…

And why may not a State protect a right of property acknowledged by its own paramount law? Besides, the laws of the different States in all other cases constantly protect the citizens of other States in their rights of property when it is found within their respective territories, and no one doubts their power to

do so. And, in the absence of any express prohibition, I perceive no reason for establishing by implication a different rule in this instance where, by the national compact, this right of property is recognized as an existing right in every State of the Union.

I do not speak of slaves whom their masters voluntarily take into a non-slaveholding State. That case is not before us. I speak of the case provided for in the Constitution—that is to say, the case of a fugitive who has escaped from the service of his owner and who has taken refuge and is found in another State.…

I cannot understand the rule of construction by which a positive and express stipulation for the security of certain individual rights of property in the several States is held to imply a prohibition to the States to pass any laws to guard and protect them.…

Indeed, if the state authorities are absolved from all obligation to protect this right, and may stand by and see it violated without an effort to defend it, the act of Congress of 1793 scarcely deserves the name of a remedy. The state officers mentioned in the law are not bound to execute the duties imposed upon them by Congress unless they choose to do so or are required to do so by a law of the State, and the state legislature has the power, if it thinks proper, to prohibit them. The Act of 1793, therefore, must depend altogether for its execution upon the officers of the United States named in it. And the master must take the fugitive, after he has seized him, before a judge of the district or circuit court, residing in the State, and exhibit his proofs, and procure from the judge his certificate of ownership, in order to obtain the protection in removing his property which this act of Congress profess to give.

Now, in many of the States, there is but one district judge, and there are only nine States which have judges of the Supreme Court residing within them. The fugitive will frequently be found by his owner in a place very distant from the residence of either of these judges, and would certainly be removed beyond his reach before a warrant could be procured from the judge to arrest him, even if the act of Congress authorized such a warrant. But it does not authorize the judge to issue a warrant to arrest the fugitive, but evidently relied on the state authorities to protect the owner in making the seizure. And it is only when the fugitive is arrested and brought before the judge that he is directed to take the proof and give the certificate of ownership. It is only necessary to state the provisions of this law in order to show how ineffectual and delusive is the remedy provided by Congress if state authority is forbidden to come to its aid.…

Fugitives from the more southern States, when endeavoring to escape into Canada, very frequently pass through [other slave states]..... But if the States are forbidden to legislate on this subject, and the power is exclusively in Congress, then these state laws are unconstitutional and void, and the fugitive can only be arrested according to the provisions of the act of Congress. By that law, the power to seize is given to no one but the owner, his agent, or attorney. And if the officers of the State are not justified in acting under the state laws, and cannot arrest the fugitive and detain him in prison without having first received an authority from the owner, the territory of the State must soon become an open pathway for the fugitives escaping from other states. For they are often in the act of passing through it by the time that the owner first discovers that they have absconded, and, in almost every instance, they would be beyond its borders (if they were allowed to pass through without interruption) before the master would be able to learn the road they had taken.…

It is true that Maryland, as well as every other slaveholding State, has a deep interest in the faithful execution of the clause in question. But the obligation of the compact is not confined to them; it is equally binding upon the faith of every State in the Union, and has heretofore, in my judgment, been justly regarded as obligatory upon all.

I dissent, therefore, upon these grounds, from that part of the opinion of the Court which denies the obligation and the right of the state authorities to protect the master when he is endeavoring to seize a fugitive from his service in pursuance of the right given to him by the Constitution of the United States, provided the state law is not in conflict with the remedy provided by Congress.

Mr. Justice McLean

As this case involves questions deeply interesting, if not vital, to the permanency of the Union of these States, and as I differ on one point from the opinion of the court, I deem it proper to state my own views on the subject.…

The plaintiff, being a citizen of Maryland, with others, took Margaret Morgan, a colored woman and a slave, by force and violence, without the certificate required by the act of Congress, from the State of Pennsylvania, and brought her to the State of Maryland. By an amicable arrangement between the two States,

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judgment was entered against the defendant in the court where the indictment was found, and, on the cause's being removed to the Supreme Court of the State, that judgment, *pro forma*, was affirmed. And the case is now here for our examination and decision.

The last clause of the second section of the Fourth Article of the Constitution of the United States declares that

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due."

This clause of the Constitution is now for the first time brought before this Court for consideration.…

Does the provision in regard to the reclamation of fugitive slaves vest the power exclusively in the Federal Government?

This must be determined from the language of the Constitution and the nature of the power.

The language of the provision is general; it covers the whole ground, not in detail, but in principle. The States are inhibited from passing "any law or regulation which shall discharge a fugitive slave from the service of his master," and a positive duty is enjoined on them to deliver him up, "on claim of the party to whom his service may be due."

The nature of the power shows that it must be exclusive.

It was designed to protect the rights of the master, and against whom? Not against the State, nor the people of the State in which he resides, but against the people and the legislative action of other States where the fugitive from labor might be found. Under the Confederation, the master had no legal means of enforcing his rights in a State opposed to slavery. A disregard of rights thus asserted was deeply felt in the South; it produced great excitement, and would have led to results destructive of the Union. To avoid this, the constitutional guarantee was essential.

The necessity for this provision was found in the views and feelings of the people of the States opposed to slavery, and who, under such an influence, could not be expected favorably to regard the rights of the master. Now, by whom is this paramount law to be executed? …

I come now to a most delicate and important inquiry in this case, and that is whether the claimant of a fugitive from labor may seize and remove him by force out of the State in which he may be found, in defiance of its laws. I refer not to laws which are in conflict with the Constitution, or the Act of 1793. Such state laws, I have already said, are void. But I have reference to those laws which regulate the police of the State, maintain the peace of its citizens, and preserve its territory and jurisdiction from acts of violence.…

Both the Constitution and the Act of 1793 require the fugitive from labor to be delivered up on claim being made by the party or his agent to whom the service is due. Not that a suit should be regularly instituted; the proceeding authorized by the law is summary and informal. The fugitive is seized by the claimant, and taken before a judge or magistrate within the State, and on proof, parol or written that he owes labor to the claimant, it is made the duty of the judge or magistrate to give the certificate which authorizes the removal of the fugitive to the State from whence he absconded.

The counsel inquire of whom the claim shall be made. And they represent that the fugitive, being at large in the State, is in the custody of no one, nor under the protection of the State, so that the claim cannot be made, and consequently that the claimant may seize the fugitive and remove him out of the State.

A perusal of the act of Congress obviates this difficulty and the consequence which is represented as growing out of it.

The act is framed to meet the supposed case. The fugitive is presumed to be at large, for the claimant is authorized to seize him; after seizure, he is in custody; before it, he was not; and the claimant is required to take him before a judicial officer of the State; and it is before such officer his claim is to be made.

To suppose that the claim is not to be made, and indeed, cannot be, unless the fugitive be in the custody or possession of some public officer or individual is to disregard the letter and spirit of the Act of 1793. There is no act in the statute book more precise in its language and, as it would seem, less liable to misconstruction. In my judgment, there is not the least foundation in the act for the right asserted in the argument, to take the fugitive by force and remove him out of the State.

Such a proceeding can receive no sanction under the act, for it is in express violation of it. The claimant, having seized the fugitive, is required by the act to take him before a federal judge within the State, or a state magistrate within the county, city or town corporate, within which the seizure was made. Nor can there be any pretence that, after the seizure under the statute, the claimant may disregard the other express provision of it by taking the fugitive, without claim, out of the State. But it is said, the master may

seize his slave wherever he finds him, if by doing so he does not violate the public peace; that the relation of master and slave is not affected by the laws of the State to which the slave may have fled and where he is found.

If the master has a right to seize and remove the slave without claim, he can commit no breach of the peace by using all the force necessary to accomplish his object.

It is admitted that the rights of the master, so far as regards the services of the slave, are not impaired by this change, but the mode of asserting them, in my opinion, is essentially modified. In the State where the service is due, the master needs no other law than the law of force to control the action of the slave. But can this law be applied by the master in a State which makes the act unlawful?

Can the master seize his slave and remove him out of the State, in disregard of its laws, as he might take his horse which is running at large? This ground is taken in the argument. Is there no difference in principle in these cases?

The slave, as a sensible and human being, is subject to the local authority into whatsoever jurisdiction he may go; he is answerable under the laws for his acts, and he may claim their protection; the State may protect him against all the world except the claim of his master. Should anyone commit lawless violence on the slave, the offender may unquestionably be punished; and should the slave commit murder, he may be detained and punished for it by the State in disregard of the claim of the master. Being within the jurisdiction of a State, a slave bears a very different relation to it from that of mere property.

In a State where slavery is allowed, every colored person is presumed to be a slave, and, on the same principle, in a non-slaveholding State, every person is presumed to be free, without regard to color. On this principle, the States, both slaveholding and non-slaveholding, legislate. The latter may prohibit, as Pennsylvania has done, under a certain penalty, the forcible removal of a colored person out of the State. Is such law in conflict with the Act of 1793?

The Act of 1793 authorizes a forcible seizure of the slave by the master not to take him out of the State, but to take him before some judicial officer within it. The law of Pennsylvania punishes a forcible removal of a colored person out of the State. Now here is no conflict between the law of the State and the law of Congress; the execution of neither law can, by any just interpretation, in my opinion, interfere with the execution of the other; the laws in this respect stand in harmony with each other.

It is very clear that no power to seize and forcibly remove the slave, without claim, is given by the act of Congress. Can it be exercised under the Constitution? Congress have legislated on the constitutional power, and have directed the mode in which it shall be executed. The act, it is admitted, covers the whole ground, and that it is constitutional there seems to be no reason to doubt. Now, under such circumstances, can the provisions of the act be disregarded, and an assumed power set up under the Constitution? This is believed to be wholly inadmissible by any known rule of construction.

The terms of the Constitution are general, and, like many other powers in that instrument, require legislation. In the language of this Court in *Martin v. Hunter's Lessee*, …

"the powers of the Constitution are expressed in general terms, leaving to the legislature, from time to time, to adopt its own means to effectuate legitimate objects, and to mould and model the exercise of its powers as its own wisdom and the public interests should require."

This Congress have done by the Act of 1793. It gives a summary and effectual mode of redress to the master, and is he not bound to pursue it? It is the legislative construction of the Constitution, and is it not a most authoritative construction? I was not prepared to hear the counsel contend that, notwithstanding this exposition of the Constitution, and ample remedy provided in the act, the master might disregard the act and set up his right under the Constitution. And, having taken this step, it was easy to take another and say that this right may be asserted by a forcible seizure and removal of the fugitive.

This would be a most singular constitutional provision. It would extend the remedy by recaption into another sovereignty, which is sanctioned neither by the common law nor the law of nations. If the master may lawfully seize and remove the fugitive out of the State where he may be found, without an exhibition of his claim, he may lawfully resist any force, physical or legal, which the State, or the citizens of the State, may interpose.

To hold that he must exhibit his claim in case of resistance is to abandon the ground assumed. He is engaged, it is said, in the lawful prosecution of a constitutional right; all resistance, then, by whomsoever made or in whatsoever form, must be illegal. Under such circumstances, the master needs no proof of his claim, though he might stand in need of additional

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physical power; having appealed to his power, he has only to collect a sufficient force to put down all resistance and attain his object; having done this, he not only stands acquitted and justified, but he has recourse for any injury he may have received in overcoming the resistance.

If this be a constitutional remedy, it may not always be a peaceful one. But if it be a rightful remedy that it may be carried to this extent no one can deny. And if it may be exercised without claim of right, why may it not be resorted to after the unfavorable decision of the judge or magistrate? This would limit the necessity of the exhibition of proof by the master to the single case where the slave was in the actual custody of some public officer. How can this be the true construction of the Constitution? That such a procedure is not sanctioned by the Act of 1793 has been shown. That act was passed expressly to guard against acts of force and violence.

I cannot perceive how anyone can doubt that the remedy given in the Constitution, if, indeed, it give any remedy, without legislation, was designed to be a peaceful one; a remedy sanctioned by judicial authority; a remedy guarded by the forms of law. But the inquiry is reiterated, is not the master entitled to his property? I answer that he is. His right is guarantied by the Constitution, and the most summary means for its enforcement is found in the act of Congress, and neither the State nor its citizens can obstruct the prosecution of this right.

The slave is found in a State where every man, black or white, is presumed to be free, and this State, to preserve the peace of its citizens, and its soil and jurisdiction from acts of violence, has prohibited the forcible abduction of persons of color. Does this law conflict with the Constitution? It clearly does not, in its terms.

The conflict is supposed to arise out of the prohibition against the forcible removal of persons of color generally, which may include fugitive slaves. *Prima facie* it does not include slaves, as every man within the State is presumed to be free, and there is no provision in the act which embraces slaves. Its language clearly shows that it was designed to protect free persons of color within the State. But it is admitted there is no exception as to the forcible removal of slaves, and here the important and most delicate question arises between the power of the State and the assumed but not sanctioned power of the Federal Government.

No conflict can arise between the act of Congress and this State law; the conflict can only arise between the forcible acts of the master and the law of the State. The master exhibits no proof of right to the services of the slave, but seizes him and is about to remove him by force. I speak only of the force exerted on the slave. The law of the State presumes him to be free and prohibits his removal. Now, which shall give way, the master or the State? The law of the State does in no case discharge, in the language of the Constitution, the slave from the service of his master.

It is a most important police regulation. And if the master violate it, is he not amenable? The offense consists in the abduction of a person of color, and this is attempted to be justified upon the simple ground that the slave is property. That a slave is property must be admitted. The state law is not violated by the seizure of the slave by the master, for this is authorized by the act of Congress, but by removing him out of the State by force and without proof of right, which the act does not authorize. Now, is not this an act which a State may prohibit? The presumption, in a non-slaveholding State, is against the right of the master, and in favor of the freedom of the person he claims. This presumption may be rebutted, but until it is rebutted by the proof required in the Act of 1793, and also, in my judgment, by the Constitution, must not the law of the State be respected and obeyed?

The seizure which the master has a right to make under the act of Congress, is for the purpose of taking the slave before an officer. His possession the subject for which it was made.

The certificate of right to the service the subject for which it was made. The certificate of right to the service of the slave is undoubtedly for the protection of the master, but it authorizes the removal of the slave out of the State where he was found to the State from whence he fled, and, under the Constitution, this authority is valid in all the States.

The important point is shall the presumption of right set up by the master, unsustained by any proof or the presumption which arises from the laws and institutions of the State, prevail; this is the true issue. The sovereignty of the State is on one side, and the asserted interest of the master on the other; that interest is protected by the paramount law, and a special, a summary, and an effectual, mode of redress is given. But this mode is not pursued, and the remedy is taken into his own hands by the master.

The presumption of the State that the colored person is free may be erroneous in fact, and, if so, there can be no difficulty in proving it. But may not the assertion of the master be erroneous also, and,

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if so, how is his act of force to be remedied? The colored person is taken and forcibly conveyed beyond the jurisdiction of the State. This force, not being authorized by the act of Congress nor by the Constitution, may be prohibited by the State. As the act covers the whole power in the Constitution and carries out, by special enactments, its provisions, we are, in my judgment, bound by the act. We can no more, under such circumstances, administer a remedy under the Constitution in disregard of the act than we can exercise a commercial or other power in disregard of an act of Congress on the same subject.

This view respects the rights of the master and the rights of the State; it neither jeopards nor retards the reclamation of the slave; it removes all state action prejudicial to the rights of the master; and recognizes in the State a power to guard and protect its own jurisdiction and the peace of its citizen.

It appears in the case under consideration that the state magistrate before whom the fugitive was brought refused to act. In my judgment, he was bound to perform the duty required of him by a law paramount to any act, on the same subject, in his own State. But this refusal does not justify the subsequent action of the claimant; he should have taken the fugitive before a judge of the United States, two of whom resided within the State.

It may be doubted, whether the first section of the act of Pennsylvania under which the defendant was indicted, by a fair construction, applies to the case under consideration. The decision of the Supreme Court of that State was *pro forma*, and, of course, without examination. Indeed, I suppose, the case has been made up merely to bring the question before this Court. My opinion, therefore, does not rest so much upon the particular law of Pennsylvania as upon the inherent and sovereign power of a State to protect its jurisdiction and the peace of its citizens in any and every mode which its discretion shall dictate, which shall not conflict with a defined power of the Federal Government.

This cause came on to be heard on the transcript of the record from the Supreme Court of Pennsylvania, and was argued by counsel, on consideration whereof it is the opinion of this Court that the act of the Commonwealth of Pennsylvania upon which the indictment in this case is founded is repugnant to the Constitution and laws of the United States, and therefore, void, and that the judgment of the Supreme Court of Pennsylvania upon the special verdict found in the case ought to have been that the said Edward Prigg was not guilty. It is, therefore, ordered and adjudged by this Court that the judgment of the said Supreme Court of Pennsylvania be, and the same is hereby, reversed.

And this Court proceeding to render such judgment in the premises as the said Supreme Court of Pennsylvania ought to have rendered, do hereby

Glossary

a fortiori	Latin for "with even stronger reason"
act of the 12th of February 1793	the Fugitive Slave Act of 1793
Blackstone	Sir William Blackstone, a preeminent jurist in eighteenth-century England and the author of *Commentaries on the Laws of England*
comity	legal reciprocity, or the principle that a jurisdiction will recognize the validity and effect of another jurisdiction's executive, legislative, and judicial acts
Confederation	the United States under the Articles of Confederation
Court of Oyer and Terminer	in the United States, the name given to courts of criminal jurisdiction in some states
estopped	legally prevented
in rem	Latin for "in a thing" and referring to a legal action in connection with a specific piece of property
in transitu	Latin for "in transit"

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order and adjudge that judgment upon the special verdict aforesaid be here entered that the said Edward Prigg is not guilty in manner and form as is charged against him in the said indictment, and that he go thereof quit, without day; and that this cause be remanded to the Supreme Court of Pennsylvania with directions accordingly, so that such other proceeding may be had therein as to law and justice shall appertain.

Glossary

lex fori	Latin for "law of the forum," referring to the law of the jurisdiction where a case is pending
Lord Dyer	Sir James Dyer, a preeminent jurist in sixteenth-century England
Madison	James Madison, one of the authors of the Federalist Papers and the fourth U.S. president
prima facie	Latin for "at first sight," describing a fact that is presumed to be true unless disproved by contrary evidence
pro forma	Latin for "as a matter of form"
pro tanto	Latin for "only to that extent"; partially
proprio vigore	Latin for "by its own force or vigor"
recaption	self-help in seizing a fugitive slave
take further cognizance	hear, consider
writ of error	a judicial writ from an appellate court ordering the court of record to produce the records of trial; an appeal

Toussaint-Louverture (Library of Congress)

Henry Highland Garnet: "An Address to the Slaves of the United States of America"

1843

"No oppressed people have ever secured their liberty without resistance."

Overview

Henry Highland Garnet's "Address to the Slaves of the United States of America" was delivered at the National Convention of Colored Citizens in Buffalo, New York, on August 16, 1843. A former slave, Garnet was pastor of the African American Liberty Street Presbyterian Church in Troy, New York, and editor of *The Clarion*, a weekly newspaper that published abolitionist and church-related articles. At age twenty-eight, he was a rising figure among young African American abolitionists, who were increasingly at odds with William Lloyd Garrison and the American Anti-Slavery Society. Garrison and his followers (both white and African American) had essentially abandoned politics in favor of nonviolent moral suasion in their fight against slavery. Garnet first signaled his disaffection with Garrison's position in 1840 as one of the founding members of the American and Foreign Anti-Slavery Society, which advocated political action as the primary way to achieve emancipation. His subsequent newspaper articles and sermons had carried him well beyond mere dissatisfaction, and because he was a gifted speaker with a reputation as a firebrand, most of the seventy delegates from a dozen states came to Buffalo anticipating a stirring address.

Context

The abolition movement to eliminate slavery in the United States had its infancy in seventeenth-century Pennsylvania when the Germantown Friends declared that slaveholding violated the tenets of Christianity. The Commonwealth of Massachusetts outlawed slavery in its constitution of 1780, and in the early 1800s legislatures in Pennsylvania, Connecticut, Rhode Island, New York, and New Jersey followed suit. The Northwest Ordinance of 1787 barred slavery in territories north of the Ohio River, and the Constitution of the United States ended the international slave trade in 1807. (Slavery, however, was constitutionally protected in a number of ways, notably in the infamous three-fifths compromise, and Congress enacted the Fugitive Slave Act in 1793, which required all states to return runaway slaves to their owners.)

In December 1816 the American Colonization Society was founded in Washington, D.C., by Robert Finley with the support of such men as James Madison, James Monroe, and Henry Clay, who believed that free blacks were incapable of assimilating into white society and would be happier if they emigrated to Africa. The society enjoyed an early success, but its membership was soon riven by ideological differences when a minority of members, thinking the society also supported the abolition of slavery, found that the majority (many of them slaveholders) wanted only to reduce the number of free blacks in the country; slavery itself would be untouched. By 1830, despite the decline in membership, the society had established the West African colony of Liberia (later an independent state) and by 1860 had relocated some fifteen thousand free blacks to its shores.

On January 1, 1831, William Lloyd Garrison revived abolitionism with the first issue of *The Liberator*. In his famous opening statement, "To the Public," he demanded the immediate emancipation of all slaves and refused even to moderate his language in seeking slavery's destruction. Vowing to be "as harsh as truth, and as uncompromising as justice," he declared, "I am in earnest—I will not equivocate—I will not excuse—I will not retreat a single inch—And I Will Be Heard." Through many of the thirty-five years he published his paper—1,820 consecutive editions—he was vilified, threatened, and on occasion physically attacked by angry mobs. North Carolina indicted him in absentia, and the state of Georgia offered a reward for his arrest.

Garrison formed the Massachusetts Anti-Slavery Society in 1832 and the American Anti-Slavery Society in 1833, which in seven years numbered two thousand chapters outside the South, each of which sought to educate the public through lectures by former slaves like William Wells Brown, petitions, and pamphleteering. The society was based on the conviction that black people are in all respects equal to whites, that blacks could readily assimilate into white society, and that gradualism (allowing slavery to wither away through its inherent economic and social weaknesses) would take too long. In summary, immediate emancipation

Time Line

1815

■ **December 23**
Henry Highland Garnet is born a slave in New Market, Maryland.

1816

■ **December 21**
The American Colonization Society organizes in Washington, D.C.

1822

■ **June 23**
Denmark Vesey, accused of conspiring to lead a slave insurrection, is found guilty and later hanged in Charleston, South Carolina.

1829

■ **September**
David Walker's Appeal, In Four Articles: Together With A Preamble To The Coloured Citizens Of The World, But In Particular, And Very Expressly, To Those Of The United States Of America is published.

1830

■ **September 15**
The ten-day National Negro Convention begins in Philadelphia to consider purchasing land in Canada where African Americans could live in freedom.

1831

■ **January 1**
William Lloyd Garrison begins publishing *The Liberator*, for the next thirty-five years the single most important abolitionist publication.

■ **August 22**
Nat Turner's Rebellion in Southampton County, Virginia, takes the lives of at least fifty-five white men, women, and children.

1833

■ **December**
William Lloyd Garrison and others organize the American Anti-Slavery Society in Philadelphia, Pennsylvania.

1837

■ **May 9**
The first Anti-Slavery Convention of American Women is held in New York City to consider such topics as abolition, women's rights, and women's suffrage.

without repatriation or reparations was a moral imperative that must be achieved through "moral suasion," that is, by nonviolent and nonpolitical means.

Garrison served as president of the American Anti-Slavery Society until 1865 and was its dominant voice. He was adamantly opposed to linking the society to any political party, he denounced the U.S. Constitution as a proslavery document and the churches for their support of slavery, and he admitted women to the society. By 1840 a number of its members had had enough of Garrison's radical leadership. A major rift led to the formation of the Liberty Party, dedicated to legislating abolition and the American and Foreign Anti-Slavery Society opposed to women's participation.

Free black abolitionism took several forms. The best known was the Underground Railroad, a loosely organized (and often spontaneously formed) network in which blacks and whites aided runaway slaves to reach Canada or safe havens in the North. Henry Highland Garnet and his family were given such help when they escaped from slavery in Maryland to safety in Pennsylvania in 1824. The family was again protected when slave catchers, operating under the Fugitive Slave Act, found them in New York City. The family scattered to safety, helped by the New York Vigilance Society, one of several aid societies run by African Americans in nearly every city where runaway slaves were in hiding.

Beginning in 1830 and intermittently to the 1850s black abolitionists (many of them clergymen and teachers) met in National Negro Conventions to discuss matters of mutual interest. Black abolitionist lecturers and writers like Frederick Douglass and Sojourner Truth were in high demand after 1840. In their books and lectures they emphasized the evils of slavery within conventional Christian morality and advocated moral suasion and nonviolent resistance. All that changed when the Mexican-American War, the Compromise of 1850, and the new Fugitive Slave Act of 1850 transformed the nation's moral and political landscapes.

The Buffalo meeting was itself a reason for excitement because, after a lapse of seven years, its convening renewed a convention movement that had begun thirteen years earlier with the National Convention of Colored Citizens in Philadelphia in 1830. Five annual gatherings followed the first, but the 1836 convention divided over doctrinal matters, and no further national meetings were held until the Buffalo convention was called to order on August 15, 1843. The chairman, Samuel H. Davis, a minister and the principal of the local elementary school for black children, struck the gavel. All delegates were aware that groups in Buffalo had fiercely opposed their meeting. Some openly threatened them and their meeting place, the Vine Street American Methodist Episcopal Church, but the proceedings over the next five days took place without any outside interference. Davis, a graduate of Oberlin College, set the tone with his keynote address, "We Must Assert Our Rightful Claims and Plead Our Own Cause." He reminded the delegates that the work of white abolitionists had thus far failed to win the slaves' emancipation or full civil liberties for free blacks. Those goals could be reached, he said, only if African Americans themselves "make known our wrongs to the world and

to our oppressors." To leave the goals to others to achieve was a commitment to failure, Davis warned. When his turn came to speak, Henry Highland Garnet carried that message to a far more radical conclusion.

About the Author

A Presbyterian minister, leading abolitionist, and diplomat, Henry Highland Garnet was born into slavery on a plantation near Chestertown in Kent County, Maryland, on December 23, 1815, to George and Henrietta (Henny) Trusty. In 1824, following the death of their owner, the Trustys, aided by the Underground Railroad, made their way to the North, where they adopted Garnet as their new name. In 1827 they settled in New York City, and Garnet's father worked as a shoemaker. Henry attended the African Free School until he went to sea in 1828, first as a cabin boy and then as a cook on a coastal schooner. He later worked as an indentured field hand on Long Island, where in his second year he severely injured a knee, which healed poorly, leaving him in pain and on crutches for the rest of his life. In 1840 the leg was amputated at the hip.

In 1831 Garnet returned to a high school for blacks in New York and in July 1835 entered Noyes Academy in Canaan, New Hampshire, a school founded by abolitionists to serve both black and white students. Local townspeople, unhappy with the school's racial mix, destroyed the building in August and attacked the house where the black students were living. Garnet fired a shotgun from his bedroom window, and the mob dispersed, but Garnet and two friends returned to New York via the Hudson River on the open foredeck of a steamboat because blacks were not permitted to mingle with the white passengers. Early in 1836 Garnet was admitted to the Oneida Institute in Whitesboro, New York, from which he graduated with honors in 1840.

Not ordained until 1842, Garnet was named minister of the African American Liberty Street Presbyterian Church in Troy, New York, in 1840. He married Julia Ward Williams, a teacher, in 1841. The couple had three children. Garnet became active in abolitionist affairs; edited *The Clarion*, a weekly abolitionist newspaper; and taught school. An organizer of the convention movement in New York State, he campaigned briefly for the Liberty Party.

Following his speech in Buffalo, Garnet returned to his pulpit in Troy. In 1850, he lectured on antislavery in Great Britain and Germany and in 1852 was sent by the United Presbyterian Church of Scotland to Jamaica, where he stayed for two years as a missionary. In 1854 he returned to England and then, in 1855, to New York City as pastor of the Shiloh Presbyterian Church. During the Civil War, he was pastor of the Fifteenth Street Presbyterian Church in Washington, D.C. On February 12, 1865, he became the first African American to deliver a sermon to the U.S. House of Representatives. In 1881 President James Garfield appointed Garnet the U.S. minister resident and consul general to Liberia. He died two months after taking up his post in Monrovia, on February 13, 1882.

Time Line

1840

- **April 11**
  The Liberty Party, newly organized in support of abolitionism, holds its first national convention at Albany, New York, to select James G. Birney of Kentucky, a former slaveholder, as its candidate for president of the United States.

1841

- **March 9**
  The U.S. Supreme Court frees the African defendants in *United States, Appellants, v. Libellants and Claimants of the Schooner Amistad*, an abolitionist victory.
- **August 12–13**
  In his first major public appearance, Frederick Douglass delivers three abolitionist speeches at the Nantucket convention of the Massachusetts Anti-Slavery Society. He is hired as a lecturer by the society.
- **November 7**
  Madison Washington and eighteen fellow slaves overpower the crew, take control of the coastal brig *Creole*, and sail to Nassau, the Bahamas, where the British government grants freedom to them and 111 other slaves on board.

1843

- **August 16**
  Henry Highland Garnet delivers "An Address to the Slaves of the United States of America" at the National Convention of Colored Citizens at Buffalo, New York.

Explanation and Analysis of the Document

In "An Address to the Slaves of the United States of America," Henry Highland Garnet presents his audience with a series of carefully connected themes, woven together in forceful images and powerful language. He begins with a direct appeal to those in bondage to recognize their close ties to those who are free, their common memory of past and present injustices, and their mutual connection to past generations of slaves. He points to heroic rebels as examples of what the slaves themselves must do to secure their freedom, and he urges them to see the strengths that lie in their numbers and their shared consciousness of their condition. He highlights their masters' dependency on slavery

and the slave owners' deep-seated fear of a slave insurrection. He tells them in ringing terms that violence is their only recourse if they wish to be free.

♦ Paragraphs 1–6

The opening three paragraphs set the tone for the rest of the speech. Garnet uses the word *brethren* dualistically, directing it to both the immediate audience and the absent slaves, who are his real audience. As he notes in the second sentence, this direct address is a departure from past practice, which produced passivity in the speaker and the convention delegates. In the second paragraph Garnet spells out the connection between free person and slave and, in the third, how the institution of slavery has kept them apart. Paragraph 4 provides a brief but powerful indictment of the slavers and slave owners. The last sentence, in particular, is a haunting statement about the perpetual horrors of slavery reaching from generation to generation.

Although Garnet was an ordained Presbyterian minister and the abolitionist ranks were filled with clergymen, only the Quakers, he asserts, have consistently taken public stands against slavery since the seventeenth century. Because institutional Christianity has remained silent, Garnet takes the churches to task in paragraph 5. In paragraph 6, the highly educated Garnet laments both the laws in the South that make it a crime to teach slaves to read and write and public opinion in the North, which often denies education to blacks, almost three million of whom have been left in intellectual darkness. (The 1840 census gives the number of slaves as 2.5 million.) As a minister he is particularly angry that slaves are denied the right to read the "Book of Life," meaning the Bible.

♦ Paragraphs 7–11

In paragraph 7, Garnet celebrates the American Revolution and the Declaration of Independence, but he laments the missed opportunity to abolish slavery and the inclusion of protections for slaveholders in the Constitution. He praises the colonists for risking death to win their freedom and suggests that blacks should be prepared to do the same. In paragraphs 8 and 9 Garnet invokes the human need for freedom and equates the slave's failure to openly oppose slavery, even at the risk of death, as a violation of the Ten Commandments. What follows is the most theologically charged language of his address, as he introduces the theme that the slaves must themselves bring an end to slavery. In paragraph 10 he says explicitly that resistance in the name of freedom is right and just and will be blessed by God.

The "old and true saying" Garnet paraphrases in paragraph 11 is from the 1812 poem *Childe Harold's Pilgrimage* (canto 2, stanza 76) by George Gordon, Lord Byron: "Hereditary bondsmen! know ye not, / Who would be free, themselves must strike the blow?" Garnet uses it to encourage African American slaves to plead their own case for freedom, because they are in a better position to know what must be done. He notes that freedom from slavery has been granted elsewhere in the world by European states. Britain abolished the slave trade in 1807, with the Abolition of the Slave Trade Act (which came into force in 1808). Holland followed suit in 1814, France in 1818, and Spain in 1820. England, however, did not abolish slavery in its Caribbean colonies until the Slavery Emancipation Act, enacted in 1833 and taking effect in 1834. Although the United States ended the African trade in 1807, as required by the Constitution, domestic slave trading continued in the American South, including the nation's capital, even as Garnet delivered his address.

The New York Evangelist, which Garnet quotes in passing, was an abolitionist newspaper. The quotation introduces a graphic litany of daily abuses that Garnet connects to a theme of slave resistance that he will return to twice more, in paragraphs 13 and 21, urging slaves to rebel to save their families, especially their women, from the unpunished physical abuse of the slave owners. Here in paragraph 11 Garnet reminds the slaves that they are native-born American citizens. He instructs them to remind their owners that their birthright is freedom, even at the cost of whippings or death. There is no other way, he tells them. They cannot be like the children of Israel, who were freed from bondage in Egypt when God visited ten plagues on the Pharaoh and his people, the first of which was turning water into blood. They cannot move en masse to Canada, the destination of many on the Underground Railroad, or to Mexico, because American settlers have carried slavery ("the black flag") into Texas and Mexican lands in the Southwest. The Reverend Robert Hall, who is quoted, was a Baptist minister in Bristol, England, whose sermons were popular reading in Britain and the United States.

♦ Paragraphs 12–16

Garnet turns in paragraphs 12 and 13 to the strengths that the slaves possess. He compares them to the American rebels in the Revolution, who endured hardship, and reminds them that hardship is what they have known. Given the abuses to their loved ones, there is no longer a debate over what they must do. To encourage them further, Garnet offers them as exemplars of resistance, in paragraphs 14 through 18, thirteen "noble men" who chose to fight for liberty at the risk of or price of death. All of them were likely to be known to the slaves across the South, having heard of them from travelers, or through interplantation contacts or possibly at Sunday gatherings after church.

Garnet begins his list of heroes in paragraph 14 with a former slave from West Africa, Denmark "Veazie" (Vesey) of South Carolina. In 1800 Vesey won a lottery prize of $1,500 and used it to purchase his freedom after more than twenty years as a slave. A skilled carpenter, he acquired money and property and became a leader among African Americans in and around Charleston. Driven by a deep hatred of slavery and slave owners, Vesey allegedly recruited over nine thousand slaves and free blacks for an insurrection scheduled for July 14, 1822, in which all whites would be killed and slaves set free. Unknown blacks betrayed Vesey in early June; despite the lack of solid evidence, Vesey and thirty-four others were charged with conspiracy and

hanged on June 23, 1822, bringing to an end what would have been the largest slave uprising in the American South. For weeks afterward, tales of the failed insurrection spread fear throughout the South.

Garnet connects Vesey to eight historic heroes, beginning with Moses, who led the Israelites out of bondage in Egypt to the fertile land of Canaan, the promised land of freedom. The Old Testament story of the deliverance of "the children of Israel" was among the best known and most-often-repeated biblical lessons in black Christian churches and in many abolitionist orations. It was often linked to the story of Joshua, Moses's successor, who led the violent and bloody invasion of Canaan. Vesey, for example, frequently quoted God's instructions to Joshua to kill every non-Israelite in Canaan as justification for his own plan to kill as many whites as possible in an effort to destroy slavery.

Each of the remaining seven men identified by Garnet in paragraph 13 is identified as a fighter for freedom through violence: John Hampden, a leading opponent of King Charles I, died of wounds sustained in 1643 in the second year of the English Civil War. William Tell, the legendary marksman, was a leader of the rebellion against the Habsburg rulers in the fourteenth century that produced the Swiss Confederation. Robert the Bruce and William Wallace fought for Scotland against the English, also in the fourteenth century. Toussaint-Louverture successfully freed Haiti from French rule in the 1790s, outlawed slavery, and established native government, only to be betrayed by Napoléon, who sentenced him to death in a French prison. The Marquis de Lafayette is famous for his military role in two eighteenth-century revolutions, the American and the French. George Washington, of course, led the Continental army to victory and America to independence in 1783.

Garnet introduces Nat Turner (as Nathaniel, a name unknown to Nat) in paragraph 15, calling him a patriot and noting that while his name was made infamous by his captors, future generations will understand and praise him for what he did. Nat Turner's rebellion in Southampton County, Virginia, in August 1831—just eleven years before Garnet spoke—was the most successful of all slave revolts. A deeply religious man, Turner interpreted a number of apocalyptic visions and an eclipse of the sun as God's commands for him to kill as many slaveholding whites as he could find. At 2 AM on August 22, Nat and six trusted accomplices entered his master's house and killed the entire family, sparing only an infant. The seven, joined through the night by some seventy other slaves, moved from farm to farm, murdering some fifty-five white men, women, and children as they went. Within hours, the state's mounted militia intercepted Turner's roving band, but Turner himself escaped capture. He remained in hiding for nearly two months, during which time the militia and white mobs killed at least two hundred blacks, many of whom had nothing to do with the rebellion. Eventually discovered and brought to trial, Turner was found guilty. He was hanged on November 11, 1831.

In paragraph 16, Garnet praises Joseph Cinqué, a captive African, who on July 2, 1839, led fifty-two fellow Africans in gaining control of *La Amistad*, a Cuban-owned vessel transporting them from Havana to another port on Cuba's coast. Having freed themselves from their chains in the ship's main hold, they went on deck armed with sugarcane knives and took over the ship, killing the captain and the cook. Cinqué demanded they be taken to their African homeland, but the crew instead sailed the *Amistad* north along the North American coast to the eastern end of Long Island, New York, where the USS *Washington* intercepted the ship. Federal officers then took the Africans to New London, Connecticut, to be sold, in clear violation of the Constitution's ban on importing slaves. Abolitionists quickly came to the blacks' aid. In a dramatic appearance before the Supreme Court, the former president John Quincy Adams argued the abolitionists' position that the Africans had been illegally enslaved, that they were justified in using force to gain their freedom, and that the court should return them to their homeland. On March 9, 1841, the court ruled in favor of the abolitionists in *United States, Appellants, v. Libellants and Claimants of the Schooner Amistad*, and the Africans, including Cinqué, were set free.

♦ Paragraphs 17–21

The heroism of Madison Washington, whom Garnet introduces in paragraph 17, followed close on the Court's decision in that case. On the night of November 7, 1841, Washington led a slave revolt on board the *Creole*, a coastal slave ship, carrying him and 134 other slaves from Virginia to New Orleans, where they were to be sold. (The constitutional prohibition on the importation of slaves did not apply to the domestic slave trade.) Washington and eighteen of his fellow slaves overpowered the ship's crew and forced the captain to take them to Nassau in the Bahamas, a British colony. Great Britain had abolished slavery in her overseas possessions in 1834, and despite protests from the American government, the British declared the slaves to be free persons. Washington and his rebel partners were briefly imprisoned as mutineers, but in the end they, too, were granted their freedom.

Paragraph 18 is a transitional passage in which Garnet eloquently reminds his audience that what all these men have done is not forgotten, that collective memory gives each of the heroes a form of immortality, in itself a fitting reward for the sacrifices they made. What Garnet has said to this point is preparation for the rousing finish to his address in paragraphs 19 through 22: his call for a slave rebellion that, through violence, would destroy the evils of slavery and bring freedom to African Americans at long last. "Brethren, arise, arise!" Garnet says in paragraph 19, reminding the nation's slaves that they number four million (the number in 1848 was closer to 3.2 million) and that if they join together, they can wipe out a dying institution. They have, he adds, nothing to lose but the restrictions that already were limiting their lives and making their wives and children subject to every cruelty; they cannot be made to suffer more than they already have.

Paragraph 20 is a forceful reminder that the slaves have within their hands the power to awaken the fear that overtook southern whites during the Vesey conspiracy and Nat

Essential Quotes

"Brethren, the time has come when you must act for yourselves. It is an old and true saying that, 'if hereditary bondmen would be free, they must themselves strike the blow.'"

(Paragraph 11)

"Brethren, arise, arise! Strike for your lives and liberties. Now is the day and the hour. Let every slave throughout the land do this, and the days of slavery are numbered."

(Paragraph 19)

"Let your motto be resistance! resistance! resistance! *No oppressed people have ever secured their liberty without resistance."*

(Paragraph 21)

Turner's Rebellion. In an Old Testament reference well known to his audience, Garnet invokes the ten plagues (which ranged from water turned to blood to the death of the first-born child in Egyptian families) that Moses promised that God would inflict on Egypt unless the pharaoh freed the Israelites from bondage (as described in the book of Exodus). What holds slavery together, Garnet says, is the passivity of the slaves, their patience and inaction in the face of daily cruelty and humiliation. It is time for them to awaken. Paragraph 21, the conclusion of the address, needs no explication. Its stirring words brought many of Garnet's listeners to tears and others to rage. For some it was a justified call to revolution. For others, it was a call too radical.

Audience

The Buffalo convention audience numbered seventy delegates from twelve states. Among the many African American abolitionists in attendance were such younger leaders such as Frederick Douglass, a former slave and already a celebrated orator; William Wells Brown, a runaway slave who would carry his message to Great Britain and the Continent in the 1850s; Charles B. Ray, a Congregational minister and "conductor" on the Underground Railroad, who in 1843 joined the New York Vigilance Committee to protect runaway slaves from slave catchers in the city; Charles L. Redmond, an abolitionist speaker, born in Massachusetts, who accompanied William Lloyd Garrison to London in 1838 and then traveled extensively on his own in England, Scotland, and Ireland; and James McCune Smith, an experienced abolitionist speaker and the nation's first African American medical doctor. Four of these five came to the convention as Garrisonians supporting moral suasion as the means of achieving emancipation and were opposed to the use of violence. Only Smith spoke in favor of Garnet's radical position.

Impact

"An Address to the Slaves of the United States of America" was like a thunderclap to the assembled delegates at the Buffalo convention. The first major abolitionist speech directed to the nation's slaves since David Walker's "Appeal to the Coloured Citizens of the World," its call for armed resistance shocked both the convention audience and the nation at large. Contemporary reports tell of some delegates being reduced to tears, of others given to outrage and clenched fists. During the discussion that followed, Frederick Douglass, in an hour-long speech (now lost), denounced the address as dangerous in the extreme and argued forcefully for the Garrisonian position of moral suasion and passive, not violent, resistance. Given a chance to respond, Garnet offered a rebuttal lasting an hour and a half (also lost) that Smith said was more powerful than the original address and perhaps the greatest of Garnet's speeches or sermons up to that time.

Since the address was intended as a resolution reflecting the consensus of the convention, a committee undertook

to soften its language, but their effort was in vain. The edited address was defeated by a margin of one vote, and the convention adjourned on April 19 without producing a consensus statement. In 1848, Garnet published *Walker's Appeal, with a Brief Sketch of His Life. By Henry Highland Garnet. And also Garnet's Address to the Slaves of the United States of America*. In the printed version of the speech, Garnet noted two reasons for its defeat by the convention: First, "the document was warlike and encouraged insurrection." Second, had the convention adopted it, delegates from the border states (the immediate neighbors of the slave states) "would not dare return to their homes." He refused to withdraw or apologize for his radical proposal and in the next decade was gratified to see—especially after the passage of the Fugitive Slave Act of 1850—many of those who had earlier rebuffed him, including Douglass, Brown, Redmond, and Ray, embrace the idea that abolition could not be achieved without violence.

See also Pennsylvania: An Act for the Gradual Abolition of Slavery (1780); Slavery Clauses in the U.S. Constitution (1787); Fugitive Slave Act of 1793; David Walker's *Appeal to the Coloured Citizens of the World* (1829); William Lloyd Garrison's First *Liberator* Editorial (1831); *The Confessions of Nat Turner* (1831); *United States v. Amistad*(1841); Fugitive Slave Act of 1850.

Further Reading

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—Allan L. Damon

Questions for Further Study

1. What was the basis of the dispute between Garnet and the abolitionist William Lloyd Garrison?

2. In the early nineteenth century, there were two camps in the movement against slavery. One group wanted its immediate abolition. Others favored a more gradual approach. On what basis did each of the two camps make its arguments?

3. In what ways did the Mexican-American War, the Compromise of 1850, and the new Fugitive Slave Act of 1850 transform "the nation's moral and political landscapes"?

4. Garnet's audience expected to hear a forceful, "fiery" address. To what extent did Garnet meet their expectations? Put differently, what characteristics of Garnet's address, such as its language and tone, strike a defiant note? Be specific.

5. Garnet published his speech in a volume that also contained David Walker's *Appeal to the Coloured Citizens of the World*. Compare the two documents. Do they make similar arguments? Are they different in any fundamental ways?

Document Text

Henry Highland Garnet: "An Address to the Slaves of the United States of America"

Brethren and Fellow-Citizens: —Your brethren of the North, East, and West have been accustomed to meet together in National Conventions, to sympathize with each other, and to weep over your unhappy condition. In these meetings we have addressed all classes of the free, but we have never, until this time, sent a word of consolation and advice to you. We have been contented in sitting still and mourning over your sorrows, earnestly hoping that before this day your sacred liberties would have been restored. But, we have hoped in vain. Years have rolled on, and tens of thousands have been borne on streams of blood and tears, to the shores of eternity. While you have been oppressed, we have also been partakers with you; nor can we be free while you are enslaved. We, therefore, write to you as being bound with you.

Many of you are bound to us, not only by the ties of a common humanity, but we are connected by the more tender relations of parents, wives, husbands, children, brothers, and sisters, and friends. As such we most affectionately address you.

Slavery has fixed a deep gulf between you and us, and while it shuts out from you the relief and consolation which your friends would willingly render, it afflicts and persecutes you with a fierceness which we might not expect to see in the fiends of hell. But still the Almighty Father of mercies has left to us a glimmering ray of hope, which shines out like a lone star in a cloudy sky. Mankind are becoming wiser, and better—the oppressor's power is fading, and you, every day, are becoming better informed, and more numerous. Your grievances, brethren, are many. We shall not attempt, in this short address, to present to the world all the dark catalogue of this nation's sins, which have been committed upon an innocent people. Nor is it indeed necessary, for you feel them from day to day, and all the civilized world look upon them with amazement.

Two hundred and twenty-seven years ago, the first of our injured race were brought to the shores of America. They came not with glad spirits to select their homes in the New World. They came not with their own consent, to find an unmolested enjoyment of the blessings of this fruitful soil. The first dealings they had with men calling themselves Christians, exhibited to them the worst features of corrupt and sordid hearts: and convinced them that no cruelty is too great, no villainy and no robbery too abhorrent for even enlightened men to perform, when influenced by avarice and lust. Neither did they come flying upon the wings of Liberty, to a land of freedom. But they came with broken hearts, from their beloved native land, and were doomed to unrequited toil and deep degradation. Nor did the evil of their bondage end at their emancipation by death. Succeeding generations inherited their chains, and millions have come from eternity into time, and have returned again to the world of spirits, cursed and ruined by American slavery.

The propagators of the system, or their immediate ancestors, very soon discovered its growing evil, and its tremendous wickedness, and secret promises were made to destroy it. The gross inconsistency of a people holding slaves, who had themselves "ferried o'er the wave" for freedom's sake, was too apparent to be entirely overlooked. The voice of Freedom cried, "Emancipate your slaves." Humanity supplicated with tears for the deliverance of the children of Africa. Wisdom urged her solemn plea. The bleeding captive pleaded his innocence, and pointed to Christianity who stood weeping at the cross. Jehovah frowned upon the nefarious institution, and thunderbolts, red with vengeance, struggled to leap forth to blast the guilty wretches who maintained it. But all was vain. Slavery had stretched its dark wings of death over the land, the Church stood silently by—the priests prophesied falsely, and the people loved to have it so. Its throne is established, and now it reigns triumphant.

Nearly three millions of your fellow-citizens are prohibited by law and public opinion (which in this country is stronger than law) from reading the Book of Life. Your intellect has been destroyed as much as possible, and every ray of light they have attempted to shut out from your minds. The oppressors themselves have become involved in the ruin. They have become weak, sensual, and rapacious—they have cursed you—they have cursed themselves—they have cursed the earth which they have trod

The colonists threw the blame upon England. They said that the mother country entailed the evil

upon them, and that they would rid themselves of it if they could. The world thought they were sincere, and the philanthropic pitied them. But time soon tested their sincerity. In a few years the colonists grew strong, and severed themselves from the British Government. Their independence was declared, and they took their station among the sovereign powers of the earth. The declaration was a glorious document. Sages admired it, and the patriotic of every nation reverenced the God-like sentiments which it contained. When the power of Government returned to their hands, did they emancipate the slaves? No; they rather added new links to our chains. Were they ignorant of the principles of Liberty? Certainly they were not. The sentiments of their revolutionary orators fell in burning eloquence upon their hearts, and with one voice they cried, *Liberty or Death*. Oh what a sentence was that! It ran from soul to soul like electric fire, and nerved the arm of thousands to fight in the holy cause of Freedom. Among the diversity of opinions that are entertained in regard to physical resistance, there are but a few found to gainsay that stern declaration. We are among those who do not.

Slavery! How much misery is comprehended in that single word. What mind is there that does not shrink from its direful effects? Unless the image of God be obliterated from the soul, all men cherish the love of Liberty. The nice discerning political economist does not regard the sacred right more than the untutored African who roams in the wilds of Congo. Nor has the one more right to the full enjoyment of his freedom than the other. In every man's mind the good seeds of liberty are planted, and he who brings his fellow down so low, as to make him contented with a condition of slavery, commits the highest crime against God and man. Brethren, your oppressors aim to do this. They endeavor to make you as much like brutes as possible. When they have blinded the eyes of your mind— when they have embittered the sweet waters of life—when they have shut out the light which shines from the word of God—then, and not till then, has American slavery done its perfect work.

To such Degradation it is sinful in the Extreme for you to make voluntary Submission. The divine commandments you are in duty bound to reverence and obey. If you do not obey them, you will surely meet with the displeasure of the Almighty. He requires you to love him supremely, and your neighbor as yourself—to keep the Sabbath day holy—to search the Scriptures—and bring up your children with respect for his laws, and to worship no other God but him. But slavery sets all these at nought, and hurls defiance in the face of Jehovah. The forlorn condition in which you are placed, does not destroy your moral obligation to God. You are not certain of heaven, because you suffer yourselves to remain in a state of slavery, where you cannot obey the commandments of the Sovereign of the universe. If the ignorance of slavery is a passport to heaven, then it is a blessing, and no curse, and you should rather desire its perpetuity than its abolition. God will not receive slavery, nor ignorance, nor any other state of mind, for love and obedience to him. Your condition does not absolve you from your moral obligation. The diabolical injustice by which your liberties are cloven down, *neither God; nor angels, or just men, command you to suffer for a single moment. Therefore it is your solemn and imperative duty to use every means, both moral, intellectual and physical that promises success*. If a band of heathen men should attempt to enslave a race of Christians, and to place their children under the influence of some false religion, surely, Heaven would frown upon the men who would not resist such aggression, even to death. If, on the other hand, a band of Christians should attempt to enslave a race of heathen men, and to entail slavery upon them, and to keep them in heathenism in the midst of Christianity, the God of heaven would smile upon every effort which the injured might make to disenthral themselves.

Brethren, it is as wrong for your lordly oppressors to keep you in slavery, as it was for the man thief to steal our ancestors from the coast of Africa. You should therefore now use the same manner of resistance, as would have been just in our ancestors, when the bloody footprints of the first remorseless soul-thief was placed upon the shores of our fatherland. The humblest peasant is as free in the sight of God as the proudest monarch that ever swayed a sceptre. Liberty is a spirit sent out from God, and like its great Author, is no respecter of persons.

Brethren, the time has come when you must act for yourselves. It is an old and true saying that, "if hereditary bondmen would be free, they must themselves strike the blow." You can plead your own cause, and do the work of emancipation better than any others. The nations of the old world are moving in the great cause of universal freedom, and some of them at least will, ere long, do you justice. The combined powers of Europe have placed their broad seal of disapprobation upon the African slave-trade. But in the slaveholding parts of the United States, the trade is as brisk as ever. They buy and sell you as though you were brute beasts. The North has done much—her opinion of slavery in the abstract is known. But

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in regard to the South, we adopt the opinion of the New York Evangelist—"We have advanced so far, that the cause apparently waits for a more effectual door to be thrown open than has been yet." We are about to point you to that more effectual door. Look around you, and behold the bosoms of your loving wives heaving with untold agonies! Hear the cries of your poor children! Remember the stripes your fathers bore. Think of the torture and disgrace of your noble mothers. Think of your wretched sisters, loving virtue and purity, as they are driven into concubinage and are exposed to the unbridled lusts of incarnate devils. Think of the undying glory that hangs around the ancient name of Africa:—and forget not that you are native-born American citizens, and as such, you are justly entitled to all the rights that are granted to the freest. Think how many tears you have poured out upon the soil which you have cultivated with unrequited toil and enriched with your blood; and then go to your lordly enslavers and tell them plainly, that you *are determined to be free*. Appeal to their sense of justice, and tell them that they have no more right to oppress you, than you have to enslave them. Entreat them to remove the grievous burdens which they have imposed upon you, and to remunerate you for your labor. Promise them renewed diligence in the cultivation of the soil, if they will render to you an equivalent for your services. Point them to the increase of happiness and prosperity in the British West Indies since the Act of Emancipation. Tell them in language which they cannot misunderstand, of the exceeding sinfulness of slavery, and of a future judgment, and of the righteous retributions of an indignant God. Inform them that all you desire is *freedom*, and that nothing else will suffice. Do this, and for ever after cease to toil for the heartless tyrants, who give you no other reward but stripes and abuse. If they then commence the work of death, they, and not you, will be responsible for the consequences. You had far better all die—*die immediately*, than live slaves, and entail your wretchedness upon your posterity. If you would be free in this generation, here is your only hope. However much you and all of us may desire it, there is not much hope of redemption without the shedding of blood. If you must bleed, let it all come at once—rather *die freemen, than live to be the slaves*. It is impossible, like the children of Israæl, to make a grand exodus from the land of bondage. The Pharaohs are on both sides of the blood-red waters! You cannot move *en masse*, to the dominions of the British Queen—nor can you pass through Florida and overrun Texas, and at last find peace in Mexico. The propagators of American slavery are spending their blood and treasure, that they may plant the black flag in the heart of Mexico and riot in the halls of the Montezumas. In the language of the Rev. Robert Hall, when addressing the volunteers of Bristol, who were rushing forth to repel the invasion of Napoleon, who threatened to lay waste the fair homes of England, "Religion is too much interested in your behalf, not to shed over you her most gracious influences."

You will not be compelled to spend much time in order to become inured to hardships. From the first moment that you breathed the air of heaven, you have been accustomed to nothing else but hardships. The heroes of the American Revolution were never put upon harder fare than a peck of corn and a few herrings per week. You have not become enervated by the luxuries of life. Your sternest energies have been beaten out upon the anvil of severe trial. Slavery has done this to make you subservient to its own purposes; but it has done more than this, it has prepared you for any emergency. If you receive good treatment, it is what you could hardly expect; if you meet with pain, sorrow, and even death, these are the common lot of the slaves.

Fellow-men! patient sufferers! Behold your dearest rights crushed to the earth! See your sons murdered, and your wives, mothers and sisters doomed to prostitution. In the name of the merciful God, and by all that life is worth, let it no longer be a debatable question whether it is better to choose *Liberty or death*.

In 1822, Denmark Veazie, of South Carolina, formed a plan for the liberation of his fellow-men. In the whole history of human efforts to overthrow slavery, a more complicated and tremendous plan was never formed. He was betrayed by the treachery of his own people, and died a martyr to freedom. Many a brave hero fell, but history, faithful to her high trust, will transcribe his name on the same monument with Moses, Hampden, Tell, Bruce and Wallace, Toussaint L'Ouverture, Lafayette and Washington. That tremendous movement shook the whole empire of slavery. The guilty soul thieves were overwhelmed with fear. It is a matter of fact, that at that time, and in consequence of the threatened revolution, the slave States talked strongly of emancipation. But they blew but one blast of the trumpet of freedom, and then laid it aside. As these men became quiet, the slaveholders ceased to talk about emancipation: and now behold your condition today! Angels sigh over it, and humanity has long since exhausted her tears in weeping on your account!

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The patriotic Nathaniel Turner followed Denmark Veazie. He was goaded to desperation by wrong and injustice. By despotism, his name has been recorded on the list of infamy; and future generations will remember him among the noble and brave.

Next arose the immortal Joseph Cinque, the hero of the *Amistad*. He was a native African, and by the help of God he emancipated a whole ship-load of his fellow-men on the high seas. And he now sings of liberty on the sunny hills of Africa and beneath his native palm-trees, where he hears the lion roar and feels himself as free as that king of the forest.

Next arose Madison Washington, that bright star of freedom, and took his station in the constellation of true heroism. He was a slave on board the brig *Creole* of Richmond, bound to New Orleans, that great slave mart, with a hundred and four others. Nineteen struck for liberty or death. But one life was taken, and the whole were emancipated, and the vessel was carried into Nassau, New Providence.

Noble men! Those who have fallen in freedom's conflict, their memories will be cherished by the true-hearted and the God-fearing in all future generations; those who are living, their names are surrounded by a halo of glory.

Brethren, arise, arise! Strike for your lives and liberties. Now is the day and the hour. Let every slave throughout the land do this, and the days of slavery are numbered. You cannot be more oppressed than you have been—you cannot suffer greater cruelties

Glossary

Book of Life	the Bible
British West Indies since the Act of Emancipation	a reference to Great Britain's 1833 Slavery Abolition Act
Children of Israel … Pharaohs	reference to the Old Testament Israelites and their bondage under ancient Egypt
concubinage	the condition of being forced to submit to sexual relations
Denmark Veazie	usually spelled "Vesey"; the leader of a planned slave rebellion in South Carolina in 1822
"ferried o'er the wave"	a quotation from William Cowper's 1785 poem "The Task"
Florida … Mexico	a reference to the disputes that arose over slavery as the nation expanded
Hampton … Washington	John Hampden, a leading opponent of King Charles I, who died of wounds sustained in 1643 in the second year of the English Civil War; William Tell, the legendary marksman, leader of a rebellion against the Hapsburg rulers in the fourteenth century; Robert the Bruce and William Wallace, who fought for Scotland against the English in the fourteenth century; Toussaint-Louverture, who successfully freed Haiti from French rule in the 1790s, outlawed slavery, and established native government; the Marquis de Lafayette, famous for his military role in the American and the French revolutions; George Washington, who led the Continental army to victory and America to independence in 1783
Jehovah	God, a name commonly used in the biblical Old Testament
Liberty or Death	an allusion to Patrick Henry's revolutionary statement, "Give me liberty, or give me death"
Montezumas	Aztec emperors in Mexico
Nathaniel Turner	Nat Turner, the leader of a slave rebellion in Virginia in 1831
Robert Hall	a British Baptist minister of the late eighteenth and early nineteenth centuries

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than you have already. *Rather die freemen than live to be slaves*. Remember that you are *four millions*!

It is in your power so to torment the God-cursed slaveholders, that they will be glad to let you go free. If the scale was turned, and black men were the masters and white men the slaves, every destructive agent and element would be employed to lay the oppressor low. Danger and death would hang over their heads day and night. Yes, the tyrants would meet with plagues more terrible than those of Pharaoh. But you are a patient people. You act as though you were made for the special use of these devils. You act as though your daughters were born to pamper the lusts of your masters and overseers. And worse than all, you tamely submit while your lords tear your wives from your embraces and defile them before your eyes. In the name of God, we ask, are you men? Where is the blood of your fathers? Has it all run out of your veins? Awake, awake; millions of voices are calling you! Your dead fathers speak to you from their graves. Heaven, as with a voice of thunder, calls on you to arise from the dust.

Let your motto be resistance! *resistance! resistance!* No oppressed people have ever secured their liberty without resistance. What kind of resistance you had better make, you must decide by the circumstances that surround you, and according to the suggestion of expediency. Brethren, adieu! Trust in the living God. Labor for the peace of the human race, and remember that you are *four millions*.

Nineteenth-century lithograph showing African Americans picking cotton (Library of Congress)

William Wells Brown's "Slavery As It Is"

1847

"There is no liberty for the American Slave; and yet we hear a great deal about liberty!"

Overview

"Slavery As It Is" was an address presented before the Female Anti-Slavery Society of Salem, Massachusetts, in November 1847. This speech by the African American author and abolitionist William Wells Brown offers an eloquent condemnation of slavery in the antebellum United States. After spending the first two decades of his life in slavery, Brown was particularly qualified to testify to the evils of slavery. The lecture was delivered shortly after the publication of his autobiography, *Narrative of William W. Brown, a Fugitive Slave, Written by Himself*, so the lecture was also part of a promotion for his book. Many of the ideas and some of the passages in the address also appear in his *Narrative*.

Context

The movement for the immediate abolition of slavery in the United States began in the 1830s and gained significant support among the emerging northern middle class, especially in New England and New York. The inception of the immediatism movement is often traced to the publication of William Lloyd Garrison's weekly antislavery newspaper, *The Liberator*, beginning January 1, 1831. The abolition movement was racially integrated and often included female activists. Abolitionists organized reform societies at the national, state, and local levels. Women abolitionists often formed their own auxiliary societies that raised funds for abolition activities and helped fund antislavery newspapers, and the Salem Female Anti-Slavery Society, formed in 1832, was probably among the earliest of these female antislavery groups.

Abolitionists, especially the followers of Garrison, aimed for a peaceful end to slavery. Their main tactic was moral suasion, meaning that they believed that slaveholders could be persuaded to free their slaves once they came to understand that slavery was morally wrong. Other means in the movement included lecturing on the evils of slavery, publishing newspapers and pamphlets, and petitioning the legislature to end slavery in Washington, D.C., which was controlled by Congress. Radical followers of Garrison also rejected political participation, because they saw the U.S. Constitution as a proslavery document. They objected to the established Protestant denominations' failure to condemn slavery, and so they urged followers to avoid attending church services. More so than other factions of the antislavery movement, Garrisonians supported an active role for women and men together in their organizations. This approach put them in a minority position even among abolitionists, but their tactics gained much attention, and sometimes they came under verbal or even physical attack for their outspoken beliefs.

William Wells Brown belonged to various antislavery societies in New York and New England and acted as a lecturing agent for the Garrisonian American Anti-Slavery Society at midcentury. Once he moved to Boston with his children, he became actively tied to the Garrisonians. As an African American and former slave, Brown held a special place in the abolitionist movement. Like the more famous Frederick Douglass, he was able to offer a firsthand account of life in slavery. His lectures frequently drew a large crowd of abolitionists and those curious to see a fugitive slave firsthand. In 1847 he published his autobiography, *Narrative of William W. Brown, a Fugitive Slave, Written by Himself*, in which can be found many of the ideas put forth in the lecture he delivered that year to the Female Anti-Slavery Society of Salem, Massachusetts.

About the Author

The African American reformer and author William Wells Brown was born enslaved on a plantation near Lexington, Kentucky, in March 1815. His mother was a slave, and his father was George Harris, a white man believed to have been the half brother of his slave master, John Young. During his youth, Brown's master moved to the area near Saint Louis, Missouri, where the young slave was often hired out as a servant or a waiter on steamships, spending a year in the employ of a New Orleans slave trader. In 1833 Brown made his first attempt to escape slavery, crossing into Illinois with his mother, but the pair were caught after only ten days of freedom. His mother was subsequently sold to a steamship owner. Brown passed through several owners and eventually became the property

Time Line

1815

■ **March**
William, later known as William Wells Brown, is born on a plantation near Lexington, Kentucky.

1833

■ William and his mother attempt to escape slavery but are caught ten days after leaving the plantation.

1834

■ **January 1**
William escapes from a steamship, after which he blends into the black community of Cincinnati, Ohio, and changes his name to William Wells Brown.

1847

■ Brown's autobiography, *Narrative of William W. Brown, a Fugitive Slave, Written by Himself* is published in Boston.

■ **November 14**
Brown addresses the Salem Female Anti-Slavery Society in Salem, Massachusetts, in a lecture titled "Slavery As It Is."

1848

■ Brown's last slave master, Enoch Price, offers Wells his freedom in exchange for $325, but Brown refuses to pay.

1849

■ Traveling to Europe to avoid returning to slavery, Brown serves as a delegate to the International Peace Conference held in Paris and then remains in Europe for the next five years.

1854

■ Brown publishes *Clotel; or, The President's Daughter*, the first novel by an African American.

1855

■ A year after European associates help Brown purchase his freedom, he returns to the United States as a free man.

1884

■ **November 6**
Brown dies at his home, after three decades of freedom in which he published numerous plays, travel narratives, and works of history.

of a man named Enoch Price. He made a second, successful escape on January 1, 1834, when he walked off a steamship in Cincinnati, Ohio. He added "Wells Brown" to his given name in honor of the Quaker man who aided his escape.

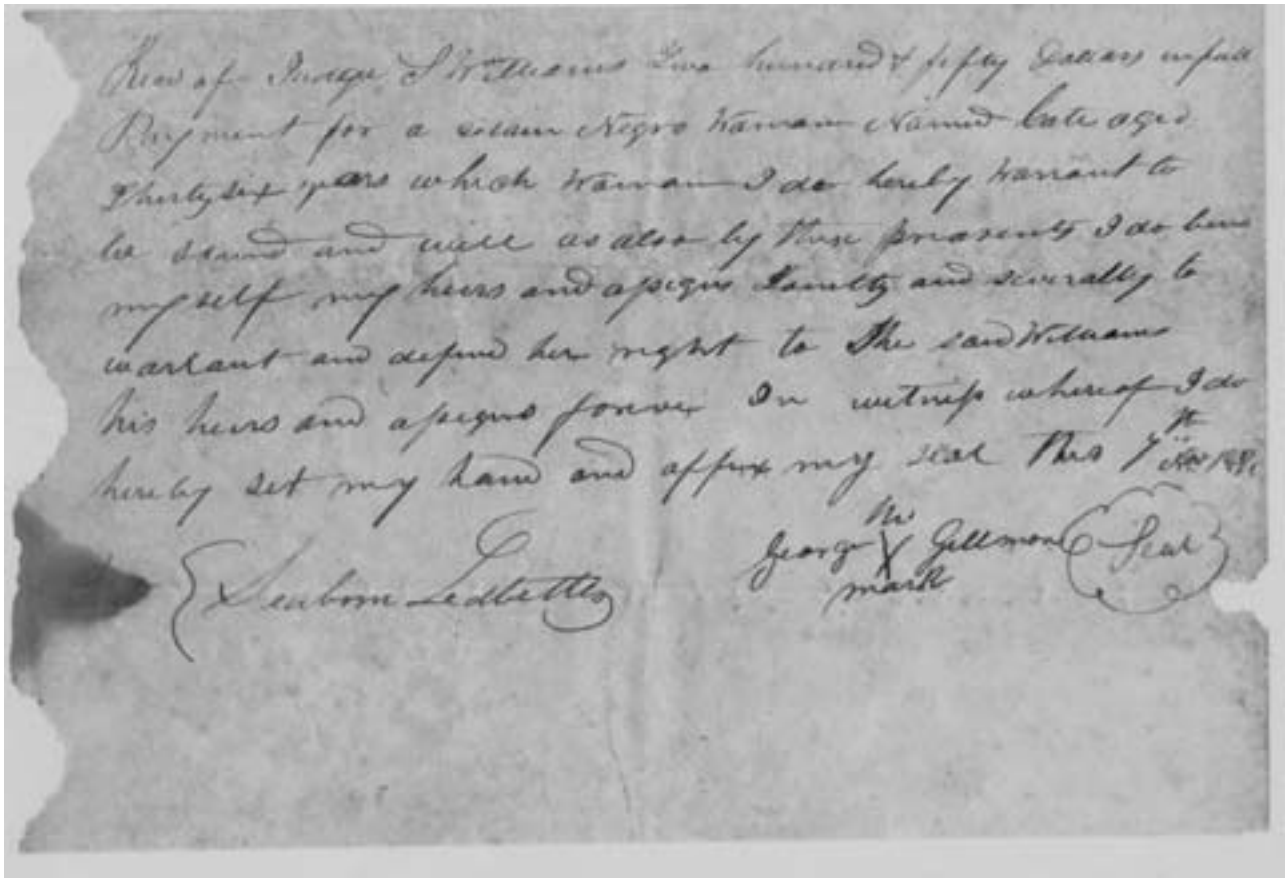
Brown settled in Cleveland, Ohio, where he obtained employment as a steward on a Lake Erie–based steamship. He married Elizabeth Schooner in 1834 and moved to Buffalo, New York, two years later. There Brown was active in aiding fugitives on the Underground Railroad and became a leader in the local temperance reform movement, helping to form the Union Total Abstinence Society. He joined the Western New York Anti-Slavery Society and began lecturing against slavery and in support of black civil rights. His commitment to William Lloyd Garrison's brand of radical abolitionism grew stronger when Brown moved to Boston with his daughters, apparently having become estranged from his wife. He acted as a lecturing agent, speaking often before groups such as the Salem Female Anti-Slavery Society. In 1847 he published his autobiography, *Narrative of William W. Brown, a Fugitive Slave, Written by Himself*, to positive critical response. The following year a collection of antislavery songs, *The Anti-Slavery Harp: A Collection of Songs for Anti-Slavery Meetings*, appeared. Thereafter, Brown's reputation as an author became firmly established.

In 1848, following his successfully distributed autobiography, Brown's last slave master offered Brown his freedom in exchange for $325. After widely publicizing the offer in his lectures, Brown refused to pay. Instead, to maintain his freedom, Brown accepted an offer to join an antislavery and reform lecture tour of Europe and embarked to Great Britain in 1849. He spent several years abroad, where he lectured on American slavery and contributed frequent letters to the British press. During his time abroad, Brown continued to write, in 1853 publishing *Three Years in Europe*, the first travel memoir by an African American, and in 1854 the first novel by a black American, *Clotel; or, The President's Daughter*. The novel offered a daring fictional account of the relationship between Thomas Jefferson and his slave Sally Hemings. In the same year that the novel appeared, friends in the reform community purchased his freedom, and Brown returned to the United States a free man in 1855.

In subsequent years Brown continued to write, publishing plays and updating both his autobiography and his travel narrative. He studied medicine on his own and began a limited medical practice in the 1860s. Brown also published several volumes of history, including *The Black Man, His Antecedents, His Genius, and His Achievements* (1863) and *The Negro in the America Rebellion* (1867). He died in Boston on November 6, 1884.

Explanation and Analysis of the Document

Brown's address was delivered before an audience of women and men gathered at the Salem, Massachusetts, Lyceum Hall. The audience was made up primarily of abolitionists and antislavery sympathizers.



Receipt for $250 as payment for Negro man, January 20, 1840 (Library of Congress)

♦ "My Subject for This Evening Is Slavery as It Is"

Brown's address begins with an apology, pointing to the obvious educational disparity between himself and the audience. Most abolitionists were drawn from the emerging middle class and had benefit of formal education, possibly including college. Brown explains that his speech could be lacking in polish and grammatical style because he had no real education before age twenty-one, having spent the first two decades of his life in slavery. He tells the audience in his opening that he is offering the address because he owes a duty to the three million African Americans who remain in slavery. (His estimate of the number of slaves in 1847 was fairly accurate. When the 1850 census was calculated, enumerators counted 3,204,313 slaves in the United States.) Brown's intent is to offer the audience a narrative of slavery as it existed in the southern states, based on his personal experience.

Brown follows with an explanation of the legal position of slaves as chattel: "He is a piece of property in the hands of a master, as much as is the horse that belongs to the individual that may ride him through your streets tomorrow." Throughout the southern states, enslaved men, women, and children were considered personal property that could be bought and sold. Deeds conferring ownership were recorded in property record books alongside the sales of real estate. Slaves also appeared in wills and estate property listings, categorized along with farm animals, horses, and furniture.

Brown had experienced slavery firsthand, and he tells the audience that it is a dehumanizing institution that tears apart families. As cotton cultivation became more important after 1800, slavery had shifted southward and westward in an interstate slave trade that separated husbands from wives and mothers from children. States in the Upper South, such as Virginia and Brown's native Kentucky, made the transition from labor-intensive crops such as tobacco to less-demanding grains, resulting in a surplus of enslaved workers. The historian Robert William Fogel has estimated that between 1790 and 1860 approximately 835,000 slaves were moved into the expanding cotton states. Many Upper South slave owners sold their slaves to plantation owners in the expanding Deep South states, such as Mississippi, Alabama, and Texas. Although some slave owners were careful to keep families together, many others had few qualms about splitting up families and communities so long as they earned a profit.

If slaves' being sold away from family and friends were not enough to horrify Brown's audience, he continues by outlining the punitive nature of slavery. He describes the methods slave society uses to keep control: "its blood-hounds,

Essential Quotes

"The system of Slavery, that I, in part, represent here this evening, is a system that strikes at the foundation of society, that strikes at the foundation of civil and political institutions. It is a system that takes man down from that lofty position which his God designed that he should occupy; that drags him down, places him upon a level with the beasts of the field, and there keeps him, that it may rob him of his liberty."

("My Subject for This Evening Is Slavery as It Is")

"There is no liberty here for me; there is no liberty for those with whom I am associated; there is no liberty for the American Slave; and yet we hear a great deal about liberty!"

("What is Democracy?")

"In conclusion let me say, that the character of the American people and the influence of Slavery upon that character have been blighting and withering the efforts of all those that favor liberty, reform, and progression."

("What Is Democracy?")

"Recollect that you have come here to-night to hear a Slave, and not a man, according to the laws of the land; and if the Slave has failed to interest you, charge it not to the race, charge it not to the colored people, but charge it to the blighting influences of Slavery."

("The Tree of Liberty")

its chains, its negrowhips, its dungeons, and almost every instrument of cruelty that the human eye can look at." To prevent resistance on the part of slaves, which could take the form of running away, passively refusing to work, or fighting back, southern states had enacted a series of slave codes, laws that restricted slaves' movements and authorized slave patrols to monitor their behavior. The oppressive system was largely effective in keeping slaves in bondage.

Brown next compares American acceptance of slavery with the experience of the German youth Kaspar Hauser (spelled "Caspar" in the document). In 1828, Hauser had appeared in a German city claiming he had been imprisoned in a dark cell for his entire life. His sensational and mysterious story gained international attention and outrage over his prolonged captivity, and it prompted a German law that made "murder of the soul" a crime. Brown and other abolitionists often invoked Hauser's experience and the German reaction to that singular event to declare U.S. slaveholders as murderers of the souls of the millions enslaved. He notes that some twenty thousand escaped slaves, he himself among them, are helping to raise awareness but that collectively they had failed to make an impact equivalent to Hauser's on American public opinion.

Brown's temper flares as he references the general apathy of Americans toward the evils of slavery. In his autobiography, Brown had described numerous examples of the cruelty slaves faced on a daily basis. Among his recollections was witnessing a plantation overseer, Grove Cook, beat his mother severely for being fifteen minutes late for

work in the field. Following a failed escape attempt in 1833, Brown's mother, Elizabeth, was jailed and then sold to the New Orleans slave market. She fell victim along with numerous slaves who were separated from family and friends as slavery shifted to the Deep South and West.

♦ "The Influence of Slavery upon the Morals of the People"

Speaking before a sympathetic antislavery audience, Brown declares that slaves received no physical protection from bodily harm or murder by whites under southern law. While he was generally correct that the imbalance of power left slaves vulnerable under the law, most southern states had enacted statutes criminalizing the murder of enslaved persons. Across the South, slaveholders theoretically could be held responsible for the death of a slave, and in 1851 the Virginia Supreme Court upheld one conviction of a slaveholder for murdering a slave. Sexual predation by slave masters of enslaved women, however, was rarely if ever punished under the law, and the rape of African American women was common. Brown compares the inability of black men to protect their daughters with the example of the Roman Virginius. In the seventeenth-century play *Appius and Virginia*, by John Webster, Virginius kills his daughter Virginia to protect her virtue from the Roman politician Appius Claudius. Brown mourns the fact that slaves are unable similarly to protect their women from violation. Like Virginius, slaves' lack of protection could lead them to desperate strategies.

Brown next turns to the effect of slavery on moral and social institutions in the United States. He argues that "so far as the people of the North are connected with Slaveholding, they necessarily become contaminated by the evils that follow in the train of Slavery." Likely this reference is to the business connections between northerners and slavery. The growing textile industry of New England was fed by the cotton plantations of the South, and most of the merchants who shipped crops grown by slave labor to Europe and beyond were northerners. He points out the moral flaw that exists in the failure of the South to legally recognize slave marriages, and he deplores the connection of slavery and churches, including slave ownership by the clergy.

Brown then offers his audience evidence of the evils of slavery and its demoralizing influence on southern society by demonstrating advertisements and articles in the southern press that promote such violent pastimes as cockfighting, bullbaiting, and dogfighting. These activities are evidence of the moral contamination of the southern population, says Brown. Other advertisements offer slaves for sale to benefit churches, missionary activities, and a theological seminary.

This discussion of the advertisements leads Brown toward a more general conversation on the link between slavery and established Protestant denominations. He notes that in the early years of the United States, the Methodists, Presbyterians, and other denominations condemned slavery, but after 1830 this attitude changed, until most churches in the South openly supported the institution. Southern clergy and most major denominations came to embrace the proslavery argument that slavery had a positive value and that enslavement was the rightful place for African Americans. Slaveholders and slaves often attended the same churches; likewise, slaveholders sometimes paid white ministers to preach to their slaves. The growing complicity with slaveholders in the South of Protestant denominations such as the Methodists, Presbyterians, and Baptists resulted in a schism between North and South, as northern ministers removed their support for proslavery elements within their denominations. Because he was a Garrisonian abolitionist, Brown found the connection between the churches and slavery to be particularly important and offensive. Followers of William Lloyd Garrison rejected organized religion because the major Protestant denominations had a presence in the South and because some ministers there openly supported slavery. They also felt that northern churches failed to take a strong stand against the evils of slavery and urged men and women to leave those churches.

Brown next considers the influences of slavery on those living in the North. In the 1840s northerners formed numerous benevolent associations and reform societies, many of which were connected with Christian churches, but here Brown condemns northern institutions and societies for their failure to fight openly against slavery. He attacks the American Bible Society, founded in 1816 to distribute Bibles to underprovided populations around the world, for ignoring enslaved southerners. Other organizations aimed at distributing Bibles also failed to send them to the South. Brown fails to mention, however, that in most southern states it was illegal to teach slaves to read, which likely figured in the organizations' decisions to exclude the enslaved population from Bible distribution. Another important reform organization with which Brown takes issue is the American Tract Society, formed in 1825 to deliver Christian-oriented reform and especially temperance pamphlets to Americans. Like other moral-reform organizations, the American Tract Society did not extend its distribution to the southern states, and never, says Brown, had it "published a single line against the sin of slaveholding."

Brown continues his condemnation of the complicity of northerners and the government in the continuance of slavery by describing newspaper and other accounts of slaves sold in the South for the direct financial benefit of northern merchants. He holds special disdain for a slave auction scheduled on December 22, a date (says Brown) that coincides with the anniversary of the Pilgrims' landing in the New World. (This statement is actually in error. Although the religious separatists known familiarly as Pilgrims did move to Plymouth at some time in December 1620, historical accounts vary on the exact date; in any case, the Pilgrims landed first at Cape Cod, Massachusetts, in November 1620.)

♦ "What Is Democracy?"

If northerners benefit financially from southern slavery, Brown finds even more blame in the federal government's willingness to allow the institution. He contrasts the values behind the American Revolution, fought "for the purpose of instituting a democratic, republican government" and the aim of gaining liberty from Great Britain, with the new nation's acceptance of slavery. He asks his audience to consider the meaning of democracy and invokes the example

of the Athenian statesman Solon, who fought for democratic reform on behalf of the individual citizen injured by a corrupt political system. Brown juxtaposes Solon's virtue with the assertion by South Carolina's governor Stephen D. Miller that slavery is crucial because of its national benefit. Brown argues that democracy requires liberty and freedom for every individual in the United States and that without an end to slavery the nation cannot be fully democratic. Brown also suggests that there is an inherent contradiction in the ubiquitous annual orations and celebrations on the Fourth of July while slavery continues to exist and receive government sanction—a theme that was also taken up in 1852 by Frederick Douglass in his speech "What to the Slave Is the Fourth of July?"

Other nations in the world must view the U.S. sanction of slavery with disdain, Brown declares; the nation cannot criticize other nations for mistreatment of their citizens while slavery exists within U.S. borders. He gives as an example the hypocrisy of American criticism of Russian serfdom under Czar Nicholas I, arguing that the United States cannot credibly disparage the plight and treatment of the serfs while enslaving millions of African Americans. After passage of the Fugitive Slave Act of 1793, which required northerners to return runaway slaves to their owners, slaves had no hope anywhere in the United States, and Brown reminds his audience that those who escape slavery could only run north to Canada, where slavery did not exist. To achieve freedom, they are forced to leave families and homes forever. Brown scorns the common symbols called "liberty-poles" (tall posts set in the ground and sometimes bearing a flag, which had been a symbol of freedom and liberty since the Revolutionary era) as being meaningless, in light of the nation's constitutional endorsement of slavery.

"I ask you to look at the efforts of other countries" that have ended slavery, says Brown, noting again that in order to experience real freedom and enjoy civil rights, African Americans have to leave the United States. He singles out England for praise: Great Britain had abolished slavery in its West Indies colonies in 1834. Under pressure from Great Britain, the bey of Tunis emancipated that state's slaves in 1846, declaring that all slaves who reached its shores would be considered forever free. Brown proclaims that the American people are therefore behind the nations of the Old World, including "those who are … almost living in the dark ages." He quotes a stanza from the poem "Expostulation" by the American abolitionist John Greenleaf Whittier, expressing a similar sentiment about the backward position of the United States on freedom and liberty, and he follows his commentary on the Whittier poem with more poetry, offering lines from the Scottish reformer and poet Thomas Campbell, whose "Epigram to the United States of North America" points out the stark contradiction between slavery and democracy.

♦ "The Tree of Liberty"

As he moves into the closing portion of his speech, Brown praises the antislavery movement for having adopted principles that he believes are capable of redeeming the nation's character. He singles out William Lloyd Garrison as the catalyst of the movement demanding the immediate, complete, and uncompensated end to slavery. Garrison has "planted the tree of Liberty," says Brown, referring to the publication of Garrison's weekly newspaper, *The Liberator*, begun in 1831. At the time of Brown's address, Garrison and his movement for immediate emancipation had been active for fifteen years. Continuing the metaphor about the tree of liberty, Brown quotes a verse from a popular antislavery political song, "The Liberty Party."

Brown then returns to his condemnation of the government sanction of slavery in America. At the time of this address, the United States was engaged in a war with Mexico (1846–1848), a war that abolitionists believed was rooted in the desire to add additional territory, and especially slave states, to the nation. The popular conception of Manifest Destiny, that the United States was ordained by God to stretch to the Pacific Ocean, partly fueled the expansion drive. Brown maintains that slavery's expansion undermines respect for the democratic institutions of the United States in the eyes of the nation and Europe. He describes the incongruous existence of slavery and open slave auctions in the capital of an ostensibly democratic nation. (Abolishing slavery in Washington, D.C., which was controlled by Congress, had long been a goal of immediate abolitionists.) With its location near the Upper South states of Virginia and Maryland, Washington was on the route of many slave traders, and so, says Brown, in addition to open auctions, "you can scarcely stand an hour but you will see caufles of Slaves driven past the Capitol"—that is, groups of slaves bound together with chains, moving through the city on their way to plantations in the Deep South. Foreign visitors to the capital would be confronted by the embarrassing reality of U.S. slavery.

Brown's conclusion returns to his personal experiences in slavery. His description of slave auctions pulls at the sympathy of his audience, as he describes an auction in which a young woman fetches a high price once the bidder was assured of her piety. He notes that the United States has a million women in bondage and says that "as long as a single woman is in Slavery, every woman in the community should raise her voice against that sin," aiming this remark directly at the members of the Salem Female Anti-Slavery Society in the audience. Brown again makes the humble disclaimer that his poor grammar is the result of his lack of education and his condition as a slave. However, his eloquent intellectual address must have left his audience realizing they were in the presence of a singular man of letters, his lack of formal education notwithstanding.

Audience

Brown delivered this address in Massachusetts to the Salem Female Anti-Slavery Society, an organization of women abolitionists drawn from Salem's black elite. The men and women in attendance there on the evening of November 14, 1847, were the first to hear the speech, but the primary audience for Brown's oration was the northern abolition-

ist community: The speech was subsequently published in pamphlet form by the Massachusetts Anti-Slavery Society and widely distributed in abolitionist circles. These pamphlets, and likely Brown's speaking tour, were also meant to attract readers and sales for his autobiography, *Narrative of William W. Brown, a Fugitive Slave, Written by Himself*, which was also published in 1847 by the American Anti-Slavery Society's Boston printing office.

Impact

Brown's speech was delivered before a small audience, but as a fine example of antislavery propaganda the speech was reported extensively in newspapers throughout New England and in the antislavery press of western New York and Ohio. In pamphlet form, the text was widely distributed throughout abolitionist communities, so that his words ultimately had a far-reaching influence across the North. The address, along with his autobiography, helped Brown gain credibility in the U.S. abolitionist community and among reformers in Europe. The address was a first step toward promoting his autobiography and increasing readership for that volume and Brown's publications that followed, which established his literary reputation. Moreover, the Salem women's group was associated with William Lloyd Garrison and his circle of reformers in the Boston area: Garrison's abolitionist newspaper, *The Liberator,* was the beneficiary of funds raised in Salem by society-sponsored talks such as Brown's.

See also Fugitive Slave Act of 1793; William Lloyd Garrison's First *Liberator* Editorial (1831); Frederick Douglass's "What to the Slave Is the Fourth of July?" (1852).

Further Reading

■ Books

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■ Web Sites

"William Wells Brown, 1814?–1884." Documenting the American South Web site.
http://docsouth.unc.edu/fpn/brownw/bio.html.

—L. Diane Barnes

Questions for Further Study

1. Describe the role that women played in the abolitionist movement.

2. Compare this document with other documents opposing slavery, such as Frederick Douglass's "What to the Slave Is the Fourth of July?" (1852). How are the documents similar and different in tone and in the nature of the arguments the writers use?

3. One of the links between North and South in the antebellum years was cotton. How did the cotton industry contribute to tacit approval of southern slavery in the North?

4. At the beginning and end of his speech, Brown apologizes to his audience for his comparative lack of education. Do you believe that this was just a rhetorical ploy to gain the sympathy of his audience? What evidence from the speech suggests that Brown was more educated that he suggests?

5. This speech was printed as a pamphlet and distributed in abolitionist circles. To what extent do you believe that a document like this was a case of "preaching to the choir"—that is, to people who already agree with the writer? How much of an impact do you believe a document such as this would have had on those who were not abolitionists?

William Wells Brown's "Slavery As It Is"

Mr. Chairman, and Ladies and Gentlemen:— In coming before you this evening to speak upon this all important, this great and commanding subject of freedom, I do not appear without considerable embarrassment; nor am I embarrassed without a cause. I find myself standing before an audience whose opportunities for education may well be said to be without limit. I can scarcely walk through a street in your city, or through a city or a town in New England, but I see your common schools, your high schools, and your colleges. And when I recollect that but a few years since, I was upon a Southern plantation, that I was a Slave, a chattel, a thing, a piece of property,—when I recollect that at the age of twenty-one years I was entirely without education, this, every one will agree, is enough to embarrass me. But I do not come here for the purpose of making a grammatical speech, nor for the purpose of making a speech that shall receive the applause of my hearers. I did not accept the invitation to lecture before this association, with the expectation or the hope that I should be able to present anything new. I accepted the invitation because I felt that I owed a duty to the cause of humanity; I felt that I owed a duty to three millions of my brethren and sisters, with some of whom I am identified by the dearest ties of nature, and with most of whom I am identified by the scars which I carry upon my back. This, and this alone, induced me to accept the invitation to lecture here.

My subject for this evening is Slavery as it is, and its influence upon the morals and character of the American people.

I may try to represent to you Slavery as it is; another may follow me and try to represent the condition of the Slave; we may all represent it as we think it is; and yet we shall all fail to represent the real condition of the Slave. Your fastidiousness would not allow me to do it; and if it would, I, for one, should not be willing to do it;—at least to an audience. Were I about to tell you the evils of Slavery, to represent to you the Slave in his lowest degradation, I should wish to take you, one at a time, and whisper it to you.

Slavery has never been represented; Slavery never can be represented. What is a Slave? A Slave is one that is in the power of an owner. He is a chattel; he is a thing; he is a piece of property. A master can dispose of him, can dispose of his labor, can dispose of his wife, can dispose of his offspring, can dispose of everything that belongs to the Slave, and the Slave shall have no right to speak; he shall have nothing to say. The Slave cannot speak for himself; he cannot speak for his wife, or his children. He is a thing. He is a piece of property in the hands of a master, as much as is the horse that belongs to the individual that may ride him through your streets to-morrow. Where we find one man holding an unlimited power over another, I ask, what can we expect to find his condition? Give one man power *ad infinitum* over another, and he will abuse that power; no matter if there be no law; no matter if there be public sentiment in favor of the oppressed.

The system of Slavery, that I, in part, represent here this evening, is a system that strikes at the foundation of society, that strikes at the foundation of civil and political institutions. It is a system that takes man down from that lofty position which his God designed that he should occupy; that drags him down, places him upon a level with the beasts of the field, and there keeps him, that it may rob him of his liberty. Slavery is a system that tears the husband from the wife, and the wife from the husband; that tears the child from the mother, and the sister from the brother; that tears asunder the tenderest ties of nature. Slavery is a system that has its blood-hounds, its chains, its negrowhips, its dungeons, and almost every instrument of cruelty that the human eye can look at; and all this for the purpose of keeping the Slave in subjection; all this for the purpose of obliterating the mind, of crushing the intellect, and of annihilating the soul.

I have read somewhere of an individual named Caspar Hauser, who made his appearance in Germany some time since, and represented that he had made his escape from certain persons who had been trying to obliterate his mind, and to annihilate his intellect. The representation of that single individual raised such an excitement in Germany, that lawmakers took it in hand, examined it, and made a law covering that particular case and all cases that should occur of that kind; and they denominated it the "murder of the soul." Now, I ask, what is Slavery doing in one half of the States of this Union, at the present time? The souls of three millions of American citi-

Document Text

zens are being murdered every day, under the blighting influence of American Slavery. Twenty thousand have made their escape from the prison-house; some have taken refuge in the Canadas, and others are lurking behind the stumps in the Slave-States. They are telling their tales, and representing that Slavery is not only trying to murder their souls, but the souls of three million of their countrymen at the present day; and the excitement that one individual raised in monarchical Germany, three millions have failed to raise in democratic, Christian, republican America!

I ask, is not this a system that we should examine? Ought we not to look at it? Ought we not to see what the cause is that keeps the people asleep upon the great subject of American Slavery? When I get to talking about Slavery as it is,—when I think of the three millions that are in chains at the present time, I am carried back to the days when I was a Slave upon a Southern plantation; I am carried back to the time when I saw dear relatives, with whom I am identified by the tenderest ties of nature, abused and ill-treated. I am carried back to the time when I saw hundreds of Slaves driven from the Slave-growing to the Slave-consuming States. When I begin to talk of Slavery, the sighs and the groans of three millions of my countrymen come to me upon the wings of every wind; and it causes me to feel sad, even when I think I am making a successful effort in representing the condition of the Slave.

What is the protection from the masters which Slaves receive? Some say, law; others, public sentiment. But, I ask, Where is the law; where is the public sentiment? If it is there, it is not effectual; it will not protect the Slave. Has the case ever occurred where the Slaveholder has been sent to the State's Prison, or anything of the kind, for ill-treating, or for murdering a Slave? No such case is upon record; and it is because the Slave receives no protection and can expect no protection from the hands of the master. What has the brother not done, upon the Slave-plantation, for the purpose of protecting the chastity of a dearly beloved sister? What has the father not done to protect the chastity of his daughter? What has the husband not done to protect his wife from the hands of the tyrant? They have committed murders. The mother has taken the life of her child, to preserve that child from the hands of the Slave-trader. The brother has taken the life of his sister, to protect her chastity. As the noble Virginius seized the dagger, and thrust it to the heart of the gentle Virginia, to save her from the hands of Appius Claudius of Rome, so has the father seized the deadly knife, and taken the life of his daughter, to save her from the hands of the master or the Negro-driver. And yet we are told that the Slave is protected; that there is law and public sentiment! It is all a dead letter to the Slave.

But why stand here and try to represent the condition of the Slave? My whole subject must necessarily represent his condition, and I will therefore pass to the second part,—the influence of Slavery upon the morals of the people; not only upon the morals of the Slave-holding South, or of the Slave, but upon the morals of the people of the United States of America. I am not willing to draw a line between the people of the North and the people of South. So far as the people of the North are connected with Slaveholding, they necessarily become contaminated by the evils that follow in the train of Slavery.

Let me look at the influence which Slavery has over the morals of the people of the South. Three millions of Slaves unprotected! A million females that have no right to marriage! Among the three millions of Slaves upon the Southern plantations, not a single lawful marriage can be found! They are out of the pale of the law. They are herded together, so far as the law is concerned, as so many beasts of burden are in the free States.

Talk about the influence of Slavery upon the morals of the people, when the Slave is sold in the Slaveholding States for the benefit of the church? when he is sold for the purpose of building churches? when he is sold for the benefit of the minister?

I have before me a few advertisements, taken from public journals and papers, published in the Slaveholding States of this Union. I have one or two that I will read to the audience for I am satisfied that no evidence is so effectual for the purpose of convincing the people of the North of the great evils of Slavery as is the evidence of Slaveholders themselves. I do not present to you the assertion of the North; I do not bring before you the advertisement of the Abolitionists, or my own assertion; but I bring before you the testimony of the Slaveholders themselves,—and by their own testimony must they stand or fall.

The first is an advertisement from the columns of the New Orleans Picayune, one of the most reputable papers published in the State of Louisiana, and I may say one of the most reputable papers published South of Mason and Dixon's line. If you take up the Boston Courier, or any other reputable paper, you will probably find in it an extract from the New Orleans Picayune, whose editor is at the present time in Mexico, where our people are cutting the throats of their neighbors.

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"Cock-Pit.—*Benefit of Fire Company No. 1, Layfayette*.—A cock-fight will take place on Sunday, the 17th inst., at the well-known house of the subscriber. As the entire proceeds are for the benefit of the Fire Company, a full attendance is respectfully solicited. Adam Israng.

Corner of Josephine and Tchoupitolas Streets, Lafayette." [N. O. Pic. of Sunday, Dec. 17.]

"Turkey Shooting.—This day, Dec. 17, from 10 o'clock, A.M., until 6 o'clock, P.M., and the following Sundays, at M'Donoughville, opposite the Second Municipality Ferry." [From the same paper.]

The next is an advertisement from the New Orleans Bee, an equally popular paper.

"A Bull Fight, between a ferocious bull and a number of dogs, will take place on Sunday next, at 4¼ o'clock, P.M., on the other side of the river, at Algiers, opposite Canal Street. After the bull fight, a fight will take place between a bear and some dogs. The whole to conclude by a combat between an ass and several dogs.

Amateurs bringing dogs to participate in the fight will be admitted gratis. Admittance-Boxes, 50 cts.; Pit, 30 cts. The spectacle will be repeated every Sunday, weather permitting. Pepe Llulla."

Now these are not strange advertisements to be found in a Southern journal. They only show what Slavery has been doing there to contaminate the morals of the people. Such advertisements can be found in numbers of the public journals that are published in the Slave-holding States of this Union. You would not find such an advertisement in a Boston or a Salem paper. Scarcely a paper in New England would admit such an advertisement; and why? Because you are not so closely connected with Slavery; you are not so much under its blighting influences as are the Slave-owners in the Slave-holding States of the Union.

I have another advertisement, taken from a Charleston paper, advertising the property of a deceased Doctor of Divinity, probably one of the most popular men of his denomination that ever resided in the United States of America. In that advertisement it says, that among the property are "twenty-seven Negroes, two mules, one horse, and an old wagon." That is the property of a Slave-holding Doctor of Divinity! [Dr. Furman, of South Carolina]

I have another advertisement before me, taken from an Alabama paper, in which eight Slaves are advertised to be sold for the benefit of an Old School Theological Seminary for the purpose of making ministers. I have another, where ten Slaves are advertised to be sold for the benefit of Christ Church Parish. I have another, where four slaves are advertised to be sold for the benefit of the Missionary cause,—a very benevolent cause indeed. I might go on and present to you advertisement after advertisement representing the system of American Slavery, and its contaminating influence upon the morals of the people. I have an account, very recent, that a Slave-trader,—one of the meanest and most degrading positions in which a man can be found upon the God's footstool,—buying and selling the bodies and souls of his fellow-countrymen, has joined the church, and was, probably, hopefully converted. It is only an evidence that when Wickedness, with a purse of gold, knocks at the door of Church, she seldom, if ever, is refused admission.

This is not the case here; for, some forty years since, the Church was found repudiating Slavery; she was found condemning Slavery as man-stealing; and a sin of the deepest dye. The Methodists, Presbyterians, and other denominations, and some of the first men in the country, bore their testimony against it. But Slavery has gone into all the ramifications of society; it has taken root in almost every part of society, and now Slavery is popular. Slavery has become popular, because it has power.

Speak of the blighting influence of Slavery upon the morals of the people? Go into the Slaveholding States, and there you can see the master going into the church, on the Sabbath, with his Slave following him into the church, and waiting upon him,—both belonging to the same church. And the day following, the master puts his Slave upon the auction-stand, and sells him to the highest bidder. The Church does not condemn him; the law does not condemn him; public sentiment does not condemn him; but the Slaveholder walks through the community as much respected after he has sold a brother belonging to the same church with himself, as if he had not committed an offense against God.

Go into the Slaveholding States, and to-morrow you may see families of Slaves driven to the auction-stand, to be sold to the highest bidder; the husband to be sold in presence of the wife, the wife in presence of the husband, and the children in presence of them both. All this is done under the sanction of law and order; all is done under the sanction of public sentiment, whether that public sentiment be found in Church or in State.

Leaving the Slaveholding States, let me ask what is the influence that Slavery has over the minds of the Northern people? What is its contaminating influence over the great mass of the people of the North?

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It must have an influence, either good or bad. People of the North, being connected with the Slaveholding States, must necessarily become contaminated. Look all around, and you see benevolent associations formed for the purpose of carrying out the principles of Christianity; but what have they been doing for Humanity? What have they ever done for the Slave?

First, we see the great American Bible Society. It is sending bibles all over the world for the purpose of converting the heathen. Its agents are to be found in almost every country and climate. Yet three millions of Slaves have never received a single bible from the American Bible Society. A few years since, the American Anti-Slavery Society offered to the American Bible Society a donation of $5,000 if they would send bibles to the Slaves, or make an effort to do it, and the American Bible Society refused even to *attempt* to send the bible to the Slaves!

A Bible Society, auxiliary to the American Bible Society, held a meeting a short time since, at Cincinnati, in the State of Ohio. One of its members brought forward a resolution that the Society should do its best to put the bible into the hands of every poor person in the country. As soon as that was disposed of, another member brought forward a resolution that the Society should do its best to put the bible into the hands of every Slave in the country. That subject was discussed for two days, and at the end of that time they threw the resolution under the table, virtually resolving that they would not make an attempt to send bibles to the Slaves.

Leaving the American Bible Society, the next is the American Tract Society. What have you to say against the American Tract Society? you may ask. I have nothing to say against any association that is formed for a benevolent purpose, if it will only carry out the purpose for which it was formed. Has the American Tract Society ever published a single line against the sin of slaveholding? You have all, probably, read tracts treating against licentiousness, against intemperance, against gambling, against Sabbath-breaking, against dancing, against almost every sin that you can think of; but not a single syllable has ever been published by the American Tract Society against the sin of Slaveholding. Only a short time since they offered a reward of $500 for the best treatise against the sin of dancing. A gentleman wrote the treatise, they awarded him the $500, and the tract is now in the course of publication, if it is not already published. Go into a nice room, with fine music, and good company, and they will publish a tract against your dancing; while three millions are dancing every day at the end of the master's cowhide, and they cannot notice it! Oh, no; it is too small fry for them! They cannot touch that, but they can spend their money in publishing tracts against your dancing here at the North, while the Slave at the South may dance until he dances into his grave, and they care nothing about him.

A friend of mine, residing at Amsterdam, N.Y., who had been accustomed every year to make a donation to the American Tract Society and Bible Societies, some two years since said to the Agent when he was called upon, "I will not give you anything now, but tell the Board at New York that if they will publish a tract against the sin of Slaveholding, they may draw on me for $50."

The individual's name is Ellis Clisby, a member of the Presbyterian church, and a more reputable individual than he cannot be found. The next year when the Agent called upon him, he asked where was the tract. Said the Agent, "I laid it before the Committee and they said they dared not publish it. If they published it their Southern contributions would be cut off." So they were willing to sacrifice the right, the interest, and the welfare of the Slave for the "almighty dollar." They were ready to sacrifice humanity for the sake of receiving funds from the South. Has not Slavery an influence over the morals of the North?

I have before me an advertisement where some Slaves are advertised to be sold at the South for the benefit of merchants in the city of New York, and I will read it to you. It is taken from the Alabama Beacon.

"Public Sale of Negroes.—By virtue of a deed of trust made to me by Charles Whelan, for the benefit of J.W. & R. Leavitt, and of Lewis B. Brown, all of the city of New York, which deed is on record in Greene County, I shall sell at public auction, for cash, on Main Street, in the town of Greensborough, on Saturday, the 22d day of December next, a Negro Woman, about 30 years old, and her child, eleven months old; a Negro Girl about 10 years old, and a Negro Girl about 8 years old. Wm. Trapp, *Trustee*."

Now if I know anything about the history of this country, the 22d day of December is the anniversary of the landing of the Pilgrims; the anniversary of the day when those ambassadors, those leaders in religion, came to the American shore; when they landed within the encircling arms of Cape Cod and Cape Ann, fleeing from political and religious tyranny, seeking political and religious freedom in the New World. The anniversary of that day is selected for selling an American mother and her four children for the benefit of New York merchants.

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I happen to know something of one of the parties. He is a member of Dr. Spring's church, and it is said that he gives more money to support that church than any other individual. And I should not wonder, when the bones, and muscles, and sinews, and hearts of human beings are put upon the auction-stand and sold for his benefit, if he could give a little to the church. I should not wonder if he could give a little to some institution that might throw a cloak over him, whitewash him, and make him appear reputable in the community. Has not Slavery an influence over the morals of the North, and the whole community?

Now let us leave the morals of the American people and look at their character. When I speak of the character of the American people, I look at the nation. I place all together, and draw no mark between the people, and the government. The government is the people, and the people are the government. You who are here, all who are to be found in New England, and throughout the United States of America, are the persons that make up the great American confederacy; and I ask, what is the influence that Slavery had had upon the character of the American People? But for the blighting influence of Slavery, the United States of America would have a character, would have a reputation, that would outshine the reputation of any other government that is to be found upon God's green earth.

Look at the struggle of the fathers of this country for liberty. What did they struggle for? What did they go upon the battle-field for, in 1776? They went there, it is said, for the purpose of obtaining liberty; for the purpose of instituting a democratic, republican government. What is Democracy? Solon, upon one occasion, while speaking to the Athenians said, "A democratic government is a government where an injury done to the least of its citizens is regarded as an insult and an injury to the whole commonwealth." That was the opinion of an old law-maker and statesman upon the subject of Democracy. But what says an American statesman? A South Carolina governor says that Slavery is the corner-stone of our Republic. Another eminent American statesman says that two hundred years have sanctioned and sanctified American Slavery, and that is property which the law declares to be property. Which shall we believe? One that is reared in republican America, or one that is brought up in the lap of aristocracy? Every one must admit that democracy is nothing more or less than genuine freedom and liberty, protecting every individual in the community.

I might carry the audience back to the time when your fathers were struggling for liberty in 1776. When they went forth upon the battle-field and laid down their bones, and moistened the soil with their blood, that their children might enjoy liberty. What was it for? Because a three-penny tax upon tea, a tax upon paper, or something else had been imposed upon them. We are not talking against such taxes upon the Slave. The Slave has no tea; he has no paper; he has not even himself; he has nothing at all.

When we examine the influence of Slavery upon the character of the American people, we are led to believe that if the American Government ever had a character, she has lost it. I know that upon the 4th of July, our 4th of July orators talk of Liberty, Democracy, and Republicanism. They talk of liberty, while three millions of their own countrymen are groaning in abject Slavery. This is called the "land of the free, and the home of the brave;" it is called the "Asylum of the oppressed;" and some have been foolish enough to call it the "Cradle of Liberty." If it is the "cradle of liberty," they have rocked the child to death. It is dead long since, and yet we talk about democracy and republicanism, while one-sixth of our countrymen are clanking their chains upon the very soil which our fathers moistened with their blood. They have such scenes even upon the holy Sabbath, and the American people are perfectly dead upon the subject. The cries, and shrieks, and groans of the Slave do not wake them.

It is deplorable to look at the character of the American people, the character that has been given to them by the institution of Slavery. The profession of the American people is far above the profession of the people of any other country. Here the people profess to carry out the principles of Christianity. The American people are a sympathising people. They not only profess, but appear to be a sympathizing people to the inhabitants of the whole world. They sympathise with everything else but the American Slave. When the Greeks were struggling for liberty, meetings were held to express sympathy. Now they are sympathising with the poor down-trodden serfs of Ireland, and are sending their sympathy across the ocean to them.

But what will the people of the Old World think? Will they not look upon the American people as hypocrites? Do they not look upon your professed sympathy as nothing more than hypocrisy? You may hold your meetings and send your words across the ocean; you may ask Nicholas of Russia to take the chains from his poor down-trodden serfs, but they look upon

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it all as nothing but hypocrisy. Look at our twenty thousand fugitive Slaves, running from under the stars and stripes, and taking refuge in the Canadas; *twenty thousand*, some leaving their wives, some their husbands, some leaving their children, some their brothers, and some their sisters,—fleeing to take refuge in the Canadas. Wherever the stars and stripes are seen flying in the United States of America, they point him out as a Slave.

If I wish to stand up and say, "I am a man," I must leave the land that gave me birth. If I wish to ask protection as a man, I must leave the American stars and stripes. Wherever the stars and stripes are seen flying upon American soil, I can receive no protection; I am a Slave, a chattel, a thing. I see your liberty-poles around in your cities. If to-morrow morning you are hoisting the stars and stripes upon one of your liberty-poles, and I should see the man following me who claims my body and soul as his property, I might climb to the very top of your liberty-pole, I might cut the cord that held your stars and stripes and bind myself with it as closely as I could to your liberty-pole, I might talk of law and the Constitution, but nothing could save me unless there be public sentiment enough in Salem. I could not appeal to law or the Constitution; I could only appeal to public sentiment; and if public sentiment would not protect me, I must be carried back to the plantations of the South, there to be lacerated, there to drag the chains that I left upon the Southern soil a few years since.

This is deplorable; and yet the American Slave *can* find a spot where he may be a man;—but it is not under the American flag. Fellow citizens, I am the last to eulogise any country, where they oppress the poor. I have nothing to say in behalf of England or any other country, any further than as they extend protection to mankind. I say that I honor England for protecting the black man. I honor every country that shall receive the American Slave, that shall protect him, and that shall recognise him as a man.

I know that the United States will not do it; but I ask you to look at the efforts of other countries. Even the Bey of Tunis, a few years since, has decreed that there shall not be a Slave in his dominions; and we see that the subject of liberty is being discussed throughout the world. People are looking at it; they are examining it; and it seems as though every country, and every people, and every government were doing something, excepting the United States. But Christian, democratic, republican America is doing nothing at all. It seems as though she would be the last. It seems as though she was determined to be the last to knock the chain from the limbs of the Slave. Shall the American people be behind the people of the Old World? Shall they be behind those who are represented as almost living in the dark ages?

"Shall every flap of England's flag
Proclaim that all around are free,
From farthest Ind to each blue crag
That beetles o'er the western sea?
And shall we scoff at Europe's kings,
When Freedom's fire is dimmed with us;
And round our country's altar clings
The damning shade of Slavery's curse?"

Shall we, I ask, the American people be the last? I am here, not for the purpose of condemning the character of the American people, but for the purpose of trying to protect or vindicate their character. I would to God that there was some feature that I could vindicate. There is no liberty here for me; there is no liberty for those with whom I am associated; there is no liberty for the American Slave; and yet we hear a great deal about liberty! How do the people of the Old World regard the American people? Only a short time since, an American gentleman, in travelling through Germany, passed the window of a bookstore where he saw a number of pictures. One of them was a cut representing an American Slave on his knees, with chains upon his limbs. Over him stood a white man, with a long whip; and underneath was written, "the latest specimen of American democracy." I ask my audience, who placed that in the hands of those that drew it? It was the people of the United States. Slavery, as it is to be found in this country, has given the serfs of the Old World an opportunity of branding the American people as the most tyrannical people upon God's footstool.

Only a short time since an American man-of-war was anchored in the bay opposite Liverpool. The English came down by hundreds and thousands. The stars and stripes were flying; and there stood those poor persons that had never seen an American man-of-war, but had heard a great deal of American democracy. Some were eulogising the American people; some were calling it the "land of the free and the home of the brave." And while they stood there, one of their number rose up, and pointing his fingers to the American flag, said:

"United States, your banner wears
Two emblems,—one of fame;
Alas, the other that it bears,

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Reminds us of your shame.
The white man's liberty entyped,
Stands blazoned by your stars;
But what's the meaning of your stripes?
They mean your Negro-scars."

What put that in the mouth of that individual? It was the system of American Slavery; it was the action of the American people; the inconsistency of the American people; their profession of liberty, and their practice in opposition to their profession.

I find that the time admonishes me that I am going on too far; but when I got upon this subject, and find myself surrounded by those who are willing to listen, and who seem to sympathise with my downtrodden countrymen, I feel that I have a great duty to discharge. No matter what the people may say upon this subject; no matter what they may say against the great Anti-Slavery movement of this country; I believe it is the Anti-Slavery movement that is calculated to redeem the character of the American people. Much as I have said against the character of the American people this evening, I believe that it is the Anti-Slavery movement of this country that is to redeem its character. Nothing can redeem it but the principles that are advocated by the friends of the Slave in this country.

I look upon this as one of the highest and noblest movements of the age. William Lloyd Garrison, a few years since, planted the tree of Liberty, and that tree has taken root in all branches of Government. That tree was not planted for a day, a week, a month, or a year; but to stand still till the last chain should fall from the limbs of the last Slave in the United States of America, and in the world. It is a tree that will stand. Yes, it was planned of the very best plant that could be found among the great plants in the world.

"Our plant is of the cedar,
That knoweth, not decay;
Its growth shall bless the mountains.
Till mountains pass away;
Its top shall greet the sunshine,
Its leaves shall drink the rain,
While on its lower branches
The Slave shall hang his chain."

Yes, it is a plant that will stand. The living tree shall grow up and shall not only liberate the Slave in this country, but shall redeem the character of the American people.

The efforts of the American people not only to keep the Slaves in Slavery, but to add new territory, and to spread the institution of Slavery all over Christendom,—their high professions and their inconsistency, have done more to sadden the hearts of the reformers in the Old World than anything else that could have been thought of. The reformers and lovers of liberty in the Old World look to the American Government, look to the lovers of liberty in America, to aid them in knocking the chains from their own limbs in Europe, to aid them in elevating themselves; but instead of their receiving cooperation from the Government of the United States, instead of their being cheered on by the people of the United States, the people and the Government have done all that they could to oppose liberty, to oppose democracy, and to oppose reform.

Go to the capital of our country, the city of Washington; the capital of the freest government upon the face of the world. Only a few days since, an American mother and her daughter were sold upon the auction-block in that city, and the money was put into the Treasury of the United States of America. Go there and you can scarcely stand an hour but you will see caufles of Slaves driven past the Capitol, and likely as not you will see the foremost one with the stars and stripes in his hand; and yet the American Legislators, the people of the North and of the South, the "assembled wisdom" of the nation, look on and see such things and hold their peace; they say not a single word against such oppression, or in favor of liberty.

In conclusion let me say, that the character of the American people and the influence of Slavery upon that character have been blighting and withering the efforts of all those that favor liberty, reform, and progression. But it has not quite accomplished it. There are those who are willing to stand by the Slave. I look upon the great Anti-Slavery platform as one upon which those who stand, occupy the same position,—I would say, a higher position, than those who put forth their Declaration in 1776, in behalf of American liberty. Yes, the American Abolitionists now occupy a higher and holier position than those who carried on the American Revolution. They do not want that the husband should be any longer sold from his wife. They want that the husband should have a right to protect his wife; that the brother should have a right to protect his sister.

They are tired and sick at heart in seeing human beings placed upon the auction-block and sold to the highest bidder. They want that man should be protected. They want that a stop should be put to this

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system of iniquity and bloodshed; and they are laboring for its overthrow.

I would that every one here could go into the Slave-States, could go where I have been, and see the workings of Slavery upon the Slave. When I get to talking upon this subject I am carried back to the day when I saw a dear mother chained and carried off in a Southern steamboat to supply the cotton, sugar, or rice plantations of the South. I am carried back to the day when a dear sister was sold and carried off in my presence. I stood and looked at her. I could not protect her. I could not offer to protect her. I was a Slave, and the only testimony that I could give her that I sympathised with her, was to allow the tears to flow freely down my cheeks; and the tears flowing freely down her cheeks told me that my affection was reciprocated. I am carried back to the day when I saw three dear brothers sold, and carried off.

When I speak of Slavery I am carried back to the time when I saw, day after day, my own fellow-countrymen placed upon the auction-stand; when I saw the bodies, and sinews, and hearts, and the souls of men sold to the highest bidder. I have with me an account of a Slave recently sold upon the auction-stand. The auctioneer could only get a bid of $400, but as he was about to knock her off, the owner of the Slave made his way through those that surrounded him and whispered to the auctioneer. As soon as the owner left, the auctioneer said, "I have failed to tell you all the good qualities of this Slave. I have told you that she was strong, healthy, and hearty, and now I have the pleasure to announce to you that she

Glossary

ad infinitum	Latin for "without end or limit"
Bey of Tunis	the ruler of an Islamic country, Tunisia, on the north coast of Africa
Canadas	the various provinces that would later form the nation of Canada
Cape Cod and Cape Ann	peninsulas off the coast of Massachusetts that provided harbor
caufles	droves, or herds of animals such as cattle
Ind	India
inst.	short for "instant," meaning "in the present month"
liberty-pole	a tall wooden pole often used as a flagstaff
N.O. Pic.	the New Orleans *Picayune* newspaper
Nicholas of Russia	Czar Nicholas I, who ruled from 1825 to 1855
"Our plant is of the cedar…"	from a contemporary song called "The Liberty Party"
"Shall every flap of England's flag…"	an excerpt from "Our Countrymen in Chains!", a poem by John Greenleaf Whittier published in 1837
Solon	a lawgiver and legal reformer in ancient Athens
"United States, your banner wears…"	from a poem by Thomas Campbell, a Scottish poet
Virginius	a centurion in the ancient Roman Republic who killed his daughter Virginia to protect her from slavery and from the lust of Appius Claudius Crassus, a Roman ruler
William Lloyd Garrison	noted abolitionist and publisher of *The Liberator*, an abolitionist newspaper

is very pious. She has got religion." And although, before that, he could only get $400, as soon as they found she had got religion they commenced bidding upon her, and the bidding went up to $700. The writer says that her body and mind were sold $400, and her religion was sold for $300. My friends, I am aware that there are people at the North who would sell their religion for a $5 bill, and make money on it; and that those who purchased it would get very much cheated in the end. But the piety of the Slave differs from the piety of the people in the nominally free States. The piety of the Slave is to be a good servant.

This is a subject in which I ask your cooperation. I hope that every individual here will take hold and help carry on the Anti-Slavery movement. We are not those who would ask the men to help us and leave the women at home. We want all to help us. A million of women are in Slavery, and as long as a single woman is in Slavery, every woman in the community should raise her voice against that sin, that crying evil that is degrading her sex. I look to the rising generation. I expect that the rising generation will liberate the Slave. I do not look to the older ones. I have sometimes thought that the sooner we got rid of the older ones the better it would be. The older ones have got their old prejudices, and their old associations, and they cling to them, and seem not to look at the Slave or to care anything about him.

Now, fellow-citizens, when you shall return home, and be scattered around your several firesides, and when you have an opportunity to make a remark about what I have said here this evening, all I ask of you is to give the cause, justice; to give what I have said, justice. Give it a fair investigation. If you have not liked my grammar, recollect that I was born and brought up under an institution, where, if I an individual was found teaching me, he would have been sent to the State's Prison. Recollect that I was brought up where I had not the privilege of education. Recollect that you have come here to-night to hear a Slave, and not a man, according to the laws of the land; and if the Slave has failed to interest you, charge it not the race, charge it not to the colored people, but charge it to the blighting influences of Slavery,—that institution that has made me property, and that is making property of three millions of my countrymen at the present day. Charge it upon that institution that is annihilating the minds of three millions of my countrymen. Charge it upon that institution, whether found in the political arena or in the American churches. Charge it upon that institution, cherished by the American people, and looked upon as the essence of Democracy,—upon American Slavery.

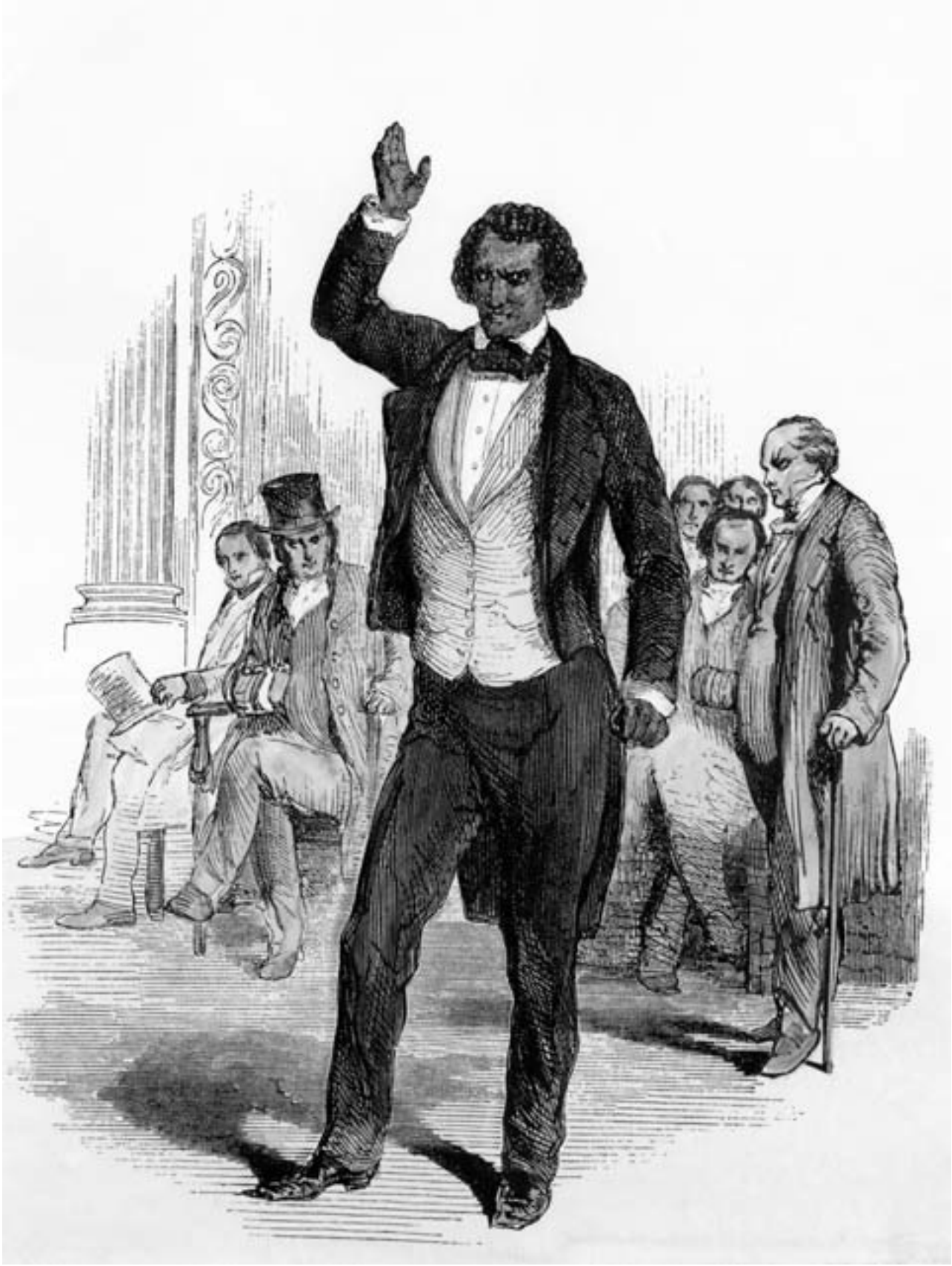


Illustration of Frederick Douglass speaking in England on his experiences as a slave (AP/Wide World Photos)

First Editorial of the *North Star*

1847

"It is evident we must be our own representatives and advocates."

Overview

Frederick Douglass, well-known abolitionist and civil rights activist, edited three newspapers between 1847 and 1863. The first was the *North Star*, an antislavery paper in which he and other African American reformers (along with some whites) expressed their views; it began publishing as a weekly on December 3, 1847, at Rochester, New York. In 1841, Douglass, an escaped slave, had begun acting as a lecturer for white-dominated antislavery societies. William Lloyd Garrison, the most prominent abolitionist in America, brought Douglass into his circle of reformers, where he proved to be a quick study. Garrison was also the most radical of the abolitionists, demanding an immediate, complete, and uncompensated end to slavery. Garrison and his followers rejected the U.S. Constitution as a proslavery document and urged all to avoid organized religion because most denominations had ties to southern churches that openly supported slavery. Although Douglass initially adopted all the arguments of the Garrisonians, his travels and intellectual development led him to question the effectiveness of their positions. Initiating his own newspaper and physically moving away from New England allowed Douglass to develop independent views on many reform issues.

Context

Nineteenth-century reformers relied extensively on print media to spread their message that slavery was morally wrong. Many national and regional antislavery organizations had their own weekly newspapers that incorporated editorials, fiction, poetry, and letters to the editor describing the abolitionist campaign. The most successful were edited by white abolitionists in northeastern cities such as Boston and New York. In 1842 Douglass acted as a correspondent for several newspapers, including Garrison's *Liberator* and the *National Anti-Slavery Standard*, the official organ of the American Anti-Slavery Society, based in New York City. During the years Douglass lectured (1841–1847), his letters to the editor informed readers of abolitionist activities and sentiments across the northern states. He gained considerable skill as a writer, along with a desire to publish his own newspaper, which would allow for the expression of the black reform perspective.

In Douglass's evolving view, black elevation was intimately tied to the abolition movement. He sought to expand his involvement with his race peers. In the 1830s, African American abolitionists and civil rights activists began gathering in a series of so-called National Negro Conventions aimed at directing action toward issues that would uplift or elevate their position in society. In addition to the abolition of slavery, attention was given to ending racial discrimination and gaining the right to vote in states where black suffrage rights were denied or restricted. Douglass became a strong leader of this movement in the late 1840s, especially after traveling abroad and experiencing a distinct lack of prejudice in Europe.

Following the publication of his 1845 autobiography, *Narrative of the Life of Frederick Douglass, an American Slave, Written by Himself*, Douglass left the United States for an extended speaking tour of Great Britain and Ireland. During his time abroad he acquired an international reputation as an orator and leader in the movement to end American slavery. While he was overseas, British reformers raised funds to purchase Douglass's freedom from his slave master, Hugh Auld. Upon receiving a deed of emancipation, Douglass returned to the United States a free man. He also returned with a substantial sum of money donated to help him start an independent newspaper.

Douglass arrived back in the United States in April 1847 and, along with William Lloyd Garrison, soon began a lengthy lecture tour of western states, including Ohio. Douglass continued on the lecture circuit alone when Garrison fell ill at Cleveland, never mentioning to his close friend and mentor that he planned to move to Rochester, New York, to begin publishing the *North Star*. Garrison was less than supportive when he learned of Douglass's plans, for two reasons. Douglass's relocation to Rochester and engagement in editing a weekly newspaper would necessarily reduce the time he could be expected to lecture on behalf of Garrison's American Anti-Slavery Society. More ominously, Garrison feared that the *North Star* would be potential competition for his own weekly abolitionist news-

Time Line

1818

■ **February**
Frederick Douglass is born a slave on a farm in Talbot County, Maryland.

1838

■ **September 3**
Douglass boards a train in Baltimore, Maryland, and escapes from slavery.

1841

■ **August**
Douglass is invited to address an antislavery meeting in Nantucket, Massachusetts. Afterward he is hired as a field lecturer for the Massachusetts Anti-Slavery Society.

1845

■ **May**
Douglass's first autobiography, *Narrative of the Life of Frederick Douglass, an American Slave, Written by Himself*, is published.

1845–1847

■ Douglass travels to Great Britain and Ireland as an abolitionist lecturer and raises money to start his own newspaper.

1846–1848

■ The Mexican-American War adds approximately five hundred thousand square miles of territory to the United States and sparks debate over the extension of slavery.

1847

■ **December 3**
The first issue of the weekly *North Star* is published from Douglass's base of Rochester, New York.

1850

■ **September**
Congress passes the Compromise of 1850, which includes a new and stricter fugitive slave law.

paper. Beginning publication in January 1831, Garrison's weekly, *The Liberator* was soon the most widely circulated reform paper in the northern states. Despite the reaction of Garrison and others in Boston, abolitionists and reformers in Rochester offered considerable encouragement and support for Douglass's venture.

A number of factors influenced Douglass's choice of cities from which to publish the paper. The region of western New York in which Rochester is located was an important center of reform activity, often referred to as the "Burned-over District" because of the intense religious fervor during the Second Great Awakening of the 1820s and 1830s. This Protestant religious reawakening inspired many to get involved in reform movements, including that for the abolition of slavery. Rochester was also known as the last stop for fugitive slaves traveling the Underground Railroad to Canada. Douglass had passed through the region during a lecture tour in 1842 and befriended a number of families in Rochester's reform community. Rochester was also far removed from the circle of abolitionists in New England, and especially Boston, which had influenced his early career as an abolitionist. The city appealed to Douglass as he sought a place to express his independent voice and brand of reform, which incorporated a push for black civil rights as well as the abolition of slavery.

The somewhat unenthusiastic response of Garrison and his followers for Douglass's newspaper venture made support from the African American community crucial to achieving his goal. Douglass's autonomy and the potential for his newspaper's successful launch grew more certain after he encountered Martin R. Delany, a Pittsburgh physician and editor of the *Mystery*, the most widely circulated reform paper edited by an African American west of the Allegheny Mountains. The two met during Douglass's western tour in the summer of 1847. Unlike most of Douglass's Garrisonian colleagues, Delany was first and foremost a black reformer, who as early as the 1830s flirted with the notion that blacks could succeed only if they left the United States. Although Delany and Douglass would famously argue over African colonization by blacks from the United States and over Harriet Beecher Stowe's novel *Uncle Tom's Cabin* in the 1850s, in 1847 they were two black activists of like mind. Douglass's newspaper would be an opportunity for Douglass to explore his own views on moral reform and incorporate self-improvement and black uplift, serving as an expression of his newfound independence. Delany was the perfect partner to lend a hand in this transition. An experienced editor, Delany agreed to help launch the *North Star*, and his name would appear on the masthead as coeditor until June 1849.

Two months before initiating the *North Star*, Douglass attended a black convention held at Troy, New York. The convention raised Douglass's awareness of the most pressing issues of debate among black intellectuals, including the establishment of independent colleges for blacks, fostering business and commerce, black suffrage, and a prominent presence for the black press. In a report submitted by a committee headed by the African American physician

James McCune Smith, the convention called for a national press that would promote the interests of African Americans in the North as well as advocate for the abolition of slavery. Considering Douglass was in the midst of plans for the *North Star*, he must have been pleased with this discussion. He entertained thoughts that his paper would become the national organ Smith called for at the convention. In the first issue of his paper, Douglass expressed a similar desire for the African American reform voice to be heard.

About the Author

Frederick Augustus Washington Bailey was born in a slave cabin at the Holme Hill Farm in Talbot County, Maryland, in February 1818. Later changing his name to Frederick Douglass, he became renowned as a civil rights activist and eternal opponent of slavery. He spent twenty years in slavery, first on Maryland's Eastern Shore and then in the shipbuilding city of Baltimore. During his years in bondage, he was the property of two men, first Aaron Anthony, who may have been his father, and then Thomas Auld, who inherited Douglass in the distribution of Anthony's estate. He learned to read and write with the assistance of one of his owners and from white youths with whom he traded food for lessons. His favorite lesson book was *The Columbian Orator*, a collection of famous speeches, which helped him develop his skill as a public speaker. When he was twenty, Douglass borrowed identity papers from a free black sailor and, on September 3, 1838, boarded a train to freedom in the North.

Douglass was assisted in his escape by Anna Murray, a free black woman from Baltimore. He was reunited with her when he reached New York City, and on September 15, 1838, the two were married. They settled in New Bedford, Massachusetts, where he hoped to find employment as a caulker. However, racial segregation was more evident in the shipyards of New Bedford than in Baltimore, where whites and blacks often worked side by side. Douglass worked for three years in the only job he could find, as a stevedore loading and unloading cargo from the harbor's ships. He also began to read antislavery newspapers and interact with the abolitionist community. In August 1841 he was invited to address an abolitionist meeting on Nantucket Island in Massachusetts, where he detailed his personal experience in slavery. Soon after, he was hired as an antislavery lecturer by the Massachusetts Anti-Slavery Society and toured New England and the western states with other abolitionists. Among his new associates was William Lloyd Garrison, publisher of the antislavery weekly, *The Liberator*, and the most prominent white abolitionist in the North.

Douglass became an accomplished lecturer and the most recognized black abolitionist of the pre–Civil War era. In 1845 he published his first autobiography, *Narrative of the Life of Frederick Douglass, an American Slave, Written by Himself*. To dispel the criticism of those who did not believe that he had ever been enslaved, Douglass departed from the common practice of slave narrative authors of hiding their own identity and disguising names and locations. His autobiography named his slave owner and described events, including his torture and that of other slaves, and locations and individuals with whom he had interacted as a slave in Maryland. Because he was still legally a fugitive slave at the time of the *Narrative*'s publication, and thus subject to capture and return to Maryland, Douglass was advised to put himself out of harm's way abroad. He embarked on a lengthy tour of Great Britain and Ireland, traveling in the company of other American and British reformers and gaining an international reputation as America's most famous fugitive slave. He experienced significantly less discrimination and had the opportunity to meet activists involved in a variety of causes in addition to the abolition of slavery.

British reformers raised funds to purchase Douglass's freedom and permit his return to the United States. Following the publication of Douglass's autobiography, Thomas Auld transferred ownership of Douglass to his brother Hugh Auld for the sum of $100. The reformers Anna and Henry Richardson negotiated the purchase of Douglass's

Time Line

1851

■ **May–June**
Douglass breaks his ties to William Lloyd Garrison and renames his weekly *Frederick Douglass' Paper*. It becomes an organ for the abolitionist Liberty Party.

1855

■ **August**
Douglass's second autobiography, *My Bondage and My Freedom*, is published and reflects on his life as an abolitionist as well as his time in slavery.

1859

■ **January**
Douglass begins publishing *Douglass' Monthly* from Rochester, New York.

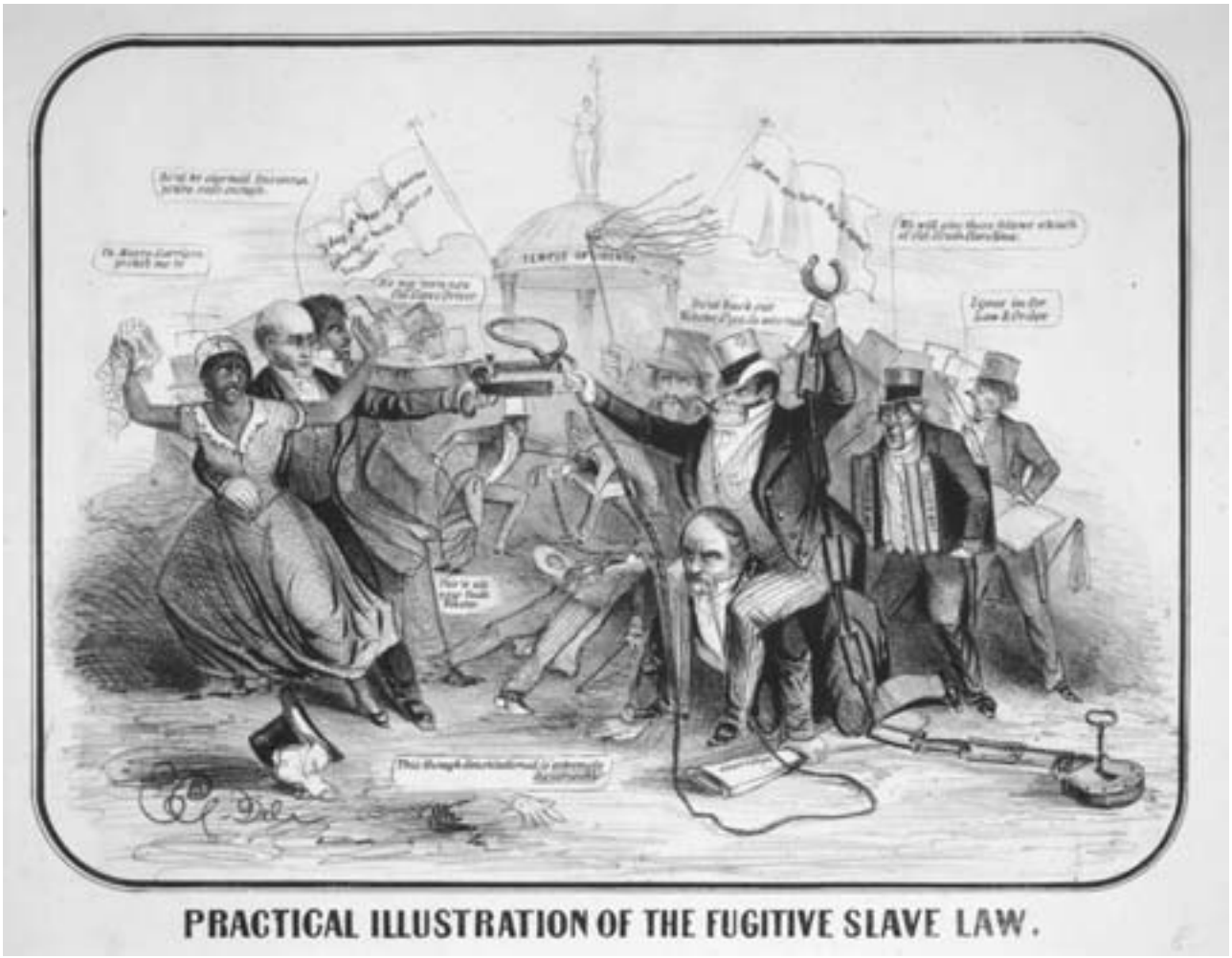
1861

■ **April 12**
The Civil War begins with the Confederates firing on Fort Sumter in South Carolina.

1865

■ **April 9**
Confederate General Robert E. Lee surrenders to Union General Ulysses S. Grant at Appomattox Court House, Virginia.

■ **December 18**
The Thirteenth Amendment to the U.S. Constitution is ratified and brings an end to slavery.



A satire on the antagonism between northern abolitionists and supporters of enforcement of the Fugitive Slave Act of 1850 (Library of Congress)

freedom for the sum of £150 sterling, or approximately $711.66 in U.S. currency. A combination of British and American abolitionists coordinated the purchase, and Hugh Auld filed Douglass's manumission papers in Baltimore County, Maryland, on December 5, 1846. On that date, more than eight years after leaving slavery, Douglass legally became a free man.

Douglass's reform colleagues in Britain were also eager to aid in his aspirations to begin his own antislavery paper. Fund-raising in England raised $2,175. When this money was combined with the money contributed by reformers in other areas of Britain and Ireland, Douglass left for home with almost $4,000 to begin operation of his weekly antislavery newspaper the *North Star*. Returning to the United States in the spring of 1847, Douglass moved his family to Rochester, New York, and began publication on December 3. He continued to lecture on the evils of slavery but broke away from his association with Garrison in 1851 to pursue a brand of antislavery activism that embraced politics. He renamed the weekly *Frederick Douglass' Paper* and made it an organ for the antislavery Liberty Party. In contrast to the Garrisonians, who rejected politics and condemned the Constitution as a proslavery document, Douglass came to associate with politically active abolitionists first in the Liberty Party and then in the Free Soil and Republican Parties.

Douglass continued to advocate for civil rights and the abolition of slavery. During the Civil War, he acted as an army recruiter and saw two of his sons enlist in the famed Fifty-Fourth Massachusetts Infantry unit. He was twice invited to the White House to advise President Abraham Lincoln on the participation of African Americans in the Union war effort. In 1872, Douglass moved his family to Washington, D.C., where he served briefly as president of the Freedman's Savings Bank in 1874. He subsequently held minor political appointments as a U.S. marshal and as recorder of deeds for the District of Columbia. In 1889, President Benjamin Harrison appointed him as resident minister and consul general (ambassador) to Haiti. Douglass died at Cedar Hill, his home in Washington, D.C., on February 20, 1895.

Essential Quotes

"It has long been our anxious wish to see, in this slave-holding, slave-trading, and negro-hating land, a printing-press and paper, permanently established, under the complete control and direction of the immediate victims of slavery and oppression."

(Paragraph 1)

"It is evident we must be our own representatives and advocates, not exclusively, but peculiarly—not distinct from, but in connection with our white friends."

(Paragraph 4)

"Nine years ago, as most of our readers are aware, we were held as a slave, shrouded in the midnight ignorance of that infernal system—sunken in the depths of servility and degradation—registered with four footed beasts and creeping things—regarded as property.… By a singular combination of circumstances we finally succeeded in escaping from the grasp of the man who claimed us as his property."

(Paragraph 6)

Explanation and Analysis of the Document

In his inaugural editorial, Douglass outlines his reasons for starting his own newspaper. In the first paragraph he notes that he has long desired to see a newspaper edited from the perspective of the former slave. Although there had been a number of African American newspapers, beginning with *Freedom's Journal* in 1827, most had been short-lived, and all had been headed by men who were born free. Douglass believed that as a former slave he could offer a unique position on both the antislavery movement and the civil rights issues that concerned black Americans.

The second paragraph establishes that the *North Star* was operating out of offices in the central business district of Rochester. Douglass was not trained as a printer, so he planned to rely on local skilled artisans to assist with the actual printing of his weekly. In fact, it turned out that the printing equipment Douglass purchased was inadequate, and the *North Star* contracted with a local printing firm to produce its weekly paper. Douglass expresses optimism that the newspaper would be well received, noting that a steady number of subscriptions had come in and that he had engaged many individuals to contribute letters and editorials. It was common for abolitionists to act as reporting agents, writing letters of their experiences on the lecture circuit. These abolitionists also acted as field agents, gathering subscriptions for the newspapers. The first issue of Douglass's paper counted agents in nine states, from New York to Michigan.

Douglass next turns to circumstances surrounding the tension between white and black abolitionists. Douglass states that his desire to start his own antislavery newspaper stems from his ability as a black reformer to address the particular concerns of African Americans in American society. In paragraph 4, he argues that as a former slave, he is the best qualified to advocate for the abolition of the institution. Although Douglass was a strong advocate of an integrated society and of blacks and whites working together for the abolition of slavery, he began to seek a way to make his unique voice heard. When Douglass took up antislav-

ery lecturing for Garrisonian organizations in 1841, those groups were dominated by white reformers, especially, of course, by William Lloyd Garrison. Since Douglass was one of the few lecturers who could attest to the evils of slavery based on personal experience, antislavery societies wanted him to focus and limit his orations to telling his personal story. However, within a few years of gaining his freedom, Douglass had expanded his knowledge and wanted to express his thoughts and opinions on a wider variety of issues related to abolition and society at large. He came to resent that he was used essentially as an exhibit to show northern audiences that slavery was real and required their attention.

One reason that Douglass wrote his first autobiography in 1845 at the age of twenty-seven was to refute the common accusation that a man with such poise and eloquence could not possibly have been a slave. As he traveled the lecture circuit and read widely in literature and history, Douglass longed to engage with men and women outside the circle of Garrisonian abolitionists who had been his almost constant companions. This editorial expresses his ambivalence about angering the white abolitionists with whom he had worked so closely for more than six years. Although he became more engaged with black reformers and a civil rights agenda, Douglass always valued integrated reform activity.

Since many white abolitionists did not have a personal stake in seeing an end to racial discrimination, they were also not as committed to black civil rights as were black reformers. For this reason, even though most black abolitionists still affiliated with integrated organizations such as the American Anti-Slavery Society, they formed other associations to focus on specific economic concerns, to increase educational opportunities, and to gain full and equal suffrage. While Douglass rarely wavered in his belief that slavery could be overcome only through the actions of an integrated force of reformers, his involvement in the National Negro Convention movement increasingly influenced his belief that African Americans needed to be more than token examples of the wrongness of slavery. In paragraph 4 he argues that the struggle to end slavery requires strong black orators, editors, and authors. Since he filled all of those roles, Douglass saw himself and his newspaper as the appropriate extension and example of racial activism.

African American newspapers had little success before the *North Star*. Most were very short-lived, and none was profitable. The editorial addresses this issue in the fifth paragraph. By the time Douglass began publishing his weekly, there had been at least nine newspapers edited by African Americans. The first of these, *Freedom's Journal*, was published in New York from 1827 to 1829 by John Russwurm and Samuel Cornish. New York City was the location for five additional black publications in the early nineteenth century, all of which eventually failed. After Cornish's first newspaper failed when his partnership dissolved, he issued the *Rights of All*in 1829. He partnered with Phillip Bell and Charles B. Ray in the short-lived *Weekly Advocate* (1837) and in the *Colored American* (1837–1841). David Ruggles tried his hand with the *Mirror of Liberty* (1838–1840) and starting in 1843 Thomas Van Rensselaer edited the *Ram's Horn*, which failed in 1848. In Philadelphia, the *National Reformer* was edited by William Whipper, and the *Northern Star and Freedmen's Advocate* was briefly edited at Albany, New York, by Stephen Myers. Douglass's partner, Martin R. Delany, edited the *Mystery* from Pittsburgh beginning in 1843. Both the *Mystery* and the *Ram's Horn* were in publication at the time Douglass began the *North Star*. William Lloyd Garrison, himself the longtime editor of *The Liberator*, and others had warned Douglass of the uncertainty of success in a newspaper venture. Although Douglass edited a newspaper continuously from 1847 until 1863, he always struggled financially to keep his business solvent and often relied on donations from wealthy abolitionists for business expenses. Despite the risks, Douglass's editorial makes clear that the *North Star* aimed to demonstrate that a black newspaper could be successful. He noted that the venture was risky but that he was resolved to move forward.

In the final paragraph, Douglass shares part of his life history, demonstrating how fortunate he was to escape from slavery and to be in a position to edit a newspaper. A mere nine years earlier he had been a slave, "shrouded in the midnight ignorance of that infernal system" and with a "spirit crushed and broken." Settling in New Bedford, Massachusetts, he worked for three years as a "daily laborer" until he was hired as a full-time antislavery lecturer. He speaks of having embarked for England, under "the apprehension of being re-taken into bondage." Douglass then describes the aid provided by his friends in England for both gaining his freedom and starting his newspaper. Now, "urged on in our enterprise by a sense of duty to God and man," he believes "that our effort will be crowned with entire success."

Audience

The first editorial and edition of the *North Star* was aimed at those who knew Douglass well and readers newly acquainted with his reform activities. The readers of Douglass's *North Star* were generally drawn from the abolitionist and reform community. Douglass intended that the newspaper would be an organ for black abolitionists and especially for the expression of his own evolving brand of reform, which incorporated both activities on behalf of ending slavery and bringing an end to the racial discrimination African Americans faced in northern states. Subscribers to the *North Star*, which was distributed through the U.S. mail, lived across the northern states, but most were concentrated in New York and the New England states. A few subscribers lived in the United Kingdom and Ireland.

Impact

The success of Frederick Douglass's newspaper proved to be long-lasting. The *North Star* reached a wider audience than earlier black-edited newspapers for several reasons. At the time of its inception in 1847, Douglass had gained a reputation as America's most famous former slave, both in

the United States and abroad. His *Narrative of the Life of Frederick Douglass* was published in several editions including editions in England and Ireland. His name attracted many subscribers in both the white and the African American reform community. Between 1846 and 1850, the nation's attention was drawn into a debate over the extension of slavery. The Mexican-American War (1846–1848) added an additional five hundred thousand square miles to the United States, and many southerners favored the expansion of slavery into the new territories. Abolitionists hotly opposed any new slave states. The *North Star* began in the midst of this war and was poised to offer a unique black perspective on the Wilmot Proviso, which opposed the extension of slavery in territories obtained from the war. The growing interest in slavery among northerners during the controversy surrounding the Fugitive Slave Act and other parts of the Compromise of 1850 also served to keep readers interested in reading antislavery papers. The Fugitive Slave Act focused the attention of many northerners on slavery for the first time, as the law required more active participation among northerners in the return of fugitive slaves. Douglass benefited from starting his weekly on the cusp of this controversy.

As this first *North Star* editorial demonstrates, the weekly created a special place for African American abolitionists and civil rights activists to express their own methods and solutions to the problems that faced the black race. Douglass's increasing involvement in the movement for black elevation was reflected in the pages of the *North Star*. His editorials calling for suffrage, opposing colonization, and supporting equal rights established Douglass as a leader among African Americans. Quoting his favorite line from Lord Byron's *Childe Harold's Pilgrimage*, "Hereditary bondsmen? know ye not, / Who would be free, themselves must strike the blow?" Douglass urged African Americans to work actively on behalf of their race. Although Douglass has sometimes been criticized for his commitment to assimilation and integration, his editorials began warning against relying on white reformers to advance the cause of African Americans.

Douglass's editing career started with the *North Star*'s first issue on December 3, 1847, and stretched longer than that of other African American editors. He continuously edited a newspaper from 1847 until 1863, and during that time his stature grew in the African American community. As slavery moved into the mainstream national debate in the 1850s, Douglass was almost universally recognized as both America's most famous former slave and its most prominent black abolitionist. Douglass published the *North Star* until 1851, when his changing political views led him to rename his weekly *Frederick Douglass' Paper*. Until 1860, Douglass's newspaper filled an important role as an organ for the Liberty Party and was a strong advocate for the Free Soil movement and those who sought political means to

Questions for Further Study

1. Why do you believe Douglass came to question the views of the abolitionist William Lloyd Garrison and move away to more independent positions? To what extent did this fissure represent a broader fissure between white and black abolitionists?

2. Many, if not virtually all, abolitionist tracts and newspapers were published in the northern states (such as New York and Massachusetts), where slavery was no longer practiced. This was particularly the case in Rochester, New York, where abolitionist sentiment was already strong. How effective would these publications have been in the South, where opinions about slavery had to be changed?

3. Frederick Douglass is arguably the most famous abolitionist from this era, one whose name is still widely recognized. Why do you believe he was able to attain this stature?

4. In the modern era, Douglass is regarded as important not only as an abolitionist but also as a man of letters. His writings are regarded as an important part of American literature from the nineteenth century, alongside the more literary works of Edgar Allan Poe, Herman Melville, Nathaniel Hawthorne, and others. Why do you think his writings are held in such regard?

5. What impact did the Mexican-American War and the Wilmot Proviso have on Douglass and on the abolition movement? Why?

end slavery. Beginning in January 1859, Douglass began a new monthly publication, *Douglass' Monthly*, which freed him from weekly editing tasks but still offered readers his own brand of reform journalism. He continued this publication until the middle of the Civil War in 1863, when he began actively recruiting African American troops to fight for the Union cause. Douglass rejoiced in December 1865 when ratification of the Thirteenth Amendment to the Constitution formally ended slavery in the United States.

See also Slavery Clauses in the U.S. Constitution (1787); William Lloyd Garrison's First *Liberator* Editorial (1831); Frederick Douglass's "What to the Slave Is the Fourth of July?" (1852); Thirteenth Amendment to the U.S. Constitution (1865)

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—Diane Barnes

Document Text

First Editorial of the *North Star*

Our Paper and Its Prospects

We are now about to assume the management of the editorial department of a newspaper, devoted to the cause of Liberty, Humanity and Progress. The position is one which, with the purest motives, we have long desired to occupy. It has long been our anxious wish to see, in this slave-holding, slave-trading, and negro-hating land, a printing-press and paper, permanently established, under the complete control and direction of the immediate victims of slavery and oppression.

Animated by this intense desire, we have pursued our object, till on the threshold of obtaining it. Our press and printing materials are bought, and paid for. Our office secured, and is well situated, in the centre of business, in this enterprising city. Our office Agent, an industrious and amiable young man, thoroughly devoted to the interests of humanity, has already entered upon his duties. Printers well recommended have offered their services, and are ready to work as soon as we are prepared for the regular publication of our paper. Kind friends are rallying round us, with words and deeds of encouragement. Subscribers are steadily, if not rapidly coming in, and some of the best minds in the country are generously offering to lend us the powerful aid of their pens. The sincere wish of our heart, so long and so devoutly cherished seems now upon the eve of complete realization.

It is scarcely necessary for us to say that our desire to occupy our present position at the head of an Anti-Slavery Journal, has resulted from no unworthy distrust or ungrateful want of appreciation of the zeal, integrity, or ability of the noble band of white laborers, in this department of our cause; but, from a sincere and settled conviction that such a Journal, if conducted with only moderate skill and ability, would do a most important and indispensable work, which would be wholly impossible for our white friends to do for us.

It is neither a reflection on the fidelity, nor a disparagement of the ability of our friends and fellow-laborers, to assert what "common sense affirms and only folly denies," that the man who has suffered the wrong is the man to demand redress,—that the man STRUCK is the man to CRY OUT—and that he who has endured the cruel pangs of Slavery is the man to advocate Liberty. It is evident we must be our own representatives and advocates, not exclusively, but peculiarly—not distinct from, but in connection with our white friends. In the grand struggle for liberty and equality now waging, it is meet, right and essential that there should arise in our ranks authors and editors, as well as orators, for it is in these capacities that the most permanent good can be rendered to our cause.

Hitherto the immediate victims of slavery and prejudice, owing to various causes, have had little share in this department of effort: they have frequently undertaken, and almost as frequently failed. This latter fact has often been urged by our friends against our engaging in the present enterprise; but, so far from convincing us of the impolicy of our course, it serves to confirm us in the necessity, if not the wisdom of our undertaking. That others have failed, is a reason for our earnestly endeavoring to succeed. Our race must be vindicated from the embarrassing imputations resulting from former non-success. We believe that what ought to be done, can be done. We say this, in no self-confident or boastful spirit, but with a full sense of our weakness and unworthiness, relying upon the Most High for wisdom and strength to support us in our righteous undertaking. We are not wholly unaware of the duties, hardships and responsibilities of our position. We have easily imagined some, and friends have not hesitated to inform us of others. Many doubtless are yet to be revealed by that infallible teacher, experience. A view of them solemnize, but do not appal us. We have counted the cost. Our mind is made up, and we are resolved to go forward.

In aspiring to our present position, the aid of circumstances has been so strikingly apparent as to almost stamp our humble aspirations with the solemn sanctions of a Divine Providence. Nine years ago, as most of our readers are aware, we were held as a slave, shrouded in the midnight ignorance of that infernal system—sunken in the depths of servility and degradation—registered with four footed beasts and creeping things—regarded as property—compelled to toil without wages—with a heart swollen with bitter anguish—and a spirit crushed and broken. By a singular combination of circumstances we finally succeeded in escaping from the grasp of the man who claimed us as his property, and succeeded in safely reaching New Bedford, Mass. In this town we

Document Text

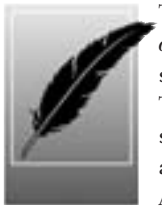
worked three years as a daily laborer on the wharves. Six years ago we became a Lecturer on Slavery. Under the apprehension of being re-taken into bondage, two years ago we embarked for England. During our stay in that country, kind friends, anxious for our safety, ransomed us from slavery, by the payment of a large sum. The same friends, as unexpectedly as generously, placed in our hands the necessary means of purchasing a printing press and printing materials. Finding ourself now in a favorable position for aiming an important blow at slavery and prejudice, we feel urged on in our enterprise by a sense of duty to God and man, firmly believing that our effort will be crowned with entire success.

Roberts v. City of Boston

1850

"The plaintiff had access to a school, set apart for colored children."

Overview



The case of *Sarah C. Roberts v. The City of Boston* brought the first challenge to segregated schools in the United States. The case was argued before the Massachusetts Supreme Court in December 1849, and the court handed down its decision in April 1850. The case established the principle of "separate but equal" that was used to codify racial segregation in education and other aspects of public life for more than a century. *Roberts v. Boston* began with a movement to end the practice of separating white and black students in Boston's primary schools. Although the local body governing public education, the Boston School Committee, designated separate primary schools for African American students, Massachusetts state law did not prohibit integrated schools. In fact, in a number of Massachusetts cities and towns, black and white children attended the same schools.

The first African American school was opened as a private institution by members of Boston's black community in 1798, but it was assumed by the city's public school system in 1815. Housed for decades first in a private home and later in a church basement, this all-black segregated school was relaunched in its own building in 1835. By the 1840s, however, Boston's African Americans had petitioned the school committee several times to end the practice of segregating black students in separate schools. Changing attitudes led many African Americans to believe that integration was important and necessary for their children to succeed. Poor maintenance and substandard conditions at the segregated schools also led many in the black community to condemn the policy. As ground for abolishing segregation, the petitioners cited school committee regulations designating that students attend the school nearest their residence; many black children had to pass several whites-only schools before reaching the segregated schools to which they were assigned. The legal challenge brought in *Roberts v. Boston* was a carefully planned attack aimed at reversing the school committee's policy of segregation, part of a larger strategy to desegregate Boston schools.

Context

The struggle to provide quality education for their children was a longtime concern for Boston's African American community. At the turn of the nineteenth century many blacks believed that separate schools were necessary to ensure that their children were properly educated and not subjected to the sort of mistreatment likely to result in an integrated setting. The city's blacks actually initiated school segregation in 1798 with the creation of the independent, privately funded African School, which began operating in the private home of a local black leader. It moved to the basement of the African Baptist Church on Belknap Street in 1806 and became known as the Smith School after the white philanthropist Abiel Smith left the school a substantial endowment. By 1815 the school had come under the control of the Boston School Committee, making it eligible for partial but meager public funding. A portion of the Smith endowment was later used to construct a new facility for students, the Abiel Smith School on Joy Street in Boston, which opened its doors in 1835.

Deteriorating physical conditions in the African American school coincided with a shift in thought among members of the black community about segregated schooling. Blacks began calling for an end to segregation in other aspects of life, including the abolishment of separate Jim Crow cars on Massachusetts railroads. In 1846 Boston blacks debated the issue of segregated schools and subsequently submitted a petition demanding that the school committee close the Smith School and move toward full integration of the city's educational facilities. Not all members of the black community supported the integration movement, and a substantial number petitioned separately to have Thomas Paul, an African American, appointed as master of the Smith School. His appointment was confirmed by the school committee in September 1849—shortly before the Roberts case was argued before the Massachusetts Supreme Court—and over the next few years some integrationists established short-lived private protest schools, withdrawing their children from the Smith School. The Abiel Smith School was officially closed in 1855 and is now a National Trust Historic Site.

Time Line

1798

- Boston African Americans establish the first independent African School, later named the Smith School after the white philanthropist Abiel Smith.

1806

- The Smith School moves to the basement of the African Meeting House, also home to the African Baptist Church, on Belknap Street in Boston.

1815

- The Boston School Committee assumes control of the Smith School.

1835

- **March 3**
  The newly constructed Abiel Smith School opens on Joy Street in Boston.

1845

- Massachusetts law provides that children unlawfully excluded from public school instruction may recover damages from the city or town supporting the public instruction.

1846

- African Americans petition the Boston School Committee demanding the abolition of segregated schools.

1847

- **April**
  Five-year-old Sarah C. Roberts is denied a ticket of admission to the primary school nearest her home because of her color.

1848

- **February 15**
  Sarah Roberts attempts to enter the all-white primary school nearest to her home and is "ejected from the school by the teacher." She must walk past five schools for whites before reaching the all-black Smith School on Belknap Street.

- Benjamin F. Roberts, Sarah's father, files suit, demanding that his daughter be admitted to the white school nearest her home.

Amid these divisions in the black community over the question of integration came the case of *Sarah C. Roberts v. The City of Boston*. The case stemmed from an all-white school's refusal to allow a black girl, Sarah Roberts, to officially enroll in and attend classes in its building. Her father, Benjamin Franklin Roberts, was the son of the active abolitionists Robert and Sarah Easton Roberts. He had been raised in the Boston free black community among strong advocates for racial equality and apprenticed as a shoemaker but found his career path in journalism. Roberts's writings appeared in William Lloyd Garrison's *Liberator* in the 1830s, and by April 1838 he began publishing his own weekly, the *Anti-Slavery Herald*. The paper's emphasis on African American economic concerns angered white abolitionists, who rescinded their initial support. The paper failed within six months of its inception. In 1843 Roberts opened a printing establishment in Boston, where he focused on printing pamphlets and books promoting black elevation and history. In the late 1840s Roberts began a legal campaign to enroll his daughter in a whites-only school. The Boston public school system generally mandated that students attend the school nearest their residence. The closest primary school to the Roberts home was approximately nine hundred feet away, yet Sarah was required to travel about a fifth of a mile farther and to pass five whites-only schools before reaching the segregated Abiel Smith School. Clearly, the backdrop of integrationist ideology in the 1840s figured prominently in Roberts's decision to file the discrimination case on behalf of his daughter.

About the Author

While they are not considered authors of the opinion, the attorneys Robert Morris and Charles Sumner represented Roberts in the case and so were responsible for crafting the arguments addressed by the Massachusetts court. Morris (1823–1882) was one of the first African Americans admitted to practice law in the United States, passing the Massachusetts bar exam in 1847. His first cases dealt with issues of civil rights, and it is not surprising that he was the legal counsel Benjamin Roberts and other Boston activists sought to initiate the case against the school committee. Although he deferred major argument to the more prominent Sumner, Morris's appearance in the case marked the first time an African American attorney appeared before the highest court of any state. Morris continued to advance his law career and worked as a member of the Boston vigilance committee to protect African Americans from prosecution under the Fugitive Slave Act of 1850. Later that decade he became a justice of the peace, and he continued to practice law in Massachusetts until his death in 1882.

Charles Sumner (1811–1874) served as the dominant voice in the Roberts case. A committed abolitionist and prominent Republican politician, Sumner hailed from a family of middle-class reformers in the Boston area. Having studied law with the Supreme Court justice Joseph Story, Sumner was elected to the U.S. Senate from Massachu-

setts in 1851, where he served continuously until his death in 1874. Sumner's outspoken opposition to the Kansas-Nebraska Act and the resulting tensions that erupted in the region in the mid-1850s prompted Congressman Preston Brooks of South Carolina to severely beat the senator with a cane on the floor of the Senate in May 1856. During his three-year absence following the attack, Sumner was hailed as a martyr in opposition to slavery. He returned to the Senate on the eve of the Civil War, where he pushed the Radical Republican agenda during the war and Reconstruction. Sumner remained one of the strongest advocates for the full civil rights of African Americans throughout his career.

Morris and Sumner prepared the argument for the Roberts case, but the decision of the Massachusetts Supreme Court was authored by Chief Justice Lemuel Shaw (1781–1861). An attorney and jurist from a prominent Massachusetts family, Shaw was educated at Harvard before reading law under David Everett. Admitted to the bar in both New Hampshire and Massachusetts in 1804, he practiced law in Boston before entering politics. Shaw was elected to the Massachusetts house (1811–1815, 1820–1821, and 1829), served as state senator (1821–1822), and wrote the first city charter for Boston in 1822. He became the commonwealth's chief justice on August 30, 1830, holding the position until his retirement in August 1860.

The politically conservative Shaw dominated the state supreme court during his tenure as chief. His decisions, widely cited throughout the nation, influenced the direction of railroad development, industrialization, and labor and race relations. His rulings on cases involving issues of race were varied. In *Commonwealth v. Aves* (1836)—citing British precedent, the Massachusetts constitution, and even the Declaration of Independence—he determined that a slave girl brought into Massachusetts was free. In subsequent years, he was less likely to offer fugitive slaves protection; after the passage of the Fugitive Slave Law of 1850, he twice refused to intervene in cases involving fugitives.

Shaw's decision to uphold the practice of segregating schools in the city of Boston fell in line with his record of conservative rulings. He argued that segregated schools neither caused nor encouraged racial prejudice. Although the Massachusetts legislature prohibited segregated schools within the state in 1855, Shaw's decision in *Roberts v. Boston* was far-reaching, establishing the concept of "separate but equal," which was used to justify segregation until the middle 1950s. Shaw resigned from the state supreme court in August 1860 and died seven months later.

Explanation and Analysis of the Document

The text of the opinion in the case of *Sarah C. Roberts v. The City of Boston* outlines the legal position of the Boston School Committee and the argument made on the plaintiff's behalf by her attorney Charles Sumner. Initially, the case was argued before the Suffolk County Court of Common Pleas; it was later brought before the Massachusetts Supreme Court on appeal.

Time Line

1849

■ **December 4**
Attorneys Robert Morris and Charles Sumner argue the case of *Sarah C. Roberts v. The City of Boston* before the Supreme Court of Massachusetts.

1850

■ **April 8**
Massachusetts supreme court justice Lemuel Shaw denies Roberts's petition and upholds the practice of school segregation in Boston's public schools.

1855

■ The Massachusetts legislature bans school segregation and the Abiel Smith School closes.

♦ Statement of Facts from the Court of Common Pleas

The beginning of the document recaps the initial court case concerning Sarah Roberts, beginning with the line: "The case was submitted to the court of common pleas, from whence it came to this court by appeal, upon the following statement of facts." The next several paragraphs offer an overview of the case and outline the policies and regulations of the primary school committee charged with overseeing the education of Boston youths from four to seven years of age. Sarah Roberts's father, Benjamin F. Roberts, brought suit against the city of Boston, alleging his daughter was excluded from attending the public school nearest her home because she was black. The text notes that Boston's public school system was divided into twenty-one districts, but these districts were not necessarily created on the basis of geography. An exception to the rule that students attend the school closest to their residence was made for students attending Latin and English high schools. Thereby, the city established that it was not entirely unusual for students to go to a school other than the one nearest their residence, including schools designated for special populations, among them, African Americans.

The court heard evidence detailing Roberts's attempts to enroll in the whites-only primary schools nearest her home. Boston school regulations required that an enrolling student obtain an admissions ticket from a member of the school committee. Sarah Roberts's request was denied first by an individual committee member and also by the wider primary school committee. Both denials were made on the basis of her race. Despite the fact that she had no ticket, Sarah Roberts attempted to attend the school nearest her home on February 15, 1848, but was turned away by the teacher. The evidence presented established that the nearest primary school was located nine hundred feet from the Roberts residence, while the segregated Smith School on Belknap Street was 2,100 feet away, or about a fifth of a mile farther.

Charles Sumner (Library of Congress)

♦ The Plaintiff's Case Argued by Charles Sumner

The next section of the document, which begins with the line "Mr. Sumner argued as follows," details the seven-point argument put forth by Charles Sumner, who along with Robert Morris, represented Sarah Roberts in the case. Sumner, the more prominent attorney, presented the plaintiff's oral argument, making the case that Massachusetts law and the commonwealth's constitution recognized the equality of all citizens regardless of race. He argues that the state constitution proclaimed all men "equal before the law" and quotes legislation establishing public schools, demonstrating that this legislation did not specify special treatment for any class, color, or race of students. The single exception in Massachusetts school law was the small amount of funds designated for Indian schools. Sumner argues that there was no law establishing separate Indian schools and nothing to indicate that Indians would be excluded from attending the existing schools in their neighborhoods.

Sumner next turns his attack to the moral nature of the issue. Segregated schools violated the principles of equality outlined in the Massachusetts constitution and in prior court rulings that generally upheld the equal rights of all in the commonwealth. He claims that excluding African American children from the schools nearest their homes violated equality because it forced the children and their parents to endure an inconvenience not demanded of whites. Similarly, separating children based on race created a caste system that violated equality principles.

The scope of authority school committees held also draws fire in Sumner's argument. Citing the statutes conferring power on the committees, the plaintiff's attorney claims that the committees had no power to discriminate against any class of students attending Boston public schools. School committees were charged with operating public schools and determining the number and qualifications of pupils. Sumner argues that although school committees could classify students based on age, sex, and moral and intellectual ability, race was not among the attributes that could be considered a qualification. Nor, in the case of African American students, could it be used to disqualify students from attending the school nearest their homes. He argues that an entire race of people could not be considered to have the same certain moral or intellectual qualities and therefore could not be placed in a separate class. Continuing his attack on the school committee's actions, Sumner concludes that Africa American children had an equal right along with white children to attend the city's nonsegregated public schools.

The plaintiff's case concludes with Sumner's plea for the court to find the school committee's policy unconstitutional and illegal. He cites two important decisions, including one delivered earlier by Chief Justice Shaw as evidence to support such a ruling. The first involved a fugitive slave girl named Med. In *Commonwealth v. Aves* (1836), Shaw's ruling to free Med established the principle that slavery was local and liberty universal. The second ruling, *Boston v. Shaw* (1840), voided a city bylaw determined to be unequal and unreasonable. Sumner then quotes the French philosopher Jean-Jacques Rousseau, who declared that law should protect the fragile nature of equality. Despite his reasoned and impassioned argument, Sumner lost the case.

♦ Chief Justice Lemuel Shaw's Opinion

Following the seven points outlined by Mr. Sumner in the document text, Chief Justice Lemuel Shaw's ruling appears under the line "The opinion was delivered at the March term, 1850." This unanimous opinion represented the Massachusetts Supreme Court's denial of the plaintiff's petition to attend nonsegregated public schools. Shaw's opinion begins with a statement reflecting the charges in the action. The father of the five-year-old plaintiff brought the charge against the city of Boston for violating an 1845 statute allowing a child lawfully excluded from public schools to recover damages from the city or town supporting the school. Shaw notes that the city of Boston supported 160 primary schools, two of which were designated exclusively for African American children.

Justice Shaw lays the foundation for his denial of the case in the first third of his ruling. His decision ignores the moral issue Sumner presented and instead focuses on the narrower question of whether segregated schools violated the plaintiff's right to enjoy political, social, and civil equality. Shaw notes that while Benjamin Roberts had followed the correct procedure for enrolling his daughter Sarah in the primary school nearest his home, the school committee's policies did not make such an admission possible. Although the Smith School was approximately one-fifth of a

Essential Quotes

"The continuance of the separate schools for colored children, and the regular attendance of all such children upon the schools, is not only legal and just, but is best adapted to promote the education of that class of our population."

(Statement of Facts from the Court of Common Pleas)

"The plaintiff had access to a school, set apart for colored children, as well conducted in all respects, and as well fitted, in point of capacity and qualifications of the, instructors, to advance the education of children under seven years old, as the other primary schools."

(Chief Justice Lemuel Shaw's Opinion)

"It is urged, that this maintenance of separate schools tends to deepen and perpetuate the odious distinction of caste, founded in a deep-rooted prejudice in public opinion. This prejudice, if it exists, is not created by law, and probably cannot be changed by law."

(Chief Justice Lemuel Shaw's Opinion)

mile farther from the Roberts's home, the segregated school was, according to Shaw, equally appointed and staffed. This is the first reference to the important principle of "separate but equal" established by this ruling. Shaw upholds the authority of the Boston School Committee to continue its policy of maintaining separate schools for African American children. He notes that according to the school committee's policy such segregation of the races offered the best educational opportunities and instruction for African American students. The opinion also notes that the important matter in the case was whether the Boston School Committee had the legal authority to designate segregated schools.

Toward the middle of his opinion, Shaw makes reference to the argument of the plaintiff's attorney Charles Sumner that the Massachusetts constitution (Part the First and Articles I and VI) upheld the equality of all citizens of the commonwealth without regard to race, gender, or other factors. Shaw agrees with the general principle; however, his ruling states that the rights accorded to various populations, including women and children, can be qualified based on laws specifically affecting their place in society and other special conditions. He concedes that African Americans were entitled to equal rights, and therefore the court had to decide if the school committee's segregation policy violated those rights.

The ruling goes on to outline Massachusetts law and procedures for establishing public schools. Building on the assumption that the main question to be answered related to the authority of the school committee, this section explores the structure of the commonwealth's public school system. The ruling establishes the authority of school committees to adapt educational opportunities based on local needs. Public schools in Boston were to be operated under the direction of local school committees, elected by voters, across a district. These committees held full responsibility for organizing schools, making rules of governance, and regulating operations. Under this authority, school committees were empowered to classify and distribute enrollment in arrangements thought to be best suited to their pupils. Although most schools operated under open enrollment, special schools were occasionally designated, such as for poor or neglected children. Such children could be organized into a separate school for special training "adapted to their condition." The authority to designate a special school rested with the local school committee. A segregated school for African American children could be designated as fitting these criteria at the insistence of a local school committee.

The last third of the opinion addresses the complaint that Sarah Roberts had to pass five schools before reaching the segregated Smith School. Shaw's ruling notes that the popu-

lation and housing arrangements of different towns made it inexpedient for the commonwealth's legislature to outline a single law governing school operation and management. He observes that in towns with a large territory and small population it would be difficult to provide different schools for special populations of pupils. However, the small geographic area encompassing Boston's large population reduced such inconvenience. Shaw reasons that in those circumstances, a system of distribution and classification was more practical, would not adversely affect students, and would actually improve the quality of education provided. Since the commonwealth did not have special legislation in the area of school distribution and classification, the court believed that power and authority for such decisions was vested in the school committee.

In the final three paragraphs, Shaw upholds the power of the Boston School Committee to maintain segregated schools for African American students. The ruling supported the judgment of the committee that such racial separation offered the best learning environment for the students of Boston public primary schools. Refusing to sustain the plaintiff's charge that segregated schools exacerbated racial prejudice, the ruling maintained that such prejudice was not created by the law and could not be changed by the law. This assertion that prejudice was a phenomenon outside the law's control foreshadowed reasoning often cited in future cases involving segregationist law. The unanimous opinion of the court found that the proper authority to determine the harm or benefit of segregated education rested with the Boston School Committee. Finally, the ruling denied the plaintiff's claim to attend the primary school nearest the Roberts residence. Shaw here declares that the increased distance between her home and the Smith School was not so far as to be unreasonable.

Audience

The immediate audience for this ruling of the Massachusetts Supreme Court was the Boston School Committee and the family of Sarah Roberts. The court clearly communicated its unwillingness to challenge the status quo that granted authority to local education boards. The ruling also sent an important message to Boston's African American community, telling blacks that since the legal system did not create racial prejudice, the law could not erase it. Among others interested in this decision were school committees across the commonwealth of Massachusetts and advocates of school segregation throughout the United States. In the coming years, as other states in both the North and the South wrestled with issues of civil rights and segregation, *Roberts v. Boston* became the standard used by proponents of segregation to promote the concept of "separate but equal."

Impact

Although the Massachusetts Supreme Court denied Roberts's petition, the controversy over separating students on the basis of race made many of the state's citizens aware of the inequity of segregated schools. In April 1855 the Massachusetts legislature passed a law forbidding racially separated schools and entitling all children excluded from a public school because of their race to damages in the amount of $1,000. Thus, Justice Shaw's ruling was rendered moot for Massachusetts. As for the plaintiffs, following the segregation case, Benjamin Roberts traveled with the famous escaped slave Henry "Box" Brown, acting as narrator for Brown's drama about his flight from slavery in a wooden box. Roberts tried his hand at newspaper editing again in 1853, but his antislavery *Self-Elevator* failed. He died of complications from epilepsy in 1881. The life of his daughter Sarah is lost to the historical record after her appearance as plaintiff in this important case.

Ironically, a clear trajectory shows *Roberts v. Boston* to be the root of twentieth-century prosegregation law. Despite being negated by the state legislature within a mere half decade, the decision of the Massachusetts Supreme Court to uphold Boston's policy of separating black and white students influenced numerous court decisions across the United States through the later nineteenth century. This segregationist trend culminated in the 1896 *Plessy v. Ferguson* decision concerning public transportation, which firmly established the "separate but equal" principle. *Plessy* guided segregationist rulings until it was overturned by the historic *Brown v. Board of Education of Topeka* ruling in 1954 that deemed racially separate facilities "inherently unequal."

As race relations became more unsettled in post–Civil War America, *Roberts v. Boston* was cited in a number of school segregation rulings. The first came in 1872 from the Nevada Supreme Court in the case of *Stoutmeyer v. Duffy*, in which the majority used the Roberts case to find that school boards held the right to determine classifications and make school assignment policies. The Massachusetts court ruling became even more influential when coupled with the 1873 U.S. Supreme Court ruling in the Slaughter-House Cases. These cases concerned the business rights of New Orleans butchers and led to a major reinterpretation of the Fourteenth Amendment to the U.S. Constitution. The majority opinion held that the first clause of the Fourteenth Amendment designated a dual citizenship—of state and of country—for Americans and that the Constitution protected only federal rights. The ruling empowered states to make broad claims in terms of citizenship rights. Courts quickly came to rule that the definition and regulation of public education fell under the authority of state constitutions.

Thereafter, state-level decisions involving cases of school segregation often cited both *Roberts v. Boston* and the Slaughter-House Cases. The argument that "separate but equal" was acceptable spread through state rulings across the country. In *Ward v. Flood* (1874), for instance, the California State Supreme Court denied the claim of a San Francisco plaintiff who argued that segregated schools in that city violated the equal protection and due process clause of the Fourteenth Amendment. When the plaintiff argued that segregation created an unequal caste system, the justices quoted *Roberts v. Boston* at

length in their denial. The New York Supreme Court made a similar ruling in the 1883 case of *People ex. rel. King v. Gallagher*. In this case the plaintiff Gallagher demanded that his daughter be admitted to a whites-only school. Again, the court cited *Roberts v. Boston* to argue that the long-standing state policy of segregated schooling provided the best educational environment for African American children.

A series of cases in the 1880s and 1890s continued to use the ruling in the Boston school segregation case to build support for legalized segregation in state and regional school systems, making segregation a fundamental concept in America law. The influence of the "separate but equal" concept as first outlined in *Roberts v. Boston* stretched across more than forty years of legal rulings, culminating in the U.S. Supreme Court ruling in the 1896 case of *Plessy v. Ferguson*. In this case, an African American man named Homer Plessy challenged Louisiana laws that required him to ride in a separate railroad car from whites. After intentionally violating the law by refusing to move to a nonwhite car, he was arrested and tried for violating the segregation ordinance. When the case reached the Louisiana State Supreme Court, the majority ruling cited fifteen opinions upholding segregation and quoted at length from *Roberts v. Boston* to demonstrate the long reach of segregation rulings across the second half of the nineteenth century. The case was brought before the U.S. Supreme Court, which, in its landmark ruling, upheld Plessy's conviction and declared segregation to be constitutional. *Roberts v. Boston* was the leading case cited in the decision. What began as a movement of Boston African Americans to secure equal educational access for their children led to sanctioned segregation in all facets of American life, supported by the nation's highest court. In the decades that followed, African Americans, especially in southern states, faced widespread segregation in public accommodations as well as in educational settings.

See also *Plessy v. Ferguson* (1896).

Further Reading

■ Articles

Flicker, Douglas J. "From Roberts to Plessy: Educational Segregation and the 'Separate but Equal' Doctrine." *Journal of Negro History* 84 (Autumn 1999): 301–314.

Horton, James Oliver, and Michele Gates Moresi. "Roberts, Plessy, and Brown: The Long, Hard Struggle against Segregation." *OAH Magazine of History* 15 (Winter 2001): 14–16.

Levy, Leonard W., and Harlan B. Philips. "The Roberts Case: Source of the 'Separate but Equal' Doctrine." *American Historical Review* 56 (April 1951): 510–518.

Price, George R., and James Brewer Stewart. "The Roberts Case, the Easton Family, and the Dynamics of the Abolitionist Movement in Massachusetts, 1776–1870." *Massachusetts Historical Review* 4 (2002): 89–115.

White, Arthur O. "School Reform in Boston: Integrationists and Segregationists." *Phylon* 34 (1973): 203–217.

Questions for Further Study

1. In what ways did *Roberts v. City of Boston* anticipate the U.S. Supreme Court case *Brown v. Board of Education* just over a century later?

2. Compare this case with the cases discussed in connection with Charles Hamilton Houston's "Educational Inequalities Must Go!" in 1935 and with the Supreme Court case *Sweatt v. Painter* in 1950. In what ways did the *Roberts* case begin to lay the foundation for twentieth-century efforts to integrate education?

3. Why were African Americans in Boston divided over the issue of segregated versus integrated schools? To what extent does the issue continue to be debated in modern life, if at all?

4. What was the impact in the legal community of the *Roberts* case? How was the ruling in the case used in the post–Civil War period leading to the landmark case *Plessy v. Ferguson* in 1896?

5. In the early decades of the nineteenth century, a considerable amount of activity involving the rights and condition of African Americans, including abolitionist activity, centered in Boston and Massachusetts generally. Why do you think Boston became a hub of such activity?

■ Books

Cushing, Luther S. *Reports of Cases Argued and Determined in the Supreme Judicial Court of Massachusetts*. Vol. 5. Boston: Little, Brown, 1883.

Kendrick, Stephen, and Paul Kendrick. *Sarah's Long Walk: The Free Blacks of Boston and How Their Struggle for Equality Changed America*. Boston: Beacon Press, 2004.

—L. Diane Barnes

Document Text

Roberts v. City of Boston

The general school committee of the city of Boston have power, under the constitution and laws of this commonwealth, to make provision for the instruction of colored children, in separate schools established exclusively for them, and to prohibit their attendance upon the other schools.

This was an action on the case, brought by Sarah C. Roberts, an infant, who sued by Benjamin F. Roberts, her father and next friend, against the city of Boston, under the statute of 1845, *c.* 214, which provides that any child, unlawfully excluded from public school instruction in this commonwealth, shall recover damages therefor against the city or town by which such public instruction is supported.

The case was submitted to the court of common pleas, from whence it came to this court by appeal, upon the following statement of facts:—

"Under the system of public schools established in the city of Boston, primary schools are supported by the city, for the instruction of all children residing therein between the ages of four and seven years. For this purpose, the city is divided for convenience, but not by geographical lines, into twenty-one districts, in each of which are several primary schools making the whole number of primary schools in the city of Boston one hundred and sixty-one. These schools are under the immediate management and superintendence of the primary school committee, so far as that committee has authority, by virtue of the powers conferred by votes of the general school committee.

"At a meeting of the general school committee, held on the 12th of January, 1848, the following vote was passed:—

"*Resolved*, that the primary school committee be, and they hereby are, authorized to organize their body and regulate their proceedings as they may deem most convenient; and to fill all vacancies occurring in the same, and to remove any of their members at their discretion during the ensuing year; and that this board will cheerfully receive from said committee such communications as they may have occasion to make."

"The city of Boston is not divided into territorial school districts; and the general school committee, by the city charter, have the care and superintendence of the public schools. In the various grammar and primary schools, white children do not always or necessarily go to the schools nearest their residences; and in the case of the Latin and English high schools (one of each of which is established in the city) most of the children are obliged to go beyond the schoolhouses nearest their residences.

"The regulations of the primary school committee contain the following provisions:—

"Admissions. No pupil shall be admitted into a primary school, without a ticket of admission from a member of the district committee.

"Admissions of Applicant. Every member of the committee shall admit to his school, all applicants, of suitable age and qualifications, residing nearest to the school under his charge, (excepting those for whom special provision has been made,) provided the number in his school will warrant the admission.

"Scholars to go to schools nearest their residences. Applicants for admission to the schools, (with the exception and provision referred to in the preceding rule,) are especially entitled to enter the schools nearest to their places of residence."

"At the time of the plaintiff's application, as hereinafter mentioned, for admission to the primary school, the city of Boston had established, for the exclusive use of colored children, two primary schools, one in Belknap street, in the eighth school district, and one in Sun Court street, in the second school district.

"The colored population of Boston constitute less than one sixty-second part of the entire population of the city. For half a century, separate schools have been kept in Boston for colored children, and the primary school for colored children in Belknap street was established in 1820, and has been kept there ever since. The teachers of this school have the same compensation and qualifications as in other like schools in the city. Schools for colored children were originally established at the request of colored citizens, whose children could not attend the public schools, on account of the prejudice then existing against them.

"The plaintiff is a colored child, of five years of age, a resident of Boston, and living with her father, since the month of March, 1847, in Andover street, in the sixth primary school district. In the month of April, 1847, she being of suitable age and qualifications, (unless her color was a disqualification,) applied to

a member of the district primary school committee, having under his charge the primary school nearest to her place of residence, for a ticket of admission to that school, the number of scholars therein warranting her admission, and no special provision having been made for her, unless the establishment of the two schools for colored children exclusively, is to be so considered.

"The member of the school committee, to whom the plaintiff applied, refused her application on the ground of her being a colored person, and of the, special provision made as aforesaid. The plaintiff thereupon applied to the primary school committee of the district, for admission to one of their schools, and was in like manner refused admission, on the ground of her color and the provision aforesaid. She thereupon petitioned the general primary school committee, for leave to enter one of the schools nearest her residence. That committee referred the subject to the committee of the district, with full powers, and the committee of the district thereupon again refused the plaintiff's application, on the sole ground of color and the special provision aforesaid, and the plaintiff has not since attended any school in Boston. Afterwards, on the 15th of February, 1848, the plaintiff went into the primary school nearest her residence, but without any ticket of admission or other leave granted, and was on that day ejected from the school by the teacher.

"The school established in Belknap street is twenty-one hundred feet, distant from, the residence of the plaintiff, measuring through the streets; and in passing from the plaintiff's residence to the Belknap street school, the direct route passes the ends of two streets in which there are five primary schools.

The distance to the school in Sun Court street is much greater. The distance from the plaintiff's residence to the nearest primary school is nine hundred feet. The plaintiff might have attended the school in Belknap street, at any time, and her father was so informed, but he refused to have her attend there.

"In 1846, George Putnam and other colored citizens of Boston petitioned the primary school committee, that exclusive schools for colored children might be abolished, and the committee, on the 22d of June, 1846, adopted the report of a sub-committee, and a resolution appended thereto, which was in the following words:—

"*Resolved*, that in the opinion of this board, the continuance of the separate schools for colored children, and the regular attendance of all such children upon the schools, is not only legal and just, but is best adapted to promote the education of that class of our population."

The court were to draw such inferences from the foregoing facts as a jury would be authorized to draw; and the parties agreed that if the plaintiff was entitled to recover, the case should be sent to a jury to assess damages; otherwise the plaintiff was to become nonsuit.

C. Sumner and R. Morris, Jr., for the plaintiff

Mr. Sumner argued as follows:

1. According to the spirit of American institutions, and especially of the constitution of Massachusetts, (Part First, Articles I. and VI.) all men, without distinction of color or race, are equal before the law.

2. The legislation of Massachusetts has made no discrimination of color or race in the establishment of the public schools. The laws establishing public schools, speak of "schools for the instruction of children," generally, and "for the benefit of all the inhabitants of the town," not specifying any particular class, color, or race. Rev. Sts. *c.* 23; Colony law of 1647, (Anc. Ch. *c.*186.) The provisions of Rev. Sts. *c.* 23, §68, and St. 1838, *c.* 154, appropriating small sums out of the school fund for the support of common schools among the Indians, do not interfere with this system. They partake of the anomalous character of all our legislation with regard to the Indians. And it does not appear, that any separate schools are established by law among the Indians, or that they are in any way excluded from the public schools in their neighborhood.

3. The courts of Massachusetts have never admitted any discrimination, founded on color or race, in the administration of the common schools, but have recognized the equal rights of all the inhabitants. *Commonwealth v. Dedham*, 16 Mass. 141, 146; *Withington v. Eveleth*, 7 Pick. 106; *Perry v. Dover*, 12 Pick. 206, 213.

4. The exclusion of colored children from the public schools, which are open to white children, is a source of practical inconvenience to them and their parents, to which white persons are not exposed, and is, therefore, a violation of equality.

5. The separation of children in the public schools of Boston, on account of color or race, is in the nature of caste, and is a violation of equality.

6. The school committee have no power, under the constitution and laws of Massachusetts, to make any discrimination on account of color or race, among

children in the public schools. The only clauses in the statutes, conferring powers on the school committee, are the tenth section of Rev. Sts. *c.*23, declaring that they "shall have the general charge and superintendence of all the public schools in the town," and the fifteenth section of the same chapter, providing that they "shall determine the number and qualifications of the scholars, to be admitted into the school kept for the use of the whole town." The power to determine the "qualifications" of the scholars must be restrained to the qualifications of, age, sex, and moral and intellectual fitness. The fact, that a child is black, or that he is white, cannot of itself be considered a qualification, or a disqualification.

The regulations and by-laws of municipal corporations must be reasonable, or they are inoperative and void. *Commonweath v. Worcester*, 3 Pick. 462; *Vandine's Case*, 6 Pick. 187; *Shaw v. Boston*, 1 Met. 130. So, the regulations and by-laws of the school committee must be reasonable; and their discretion must be exercised in a reasonable manner. The discrimination made by the school committee of Boston, on account of color, is not legally reasonable. A colored person may occupy any office connected with the public schools, from that of governor, or secretary of the board of education, to that of member of a school committee, or teacher in any public school, and as a voter he may vote for members of the school committee. It is clear, that the committee may classify scholars, according to age and sex, for these distinctions are inoffensive, and recognized as legal (Rev. Sts. *c.* 23, §63); or according to their moral and intellectual qualifications, because such a power is necessary to the government of schools. But the committee cannot assume, without individual examination, that an entire race possess certain moral or intellectual qualities, which render it proper to place them all in a class by themselves.

But it is said, that the committee, in thus classifying the children, have not violated any principle of equality, inasmuch as they have provided a school with competent instructors for the colored children, where they enjoy equal advantages of instruction with those enjoyed by the white children. To this there are several answers: 1st, The separate school for colored children is not one of the schools established by the law relating to public schools, (Rev. Sts. *c.* 23,) and having no legal existence, cannot be a legal equivalent. 2d. It is not in fact an equivalent. It is the occasion of inconveniences to the colored :children, to which they would not be exposed if they had access to the nearest public schools; it inflicts upon them the stigma of caste; and although the matters taught in the two schools may be precisely the same, a school exclusively devoted to one class must differ essentially, in its spirit and character, from that public school known to the law, where all classes meet together in equality. 3d. Admitting that it is an equivalent, still the colored children cannot be compelled to take it. They have an equal right with the white children to the general public schools.

7. The court will declare the by-law of the school committee, making a discrimination of color among children, entitled to the benefit of the public schools, to be unconstitutional and illegal, although there are no express words of prohibition in the constitution and laws. Slavery was abolished in Massachusetts, by virtue of the declaration of rights in our constitution, without any specific words of abolition in that instrument, or in any subsequent legislation.*Commonwealth v. Aves*, 18 Pick. 193, 210. The same words, which are potent to destroy slavery, must be equally potent against any institution founded on caste. And see *Shaw v. Boston*, 1 Met. 130, where a by-law of the city was set aside as unequal and unreasonable, and therefore void. If there should be any doubt in this case, the court should incline in favor of equality; as every interpretation is always made in favor of life and liberty. Rousseau says that "it is precisely because the force of things tends always to destroy equality, that the force of legislation ought always to tend to maintain it." In a similar spirit the court should tend to maintain it.

The fact, that the separation of the schools was originally made at the request of the colored parents, cannot affect the rights of the colored people, or the powers of the school committee. The separation of the schools, so far from being for the benefit of both races, is an injury to both. It tends to create a feeling of degradation in the blacks, and of prejudice and uncharitableness in the whites.

P. W. Chandler, city solicitor, for the defendants

The opinion was delivered at the March term, 1850

Shaw, C. J. The plaintiff, a colored child of five years of age, has commenced this action, by her father and next friend, against the city of Boston, upon the statute of 1845, *c.* 214, which provides, that any child unlawfully excluded from public school instruction, in this commonwealth, shall recover damages therefor, in an action against the city or town, by

which such public school instruction is supported. The question therefore is, whether, upon the facts agreed, the plaintiff has been unlawfully excluded from such instruction.

By the agreed statement of facts, it appears, that the defendants support a class of schools called primary schools, to the number of about one, hundred and sixty, designed for the instruction of children of both sexes, who are between the ages of four and seven years. Two of these schools are appropriated by the primary school committee, having charge of that class of schools, to the exclusive instruction of colored children, and the residue to the exclusive instruction of white children.

The plaintiff, by her father, took proper measures to obtain admission into one of these schools appropriated to white children, but pursuant to the regulations of the committee, and in conformity therewith, she was not admitted. Either of the schools appropriated to colored children was open to her; the nearest of which was about a fifth of a mile, or seventy rods more distant from her father's house than the nearest primary school. It further appears, by the facts agreed, that the committee having charge of that class of schools had, a short time previously to the plaintiff's application, adopted a resolution, upon a report of a committee, that in the opinion of that board, the continuance of the separate schools for colored children, and the regular attendance of all such children upon the schools, is not only legal and just, but is best adapted to promote the instruction of that class of the population.

The present case does not involve any question in regard to the legality of the Smith school, which is a school of another class, designed for colored children more advanced in age and proficiency; though much of the argument, affecting the legality of the separate primary schools, affects in like manner that school. But the question here is confined to the primary schools alone. The plaintiff had access to a school, set apart for colored children, as well conducted in all respects, and as well fitted, in point of capacity and qualification of the, instructors, to advance the education of children under seven years old, as the other primary schools; the objection is, that the schools thus open to the plaintiff are exclusively appropriated to colored children, and are at a greater distance from her home. Under these circumstances, has the plaintiff been unlawfully excluded from public school instruction? Upon the best consideration we, have been able to give the subject, the court are all of opinion that she has not.

It will be considered, that this is a question of power, or of the legal authority of the committee intrusted by the city with this department of public instruction; because, if they have the legal authority, the expediency of exercising it in any particular way is exclusively with them.

The great principle, advanced by the learned and eloquent advocate of the plaintiff, is, that by the constitution and laws of Massachusetts, all persons without distinction of age or sex, birth or color, origin or condition, are equal before the law. This, as a broad general principle, such as ought to appear in a declaration of rights, is perfectly sound; it is not only, expressed in terms, but pervades and animates the whole spirit of our constitution of free government. But, when this great principle comes to be applied to the actual and various conditions of persons in society, it will not warrant the assertion, that men and women are legally clothed with the same civil and political powers, and that children and adults are legally to have the same functions and be subject to the same treatment; but only that the rights of all, as they are settled and regulated by law, are equally entitled to the paternal consideration and protection of the law, for their maintenance and security. What those rights are, to which individuals, in the infinite variety of circumstances by which they are surrounded in society, are entitled, must depend on laws adapted to their respective relations and conditions.

Conceding, therefore, in the fullest manner, that colored persons, the descendants of Africans, are entitled by law, in this commonwealth, to equal rights, constitutional and political, civil and social, the question then arises, whether the regulation in question, which provides separate schools for colored children, is a violation of any of these rights.

Legal rights must, after all, depend upon the provisions of law; certainly all those rights of individuals which can be asserted and maintained in any judicial tribunal. The proper province of a declaration of rights and constitution of government, after directing its form, regulating its organization and the distribution of its powers, is to declare great principles and fundamental truths; to influence and direct the judgment and conscience of legislators in making laws, rather than to limit and control them, by directing what precise laws they shall make. The provision, that it shall be the duty of legislatures and magistrates to cherish the interests of literature and the sciences, especially the university at Cambridge, public schools, and grammar schools, in the towns, is precisely of this character. Had the legislature failed

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to comply with this injunction, and neglected to provide public schools in the towns, or should they so far fail in their duty as to repeal all laws on the subject, and leave all education to depend on private means, strong and explicit as the direction of the constitution is, it would afford no remedy or redress to the thousands of the rising generation, who now depend on these schools to afford them a most valuable education, and an introduction to useful life.

We must then resort to the law, to ascertain what are the rights of individuals, in regard to the schools. By the Rev. Sts. *c.* 23, the general system is provided for. This chapter directs what money shall be raised in different towns, according to their population; provides for a power of dividing towns into school districts, leaving, it however at the option of the inhabitants to divide the towns into districts, or to administer the system and provide schools, without such division. The latter course has, it is believed, been constantly adopted in Boston, without forming the territory into districts.

The statute, after directing what length of time schools shall be kept in towns of different numbers of inhabitants and families, provides (§10) that the inhabitants shall annually choose, by ballot, a school committee, who shall have the general charge and superintendence of all the public schools in such towns. There being no specific direction how schools shall be organized; how, many schools shall be kept; what shall be the qualifications for admission to the schools; the age at which children may enter; the age to which they may continue; these must all be regulated by the committee, under their power of general superintendence.

There is indeed, a provision (§§5 and 6,) that towns may and in some cases must provide a high school and classical school, for the benefit of all the inhabitants. It is obvious how this clause was introduced; it was to distinguish such classical and high schools, in towns districted, from the district schools. These schools being of a higher character, and designed for pupils of more advanced age and greater proficiency, were intended for the benefit of the whole of the town, and not of particular districts. Still it depends upon the committee, to prescribe the qualifications, and make all the reasonable rules, for organizing such schools and regulating and conducting them.

The power of general superintendence vests a plenary authority in the committee to arrange, classify, and distribute pupils, in such a manner as they think best adapted to their general proficiency and welfare. If it is thought expedient to provide for very young children, it may be, that such schools may be kept exclusively by female teachers, quite adequate to their instruction, and yet whose services maybe obtained at a cost much lower than that of more highly qualified male instructors. So if they should judge it expedient to have a grade of schools for children from seven to ten, and another for those from ten to fourteen, it would seem to be within their authority to establish such schools. So to separate male and female pupils into different schools. It has been found necessary, that is to say, highly expedient, at times, to establish special schools for poor and neglected children, who have passed the age of seven, and have become too old to attend the primary school, and yet have not acquired the rudiments of learning, to enable them to enter the ordinary schools. If a class of youth, of one or both sexes, is found in that condition, and it is, expedient to organize them into a separate school, to receive the special training, adapted to their condition, it seems to be within the power of the superintending committee, to provide for the organization of such special school.

A somewhat more specific rule, perhaps, on these subjects, might be beneficially provided by the legislature; but yet, it would probably be quite impracticable to make full and precise laws for this purpose, on account of the different condition of society in different towns. In towns of a large territory, over which the inhabitants are thinly settled, an arrangement or classification going far into detail, providing different schools for pupils of different ages, of each sex, and the like, would require the pupils to go such long distances from their homes to the schools, that it would be quite unreasonable. But in Boston, where more than one hundred thousand inhabitants live within a space, so small, that it would be scarcely an inconvenience to require a boy of good health to traverse daily the whole extent of it, a system of distribution and classification may be adopted and carried into effect, which may be useful and beneficial in its influence on the character of the schools, and in its adaptation to the improvement and advancement of the great purpose of education, and at the same time practicable and reasonable in its operation.

In the absence of, special legislation on this subject, the law, has vested the power in the committee to regulate the system of distribution and classification; and when this power is reasonably exercised, without being abused or perverted by colorable pretences, the decision of the committee must be deemed conclusive. The committee, apparently upon

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great deliberation, have come to the conclusion, that the good of both classes of schools will be best promoted, by maintaining the separate primary schools for colored and for white children and we can perceive no ground to doubt, that this is the honest result of their experience and judgment.

It is urged, that this maintenance of separate schools tends to deepen and perpetuate the odious distinction of caste, founded in a deep-rooted prejudice in public opinion. This prejudice, if it exists, is not created by law, and probably cannot be changed by law. Whether this distinction and prejudice, existing in the opinion and feelings of the community, would not be as effectually fostered by compelling colored and white children, to associate together in the same schools, may well be doubted; at all events, it is a fair and proper question for the committee to consider and decide upon, having in view, the best interests of both classes, of children placed under their superintendence, and we cannot say, that their decision upon it is not founded on just grounds of reason and experience, and in the results of a discriminating and honest judgment.

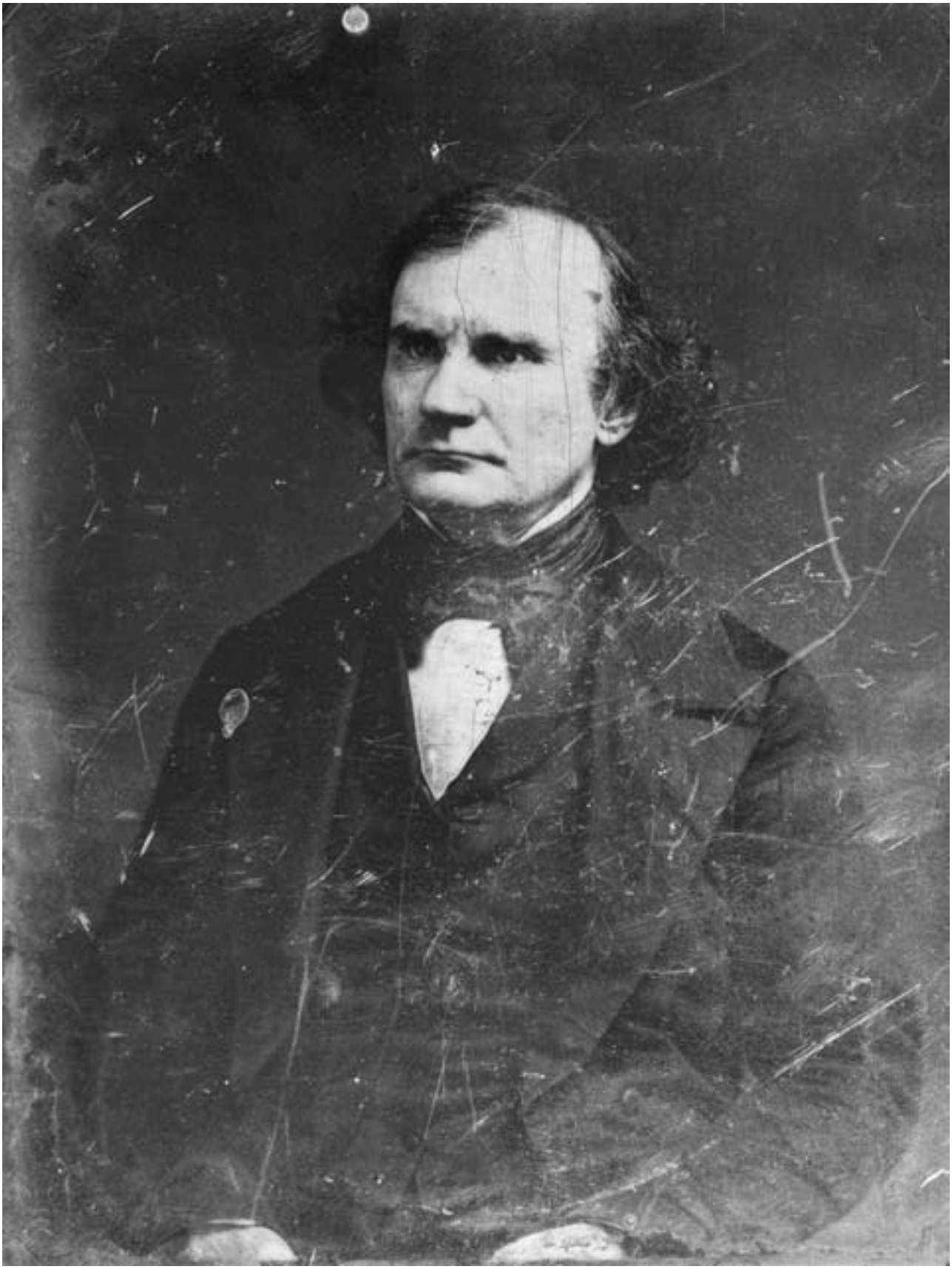
The increased distance, to which the plaintiff was obliged to go to school from her father's house, is not such, in our opinion, as to render the regulation in question unreasonable, still less illegal.

On the whole the court are of opinion, that upon the facts stated, the action cannot be maintained.

Plaintiff nonsuit.

Glossary

colorable	seemingly valid, but intending to deceive
infant	minor child
Latin … high schools	college preparatory schools that typically provide instruction in the classical languages
nonsuit	a judgment against a plaintiff
rod	a unit of measurement equal to 16.5 feet
Rousseau	Jean-Jacque Rousseau, eighteenth-century French philosopher; the quotation is from Book II, Chapter 11 of *Of the Social Contract*.
university at Cambridge	Harvard University



James Murray Mason (Library of Congress)

Fugitive Slave Act of 1850

1850

"In no trial or hearing under this act shall the testimony of such alleged fugitive be admitted in evidence."

Overview

The Fugitive Slave Act of 1850 represented an effort by white southerners to use federal power to protect slavery by providing for the recovery of fugitive slaves who crossed state boundaries in their efforts to escape. Meant to improve upon previous legislation to enforce the Constitution's provision for the return of fugitives "held to service or labor," the new law became the most controversial measure passed as part of what became known as the Compromise of 1850, an omnibus package of five bills. Many northerners who were at best vaguely antislavery still found the new measure objectionable, with its denial of any rights for the accused, an inherent unfairness in the compensation due commissioners depending on the verdict, and provisions that might draw northerners into enforcing the measure.

Throughout the nineteenth century many northerners, black and white, had been assisting slaves escaping to freedom. Several states had passed laws offering some protection for those accused fugitives, who might well have been free blacks wrongly taken into custody. Southern whites, for all their talk of states' rights, protested the efforts of northern states to defend their rights against the federal government; in turn, they had no objection to invoking the federal government on behalf of slavery even as they protested any measures at the federal level that impaired their own rights as slaveholders or challenged the peculiar institution's expansion economically or territorially. Although the Fugitive Slave Act proved to be quite controversial, by itself it represented but a single step in the process that led to secession and civil war, and it was not until war broke out that the federal government took steps to rid itself of the shadow cast by the 1850 act.

Context

Article IV, Section 2, of the U.S. Constitution included the following clause:

> No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, But shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

By itself, the clause did not call for the federal government to assume the responsibility of recovering fugitives, and it did not employ the terms *slave* or *slavery*. Recognizing this, Congress in 1793 passed legislation providing for enforcement of this pledge by the federal judiciary as well as by local and state officials. The resulting act came to be known as the Fugitive Slave Act.

For decades to come slave catchers were employed by masters seeking the recovery of runaway slaves who had crossed state lines. Fugitive slaves could be recaptured at any time: There was no statute of limitations as to their status. At times slave catchers apprehended free blacks and sold them into slavery, the most famous case being that of Solomon Northup, a freeborn New Yorker who was enslaved for twelve years and later wrote about his captivity. In the case of Frederick Douglass, it was not until years after his escape that he had his freedom secured under law when a group of British benefactors bought his freedom.

The arbitrary nature of the recovery process—there was no provision about identifying the accused or definitions of standards of proof—led several northern states to pass legislation that offered some degree of legal protection for those apprehended under the statute. Such personal liberty laws, sometimes known as antikidnap laws, had existed in several states prior to the ratification of the Constitution, but more states adopted them in the decades after the passage of the Fugitive Slave Act of 1793. Although the specific provisions varied from state to state, such legislation came to embody prohibitions against certain state officials from enforcing the act (sometimes under penalty of a fine), jury trials for the accused, the need to present evidence to prove the fact of identity and ownership, the necessity of a warrant, and other measures designed to protect free blacks from being captured and brought south. These measures multiplied in the 1830s and early 1840s as the nature of both the proslavery and abolition

Time Line

1793

■ **February 12**
The Fugitive Slave Act is passed, covering both fugitives from justice and escaped slaves.

1842

■ **March 1**
In *Prigg v. Pennsylvania* the Supreme Court strikes down provisions of a Pennsylvania personal liberty law.

1850

■ **September 18**
Congress passes the Fugitive Slave Act, with stronger provisions.

1854

■ **May**
In Boston, the trial of Anthony Burns, convicted of being an escaped slave, excites riots and an effort to liberate Burns from federal confinement.

1859

■ **March 7**
The Supreme Court, in *Ableman v. Booth*, strikes down the ruling of a Wisconsin court that had declared the Fugitive Slave Act unconstitutional.

1861

■ **August 6**
Congress passes the First Confiscation Act, authorizing the seizure as contraband of all slaves who had been employed in active support of the Confederate war effort.

1862

■ **March 13**
Congress forbids military personnel to return fugitive slaves to their owners.

■ **July 17**
Congress passes the Second Confiscation Act, declaring free those slaves owned by supporters of secession.

1863

■ **January 1**
Lincoln issues the Emancipation Proclamation, freeing slaves in areas he specified as being under Confederate control.

1864

■ **June 28**
Congress repeals the Fugitive Slave Act.

movements changed and debates over slavery became a more divisive aspect of American politics.

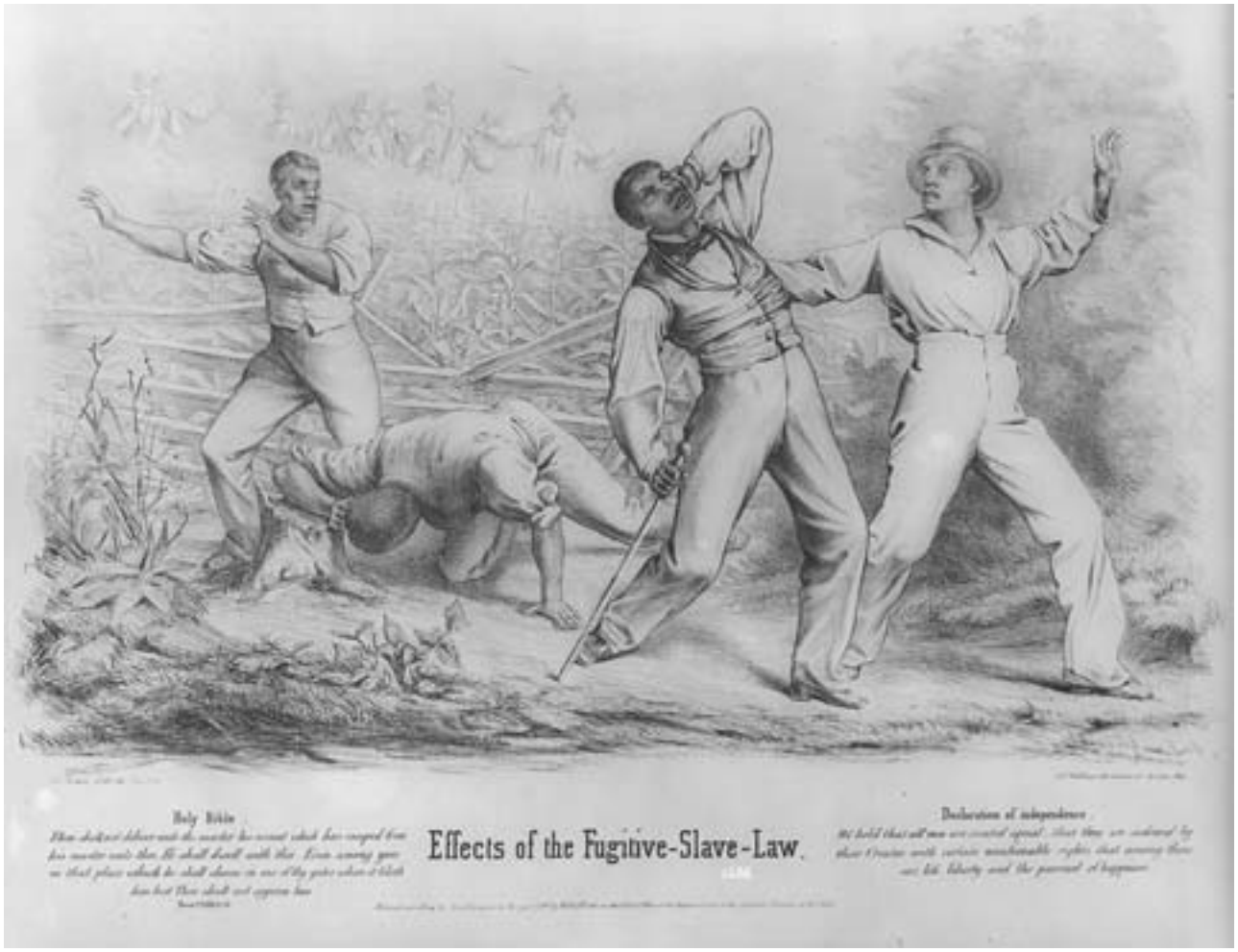
In 1842 the Supreme Court had a chance to rule on the constitutionality of personal liberty laws as a result of a case in which Pennsylvania and Maryland authorities cooperated to test Pennsylvania's legislation federally. Edward Prigg of Maryland, who had been involved in an attempt to capture Margaret Morgan, a slave who had escaped from Maryland into Pennsylvania in violation of Pennsylvania law, was convicted of violating the law, with an eye toward bringing the dispute before the Supreme Court for final adjudication. Speaking for a majority of the Court, Associate Justice Joseph Story ruled that the Fugitive Slave Act of 1793 was constitutional, that the Pennsylvania personal liberty law was unconstitutional, and that the recovery of runaway slaves across state boundaries was a federal responsibility. He did, however, also rule that states need not enlist their officials to assist in the recapture and return of fugitive slaves from other states.

Prigg v. Pennsylvania thus opened the way for a new approach to the question of how to implement the Constitution's fugitive slave recovery clause. Some northern states, led by Massachusetts, passed new personal liberty laws, as did Pennsylvania in 1847; northern states as a whole withdrew state assistance from enforcing the federal legislation. In 1848 South Carolina senator Andrew P. Butler introduced a bill to improve existing legislation on the recovery of fugitive slaves, but his ideas did not get far prior to 1850.

The 1850 fugitive slave legislation was introduced by Virginia senator James Murray Mason on January 4, 1850, several weeks before Senator Henry Clay of Kentucky incorporated it into his proposal designed to settle all outstanding issues related to slavery. He based the bill in part on Butler's 1848 proposal. Several southern senators were enraged when New York senator William H. Seward sought to amend the bill to provide for trial by jury for accused fugitives. Such opposition caused Mason to modify his proposal in order to strengthen it against such critics, including a provision authorizing the formation of a *posse comitatus*—that is, a temporary local police force—to execute warrants, a measure that could transform northern bystanders into slave catchers.

The debate over Mason's measure proved divisive. Some southerners cited northern resistance to the recovery of fugitive slaves as a reason to convene in Nashville that summer so that southerners could consider their options, including possibly secession: Clay himself conceded the justice of southern complaints on that score, as did Massachusetts senator Daniel Webster. That Mason was unbending in his support of southern measures became apparent when he rose to deliver what proved to be the last Senate speech of John C. Calhoun, who was too ill to deliver it himself. That some antislavery northerners could not tolerate his proposal became evident when Seward denounced it in a lengthy speech in which he argued that there was a higher law than the Constitution.

Although Mason favored new legislation concerning the recapture of fugitive slaves, he opposed other compro-



A group of four black men—possibly freedmen—are ambushed by a posse of six armed whites in this illustration of the effects of the Fugitive Slave Act of 1850. (Library of Congress)

mise proposals, and he was not unhappy when Clay's omnibus effort failed in July. Within weeks, however, due in large part to the legislative skill of Illinois senator Stephen A. Douglas, the bill passed as part of a decision to present each proposal separately under the assumption that each had a majority in support but that taken together not enough people would engage in the give-and-take of compromise needed to pass all the proposals as part of a larger bill. Mason aided this effort by once more proposing changes to his original measure while successfully resisting attempts to incorporate jury trials for the accused. This time his efforts were rewarded: The Fugitive Slave Act passed on September 18, 1850.

About the Author

Senator James M. Mason of Virginia, grandson of Founding Father George Mason, framed the original bill that eventually passed into law as the Fugitive Slave Act of 1850. Born on November 3, 1798, in the District of Columbia on an island in the Potomac now known as Theodore Roosevelt Island, Mason pursued a career in law and became active in Virginia politics, serving as a delegate to Virginia's constitutional convention in 1829 and in the state legislature. He was elected to the House of Representatives in 1836 for one term and then to the U.S. Senate in 1847. In later life he would head the congressional committee that investigated the abolitionist John Brown's raid on Harpers Ferry before siding with the Confederacy and serving as a diplomatic representative to France and Great Britain. When a U.S. vessel boarded the British mail packet *Trent* in 1861 and captured Mason and his fellow Confederate diplomat John Slidell, the resulting international incident threatened to bring Great Britain and the United States to war. He was released in 1862, represented the Confederacy in Great Britain until the end of the Civil War, and died on April 28, 1871, in Virginia.

Essential Quotes

"It shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant, or other process, when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined."

(Section 5)

"And the better to enable the said commissioners, when thus appointed, to execute their duties faithfully and efficiently, in conformity with the requirements of the Constitution of the United States and of this act, they are hereby authorized and empowered … to appoint … any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties."

(Section 5)

"When a person held to service or labor in any State or Territory of the United States, has heretofore or shall hereafter escape into another State or Territory of the United States, the person or persons to whom such service or labor may be due … may pursue and reclaim such fugitive person."

(Section 6)

"In no trial or hearing under this act shall the testimony of such alleged fugitive be admitted in evidence."

(Section 6)

Explanation and Analysis of the Document

The Fugitive Slave Act of 1850 is best understood first as a document that sought to close the loopholes that allowed northerners and northern state governments to evade the intent of the Constitution's clause calling for the recovery of fugitives from labor who crossed state lines. The Fugitive Slave Act of 1793 had proved insufficient as a way to secure the recovery of fugitives, in large part because of the efforts of several northern states to block its effective implementation through the passage of "personal liberty laws." Further, the Fugitive Slave Act of 1793 specified federal judges as the only federal officials who could determine the status of an accused fugitive, but the new law extended this authority to federal commissioners and allowed federal courts to appoint more such commissioners.

♦ Sections 1–3

The first section of the law identifies commissioners who have been appointed by any act of Congress or by

the circuit courts and who have the same authority as a justice of the peace or local magistrate to arrest, imprison, or grant bail to offenders of the law. The section then states that these commissioners were to have the authority to exercise the powers granted to them under the present act. The second section essentially extends these same powers to commissioners in the Territories, that is, to those regions that were under the control of the U.S. government but had not yet been admitted to the Union as states. Commissioners in the Territories were to be appointed by the circuit court that had jurisdiction in them. The third section simply authorizes the circuit courts to expand the number of commissioners needed to "reclaim fugitives from labor." In essence, the first three sections of the act established a class of legal authorities outside the courts that would have the power to enforce the provisions of the Fugitive Slave Act.

♦ Sections 4 and 5

With Section 4, the act turns to the specific powers and duties of this body of commissioners. Section 4 specifies that commissioners were to have "concurrent jurisdiction" with the circuit courts and superior courts. Concurrent jurisdiction refers to a situation in which two (or more) courts at different levels—a state court and federal court, for example—have jurisdiction over a case. By granting the commissioners concurrent jurisdiction, the act in essence removed the legalities of capturing fugitive slaves from the courts and placed it in the hands of commissioners. These commissioners were then granted the authority to capture runaway slaves and return them to their states.

Section 5 introduces some of the more draconian provisions of the act. It begins by stating that "it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act." The section goes on to specify that if a marshal failed to execute a claim by a slave owner (a "claimant"), he could be fined. Making matters worse for the marshal, it is decreed that if a slave held in the marshal's custody escaped, whether through the collusion of the marshal or not, the marshal could be held liable by the claimant for the full value of the slave. To help the marshal avoid these legal difficulties in carrying out his duties, he had the authority to appoint persons to assist him in capturing runaway slaves. Further, marshals had the authority to "summon and call to their aid … bystanders," that is, to invoke the principle of *posse comitatus*. This is a Latin term used in the law; its literal meaning is "power of the county," and it refers to the authority of a marshal to appoint a temporary police force. Compare the posse of Western movies and television shows, where groups of townsmen, with the sanction of the marshal, temporarily gather to hunt down criminals. Making matters worse for ordinary citizens was that the law specifies that "all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law." In effect, everyone became a potential slave catcher.

♦ Sections 6 and 7

Section 6 continues with the somewhat tortuous legislative language of the preceding sections, but buried within the language is a key component of the law: Accused fugitive slaves are stripped of their civil rights. The section first states that a presumed slave owner may "pursue and reclaim" a "person held to service or labor." He could do so either by procuring a warrant or by "seizing and arresting such fugitive, where the same can be done without process" (that is, without court proceedings). The seized person could then be taken to court, where the issue was to be decided in a "summary" manner. All the claimant had to do was assert by affidavit the identity of the fugitive and claim that the fugitive was in fact a slave; no other legal proof was required. The claimant, or his agent, was authorized to "use such reasonable force and restraint as may be necessary," giving slave catchers a free hand in hunting down and subduing a runaway. Further, the act states that "in no trial or hearing under this act shall the testimony of such alleged fugitive be admitted in evidence." In effect, the accused was rendered unable to defend him or herself. Of course, this provision would have struck fear into the hearts of free blacks: All a claimant had to do was seize a black and claim runaway status, and the authorities had to support the claim.

Section 7 made it illegal to aid a runaway slave, stating that any person who obstructed, hindered, or prevented a claimant from arresting a fugitive, rescued a fugitive, helped a fugitive escape from the claimant, or harbored or concealed a fugitive could be fined or imprisoned, or both. Additionally, such a person could be required to pay restitution to the claimant.

♦ Sections 8–10

Section 8 created an interesting conflict of interest. In the wake of *Prigg v. Pennsylvania* there was a vast increase in the number of government officials involved in the process of capture, determination of status, and return of fugitives. These commissioners were to be paid by fees resulting from the cases over which they presided. If a commissioner ruled that the accused was not the slave in question, he would be paid five dollars. But if the commissioner determined that the accused was in fact the slave in question and issued a certificate authorizing removal of the slave, he would receive ten dollars, supposedly because of the increased administrative costs of such a decision. Thus, the law provided a financial incentive for commissioners to side with claimants rather than with the accused, who might very well have been free blacks not allowed to prove their status. Section 8 also provided for payment to any individuals who assisted a marshal in capturing and holding a runaway slave. Again, this provision of the law had the effect of turning a class of persons into bounty hunters with a potential incentive to seize any black person, claim runaway status, and collect a fee.

Section 9 turned to the issue of transporting a runaway back to another state. This provision states that if the possibility existed that the claimant would meet with any inter-

ference (that is, that rescue attempts would be made), the marshal was obligated to provide protection until he had passed over the state's border; indeed, it was the marshal's duty to return the slave to his or her home state. The Fugitive Slave Act concludes with Section 10, which established procedures for a claimant to appeal to a court in his home state when a slave escaped. The court was then required to create a record that the claimant could use in another state to enforce his claim to the slave. Section 10, though, states that such a record was not required, so that a claimant who did not have a record from his home state was still entitled to enforce his claim in another state.

Audience

As one might expect, white southerners and slaveholders celebrated the new legislation. Nothing was heard as to whether the act, with its expansion of federal power, constituted a violation of states' rights or federalism, which were otherwise cornerstones of southern political philosophy when it came to the defense of slavery. The act itself appeared to be a vindication of southern rights, specifically slaveholder rights, and a rebuke against northern efforts to resist the recapture of fugitive slaves by various means.

Northern critics of the legislation noted that it denied basic civil rights to the accused, gave greater compensation to a commissioner who ruled in favor of the slave catcher and against the accused, and compelled uninvolved bystanders to become involved in an effort to recapture fugitives and bring them to court. Northern blacks were alarmed that the legislation represented a renewed threat to their freedom, as indeed it did. Other white northerners who had supported the compromise measures or who deplored the disruptive impact of the slavery issue on American politics were far more supportive of the new legislation as a suitable implementation of the Constitution's pledge concerning the recovery of fugitive slaves.

Impact

Few measures fueled as much sectional controversy as the Fugitive Slave Act of 1850. It was not long before some northerners actively resisted the enforcement of the new act, and white southerners called upon federal authorities, including President Millard Fillmore, to use military force to subdue such obstruction. Several cases attracted national attention. In October 1850 a slave catcher was foiled in his efforts to capture William and Ellen Craft, whose 1848 escape from Georgia had gained much attention, with Ellen posing as a male slaveholder and William as his valet. Rather than risk another recapture effort, the Crafts sailed for England by year's end. Boston's black community, aided by white allies, thwarted several more efforts to recover runaway slaves. However, on February 15, 1851, federal marshals apprehended Shadrach Minkins, who had fled Virginia the previous year, prior to the passage of the Fugitive Slave Act. Members of Boston's Vigilance Committee sprang into action, crowding the courtroom in which a hearing would be held to determine Minkins's status. Antislavery lawyers prepared to defend him, despite the terms of the 1850 legislation that simply called for a determination of the accused's identity and status. In a scuffle that followed, Minkins was freed and whisked off to Canada.

Eight months later another confrontation occurred in Syracuse, New York, where an effort to recapture William Henry (known as "Jerry") and return him to his Missouri master resulted in a mob's taking affairs into its own hands and freeing Henry. Secretary of State Daniel Webster fumed that such behavior constituted treason: Four men faced trial for their role in the rescue, but only the lone black defendant was convicted for violating the Fugitive Slave Act of 1793 (not the 1850 law). Syracuse abolitionists celebrated "Jerry Rescue Day" for years to come.

In 1854 Boston witnessed yet another confrontation over the enforcement of the Fugitive Slave Act of 1850. Anthony Burns, a preacher, escaped from Richmond, Virginia, in 1853, and made his way to Boston. A year later Burns was arrested: Determined to avoid a repeat of what had happened in the Minkins case, President Franklin Pierce sent soldiers to Boston to enforce the law. On May 26 a mob stormed the courthouse intending to free Burns, but Burns was returned to his master in Virginia, who sold him after rejecting offers from abolitionists who sought to buy Burns's freedom. Burns's new owner had no such compunctions about selling Burns, who returned to Boston a free man.

These sensational events provided only part of the story, however. Although slaveholders and their agents prevailed in 80 percent of the cases brought before commissioners, the number of alleged fugitives brought before the commissioners was but a small percentage of the slaves who had escaped from captivity. If personal liberty laws presented no real obstacle to the recovery of fugitives, their continued presence still stood as a mark of defiance against the federal government's efforts to support slavery. If, in the end, only twenty-three slaves escaped federal custody, the presence of northern antislavery mobs, litigious antislavery lawyers, and operators of the Underground Railroad in facilitating the escape of slaves northward complicated the task of federal authorities. Many northern whites simply wanted nothing to do with the recapture of runaway slaves.

White southerners pointed to northern resistance as highlighting the necessity for greater safeguards for their constitutional property rights. They were joined in this sentiment by several prominent northerners, including presidents Millard Fillmore, Franklin Pierce, and James Buchanan, as well as Daniel Webster. When several northern states fashioned new measures to protect the rights of accused runaways, the federal government did what it could to set those measures aside, most notably in the Supreme Court's 1859 decision in *Ableman v. Booth*, which overturned a decision by Wisconsin's supreme court that had declared the Fugitive Slave Act of 1850 unconstitutional.

By itself, although the Fugitive Slave Act of 1850 aroused controversy, it did little to shift the balance in na-

tional politics. Democratic candidate Franklin Pierce swept to victory in the 1852 presidential contest in the wake of the act's passage. It would not be until 1854, with the Kansas-Nebraska Act, that the politics of sectional controversy truly ignited. Antislavery northerners pointed to the act as part of an effort by proslavery southerners to subvert civil rights, and the act's embrace of federal power challenged the notion that proslavery southerners were consistent advocates of states' rights and restrictions on federal power. In turn, white southerners pointed to resistance in the North as evidence of bad faith at best and treason at worst, and proponents of secession highlighted the northern response to the Fugitive Slave Act as evidence that slavery was not safe within the Union.

As distasteful as many white northerners found the business of recapturing slaves and involving northerners in the preservation of slavery, they conceded that the U.S. Constitution provided for the recovery of runaway slaves. They criticized the law as a poor and unfair implementation of that promise. Among such critics was Abraham Lincoln, who repeatedly claimed that he would honor the constitutional promise while objecting to the way the Fugitive Slave Act of 1850 proposed to keep that promise. In the late 1850s Lincoln favored a revision of fugitive slave legislation consistent with other principles, although he never offered a specific proposal. Lincoln hoped to calm southern concerns about the violations of the constitutional provisions, and he reiterated his position as president-elect in an effort to counter secessionists' use of northern resistance to the Fugitive Slave Act as justification for secession. He repeated his pledge in his first inaugural address.

The Civil War provided a Republican-controlled Congress with a means to destroy the Fugitive Slave Act through a series of acts. In August 1861 Congress authorized the seizure of any slave who was being used to support the Confederate war effort as contraband of war. That law simply turned slaveholders' insistence that slaves were property on its head by saying that such property was subject to seizure under the laws of war. As Union forces penetrated the Confederacy, more slaves sought refugee within Union lines. Lacking an overall policy, Union military personnel devised a number of responses to slave owners' requests for protection. Some units closed their lines to fugitives; others returned them to owners on a case-by-case basis, sometimes offering refuge to the runaways. Congress remedied this confusion in March 1862, when it forbade military authorities to return slaves who entered their lines, although this mandate was not always observed. The following July, Congress passed a second confiscation act, declaring free all slaves who belonged to Confederate supporters and sympathizers. Five days later President Abraham Lincoln broached to his cabinet the idea of issuing a proclamation of emancipation. The proposal was shelved until September, when Lincoln issued a preliminary emancipation proclamation, giving the Confederate states one hundred days in which to return to the Union or face the loss of their slaves. The offer was ignored, whereupon Lincoln issued the Emancipation Proclamation on January 1, 1863, declaring free those slaves in enumerated areas deemed to be under Confederate control.

In less than two years, the U.S. government had gone from enforcing a legal obligation to capture and return fugitive slaves to harboring fugitives and granting them their freedom. However, the Fugitive Slave Act remained on the books, and it still applied in areas under Union control when loyal masters sought the return of fugitives not un-

Questions for Further Study

1. The Fugitive Slave Act of 1850 is written in arcane, repetitive, complex legal language; section 6, for example, contains a 451-word sentence. Why do you think laws at this time were written in such language?

2. In what important respects did the Fugitive Slave Act of 1850 alter the Fugitive Slave Act of 1793? What change in circumstances motivated Congress to change the existing law? What role did the Supreme Court case *Prigg v. Pennsylvania* (1842) play?

3. The 1850s were a decade of crisis for the United States, one that would culminate in the Civil War. How did the Fugitive Slave Act contribute to this atmosphere of crisis?

4. In what specific ways did some people defy the Fugitive Slave Act of 1850?

5. Putting aside the obvious injustice of slavery, what specific provisions of the Fugitive Slave Act of 1850 were regarded as particularly unjust by slavery's opponents? What do you think your reaction to the law would have been if you had lived in a northern city or in a southern community?

der military control. This situation did not last long, for on June 28, 1864, Congress repealed the Fugitive Slave Acts of 1793 and 1850.

See also Slavery Clauses in the U.S. Constitution (1787); Fugitive Slave Act of 1793; *Prigg v. Pennsylvania* (1842); *Twelve Years a Slave: Narrative of Solomon Northup* (1853); Emancipation Proclamation (1863).

Further Reading

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■ Web Sites

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—Brooks D. Simpson

Document Text

Fugitive Slave Act of 1850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the persons who have been, or may hereafter be, appointed commissioners, in virtue of any act of Congress, by the Circuit Courts of the United States, and Who, in consequence of such appointment, are authorized to exercise the powers that any justice of the peace, or other magistrate of any of the United States, may exercise in respect to offenders for any crime or offense against the United States, by arresting, imprisoning, or bailing the same under and by the virtue of the thirty-third section of the act of the twenty-fourth of September seventeen hundred and eighty-nine, entitled "An Act to establish the judicial courts of the United States" shall be, and are hereby, authorized and required to exercise and discharge all the powers and duties conferred by this act.

§2. And be it further enacted, That the Superior Court of each organized Territory of the United States shall have the same power to appoint commissioners to take acknowledgments of bail and affidavits, and to take depositions of witnesses in civil causes, which is now possessed by the Circuit Court of the United States; and all commissioners who shall hereafter be appointed for such purposes by the Superior Court of any organized Territory of the United States, shall possess all the powers, and exercise all the duties, conferred by law upon the commissioners appointed by the Circuit Courts of the United States for similar purposes, and shall moreover exercise and discharge all the powers and duties conferred by this act.

§3. And be it further enacted, That the Circuit Courts of the United States shall from time to time enlarge the number of the commissioners, with a view to afford reasonable facilities to reclaim fugitives from labor, and to the prompt discharge of the duties imposed by this act.

§4. And be it further enacted, That the commissioners above named shall have concurrent jurisdiction with the judges of the Circuit and District Courts of the United States, in their respective circuits and districts within the several States, and the judges of the Superior Courts of the Territories, severally and collectively, in term-time and vacation; shall grant certificates to such claimants, upon satisfactory proof being made, with authority to take and remove such fugitives from service or labor, under the restrictions herein contained, to the State or Territory from which such persons may have escaped or fled.

§5. And be it further enacted, That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant, or other process, when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of such claimant, on the motion of such claimant, by the Circuit or District Court for the district of such marshal; and after arrest of such fugitive, by such marshal or his deputy, or whilst at any time in his custody under the provisions of this act, should such fugitive escape, whether with or without the assent of such marshal or his deputy, such marshal shall be liable, on his official bond, to be prosecuted for the benefit of such claimant, for the full value of the service or labor of said fugitive in the State, Territory, or District whence he escaped: and the better to enable the said commissioners, when thus appointed, to execute their duties faithfully and efficiently, in conformity with the requirements of the Constitution of the United States and of this act, they are hereby authorized and empowered, within their counties respectively, to appoint, in writing under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties; with authority to such commissioners, or the persons to be appointed by them, to execute process as aforesaid, to summon and call to their aid the bystanders, or posse comitatus of the proper county, when necessary to ensure a faithful observance of the clause of the Constitution referred to, in conformity with the provisions of this act; and all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law, whenever their services may be required, as aforesaid, for that purpose; and said warrants shall run, and be executed by said officers, anywhere in the State within which they are issued.

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§6. And be it further enacted, That when a person held to service or labor in any State or Territory of the United States, has heretofore or shall hereafter escape into another State or Territory of the United States, the person or persons to whom such service or labor may be due, or his, her, or their agent or attorney, duly authorized, by power of attorney, in writing, acknowledged and certified under the seal of some legal officer or court of the State or Territory in which the same may be executed, may pursue and reclaim such fugitive person, either by procuring a warrant from some one of the courts, judges, or commissioners aforesaid, of the proper circuit, district, or county, for the apprehension of such fugitive from service or labor, or by seizing and arresting such fugitive, where the same can be done without process, and by taking, or causing such person to be taken, forthwith before such court, judge, or commissioner, whose duty it shall be to hear and determine the case of such claimant in a summary manner; and upon satisfactory proof being made, by deposition or affidavit, in writing, to be taken and certified by such court, judge, or commissioner, or by other satisfactory testimony, duly taken and certified by some court, magistrate, justice of the peace, or other legal officer authorized to administer an oath and take depositions under the laws of the State or Territory from which such person owing service or labor may have escaped, with a certificate of such magistracy or other authority, as aforesaid, with the seal of the proper court or officer thereto attached, which seal shall be sufficient to establish the competency of the proof, and with proof, also by affidavit, of the identity of the person whose service or labor is claimed to be due as aforesaid, that the person so arrested does in fact owe service or labor to the person or persons claiming him or her, in the State or Territory from which such fugitive may have escaped as aforesaid, and that said person escaped, to make out and deliver to such claimant, his or her agent or attorney, a certificate setting forth the substantial facts as to the service or labor due from such fugitive to the claimant, and of his or her escape from the State or Territory in which he or she was arrested, with authority to such claimant, or his or her agent or attorney, to use such reasonable force and restraint as may be necessary, under the circumstances of the case, to take and remove such fugitive person back to the State or Territory whence he or she may have escaped as aforesaid. In no trial or hearing under this act shall the testimony of such alleged fugitive be admitted in evidence; and the certificates in this and the first [fourth] section mentioned, shall be conclusive of the right of the person or persons in whose favor granted, to remove such fugitive to the State or Territory from which he escaped, and shall prevent all molestation of such person or persons by any process issued by any court, judge, magistrate, or other person whomsoever.

§7. And be it further enacted, That any person who shall knowingly and willingly obstruct, hinder, or prevent such claimant, his agent or attorney, or any person or persons lawfully assisting him, her, or them, from arresting such a fugitive from service or labor, either with or without process as aforesaid, or shall rescue, or attempt to rescue, such fugitive from service or labor, from the custody of such claimant, his or her agent or attorney, or other person or persons lawfully assisting as aforesaid, when so arrested, pursuant to the authority herein given and declared; or shall aid, abet, or assist such person so owing service or labor as aforesaid, directly or indirectly, to escape from such claimant, his agent or attorney, or other person or persons legally authorized as aforesaid; or shall harbor or conceal such fugitive, so as to prevent the discovery and arrest of such person, after notice or knowledge of the fact that such person was a fugitive from service or labor as aforesaid, shall, for either of said offences, be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, by indictment and conviction before the District Court of the United States for the district in which such offence may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States; and shall moreover forfeit and pay, by way of civil damages to the party injured by such illegal conduct, the sum of one thousand dollars for each fugitive so lost as aforesaid, to be recovered by action of debt, in any of the District or Territorial Courts aforesaid, within whose jurisdiction the said offence may have been committed.

§8. And be it further enacted, That the marshals, their deputies, and the clerks of the said District and Territorial Courts, shall be paid, for their services, the like fees as may be allowed for similar services in other cases; and where such services are rendered exclusively in the arrest, custody, and delivery of the fugitive to the claimant, his or her agent or attorney, or where such supposed fugitive may be discharged out of custody for the want of sufficient proof as aforesaid, then such fees are to be paid in whole by such claimant, his or her agent or attorney; and in all cases where the proceedings are before a commissioner, he shall be entitled to a fee of ten dollars in full for his

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services in each case, upon the delivery of the said certificate to the claimant, his agent or attorney; or a fee of five dollars in cases where the proof shall not, in the opinion of such commissioner, warrant such certificate and delivery, inclusive of all services incident to such arrest and examination, to be paid, in either case, by the claimant, his or her agent or attorney. The person or persons authorized to execute the process to be issued by such commissioner for the arrest and detention of fugitives from service or labor as aforesaid, shall also be entitled to a fee of five dollars each for each person he or they may arrest, and take before any commissioner as aforesaid, at the instance and request of such claimant, with such other fees as may be deemed reasonable by such commissioner for such other additional services as may be necessarily performed by him or them; such as attending at the examination, keeping the fugitive in custody, and providing him with food and lodging during his detention, and until the final determination of such commissioners; and, in general, for performing such other duties as may be required by such claimant, his or her attorney or agent, or commissioner in the premises, such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid by such claimants, their agents or attorneys, whether such supposed fugitives from service or labor be ordered to be delivered to such claimant by the final determination of such commissioner or not.

§9. And be it further enacted, That, upon affidavit made by the claimant of such fugitive, his agent or attorney, after such certificate has been issued, that he has reason to apprehend that such fugitive will he rescued by force from his or their possession before he can be taken beyond the limits of the State in which the arrest is made, it shall be the duty of the officer making the arrest to retain such fugitive in his custody, and to remove him to the State whence he fled, and there to deliver him to said claimant, his agent, or attorney. And to this end, the officer aforesaid is hereby authorized and required to employ so many persons as he may deem necessary to overcome such force, and to retain them in his service so long as circumstances may require. The said officer and his assistants, while so employed, to receive the same compensation, and to be allowed the same expenses, as are now allowed by law for transportation of criminals, to be certified by the judge of the district within which the arrest is made, and paid out of the treasury of the United States.

§10. And be it further enacted, That when any person held to service or labor in any State or Territory, or in the District of Columbia, shall escape therefrom, the party to whom such service or labor shall be due, his, her, or their agent or attorney, may apply to any court of record therein, or judge thereof in vacation, and make satisfactory proof to such court, or judge in vacation, of the escape aforesaid, and that the person escaping owed service or labor to such party. Whereupon the court shall cause a record to be made of the matters so proved, and also a general description of the person so escaping, with such convenient certainty as may be; and a transcript of such record, authenticated by the attestation of the clerk and of the seal of the said court, being produced in any other State, Territory, or district in which the person so escaping may be found, and being exhibited to any judge, commissioner, or other office, authorized by the law of the United States to cause persons escaping from service or labor to be delivered up, shall be held and taken to be full and conclusive evidence of the fact of escape, and that the service or labor of

Glossary

Circuit Court	a court that sits at more than one location in the district it serves
concurrent jurisdiction	the concept that courts at different levels (for example, a state court and a federal court) both have jurisdiction over a case
District Court	a federal trial court, first established by Congress in the Judiciary Act of 1789
person held to service or labor	a slave
posse comitatus	Latin for "power of the county" and referring to the power to create a temporary police force from the citizenry
Territory	any of the western regions that were organized under the federal government but had not yet been admitted to the Union as states

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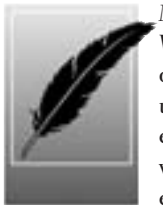
the person escaping is due to the party in such record mentioned. And upon the production by the said party of other and further evidence if necessary, either oral or by affidavit, in addition to what is contained in the said record of the identity of the person escaping, he or she shall be delivered up to the claimant, And the said court, commissioner, judge, or other person authorized by this act to grant certificates to claimants or fugitives, shall, upon the production of the record and other evidences aforesaid, grant to such claimant a certificate of his right to take any such person identified and proved to be owing service or labor as aforesaid, which certificate shall authorize such claimant to seize or arrest and transport such person to the State or Territory from which he escaped: Provided, That nothing herein contained shall be construed as requiring the production of a transcript of such record as evidence as aforesaid. But in its absence the claim shall be heard and determined upon other satisfactory proofs, competent in law.

Narrative of the Life of Henry Box Brown, Written by Himself

1851

"I felt a cold sweat coming over me which seemed to be a warning that death was about to terminate my earthly miseries."

Overview



Narrative of the Life of Henry Box Brown, Written by Himself is one of many autobiographies composed by former slaves documenting their lives in bondage and their escape to freedom. Henry "Box" Brown was born a slave in Virginia in 1815; he escaped slavery in 1849 after being crated in a box (hence his nickname) in Richmond, Virginia, and shipped to Philadelphia, Pennsylvania. His story, especially the clever method he devised to flee slavery, made him a popular figure in abolitionist circles. Brown and a white abolitionist named Charles Stearns published the first version of Brown's autobiography, *Narrative of Henry Box Brown, Who Escaped from Slavery Enclosed in a Box 3 Feet Long and 2 Wide, Written from a Statement of Facts Made by Himself; With Remarks upon the Remedy for Slavery by Charles Stearns*, in 1849 in Boston. Brown revised and reprinted it two years later as *Narrative of the Life of Henry Box Brown, Written by Himself*, after he had fled to England, fearing reenslavement. The passage of the 1850 Fugitive Slave Act—a federal mandate requiring the return of runaway slaves to their owners—had prompted a mass migration of African Americans to Canada and the United Kingdom. Brown himself spent twenty-five years abroad before returning to the United States in 1875.

Brown's narrative was a useful tool in promoting abolition among men and women who were undecided on the issue of slavery. While there were other such narratives by former slaves in print, Brown's story drew more attention because of his remarkable means of escape. For those who might not have the opportunity to hear him lecture, the *Narrative* proved an effective means of persuading Americans to abolish the nation's "peculiar institution." First-person narratives such as Brown's are important historical records because they provide a view of slavery from someone who experienced it firsthand. These stories are not filtered through the eyes of the white owners but rather come straight from the slaves' perspective. Slave narratives, whether in the form of autobiographies such as Henry "Box" Brown's or a more modern version, such as the online oral histories gleaned from the Works Progress Administration slave narrative project of the 1930s, present true eyewitness accounts of the lives of enslaved African Americans.

Context

Wherever there has been oppression, there has been resistance to it in the form of individual acts of rebellion as well as organized efforts by groups of people united in a single cause. Such is the story of the Underground Road, later dubbed the Underground Railroad after the invention of steam railroad transportation in the nineteenth century. From the first instance of Europeans' bringing enslaved Africans to Virginia in 1619 to the time slavery was outlawed by the Thirteenth Amendment to the U.S. Constitution, slaves always attempted to flee captivity and assert their freedom. Escape was a means of protest, but the consequences, which varied from recapture and punishment to the mistreatment and separation of family members or even death, made slaves think hard before pursuing this avenue. Several options presented themselves to desperate, disconsolate slaves, and some managed to flee north, often to Canada (especially after passage of the Fugitive Slave Act of 1850) or south into Mexico, where land was available and, after 1830, slavery was prohibited. Although some runaways fled randomly, the most successful ones deliberately plotted their departure. Methods of escape varied widely among runaways, and personal accounts verify the challenges slaves faced to gain freedom.

The origin of the term *Underground Railroad* is hard to pin down, but historians generally credit one of several different sources. Eber M. Petitt, an Underground Railroad operator in western New York, claimed that the name was coined in Washington, D.C., where it appeared in an 1839 newspaper. A runaway slave is said to have told his captors that he journeyed north by "an underground road." Another story revolves around Tice Davids, a fugitive slave who swam to freedom from Kentucky and sought shelter and protection with an Ohio minister named John Rankin. Davids's owner wondered whether his slave had "disappeared through an underground road." According to a similar story

Time Line

1815

- Henry Brown is born in Louisa County, Virginia.

1830

- Brown's owner, John Barret, dies; his son, William, inherits Brown and takes him to Richmond, Virginia, to work in his tobacco factory.

1836

- Brown marries his first wife, Nancy, who is also a slave.

1848

- Brown's wife and three children are sold away from Richmond, which provides the impetus for Henry "Box" Brown's escape from slavery.

1849

- **March 29**
  Brown makes his escape from Richmond in a small wooden crate.
- **March 30**
  After a twenty-seven-hour journey, Brown—now a fugitive slave—arrives in Philadelphia, Pennsylvania.
- **September**
  Brown, with the help of the abolitionist Charles Stearns, publishes the first edition of his story, *Narrative of Henry Box Brown, Who Escaped from Slavery Enclosed in a Box 3 Feet Long and 2 Wide, Written from a Statement of Facts Made by Himself; With Remarks upon the Remedy for Slavery by Charles Stearns*.

1850

- **September 18**
  The Fugitive Slave Act is passed as a part of the Compromise of 1850.
- **October**
  Brown flees the United States for Great Britain and begins a lecture tour there.

1851

- **May**
  The revised version of Brown's autobiography is published as *Narrative of the Life of Henry Box Brown, Written by Himself*.

told by the abolitionist Levi Coffin, a Pennsylvania slave owner speculated that his slave had "gone off on an underground road." Whatever the origin of the term, participants began using railroad terminology around 1840 to help describe and hide their illegal activities.

Collaborators in the Underground Railroad could be sentenced to long prison terms, from five to twenty years, if caught and convicted of helping fugitive slaves escape their owners. The Underground Railroad aided hundreds of slaves and fueled discontent, anger, and hostility between northerners and southerners, ultimately leading to war. Aid to fugitive slaves came in various forms, which might include supplying food, clothing, protection from slave hunters, a place to sleep or hide, money, or guidance to the next "station" on the journey to freedom. Such assistance came from individuals, mutual aid societies, free African Americans, and benevolent societies. Rapid growth and expansion of African American communities in northern cities helped escalate the involvement of black churches and fraternal organizations, which provided safety and basic necessities to runaway slaves from the South. Free blacks in the North established vigilance committees and mutual aid societies in an effort to help escaping slaves. These all-black, or nearly all-black, groups aided fugitives by providing them with a safe place to stay, a good meal, medical attention, clothing, modest amounts of money, information on their legal rights, and protection from kidnappers in the area, along with forged identity papers indicating that the runaways were free persons.

It is impossible to accurately assess the success of the Underground Railroad. Census records and antislavery advocates and opponents never agreed on the number of slaves who reached freedom; the North as well as the South always expanded the number of slave losses for propaganda purposes—the North because it exemplified how much the slaves wanted freedom and the South in order to point out how the Yankees were interfering with their cherished way of life. Runaways relied largely on their own resources, with free African Americans and sympathetic whites contributing significant amounts toward aiding and protecting fleeing slaves. Generally, runaway slaves traveled the most hazardous part of their journey with little or no assistance. In certain areas or neighborhoods, houses or "stations" on the Underground Railroad could be spaced twelve to fifteen miles apart, the approximate distance a runaway could walk in a night. Typically, the lines in rural areas were places for fugitives to hide, seek nourishment, and change clothing. Some stops on the northward Underground Railroad were thirty miles apart, and escaping slaves rode concealed in wagons that could cover the distance in a night's journey.

Although the Underground Railroad did have some semblance of organization and operated successfully in its aid of runaway slaves to freedom, many people mistakenly believe that it was a fully operational system, widely linked from locations in the South directly through the North. Such was not the case. Because Underground Railroad employees engaged in activities that were illegal, opposed by most southerners, and a violation of federal and state laws, secrecy

and spontaneity were the keys to its ultimate success. Much of the romanticism of the Underground Railroad and the various myths and legends that have become entrenched in Americana over time can be traced, initially, to the white abolitionist Harriet Beecher Stowe's famous novel *Uncle Tom's Cabin*. There is no doubt that the Underground Railroad did operate in various forms; nonetheless, most slaves had little knowledge of its existence. Southern slave owners took special care to keep such information away from their slaves, lest they attempt to flee. Although daring runaway attempts often ended in recapture and severe punishment, thousands of bound blacks—usually acting solo until they could find a safe house—continued to plan and carry out dangerous escapes to freedom. One slave who found a unique way to free himself was Henry "Box" Brown.

About the Author

Henry "Box" Brown was born into slavery in 1815 on Hermitage Plantation, located in Louisa County, Virginia. Both of his parents were also slaves; he was separated at the age of fifteen from his family (which included both parents and three brothers and four sisters). Following the death of his owner, John Barret, the property of Hermitage was divided among Barret's four sons. In 1830 Brown and his mother and sister Jane were given to one of the Barret sons, William, who owned a tobacco factory in Richmond. William Barret took Henry to Richmond but left Brown's parents on the plantation. Over the course of nearly two decades in Richmond, Brown had a total of four different overseers—some considerate and some abusive. Brown describes his last overseer, John F. Allen, as a "thorough-going villain." Despite having knowledge of Allen's mistreatment of the slaves, William Barret did not intervene on their behalf. As Brown notes, it really did not matter how kind the master was; denying anyone freedom was evil and wrong.

In 1836 Brown married a woman named Nancy who belonged to another slaveholder in Richmond. He and Nancy had three children. When her master sold her and the children away from Richmond in 1848, Brown decided that he had had enough, especially after Barret reneged on his offer to help reunite his family. At this point, Henry Brown began to plan his flight from slavery. From his work in the tobacco factory, he had been able to earn a little bit of money on the side, which he used to finance his escape. With the help of several friends, including a freedman, James Smith, and a sympathetic white storekeeper, Samuel Smith, Brown had himself crated into a box three feet, one inch long by two feet, six inches high and two feet wide. Brown paid Samuel Smith $86 (of his total savings of $166) for assistance in his getaway. On the morning of March 29, 1849, Brown began his journey in the box (as a shipment of "dry goods") toward freedom in Philadelphia, where the "package" was delivered to the Pennsylvania Anti-Slavery Society. The entire journey took twenty-seven hours, some of which Brown spent upside down.

Upon his arrival in the North, Brown began his lecture tour of New England. The following year, with assistance from a white abolitionist and writer named Charles Stearns, he published the first version of his autobiography, *Narrative of Henry Box Brown, Who Escaped from Slavery Enclosed in a Box 3 Feet Long and 2 Wide, Written from a Statement of Facts Made by Himself; With Remarks upon the Remedy for Slavery by Charles Stearns*. Accompanying his lectures was a set of images that were scrolled on screens, graphically depicting his harrowing flight from slavery and serving as a critical appraisal of capitalism and its reliance on slave labor. Following the passage of the Fugitive Slave Act in 1850, several attempts were made to capture him and return him to William Barret in Richmond. Consequently, Brown fled to England, where he went on another round of lecture tours, much as the former slaves and longtime freedom fighters Frederick Douglass and Ellen Craft had. In 1851 he published a revised version of his story without any help from Stearns. He called it *Narrative of the Life of Henry Box Brown, Written by Himself*. Brown later remarried and had one daughter, Annie. He continued touring, performing as a magician and mesmerist. Brown returned to the United States in 1875, but the cause and date of his death remain unknown.

Time Line

1865

■ **December 6**
The U.S. Constitution's Thirteenth Amendment, which outlaws slavery, is ratified.

1875

■ Brown returns to the United States.

Explanation and Analysis of the Document

Narrative of the Life of Henry Box Brown, Written by Himself, published in England in 1851, tells of Brown's journey from slavery to freedom. This version of Brown's story is a revision of his first memoir, *Narrative of Henry Box Brown, Who Escaped from Slavery Enclosed in a Box 3 Feet Long and 2 Wide, Written from a Statement of Facts Made by Himself; With Remarks upon the Remedy for Slavery by Charles Stearns*, which was published in Boston two years earlier. There are substantive differences between the two versions. The 1849 edition contains a different preface as well as lengthy remarks by the white abolitionist Charles Stearns on how to end slavery. The latter version drops the Stearns piece but includes letters from such abolitionists as the Unitarian minister Samuel J. May and an activist in the Pennsylvania Anti-Slavery Society named James Miller McKim, attesting to the importance of Brown's history. The styles of the two versions are also dissimilar; it is widely believed that Stearns ghostwrote the 1849 publication, which may account for the difference. While many of the details

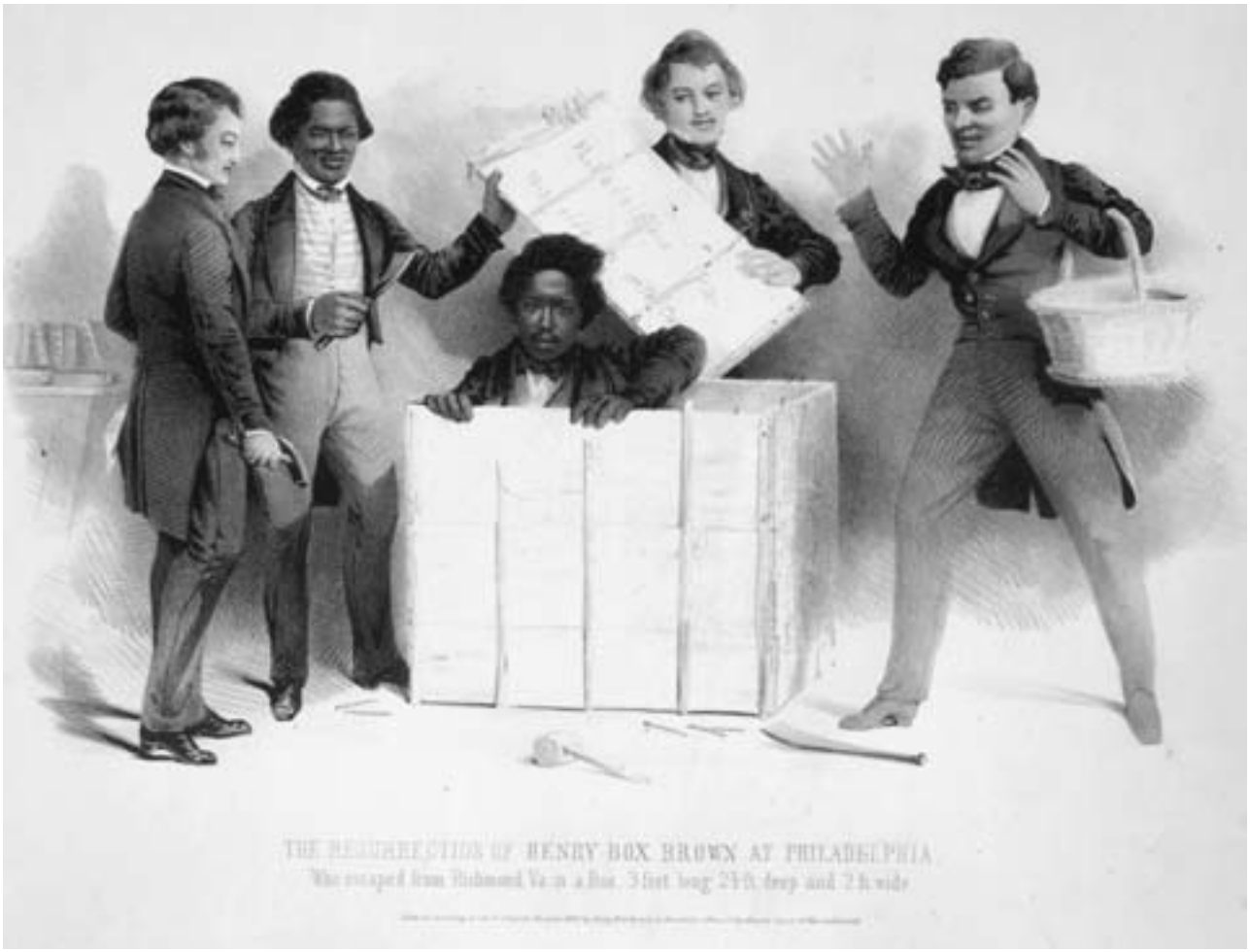


Illustration of the escape of Henry "Box" Brown (Library of Congress)

of Brown's life as a slave are similar in both versions, the earlier edition is more of a diatribe on the evils of slavery in general from Stearns's perspective than a recounting of what it was like for Brown himself to live in bondage. Indeed, the Encyclopedia Virginia Web site lists Stearns as the author of the 1849 volume and refers to the 1851 edition as Brown's autobiography.

The excerpt presented here is chapter VII of the 1851 edition, which details Brown's escape. In this version, the story of his flight to freedom is much longer than in the previous edition. While Brown's account of his life as a slave is compelling, it was his unique method of escaping bondage that really gripped those who heard him speak or who read his *Narrative*. Brown's decision to flee was sparked by the sale of his wife and children to a new owner in North Carolina. Brown asked William Barret for help in pleading with the new owner to remain in Richmond; after initially agreeing to intervene, Barret ultimately refused.

♦ Introduction

Brown opens chapter VII by revealing the path toward his decision to escape from slavery. Brown was a religious man, faithfully attending his church and even singing in the choir. His owner, William Barret, was a Christian, as was his wife's owner, Samuel Cottrell. Brown became disgusted with these so-called religious people who perpetuated the institution of slavery. After his wife and children were sold, Brown stopped attending church services because of his antipathy toward those who owned other human beings, yet he professed to continue worshiping the Lord in his own way. However, he did return to church on Christmas Day in 1848 at the behest of his friend, the freedman Dr. James Smith, who wanted him to sing with the choir. Dr. Smith, who was a conductor on the Underground Railroad, was overcome with grief during the choir's performance and vowed from that point on to sever ties with a congregation of slaveholders. Smith eventually went to New England and worked to end slavery. Brown, who was moved by the music (two verses of two songs are included here) decided at that point to engineer his own escape from slavery.

♦ Planning the Escape

Brown tells of his meeting with a white storekeeper (a person he does not name but who we know is Sam-

Essential Quotes

"I prayed fervently that he who seeth in secret and knew the inmost desires of my heart, would lend me his aid in bursting my fetters asunder, and in restoring me to the possession of those rights, of which men had robbed me; when the idea suddenly flashed across my mind of shutting myself up in a box, *and getting myself conveyed as dry goods to a free state."*

"The box which I had procured was three feet one inch wide, two feet six inches high, and two feet wide: and on the morning of the 29th day of March, 1849, I went into the box—having previously bored three gimlet holes opposite my face, for air, and provided myself with a bladder of water, both for the purpose of quenching my thirst and for wetting my face, should I feel getting faint."

I felt a cold sweat coming over me which seemed to be a warning that death was about to terminate my earthly miseries, but as I feared even that, less than slavery, I resolved to submit to the will of God, and under the influence of that impression, I lifted up my soul in prayer to God, who alone, was able to deliver me."

"A number of persons soon collected round the box after it was taken in to the house, but as I did not know what was going on I kept myself quiet. I heard a man say, 'let us rap upon the box and see if he is alive'; and immediately a rap ensued and a voice said, tremblingly, 'Is all right within?'; to which I replied—'all right.'"

uel Smith) and relating the story about the sale of his wife and children away from Richmond. Brown indicated he would pay the storekeeper $86, a little over half of what he had saved, if the storekeeper would help him escape. The shopkeeper discussed several possible plans with Brown, who also consulted with Dr. Smith about the best means of escape. Then, as Brown prayed to God to help him, the idea came to him of crating himself up in box and being shipped to the North. Brown told Dr. Smith of his plan, as well as Samuel Smith; the latter was willing to help but was doubtful that anyone could survive in a box for the lengthy northward journey.

Brown then procured his box with the help of a carpenter. To keep his overseer, the unsympathetic Mr. Allen, from becoming suspicious, Brown deliberately poured oil of vitriol (sulfuric acid) on one of his own fingers; Brown's intent was to request time off while the supposedly accidental wound healed, but he had inadvertently used too much of the chemical and it burned his skin through to his bone. He showed his injured finger to Allen, who gave him time off to recover. In the meantime, Smith heard

from his acquaintance in Philadelphia, who promised to make sure that Brown was delivered to the Philadelphia chapter of the Pennsylvania Anti-Slavery Society. At 4:00 AM on March 29, 1849, Brown was crated into his box; three holes had been bored opposite his face to allow for airflow. He also had a small container of water and a gimlet (a small hand tool) in case he needed to bore more holes for air. His friends took the crate, labeled "dry goods," to the Express Office for shipping.

♦ The Journey North

Brown's box was placed on a wagon, which carried him to the freight depot. He spent that part of the trip upside down. Once in the baggage car, he landed on his right side. At Potomac Creek, Brown's box was removed from the train and loaded onto a steamer—again upside down. Despite the terrible discomfort, Brown prayed to God to give him strength. Miraculously, two men who were onboard the steamer decided they needed to sit down, so they righted Brown's box and sat on it, much to the slave's relief. The steamer arrived in Washington, where Brown was placed on a wagon. The workers handled the box roughly, and Brown could hear his neck crack and was knocked out. When he awoke, he overheard a conversation about how there was not enough room for his box on the train; because it was stamped "express," however, it had to be shipped on at once. Brown was briefly upside down, but then his box was righted again, and he spent the remainder of his journey right side up. He finally arrived in Philadelphia after a twenty-seven hour journey covering 350 miles.

♦ Freedom

Once in Philadelphia, Brown's box was placed on a wagon and taken to the Anti-Slavery Society, as his friend in Richmond had arranged. A number of people gathered around the box once it was delivered. One person suggested they rap on the box to make sure Brown was still alive; they did and then asked if everything was all right. Brown responded that everything was fine. The box was opened and Brown tried to stand up, but he was too weak from his long confinement in the small space and ended up fainting. When he recovered, Brown was so overjoyed that he sang a hymn of thanksgiving, which he included in his *Narrative*. This momentous event was commemorated in a famous lithograph, "The Resurrection of Henry Box Brown," which was sold to fund the moving panorama that accompanied his lectures. The former slave was welcomed by a number of people, including James Miller McKim of the Anti-Slavery Society. It was decided that Brown could not stay in Philadelphia, so he set out for Boston. Once there, he went to an antislavery meeting, where he told the story of his escape. After Boston, he toured Maine, New Hampshire, Vermont, Connecticut, Rhode Island, parts of Pennsylvania, and New York, relating his experiences on the road to freedom. Brown ends the chapter with a song commemorating his journey in a box.

Audience

Henry "Box" Brown's *Narrative* was used by abolitionists to rouse opposition to the institution of slavery. Many antislavery advocates believed that the stories told by former slaves of their lives in bondage were far more effective in bringing home the horrors of the "peculiar institution" than were all the speeches and writings of free white men and women. It was hoped that such true stories would sway those who were uncertain about the issue to understand why slavery had to be abolished. More than abolitionist propaganda, slave narratives like Brown's also demonstrated the basic humanity of all people, regardless of the color of their skin. The narratives helped to humanize slaves, giving whites a face to go with each story of bondage. The depictions of slavery penned by bound African Americans were widely read in the antebellum North. Brown's *Narrative* resonates even in the contemporary world; it sheds light on the world of the slave and reveals the lengths that someone like Brown would go to in the quest for a free life.

Impact

Slave narratives in general had a great impact on those who read them. Many were published throughout the antebellum period and were widely read, including Henry "Box" Brown's *Narrative*. These thought-provoking stories sparked dialog on various issues besides slavery, among them the importance of basic human rights and dignity as well as the enduring thirst for freedom. The questions raised by slave narratives resonated in their own time and continue to do so today. Historians regard primary sources such as Brown's *Narrative* as vital to understanding the "peculiar institution" from the viewpoint of the enslaved. The perspective of slaveholders and proslavery advocates has been well documented; the slave narratives provide the underside of the story, delineating the multifaceted relationships between owners and slaves within a slave society while documenting the everyday lives and thoughts of those in bondage. The published slave narratives of the nineteenth century provide firsthand, eyewitness accounts of American slavery. These recollections have been augmented by the Works Progress Administration slave narratives collected during the New Deal in the 1930s. The administration employed historians and writers to interview and record the recollections of former slaves. This invaluable resource, along with earlier slave narratives, has helped historians better interpret the past while reminding future generations to cherish freedom and respect the essential human dignity of all people.

Brown's *Narrative* provided fuel for the cause of American abolitionists. The emotionalism aroused by the true stories of former slaves was invaluable to the movement. Brown's *Narrative* is similar in spirit to other famous works by escaped slaves, such as Henry Bibb's *Narrative of the Life and Adventures of Henry Bibb, an American Slave, Written by Himself* and William Wells Brown's *Narrative of William W. Brown, an American Slave. Written by Himself*. Although Frederick Douglass, whose own autobiography was popular, chastised Brown for

revealing his unique method of flight because he felt that it would prevent other slaves from attempting the same thing, Brown nonetheless became a popular figure on the antislavery circuit both in the United States and in England.

See also Fugitive Slave Act of 1850; Thirteenth Amendment to the U.S. Constitution (1865).

Further Reading

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♦ Web Sites

"American Slave Narratives: An Online Anthology." American Studies at the University of Virginia Web site.
http://xroads.virginia.edu/~hyper/wpa/wpahome.html.

"Born in Slavery: Slave Narratives from the Federal Writers' Project, 1936–1938." Library of Congress "American Memory" Web site.
http://memory.loc.gov/ammem/snhtml/.

"Henry 'Box' Brown." Encyclopedia Virginia Web site.
http://www.encyclopediavirginia.org/.

"North American Slave Narratives." Documenting the American South Web site.
http://docsouth.unc.edu/neh/intro.html.

—Donna M. DeBlasio

Questions for Further Study

1. Compare Brown's narrative with William Wells Brown's "Slavery As It Is" (1847). What experiences did the two writers have in common? How, taken together, did the two narratives give readers a picture of slavery in the early nineteenth century?

2. Consult the entry titled Fugitive Slave Act of 1850. What impact did the passage of this act have on African Americans?

3. What role did the Underground Railroad play in the abolition movement? Why were so many people willing to run afoul of the law to participate in the Underground Railroad?

4. So-called slave narratives became highly popular in the decades before the Civil War. Why do you believe these narratives were so popular?

5. Many members of religious communities were staunch abolitionists, but many were not. What is Brown's attitude toward the religious leaders he encountered? Why do you think so many mainstream religious leaders defended, or at least tolerated, slavery?

Narrative of the Life of Henry Box Brown, Written by Himself

Chapter VII.

I had for a long while been a member of the choir in the Affeviar church in Richmond, but after the severe family affliction to which I have just alluded in the last chapter and the knowledge that these cruelties were perpetrated by ministers and church members, I began strongly to suspect the christianity of the slave-holding church members and hesitated much about maintaining my connection with them. The suspicion of these slave-dealing christians was the means of keeping me absent from all their churches from the time that my wife and children were torn from me, until Christmas day in the year 1848; and I would not have gone then but being a leading member of the choir, I yielded to the entreaties of my associates to assist at a concert of sacred music which was to be got up for the benefit of the church. My friend Dr. Smith, who was the conductor of the under-ground railway, was also a member of the choir, and when I had consented to attend he assisted me in selecting twenty four pieces to be sung on the occasion.

On the day appointed for our concert I went along with Dr. Smith, and the singing commenced at half-past three o'clock, p.m. When we had sung about ten pieces and were engaged in singing the following verse—

Again the day returns of holy rest,
Which, when he made the world, Jehovah blest;
When, like his own, he bade our labours cease,
And all be piety, and all be peace,

The members were rather astonished at Dr. Smith, who stood on my right hand, suddenly closing his book, and sinking down upon his seat his eyes being at the same time filled with tears. Several of them began to inquire what was the matter with him, but he did not tell them. I guessed what it was and afterwards found out that I had judged of the circumstances correctly. Dr. Smith's feelings were overcome with a sense of doing wrongly in singing for the purpose of obtaining money to assist those who were buying and selling their fellow-men. He thought at that moment he felt reproved by Almighty God for lending his aid to the cause of slave-holding religion; and it was under this impression he closed his book and formed the resolution which he still acts upon, of never singing again or taking part in the services of a pro-slavery church. He is now in New England publicly advocating the cause of emancipation.

After we had sung several other pieces we commenced the anthem, which run thus—

Vital spark of heavenly flame,
Quit, O! quit the mortal frame,—

These words awakened in me feelings in which the sting of former sufferings was still sticking fast, and stimulated by the example of Dr. Smith, whose feelings I read so correctly, I too made up my mind that I would be no longer guilty of assisting those bloody dealers in the bodies and souls of men; and ever since that time I have steadfastly kept my resolution.

I now began to get weary of my bonds; and earnestly panted after liberty. I felt convinced that I should be acting in accordance with the will of God, if I could snap in sunder those bonds by which I was held body and soul as the property of a fellow man. I looked forward to the good time which every day I more and more firmly believed would yet come, when I should walk the face of the earth in full possession of all that freedom which the finger of God had so clearly written on the constitutions of man, and which was common to the human race; but of which, by the cruel hand of tyranny, I, and millions of my fellow-men, had been robbed.

I was well acquainted with a store-keeper in the city of Richmond, from whom I used to purchase my provisions; and having formed a favourable opinion of his integrity, one day in the course of a little conversation with him, I said to him if I were free I would be able to do business such as he was doing; he then told me that my occupation (a tobacconist) was a money-making one, and if I were free I had no need to change for another. I then told him my circumstances in regard to my master, having to pay him 25 dollars per month, and yet that he refused to assist me in saving my wife from being sold and taken away to the South, where I should never see her again; and even refused to allow me to go and see her until my hours of labour were over. I told him this took place about five months ago, and I

had been meditating my escape from slavery since, and asked him, as no person was near us, if he could give me any information about how I should proceed. I told him I had a little money and if he would assist me I would pay him for so doing. The man asked me if I was not afraid to speak that way to him; I said no, for I imagined he believed that every man had a right to liberty. He said I was quite right, and asked me how much money I would give him if he would assist me to get away. I told him that I had 166 dollars and that I would give him the half; so we ultimately agreed that I should have his service in the attempt for $86. Now I only wanted to fix upon a plan. He told me of several plans by which others had managed to effect their escape, but none of them exactly suited my taste. I then left him to think over what would be best to be done, and, in the mean time, went to consult my friend Dr. Smith, on the subject. I mentioned the plans which the storekeeper had suggested, and as he did not approve either of them very much, I still looked for some plan which would be more certain and more safe, but I was determined that come what may, I should have my freedom or die in the attempt.

One day, while I was at work, and my thoughts were eagerly feasting upon the idea of freedom, I felt my soul called out to heaven to breathe a prayer to Almighty God. I prayed fervently that he who seeth in secret and knew the inmost desires of my heart, would lend me his aid in bursting my fetters asunder, and in restoring me to the possession of those rights, of which men had robbed me; when the idea suddenly flashed across my mind of shutting myself *up in a box*, and getting myself conveyed as dry goods to a free state.

Being now satisfied that this was the plan for me, I went to my friend Dr. Smith and, having acquainted him with it, we agreed to have it put at once into execution not however without calculating the chances of danger with which it was attended; but buoyed up by the prospect of freedom and increased hatred to slavery I was willing to dare even death itself rather than endure any longer the clanking of those galling chains. It being still necessary to have the assistance of the store-keeper, to see that the box was kept in its right position on its passage, I then went to let him know my intention, but he said although he was willing to serve me in any way he could, he did not think I could live in a box for so long a time as would be necessary to convey me to Philadelphia, but as I had already made up my mind, he consented to accompany me and keep the box right all the way.

My next object was to procure a box, and with the assistance of a carpenter that was very soon accomplished, and taken to the place where the packing was to be performed. In the mean time the storekeeper had written to a friend in Philadelphia, but as no answer had arrived, we resolved to carry out our purpose as best we could. It was deemed necessary that I should get permission to be absent from my work for a few days, in order to keep down suspicion until I had once fairly started on the road to liberty; and as I had then a gathered finger I thought that would form a very good excuse for obtaining leave of absence; but when I showed it to one overseer, Mr. Allen, he told me it was not so bad as to prevent me from working, so with a view of making it bad enough, I got Dr. Smith to procure for me some oil of vitriol in order to drop a little of this on it, but in my hurry I dropped rather much and made it worse than there was any occasion for, in fact it was very soon eaten in to the bone, and on presenting it again to Mr. Allen I obtained the permission required, with the advice that I should go home and get a poultice of flax-meal to it, and keep it well poulticed until it got better. I took him instantly at his word and went off directly to the store-keeper who had by this time received an answer from his friend in Philadelphia, and had obtained permission to address the box to him, this friend in that city, arranging to call for it as soon as it should arrive. There being no time to be lost, the store-keeper, Dr. Smith, and myself, agreed to meet next morning at four o'clock, in order to get the box ready for the express train. The box which I had procured was three feet one inch wide, two feet six inches high, and two feet wide: and on the morning of the 29th day of March, 1849, I went into the box—having previously bored three gimlet holes opposite my face, for air, and provided myself with a bladder of water, both for the purpose of quenching my thirst and for wetting my face, should I feel getting faint. I took the gimlet also with me, in order that I might bore more holes if I found I had not sufficient air. Being thus equipped for the battle of liberty, my friends nailed down the lid and had me conveyed to the Express Office, which was about a mile distant from the place where I was packed. I had no sooner arrived at the office than I was turned heels up, while some person nailed something on the end of the box. I was then put upon a waggon and driven off to the depot with my head down, and I had no sooner arrived at the depot, than the man who drove the waggon tumbled me roughly into the baggage car, where, however, I happened to fall on my right side.

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The next place we arrived at was Potomac Creek, where the baggage had to be removed from the cars, to be put on board the steamer; where I was again placed with my head down, and in this dreadful position had to remain nearly an hour and a half, which, from the sufferings I had thus to endure, seemed like an age to me, but I was forgetting the battle of liberty, and I was resolved to conquer or die. I felt my eyes swelling as if they would burst from their sockets; and the veins on my temples were dreadfully distended with pressure of blood upon my head. In this position I attempted to lift my hand to my face but I had no power to move it; I felt a cold sweat coming over me which seemed to be a warning that death was about to terminate my earthly miseries, but as I feared even that, less than slavery, I resolved to submit to the will of God, and under the influence of that impression, I lifted up my soul in prayer to God, who alone, was able to deliver me. My cry was soon heard, for I could hear a man saying to another, that he had travelled a long way and had been standing there two hours, and he would like to get somewhat to sit down; so perceiving my box, standing on end, he threw it down and then two sat upon it. I was thus relieved from a state of agony which may be more easily imagined than described. I could now listen to the men talking, and heard one of them asking the other what he supposed *the box contained*; his companion replied he guessed it was "The Mail." I too thought it was a mail but not such a mail as he supposed it to be.

The next place at which we arrived was the city of Washington, where I was taken from the steamboat, and again placed upon a waggon and carried to the depot right side up with care; but when the driver arrived at the depot I heard him call for some person to help to take the box off the waggon, and some one answered him to the effect that he might throw it off; but, says the driver, it is marked "this side up with care;" so if I throw it off I might break something, the other answered him that it did not matter if he broke all that was in it, the railway company were able enough to pay for it. No sooner were these words spoken than I began to tumble from the waggon, and falling on the end where my head was, I could hear my neck give a crack, as if it had been snapped asunder and I was knocked completely insensible. The first thing I heard after that, was some person saying, "there is no room for the box, it will have to remain and be sent through to-morrow with the luggage train"; but the Lord had not quite forsaken me, for in answer to my earnest prayer He so ordered affairs that I should not be left behind; and I now heard a man say that the box had come with the express, and it must be sent on. I was then tumbled into the car with my head downwards again, but the car had not proceeded far before, more luggage having to be taken in, my box got shifted about and so happened to turn upon its right side; and in this position I remained till I got to Philadelphia, of our arrival in which place I was informed by hearing some person say, "We are in port and at Philadelphia". My heart then leaped for joy, and I wondered if any person knew that such a box was there.

Here it may be proper to observe that the man who had promised to accompany my box failed to do what he promised; but, to prevent it remaining long at the station after its arrival, he sent a telegraphic message to his friend, and I was only twenty seven hours in the box, though travelling a distance of three hundred and fifty miles.

I was now placed in the depot amongst the other luggage, where I lay till seven o'clock, P.M., at which time a waggon drove up, and I heard a person inquire for such a box as that in which I was. I was then placed on a waggon and conveyed to the house where my friend in Richmond had arranged I should be received. A number of persons soon collected round the box after it was taken in to the house, but as I did not know what was going on I kept myself quiet. I heard a man say, "let us rap upon the box and see if he is alive;" and immediately a rap ensued and a voice said, tremblingly, "Is all right within?" to which I replied—"all right." The joy of the friends was very great; when they heard that I was alive they soon managed to break open the box, and then came my resurrection from the grave of slavery. I rose a freeman, but I was too weak, by reason of long confinement in that box, to be able to stand, so I immediately swooned away. After my recovery from the swoon the first thing, which arrested my attention, was the presence of a number of friends, every one seeming more anxious than another, to have an opportunity of rendering me their assistance, and of bidding me a hearty welcome to the possession of my natural rights, I had risen as it were from the dead; I felt much more than I could readily express; but as the kindness of Almighty God had been so conspicuously shown in my deliverance, I burst forth into the following hymn of thanksgiving,

I waited patiently, I waited patiently for the Lord, for
the Lord;
And he inclined unto me, and heard my calling:
I waited patiently, I waited patiently for the Lord,

Document Text

And he inclined unto me, and heard my calling:
And he hath put a new song in my mouth,
Even a thanksgiving, even a thanksgiving, even a thanksgiving unto our God.
Blessed, Blessed, Blessed, Blessed is the man, Blessed is the man,
Blessed is the man that hath set his hope, his hope in the Lord;
O Lord my God, Great, Great, Great,
Great are the wondrous works which thou hast done.
Great are the wondrous works which thou hast done, which thou hast done:
If I should declare them and speak of them, they would be more, more, more than I am able to express.
I have not kept back thy loving kindness and truth from the great congregation.
I have not kept back thy loving kindness and truth from the great congregation.
Withdraw not thou thy mercy from me,
Withdraw not thou thy mercy from me, O Lord;
Let thy loving kindness and thy truth always preserve me,
Let all those that seek thee be joyful and glad,
Let all those that seek thee be joyful and glad, be joyful, and glad, be joyful and glad, be joyful, be joyful, be joyful, be joyful, be joyful and glad--be glad in thee.
And let such as love thy salvation,
And let such as love thy salvation, say, always,
The Lord be praised,
The Lord be praised.
Let all those that seek thee be joyful and glad,
And let such as love thy salvation, say always,
The Lord be praised,
The Lord be praised,
The Lord be praised.

I was then taken by the hand and welcomed to the houses of the following friends:—Mr. J. Miller, Mr. M'Kim, Mr. and Mrs. Motte, Mr. and Mrs. Davis, and many others, by all of whom I was treated in the kindest manner possible. But it was thought proper that I should not remain long in Philadelphia, so arrangements were made for me to proceed to Massachusetts, where, by the assistance of a few Anti-slavery friends, I was enabled shortly after to arrive. I went to New York, where I became acquainted with Mr. H. Long, and Mr. Eli Smith, who were very kind to me the whole time I remained there. My next journey was to New Bedford, where I remained some weeks under the care of Mr. H. Ricketson, my finger being still bad from the effects of the oil of vitriol with which I dressed it before I left Richmond. While I was here I heard of a great Anti-slavery meeting which was to take place in Boston, and being anxious to identify myself with that public movement, I proceeded there and had the pleasure of meeting the hearty sympathy of thousands to whom I related the story of my escape. I have since attended large meetings in different towns in the states of Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Pennsylvania, and New York, in all of which places I have found many friends and have endeavoured, according to the best of my abilities, to advocate the cause of the emancipation of the slave; with what success I will not pretend to say—but with a daily increasing confidence in the humanity and justice of my cause, and in the assurance of the approbation of Almighty God.

I have composed the following song in commemoration of my fete in the box:—

Air:—"Uncle Ned."

I.
Here you see a man by the name of Henry Brown,
Ran away from the South to the North;
Which he would not have done but they stole all his rights,
But they'll never do the like again.

Chorus—
Brown laid down the shovel and the hoe
Down in the box he did go;
No more Slave work for Henry Box Brown,
In the box by Express he did go.

II.
Then the orders they were given, and the cars did start away;
Roll along—roll along—roll along,
Down to the landing, where the steamboat lay,
To bear the baggage off to the north.

Chorus—

III.
When they packed the baggage on, they turned him on his head,
There poor Brown liked to have died;
There were passengers on board who wished to sit down,
And they turned the box down on its side.

Chorus—

Document Text

IV.
When they got to the cars they threw the box off,
And down upon his head he did fall,
Then he heard his neck crack, and he thought it was broke,
But they never threw him off any more.

Chorus—

V.
When they got to Philadelphia they said he was in port,
And Brown then began to feel glad,
He was taken on the waggon to his final destination,
And left, "this side up with care."

Chorus—

VI.
The friends gathered round and asked if all was right,
As down on the box they did rap,
Brown answered them, saying; "yes all is right!"
He was then set free from his pain.

Chorus—

Glossary

"Again the day returns of holy rest …"	a Protestant hymn written by William Mason in 1796, slightly misquoted by Brown
gimlet	a tool for boring holes
"I waited patiently, I waited patiently for the Lord …"	a hymn based on Psalm 40, verse 1, of the biblical book of Psalms
oil of vitriol	concentrated sulfuric acid
25 dollars	roughly the equivalent of $5,000 wages for an unskilled worker today
"Vital spark of heavenly flame …"	a Protestant hymn based on a poem by the eighteenth-century British poet Alexander Pope titled "The Dying Christian to His Soul"

Sojourner Truth (Library of Congress)

Sojourner Truth's "Ain't I a Woman?"

1851

"If the first woman God ever made was strong enough to turn the world upside down all alone, these women together ought to be able to ... get it right side up again!"

Overview

On May 29, 1851, a former slave named Sojourner Truth stood before a crowd at a Women's Rights Convention in Akron, Ohio, and spoke about human rights and gender equity. Her comments on the strength, intelligence, and character of women captured the audience's attention and struck a particularly deep chord with the nineteenth-century lecturer and coordinator of the convention, Frances Dana Gage. Truth's speech is commonly referred to as the "Ain't I a Woman?" speech.

After her history-making address before the Women's Rights Convention, Truth added to her already growing reputation as a forceful reformer, a gifted itinerant preacher and singer, and a compelling public speaker. Her gripping discourse reflected the pain she had experienced as an African American woman in and out of bondage. Because she could not read or write, Truth never penned a memoir; however, an activist named Olive Gilbert crafted Truth's reminiscences into a book titled *Narrative of Sojourner Truth*. The book was first published in 1850, just one year before Truth delivered her "Ain't I a Woman?" speech.

Because Sojourner Truth was illiterate, she never wrote down her speeches. Accordingly, no "authorized" version of the speech exists. Four contemporaneous versions of the speech were produced by those in attendance at the convention. One of those was the work of Marius Robinson and appeared on June 21, 1851, in the *Anti-Slavery Bugle*, a newspaper published in Salem, Ohio. Twelve years after Truth delivered the speech, in 1863, Gage published her own recollections of and commentary on the now-famous oration. This version then appeared in the 1875 edition of *Narrative of Sojourner Truth* and in 1881 in *History of Woman Suffrage*, a volume edited by Elizabeth Cady Stanton, Susan B. Anthony, and Matilda Joslyn Gage. Both Robinson and Frances Gage were relying on their own recollections, so historians continue to dispute the issue of which version of the speech is closest to the speech as Sojourner Truth actually delivered it. Most agree that Gage's version probably incorporates many of her own words, including the refrain, "Ain't I a woman?", but it is often considered the "standard" version of the speech in part because of its republication and in part because it is more poetic than the more sober version published by Robinson. Gage's original version of the speech reproduced many features of stereotypical southern plantation dialect, which Truth probably did not employ, for she spoke Dutch until she was ten years old. Both versions are reproduced here, with the dialect removed from the Gage version.

Context

The image of slavery in early U.S. history has an undeniably southern face; however, slavery also existed in the American North until the early nineteenth century. New York State, where Sojourner Truth was enslaved, did not emancipate its adult slaves until July 4, 1827. Although the institution of slavery was practiced on a much smaller scale in places such as Upstate New York, there was a time when slavery was a given and was accepted in many of the northern states.

Nevertheless, once emancipation was achieved in some states, Pennsylvania, Massachusetts, and New Hampshire being among the first (with Vermont never tolerating slavery at all), the idea—and practice—of abolition spread throughout the North. Antislavery societies began to spring up in the northern states; although they were composed of only a small number of people, this core began to have a much wider impact all over the North. Many abolitionists were not only campaigning for southern states to emancipate their slaves, they were also working to achieve some semblance of equality for African Americans outside the South. While northerners were by and large antislavery advocates, at least in a philosophical sense, some whites in the region were reluctant to support the complete integration of African Americans into mainstream white society. There were harsh Black Codes in many states, and whites often discriminated against blacks on issues such as equal access to education, employment, housing, and an array of other social matters.

As the idea of abolitionism began to take a more coherent shape in the 1830s and 1840s, women emerged as key leaders, speakers, and workers in the movement. Their newfound roles as agents of change were questioned by both men and other women as they began to assume more

Time Line

1797	■ Isabella Baumfree (later, Sojourner Truth) is born in Ulster County, New York, a slave of Johannes Hardenbergh.
1799	■ New York State adopts a policy allowing for the gradual abolition of slavery.
1810	■ Isabella is purchased by John Dumont.
1815	■ Isabella marries a fellow slave, Tom, with whom she has five children.
1826	■ **Fall** In a bold move, Isabella "walks away" from Dumont's farm with her infant daughter, Sophia, and is taken in by the Van Wagenen family.
1827	■ **July 4** All adult slaves in New York State are legally freed.
1828	■ Isabella succeeds in bringing her son, Peter, back from Alabama, where he was taken illegally.
1829	■ Isabella moves with Peter to New York City.
1843	■ **June 1** Isabella leaves New York City to become an itinerant preacher under the name "Sojourner."
1848	■ The first convention on women's rights is held in Seneca Falls, New York, where the Declaration of Sentiments, modeled on the Declaration of Independence, is signed by sixty-eight women and thirty-two men.

and more power and visibility. In time, another, larger question arose: Might all women be viewed as a type of slave in nineteenth-century American society? At the time, women's rights to vote, own property, speak in public, travel freely, obtain an education, choose a career, and make basic decisions about the course of their own lives and the lives of their children were not guaranteed. Some women felt their own fetters when considering the abolitionist movement, and these women began to speak out on their own behalf.

The acknowledged formal beginning of the feminist movement took place in the summer of 1848 at a gathering of women's rights advocates in Seneca Falls, New York. It was at this convention that the Declaration of Sentiments, written by the activists Elizabeth Cady Stanton and Lucretia Mott, was first presented. The motivation behind the writing of the document, which is modeled on the Declaration of Independence, was Mott's being refused permission to speak at the world antislavery convention in London, England, despite the fact that she was an official delegate to the convention. Sixty-eight women and thirty-two men signed the document, which stated that women, as human beings with the same "unalienable rights" as men and as citizens of the United States of America, should have those rights recognized and respected.

After this conference came others, and support—from men and women, both black and white—began to grow. Although some women wanted their movement to be recognized on its own, entirely separate from that of abolition, the majority of women's rights supporters viewed both movements as equally important calls for reform.

Sojourner Truth, as both a woman and a former slave, turned her efforts to the twin causes of women's rights and abolition, serving as a living symbol of both. As slavery in the 1840s and 1850s had firmly acquired that southern face, Truth was often characterized in articles and reports as speaking with a southern dialect; she objected to this stereotypical depiction, as her experience was not of southern slavery but of *American* slavery, and her accent reflected her Dutch heritage. Because she had been a slave of the North, Truth felt it was her duty to agitate for abolition across the whole United States. Her memorable speech before the Women's Rights Convention in 1851 demonstrates her commitment to equality in all areas and marries her outrage over black oppression with her anger over the second-class status of American women in the mid-nineteenth century.

About the Author

Isabella Baumfree, who later renamed herself Sojourner Truth, is believed to have been born in 1797 in Ulster County, New York. Her parents, both Dutch-speaking slaves, were named James and Betsey. When their owner, Johannes Hardenbergh, died approximately two years later, James and Betsey, along with Isabella and her brother, went to live with Hardenbergh's son Charles. For the next seven years Isabella and her family lived with the rest of Hardenbergh's slaves in the damp cellar of his hotel and residence.

During this time Isabella learned the Lord's Prayer from her mother and heard the heartbreaking stories of her older siblings being sold away from their parents.

When Charles Hardenbergh died, Isabella's parents, too old to work anymore, were freed, but Isabella and her brother were sold at auction to separate masters. Over the next two years Isabella lived in two different Ulster County households, one of which treated her severely, since she spoke only Dutch and could not understand their English commands. She eventually learned English but acquired many permanent scars from her owner's whippings.

In 1810 a farmer and businessman named John Dumont bought Isabella. She spent the next fifteen years as his slave. Dumont apparently treated her well, but his wife did not. While in the Dumont family's employ, Isabella married an older slave named Tom and between 1815 and 1826 had five children, one of whom died in infancy.

New York emancipated all adult slaves on July 4, 1827, but Dumont had promised Isabella and Tom that they would be freed in July of 1826. He reneged on his promise, though, on the ground that Isabella still owed him several months' work to make up for the time she had been incapacitated the previous year with a hand injury. Isabella worked into the fall of 1826, until she felt that she had paid her debt to a master she looked up to; then she walked away with her infant daughter, leaving two of her children and her husband at the Dumont house. Her marriage had not been a particularly happy one, and technically her children would be slaves until they were in their twenties under New York's emancipation laws. Traveling by foot with the baby, Isabella reached the home of Isaac and Maria Van Wagenens, who agreed to take them in. When Dumont came looking for Isabella, the Van Wagenens purchased her and her infant, but they treated them as if they were already free.

After the 1827 emancipation date, Isabella worked over the next year to recover her young son, Peter, who had been illegally taken from the state of New York into Alabama. With help from the Van Wagenens, she eventually brought her son back from the Deep South. Around this time she also joined the Methodist Church. After leaving the Van Wagenens, Isabella lived with Peter in New York City from 1829 to 1842, when Peter was lost on a whaling ship. Prior to losing her son for the second time, she worked as a domestic; however, in 1843 the grieving Isabella decided to become a wandering preacher. Calling herself "Sojourner" (meaning one who stays only temporarily in one place), she later added a second name, "Truth." Sojourner Truth said she changed her name in order to put behind her all vestiges of her life in New York City.

In 1844 Truth purchased her own home in Northampton, Massachusetts—no small feat for an illiterate freedwoman. She began preaching across the Northeast, and—with the help of the writer Olive Gilbert and William Lloyd Garrison, the American abolitionist and editor of *The Liberator*—her *Narrative of Sojourner Truth* was published in 1850. Although there was always a religious element to her speeches, Truth soon became more of a reformer than a preacher, speaking out against slavery and for women's

Time Line

1850

- **April 15** Sojourner Truth buys a house in Northampton, Massachusetts.
- Truth's *Narrative* is published.

1851

- **May 29** Truth delivers her "Ain't I a Woman?" speech at the Women's Rights Convention in Akron, Ohio.
- **June 21** Marius Robinson prints his recollected version of Truth's speech in the *Anti-Slavery Bugle*, a newspaper published in Salem, Ohio.

1861

- **April 12** Confederates fire on Fort Sumter, South Carolina, signaling the start of the Civil War.

1863

- **April** Harriet Beecher Stowe publishes an article about Truth in the *Atlantic Monthly*.
- **May 2** Frances Dana Gage publishes her version of Truth's speech.

1864

- Sojourner Truth meets President Abraham Lincoln at the White House in Washington, D.C.

1865

- **January 31** The Thirteenth Amendment to the U.S. Constitution is passed by Congress, outlawing slavery in the United States; however, it is not ratified by all the states until December 6.
- **April 9** The Civil War ends with Confederate general Robert E. Lee's surrender to General Ulysses S. Grant at Appomattox Court House in Virginia.

Time Line

1883

■ **November 26**
Truth dies at her home in Battle Creek, Michigan.

2009

■ **April 28**
American first lady Michelle Obama unveils a bronze statue of Sojourner Truth that will remain on permanent display in the visitor's center of the nation's capitol.

rights. This led her to attend the women's rights conventions in Worcester, Massachusetts, in 1850, and in Akron, Ohio, in 1851, the latter being where she delivered her famous "Ain't I a Woman?" speech.

Truth is said to have had a keen knack for sizing up her audiences. According to most historians, she spoke extemporaneously, tailoring each address to the particular group of listeners present at a given event. In addition, because she never learned to read or write, she was unable to prepare notes for her lectures. Nevertheless, her deep voice, her Dutch accent, her turns of phrase, and her distinctive oratory manner stuck with people, making her speeches very memorable. At one particular speaking engagement in Indiana in 1858, some members of the audience thought she was a man disguised as a woman because of her height of almost six feet, her low voice, and her gutsy intelligence; in response, she is said to have opened her shirt to expose her breasts.

Truth moved to Battle Creek, Michigan, in the late 1850s. She continued to speak, and, during and after the Civil War, she worked to help freed slaves adjust to life after emancipation. In 1863 the white abolitionist and author of *Uncle Tom's Cabin*, Harriet Beecher Stowe, published an article in the April issue of *Atlantic Monthly* about a visit she had received from Truth. The following month, Frances Dana Gage, the chairperson of the 1851 women's rights meeting in Akron, published her own version of the speech Truth had made there a dozen years earlier. Despite Truth's Dutch accent, Gage for some reason endowed the speaker with a decidedly southern drawl in her account. Thereafter the speech was widely referred to as "Ain't I a Woman?"

By 1870 Truth's lecture topics had expanded beyond the subject of equal rights to encompass issues such as temperance and a ban on capital punishment. The expanded version of her *Narrative*, including Gage's version of her "Ain't I a Woman?" speech, was published in 1875. During the rest of her years Truth campaigned for the fair treatment of former slaves, equal rights for women, and other causes she deemed important. She spoke for and unsuccessfully attempted to vote for President Ulysses S. Grant when he campaigned for his second term in office, and she rode on the streetcars of the nation's capital, working to desegregate them. On November 26, 1883, she died at her home in Battle Creek, Michigan.

Explanation and Analysis of the Document

No written transcript of Sojourner Truth's speech at the 1851 Women's Rights Convention held in Akron, Ohio, has ever been found. The words commonly attributed to Truth in her "Ain't I a Woman?" address come from secondary sources, so their authenticity remains in question. Several journalists had covered the convention for area newspapers, and their accounts differ from Gage's on certain key points. Marius Robinson published the best known of these alternative pieces on Truth's speech in the June 21, 1851, edition of the *Anti-Slavery Bugle*. Critics point out that this version of the speech appeared only three weeks after Truth delivered it, making it a far more contemporary and probably more accurate rendering than Gage's account, which is actually a recollection published twelve years after the convention. A lecturer and writer, Gage presided over the 1851 women's rights meeting in Akron. In 1863 she decided to publish a report of Truth's landmark speech as a sort of companion to Harriet Beecher Stowe's piece about a visit from Truth, which appeared in the April issue of *Atlantic Monthly*.

For years critics have speculated on the dependability of Gage's retelling. Truth never wrote down any of her own speeches. Gage herself admits that she is giving "but a faint sketch" of Truth's address at the convention. Still, accounts by Gage and Robinson do share certain elements, including references to Truth's ability to work just as hard as a man, with just as much muscle. In paragraph 2, Gage quotes Truth as saying,

> Look at me! Look at my arm! I have ploughed and planted, and gathered into barns, and no man could head me! And ain't I a woman? I could work as much and eat as much as a man—when I could get it—and bear the lash as well!

Robinson, in contrast, has it that she said "I have as much muscle as any man, and can do as much work as any man. I have plowed and reaped and husked and chopped and mowed, and can any man do more than that?" Other elements common to both accounts include Truth's reasoning that if men could hold a quart of intellect and women a pint, it made no sense for men to object to giving women the right to their full pint. According to Gage in paragraph 3, Truth asks, "Wouldn't you be mean not to let me have my little half measure full?" Robinson, in contrast, says, "As for intellect, all I can say is, if a woman have a pint, and a man a quart—why can't she have her little pint full?"

Truth's commentary on biblical arguments against women's rights is included in both versions as well. Truth takes on the argument for men's entitlement in Gage's paragraph 4: "Then that little man in black there, he says women can't have as much rights as men, 'cause Christ wasn't a woman! Where did your Christ come from?" According to Gage, Truth answers this rhetorical question with the statement, "Man had nothing to do with Him." In her commentary on the speech (not reproduced here), Gage adds, "Oh, what a rebuke that was to the little man." Robinson, in contrast,

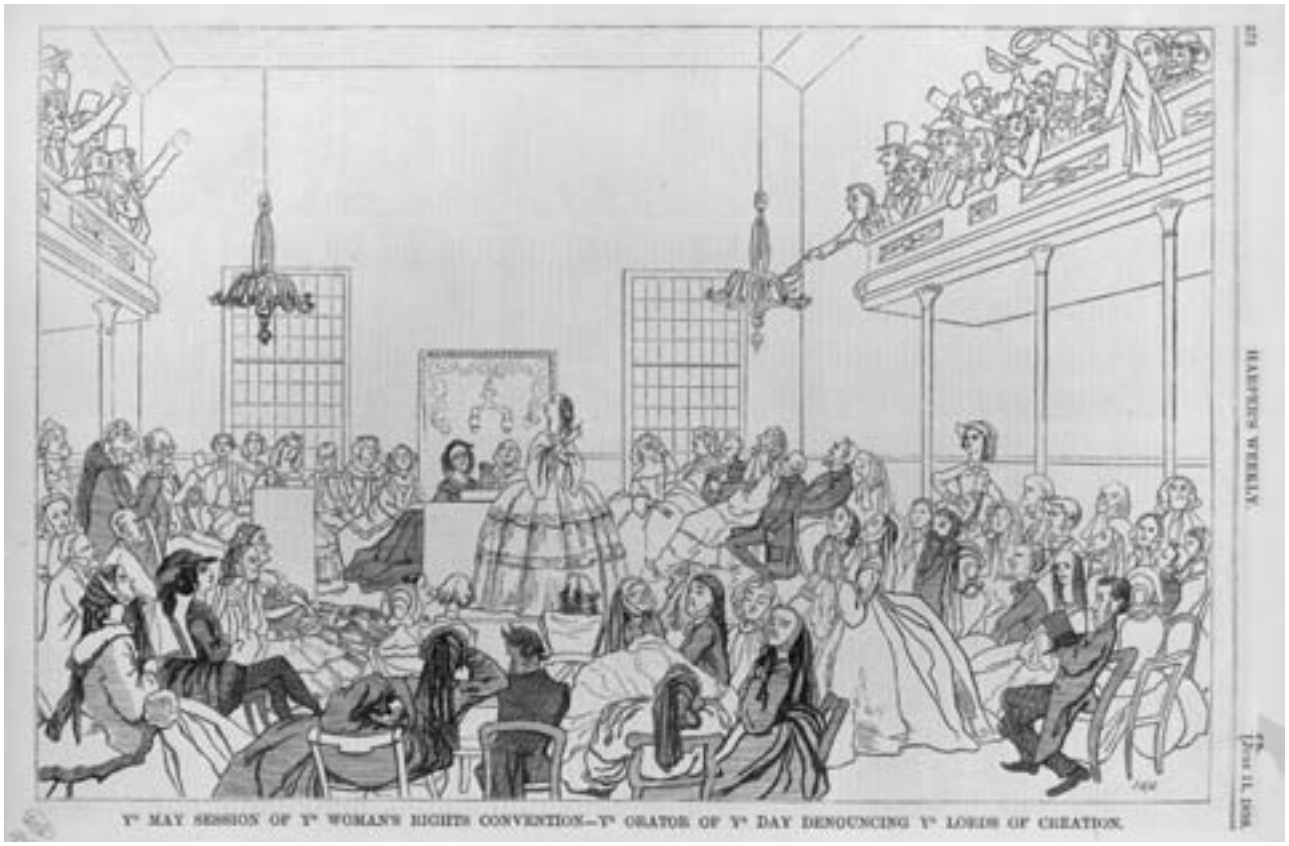


Illustration from* Harper's Weekly *of a women's rights convention in the 1850s (Library of Congress)

says, "And how came Jesus into the world? Through God who created him and the woman who bore him. Man, where was your part?" In paragraph 5 of Gage's version, Truth refutes the notion that women are unworthy of equal rights because the actions of the first woman, Eve, plunged the entire world into sin. She tells the audience that if one woman could turn the world upside down all by herself, a whole group of women could surely "get it right side up again! And now they is asking to do it, the men better let them." Robinson's recollection was "I have heard the Bible and have learned that Eve caused man to sin. Well, if woman upset the world, do give her a chance to set it right side up again." This statement in both versions was apparently directed toward white men who wanted women to be silent, subservient helpers in social and moral reform, including abolitionism.

However, Gage inserts into her reminiscence several ideas that are not found in any of the other accounts of Truth's oration. Some historians have seized upon the key phrase "Ain't I a Woman?" in particular, noting that had these words been used repeatedly by Truth as Gage suggests, at least one contemporary report would have remarked on it. Furthermore, Truth did not usually use poetic repetition to make her points in her speeches, but Gage did. The phrase "Ain't I a Woman?", then, was likely coined by Gage.

Other inconsistencies in Gage's version include Truth's supposed statement about having given birth to thirteen children, most of whom were sold away to various slaveholders. In reality, Truth had only five children, one of whom died; only one of the surviving four was sold (illegally) into slavery, and Truth secured his return from Alabama in a landmark court case in 1828. Some scholars speculate that Gage's memory from twelve years earlier may have been hazy; others hold that she felt justified in her use of poetic license because it added a legitimate sense of urgency to the important causes of abolition and women's rights.

It is not known whether Truth heard Gage's account prior to its publication or if she objected to any of the inconsistencies between Gage's version and her own memories of the speech. The fact that it was added to the 1875 edition of Truth's *Narrative* strengthens the case for Gage's claims, but it is also possible that Truth was unaware of its inclusion in the updated edition of her book. It may be that Truth decided that Gage's version spoke to the issues prominent during the Civil War years, such as compassionate, if not equal, treatment of black Americans and especially of black women. This could explain Gage's inclusion of the phrase "Ain't I a Woman?"—particularly when it is paired with the following lines from paragraph 2: "That man over there says that women need

Essential Quotes

"And ain't I a woman? Look at me! Look at my arm! I have ploughed and planted, and gathered into barns, and no man could head me! And ain't I a woman? I could work as much and eat as much as a man—when I could get it—and bear the lash as well! And ain't I a woman?"

(Gage, Paragraph 2)

"Then that little man in black there, he says women can't have as much rights as men, 'cause Christ wasn't a woman! Where did your Christ come from? Where did your Christ come from? From God and a woman! Man had nothing to do with Him."

(Gage, Paragraph 4)

"If the first woman God ever made was strong enough to turn the world upside down all alone, these women together ought to be able to turn it back, and get it right side up again! And now they is asking to do it, the men better let them."

(Gage, Paragraph 5)

"I am a woman's rights. I have as much muscle as any man, and can do as much work as any man."

(Robinson, Paragraph 1)

"But man is in a tight place, the poor slave is on him, woman is coming on him, and he is surely between a hawk and a buzzard."

(Robinson, Paragraph 5)

to be helped into carriages, and lifted over ditches, and to have the best place everywhere. Nobody ever helps me into carriages, or over mud-puddles, or gives me any best place!" This observation points out the stark difference in the treatment of black and white women, and it shows that African American women were not seen first as women but as black. If Truth, as an abolitionist and a women's rights activist, agreed with Gage's basic sentiments, then in spirit, if not in letter, her ideas still shine through in Gage's "Ain't I a Woman?" as well as in Robinson's more prosaic version.

Audience

Sojourner Truth delivered her speech, most likely impromptu, at the 1851 Women's Rights Convention held in Akron, Ohio. Most people in the crowd were white women, although some men, black and white, were present. Gage makes reference to the "Methodist, Baptist, Episcopal, Presbyterian, and Universalist ministers [who] came in to hear and discuss the resolutions presented." Although many members of the audience shared the conviction that women in the United States were being denied basic rights,

a few of the men in the crowd felt the need to assert their belief that men were superior to women. Truth's speech was no doubt prompted by these assertions.

Impact

The impact of Truth's speech was nothing short of magical. According to Gage, Sojourner Truth "had taken us up in her strong arms and carried us safely over the slough of difficulty, turning the whole tide in our favor." She had "subdued the mobbish spirit of the day, and turned the sneers and jeers of an excited crowd into notes of respect and admiration." But this description conflicts with the contemporary reports, even her own, of both the "spirit of the day" and Truth's impact on the crowd before and after her speech. Indeed, Gage's 1863 recollection seems to project the attitudes toward women's rights groups in later years onto the crowd at the Akron meeting in 1851. None of the other known reports on the convention mention the huge change in the crowd that Gage's version describes. Surely if Truth had exhibited some transforming power over the "spirit of the day," it would have been noted in at least one, if not all, of the four contemporary sources.

Nevertheless, Marius Robinson did comment on Truth's presence at the convention, writing: "It is impossible to transfer to it to paper…. Those only can appreciate it who saw her powerful form, her whole-souled, earnest gesture, and listened to her strong and truthful tones." Robinson was clearly impressed by Truth, but neither he nor the other journalists who covered the story in 1851 allude to her conversion of a hostile audience to a docile one.

This particular speech of Truth's also made an important impact in the 1970s and 1980s, when attention was focused on both women's and black rights. Especially as described by Gage, the speech seemed to highlight both concerns and gave both movements a strong heroine to whom they could look as a role model. Sojourner Truth and her speech continue to inspire, which can be seen, for example, by the erection of a permanent statue of her unveiled in April of 2009, in the visitor's center of the U.S. Capitol.

See also Emancipation Proclamation (1863); Thirteenth Amendment to the U.S. Constitution (1865).

Further Reading

■ Books

Mabee, Carleton, and Susan Mabee Newhouse. *Sojourner Truth: Slave, Prophet, Legend*. New York: New York University Press, 1993.

Painter, Nell Irvin. *Sojourner Truth: A Life, A Symbol*. New York: W. W. Norton, 1996.

Truth, Sojourner, and Olive Gilbert. *Narrative of Sojourner Truth*. New York: Arno Press, 1968.

Questions for Further Study

1. Why do you believe Truth's speech, delivered extemporaneously by a woman who could neither read nor write, continues to attract attention as an important document in African American history as well as in the history of women's struggle for equal rights?

2. Describe the role of women in the abolition movement. Why do you think so many abolitionists at the time were women?

3. What was the relationship between the abolition movement and the women's rights movement at the middle of the nineteenth century?

4. If you had been present at the Akron convention, what do you think your reaction to Truth's speech would have been? Explain why, trying to imagine yourself as living at that time and in that place.

5. What biblical arguments does Truth make? Why do you think she relied on biblical events and concepts in a speech such as this?

■ Web Sites

"Ain't I a Woman? Reminiscences of Sojourner Truth Speaking." History Matters Web site.
http://historymatters.gmu.edu/d/5740/.

Truth, Sojourner. "Ain't I a Woman?" Sojourner Truth Institute of Battle Creek Web site.
http://www.sojournertruth.org/Library/Speeches/AintIAWoman.htm.

"A Woman's World: Speaking Out for Women's Equality." American Experience Online,
http://www.pbs.org/wgbh/amex/lincolns/filmmore/ps_rights.html.

—Angela M. Alexander

Document Text

Sojourner Truth's "Ain't I a Woman?"

[Frances Dana Gage version]

Well, children, where there is so much racket there must be something out of kilter. I think that 'twixt the negroes of the South and the women at the North, all talking about rights, the white men will be in a fix pretty soon. But what's all this here talking about?

That man over there says that women need to be helped into carriages, and lifted over ditches, and to have the best place everywhere. Nobody ever helps me into carriages, or over mud-puddles, or gives me any best place! And ain't I a woman? Look at me! Look at my arm! I have ploughed and planted, and gathered into barns, and no man could head me! And ain't I a woman? I could work as much and eat as much as a man—when I could get it—and bear the lash as well! And ain't I a woman? I have borne thirteen children, and seen most all sold off to slavery, and when I cried out with my mother's grief, none but Jesus heard me! And ain't I a woman?

Then they talk about this thing in the head; what's this they call it? ("Intellect," whispered someone near.) That's it, honey. What's that got to do with women's rights or negroes' rights? If my cup won't hold but a pint, and yours holds a quart, wouldn't you be mean not to let me have my little half measure full?

Then that little man in black there, he says women can't have as much rights as men, 'cause Christ wasn't a woman! Where did your Christ come from? Where did your Christ come from? From God and a woman! Man had nothing to do with Him.…"

If the first woman God ever made was strong enough to turn the world upside down all alone, these women together ought to be able to turn it back, and get it right side up again! And now they is asking to do it, the men better let them.

Obliged to you for hearing me, and now old Sojourner ain't got nothing more to say.

[Marius Robinson version]

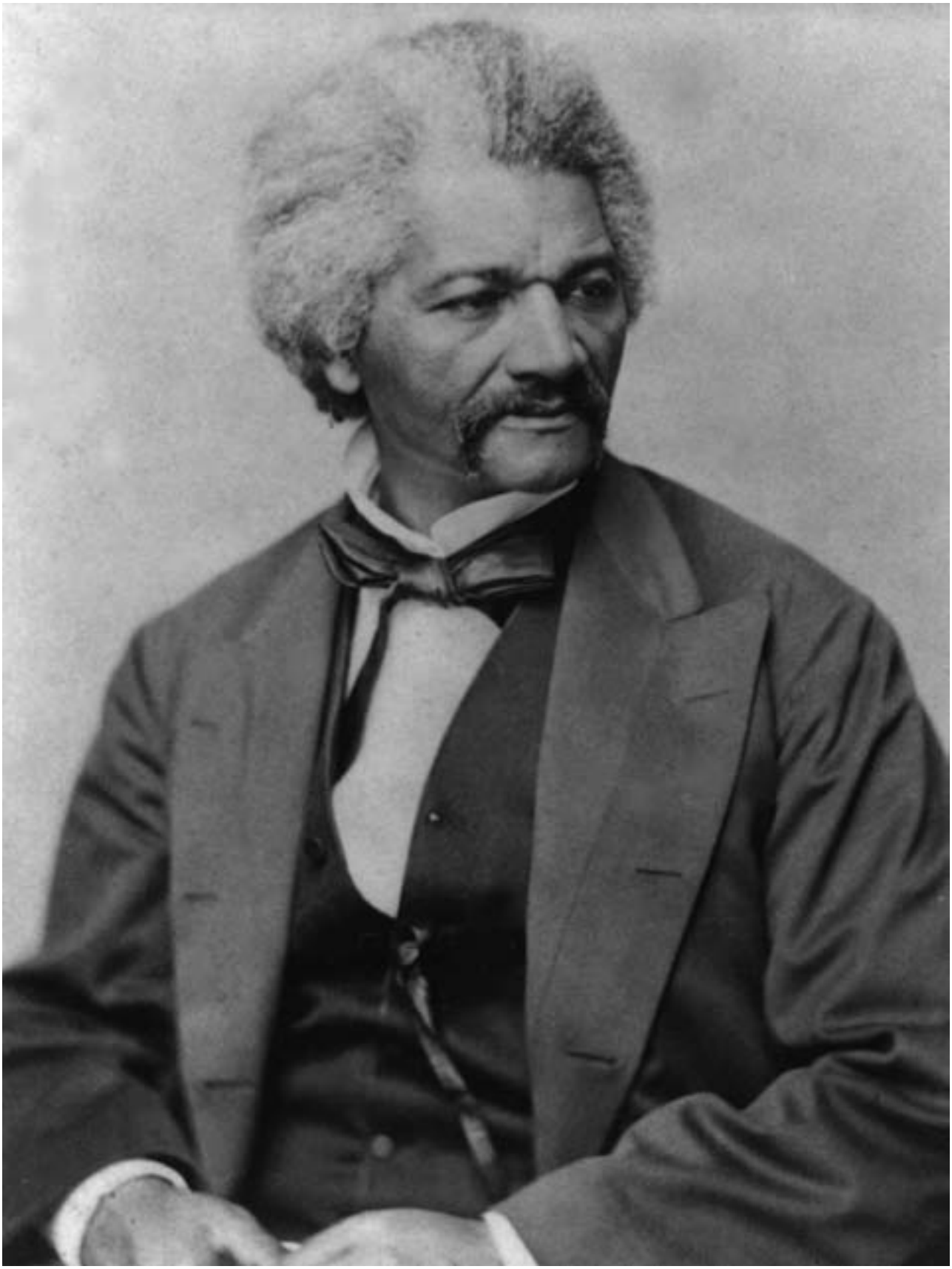
I want to say a few words about this matter. I am a woman's rights. I have as much muscle as any man, and can do as much work as any man. I have plowed and reaped and husked and chopped and mowed, and can any man do more than that? I have heard much about the sexes being equal. I can carry as much as any man, and can eat as much too, if I can get it. I am as strong as any man that is now.

As for intellect, all I can say is, if a woman have a pint, and a man a quart—why can't she have her little pint full? You need not be afraid to give us our rights for fear we will take too much,—for we can't take more than our pint'll hold.

The poor men seems to be all in confusion, and don't know what to do. Why children, if you have woman's rights, give it to her and you will feel better. You will have your own rights, and they won't be so much trouble.

I can't read, but I can hear. I have heard the Bible and have learned that Eve caused man to sin. Well, if woman upset the world, do give her a chance to set it right side up again. The lady has spoken about Jesus, how he never spurned woman from him, and she was right. When Lazarus died, Mary and Martha came to him with faith and love and besought him to raise their brother. And Jesus wept—and Lazarus came forth. And how came Jesus into the world? Through God who created him and the woman who bore him. Man, where was your part?

But the women are coming up blessed be God and a few of the men are coming up with them. But man is in a tight place, the poor slave is on him, woman is coming on him, and he is surely between a hawk and a buzzard.



Frederick Douglass (Library of Congress)

Frederick Douglass's "What to the Slave Is the Fourth of July?"

1852

"What, to the American slave, is your 4th of July? I answer: a day that reveals to him ... the gross injustice and cruelty to which he is the constant victim."

Overview

Frederick Douglass's "What to the Slave Is the Fourth of July" is the most famous speech delivered by the abolitionist and civil rights advocate Frederick Douglass. In the nineteenth century, many American communities and cities celebrated Independence Day with a ceremonial reading of the Declaration of Independence, which was usually followed by an oral address or speech dedicated to the celebration of independence and the heritage of the American Revolution and the Founding Fathers. On July 5, 1852, the Ladies' Anti-Slavery Society of Rochester, New York, invited Douglass to be the keynote speaker for their Independence Day celebration.

The "Fourth of July" speech, scheduled for Rochester's Corinthian Hall, attracted a crowd of between five hundred and six hundred, each of whom paid twelve and a half cents for admission. The meeting opened with a prayer offered by the Reverend S. Ottman of Rush, New York, followed by a reading of the Declaration of Independence by the Reverend Robert R. Raymond of Syracuse, New York. Douglass then delivered his address, which the local press reported to be eloquent and admirable and which drew much applause. Upon the conclusion of the address, the crowd thanked Douglass and called for the speech to be published in pamphlet form. Douglass complied, publishing a widely distributed pamphlet of the address. He also reprinted a text of the speech in his newspaper *Frederick Douglass' Paper* on July 9, 1852.

Context

The 1850s were a time of rising sectional tensions as slavery became the single most divisive issue in the United States. The United States' war with Mexico (1846–1848) resulted in the acquisition of a continental United States that stretched from the Atlantic to Pacific oceans. Even before the war concluded, Americans began debating whether slavery should be allowed in California and the New Mexico territories. The matter was settled with the Compromise of 1850, which admitted California as a free state but left the matter of slavery open in the territory that would become the states of Utah, New Mexico, and Arizona. In exchange for agreeing to the compromise, southerners in Congress demanded more protection for slavery where it existed, which resulted in the Fugitive Slave Act of 1850. The new law, passed in September 1850, superseded the Fugitive Slave Act of 1793 and required northerners to assist in returning escaped slaves. It also provided an unfair fee structure for fugitive slave commissioners, failed to provide jury trials, and did not permit an alleged fugitive to testify in his or her own defense. The Fugitive Slave Act led a number of northern states to pass personal liberty laws that aimed to skirt the act by routing fugitive slave cases through state courts.

The Fugitive Slave Act of 1850 also led many formerly pacifist antislavery activists to take a more militant stance against slavery. On numerous occasions in the 1850s, abolitionists planned and executed the escape of fugitive slaves held in custody or liable for capture. In September 1851 antislavery activists killed the Maryland slaveholder Edward Gorsuch near Christiana, Pennsylvania, as he attempted to capture some fugitives. The following month abolitionists in Syracuse, New York, successfully rescued a slave by the name of Jerry Henry from fugitive slave commissioners in that city. Although Douglass did not participate in that rescue, many of his closest friends did, and he often spoke at annual "Jerry Rescue" celebrations.

If the Fugitive Slave Act served to heighten awareness and prompt physical action against slavery among abolitionists, the March 1852 publication of Harriet Beecher Stowe's *Uncle Tom's Cabin* succeeded in bringing the evils of slavery to the attention of the citizens of the northern states. This novel, which provided a vivid depiction of the lives of slaves, sold an amazing three hundred thousand copies in 1852, but many in Douglass's audience had already read the novel, as it had been published in forty installments beginning in June 1851 in the abolitionist weekly newspaper the *National Era*. Arriving on the heels of the highly publicized injustices of the Fugitive Slave Act, the novel had a profound effect on American attitudes toward slavery.

Time Line

1845

- The *Narrative of the Life of Frederick Douglass* is published in Boston.

1846–1848

- The United States' war with Mexico results in the acquisition of California and New Mexico territories and escalates the debate over the extension of slavery into the new territories.

1850

- The Compromise of 1850 is negotiated, including the Fugitive Slave Act of 1850, which requires northerners to assist in the return of escaped slaves.

1852

- Harriet Beecher Stowe's antislavery novel *Uncle Tom's Cabin* is published and widely read.
- **July 5**
  Frederick Douglass delivers his "Fourth of July" speech at Corinthian Hall in Rochester, New York.

1854

- **May 30**
  The Kansas-Nebraska Act is passed, allowing new territories to enter as slave or free states on the basis of popular sovereignty.

1857

- **March 6**
  The Supreme Court rules in *Dred Scott v. Sandford* that African Americans have "no rights whites are bound to obey."

1859

- **October 16–18**
  John Brown, an abolitionist, leads a failed raid on the federal arsenal at Harpers Ferry, Virginia, in an attempt to overthrow slavery; he is convicted of treason and hanged on December 2.

1860

- **November 6**
  Abraham Lincoln is elected as the president of the United States; the southern states begin to secede from the Union.

Douglass's "Fourth of July" speech came in the early years of the turbulent 1850s, which began with the Fugitive Slave Act of 1850. Advocates and opponents of slavery clashed again in 1854 when the Kansas-Nebraska Act opened up those territories to slavery if the residents so desired. In 1857 the U.S. Supreme Court stepped into the debate with Chief Justice Roger Taney's ruling in *Dred Scott v. Sandford*, which proclaimed that African Americans, enslaved or not, were not citizens of the United States and that Congress had no authority to prohibit slavery in the territories. Two years later, in October 1859, the abolitionist John Brown led a failed slave uprising and raid on the federal arsenal at Harpers Ferry, Virginia. Brown, a friend of Douglass's, was hanged for treason in December 1859. The 1850s ended with a nation more divided than ever before on the issue of slavery and teetering on the edge of civil war.

About the Author

Frederick Douglass, abolitionist and civil rights activist, was born into slavery on a Maryland plantation in February 1818—the exact date of his birth cannot be determined. He was known in his youth as Frederick Washington Augustus Bailey, and he spent twenty years in bondage—first on Wye Plantation near St. Michaels in Talbot County, Maryland, and then in the shipbuilding city of Baltimore. His mother, Harriet Bailey, was a fieldworker, and his father was most likely his first owner, Aaron Anthony.

During his enslavement, Douglass gained literacy, learning the basics of reading from his mistress, Sophia Auld, and improving his reading and writing on his own after Auld's husband chastised her for illegally teaching a slave to read. While living and working in Baltimore, Douglass obtained a copy of *The Columbian Orator*, a collection of famous speeches published in a single, portable volume by the bookseller Caleb Bingham. Douglass pored over the speeches, improving his reading skills and beginning to develop the oratory style for which he would become famous. In September 1838 Douglass borrowed the free papers of a friend and boarded a train for the North. This rather uneventful escape from the bonds of slavery marked the beginning of his life as a crusader against the evils of slavery and in favor of civil rights for African Americans and women.

By 1841 Douglass had been hired as a field lecturer for the Massachusetts Anti-Slavery Society, and he was well on his way to becoming one of the most powerful orators of the nineteenth century. In 1845 the publication of his first autobiography, *Narrative of the Life of Frederick Douglass*, afforded him an international reputation as America's most famous fugitive slave. In 1847 he moved his family to Rochester, New York, where he began publishing an antislavery newspaper called the *North Star*, later renamed *Frederick Douglass' Paper*. In 1852 the Rochester Ladies' Anti-Slavery Society invited Douglass to offer the annual Fourth of July address at their July 5 event.

During and after the Civil War, Douglass was a strong advocate for civil rights. During the war, he recruited African American troops and advised President Abraham Lincoln on the best plan to incorporate blacks into the Union war effort. In 1872 Douglass moved his family to Washington, D.C., where he accepted a post as president of the Freedman's Savings Bank in 1874. In 1877 President Rutherford B. Hayes appointed him U.S. marshal for the District of Columbia, and in 1881 he became recorder of deeds for the District of Columbia. His highest federal post came as U.S. resident minister and consul general (ambassador) to Haiti. He died at Cedar Hill, his home in Washington, D.C., on February 20, 1895.

Time Line

1861

■ **April 12**
Shots are fired at Fort Sumter in the harbor at Charleston, South Carolina, which marks the beginning of the Civil War.

1863

■ **January 1**
The Emancipation Proclamation, which abolishes slavery in the states under rebellion, takes effect.

1865

■ The states ratify the Thirteenth Amendment, which abolishes slavery in the United States.

Explanation and Analysis of the Document

In the opening three paragraphs of the introductory section of his "Fourth of July" speech, Douglass establishes a tone of humility, expressing his gratitude to the event's organizers for deeming him worthy of addressing American independence. Here he juxtaposes himself as a former slave with those in the audience whom he deems the true beneficiaries of the Declaration of Independence. He notes the considerable distance between "this platform and the slave plantation, from which I escaped." He further reveals humility by discounting the amount of preparation put into the address. In reality, the oration was carefully crafted to offer the utmost contrast between the celebration of Independence Day and the continuance of racial slavery in the United States. Douglass would write to his friend and fellow abolitionist Gerrit Smith on July 7, 1852, that writing the oration took "much of my extra time for the last two or three weeks."

Although traditional Fourth of July addresses tended to emphasize the achievements of the American Revolution and its legacy, Douglass's address intended to bring focus to the present. To this end, in the introductory section he carefully distances himself from the historical events of the Revolution, preparing the way to contrast the rights white Americans enjoy and the oppression of slavery. He describes the day as one celebrating "your National Independence" and "your political freedom."

Once he establishes that he is not a beneficiary of the freedom and benefits of the Revolution, Douglass compares the abolitionist reformers of the 1850s with the independence seekers of the founding generation. Douglass tells the assembled crowd that "your fathers" spoke out and acted in opposition to the unjust government of the British Crown. They petitioned, complained, and eventually declared their independence from tyranny and slavery. Although it seemed that achieving the goal of independence was insurmountable owing to a lack of organization, a widely scattered population, insufficient resources, and other factors, the founding generation prevailed, and independence was achieved.

The paragraphs near the end of this section provide a transition into the heart of the address. Douglass heaps praise on the Revolutionary generation and assures the audience that "I am not wanting in respect for the fathers of this republic." He clearly states that he is transitioning into matters affecting the present state of the nation, noting that he intends to leave "the great deeds of your fathers to other gentlemen," most notably to those who were not born into slavery as he was.

♦ "The Present"

Douglass's tone changes to a critical assessment of the way that Americans reap the benefits of the founding generation's achievements in this section as he turns toward the influence of those achievements in the present. He quotes a stanza from Henry Wadsworth Longfellow's poem "A Psalm of Life" at the start of the section, which emphasizes the importance of acting in the present instead of dwelling on the future or past. The problem of the present that most concerns Douglass is the existence of slavery in the United States and the inherent contradiction between celebrating American independence while many suffer under the bonds of slavery. His allusion to Sydney Smith (1771–1845) refers to an Anglican minister who wrote satirically in criticism of the British Crown and who was a strong activist for Catholic emancipation in that country. Douglass also alludes to the biblical passage Luke 3:8: "Bring forth therefore fruits worthy of repentance, and begin not to say within yourselves, We have Abraham to *our* father: for I say unto you, That God is able of these stones to raise up children to Abraham." He points out that George Washington, the most revered of the Founders, freed his slaves in his will. Douglass argues that many of those celebrating American independence and the legacy of the Revolutionary generation are hypocrites who hold slaves and engage in slave trafficking. The quote that follows, noting that men's evil deeds often follow them to the grave, originates from William Shakespeare's *Julius Caesar* (act 3, scene 2).

After outlining a series of rhetorical questions about the application of the principles of freedom and justice to all,

A sheet music cover portraying the black abolitionist Frederick Douglass as a runaway slave (Library of Congress)

Douglass powerfully asks the crowd if it was their intention to mock him by inviting him to speak on the Fourth of July. He notes in the seventh paragraph, "The rich inheritance of justice, liberty, prosperity and independence, bequeathed by your fathers, is shared by you, not by me." Douglass quotes Psalms 135:1–6 in the eighth paragraph of this section, comparing the experiences of American slaves to the unjust biblical enslavement of the Jews. In the following passages, Douglass transitions from the celebration of the Fourth of July to a more familiar topic, American slavery. Many in the audience were abolitionist-minded, and most would have anticipated the shift in topic. He argues that the character and conduct of the nation "never looked blacker." Following the passage of the federal Fugitive Slave Act of 1850, northern states were required to take a more active role in returning fugitive slaves to the South, greatly angering abolitionists and others who viewed the new law as a demonstration of the federal government's support for slavery. Douglass condemns the use of religion and the U.S. Constitution to support slavery and vows to actively oppose slavery in every way he can, taking the quote "I will not equivocate; I will not excuse" from the first issue of William Lloyd Garrison's antislavery newspaper, the *Liberator*, which appeared January 1, 1831.

Douglass next examines a series of issues commonly found in abolitionists' denunciations of slavery, including the humanity of the enslaved, their entitlement to liberty, and biblical justifications for the institution. The tone of these passages is full of irony, as Douglass argues that each of these issues has already been settled and really requires no additional comment. He turns first to the question of the humanity of slaves. An early justification for slavery argued that men and women of African descent were descended from a species different from whites. Their full humanity was sometimes considered questionable. Douglass argues persuasively in the tenth and eleventh paragraphs that the question of the humanity of slaves has been put to rest and that even in the South, the slave is considered a man. He cites a series of seventy-two crimes for which a black man might be given the death penalty in Virginia as partial evidence that southerners recognize the humanity of slaves. Douglass likely pulled this information from the writings of the abolitionist Theodore Dwight Weld, whose 1839 book *American Slavery As It Is* included a careful exploration of slave laws and punishments. At the close of this section, Douglass turns to the argument that slaves as men are entitled to liberty. He proclaims that this issue is also widely settled; in fact, he remarks, "There is not a man beneath the canopy of heaven, that does not know that slavery is wrong *for him*." Likewise, he touches on the fact that slavery is neither divinely sanctioned nor created by God. Such common arguments, Douglass contends, have run their course, and now a new course of action must be undertaken. He announces to the crowd, "We need the storm, the whirlwind, and the earthquake." The speech changes course again as Douglass begins a scathing condemnation of the country with the famous title line "What, to the American slave, is your 4th of July?"

Douglass argues that, for enslaved Americans, the Fourth of July is the one day of the year that most represents the "gross injustice and cruelty to which he is the constant victim." He finds that the celebration of liberty and equality is hypocritical while slavery continues to exist in the United States. In the final paragraph of the section, he claims that the hypocrisy of the United States is deeper than the abuses of European and other world monarchies and that even the cruelties of South American slavery do not match the cruelty brought about by the contradiction between slavery and freedom in America. This was an especially harsh criticism, because it is widely known that South American slavery was particularly callous.

♦ "The Internal Slave Trade"

In the next section of the speech, Douglass's critical eye turns to the slave trade within the United States. Although the importation of slaves from Africa or the Caribbean was outlawed after 1808, the boom in cotton production after the War of 1812 increased the need for labor in the developing southwestern cotton states. The labor gap was filled by moving large numbers of enslaved men and women from

the Upper South states, such as Virginia and Maryland, to the Lower South. It is estimated that between 1820 and 1860 about nine hundred thousand slaves were sold or moved into the developing cotton fields in such states as Alabama, Mississippi, Louisiana, and Texas. The practice often separated family members and is considered one of the cruelest elements of U.S. slavery. Douglass references the former senator Thomas Hart Benton (1782–1858), who served as a U.S. senator from Missouri from 1821 to 1851 and as one of that state's congressmen from 1853 to 1855.

In the first paragraph of this section, Douglass points out that some important ministers have spoken out against the slave trade and slavery but that many of them support a movement to colonize free blacks in Africa. This movement began in earnest with the creation of the American Colonization Society in 1816, which established the colony of Liberia on the west coast of Africa. Although a number of freed blacks did emigrate to Liberia and other places, the movement was largely unsuccessful. Douglass adamantly opposes colonization and other expatriation schemes.

Douglass follows this with a condemnation of the internal slave trade. These passages offer some details about the ways that the slave trade functioned and of how it affected and dehumanized those who were subjected to sale and movement. Douglass describes men, women, and children being bound in chains, screams, whippings, and the separation of mothers and children. In the second paragraph he asks his audience to tell him "WHERE, under the sun, you can witness a spectacle more fiendish and shocking." The following passages detail Douglass's own experiences as he recalls the Baltimore slave market controlled by a man he remembers as Austin Woldfolk. This notorious man's name was actually Austin Woolfolk of Augusta, Georgia. He came to Baltimore around 1819 and was the most prominent slave trader in the area during the 1820s and 1830s, exporting between 230 and 460 slaves to New Orleans each year. This discussion concludes with a slight alteration of the first four lines of the poem "Stanzas for the Times" by the abolitionist poet John Greenleaf Whittier.

In the final two paragraphs of this section, Douglass heartily condemns the Fugitive Slave Act, which was passed as a part of the Compromise of 1850 and was negotiated to settle matters of territorial and slavery expansion following the United States' war with Mexico (1846–1848). The Fugitive Slave Act angered abolitionists and led many who had previously been neutral on the issue of slavery to speak out against the measure. The law required northern states to aid in returning fugitive slaves. It established commissioners and special hearings to handle the cases of alleged fugitives. As Douglass describes in the tenth paragraph, the commissioner received a fee of $10 if an individual was determined to be a fugitive but only $5 if he or she was determined to be free. Although the law did not specify the number of witnesses needed to establish one as a fugitive, it did specify that evidence or testimony from the alleged fugitive was inadmissible. The injustice inherent in this law led many formerly pacifist abolitionists to take more active roles in helping fugitives to escape, sometimes physically rescuing them from jails and courthouses across the North.

♦ "Religious Liberty"

In a section comprising two paragraphs, Douglass places blame on the established churches and denominations of the United States for their failure to condemn the Fugitive Slave Act as "one of the grossest infringements of Christian Liberty." He makes his case for the churches' culpability in this section. Douglass argues that if the matter involved financial benefit or harm to the church, clergy would call for the law's repeal. The following passage refers to the struggle against Mary Stuart's (Mary, Queen of Scots) attempt to halt the Protestant Reformation and bring Scotland back into the fold of the Roman Catholic Church. John Knox was the most outspoken minister fighting to push the Protestant Reformation forward in Scotland. Douglass believed that American ministers should fight to repeal the Fugitive Slave Act in the same way that Knox fought against Catholicism. The other person mentioned in this brief section is President Millard Fillmore, who presided over the Senate as vice president during the negotiation of the Compromise of 1850. He became president in July 1850, following the death of President John Tyler. The "mint, anise, and cumin" allusion at the end of the section is drawn from Matthew 23:23: "Woe unto you, scribes and Pharisees, hypocrites! For ye pay tithe of mint, anise and cumin, and have omitted the weightier matters of the law, judgment, mercy and faith; these ought ye to have done, and not to leave the other undone."

♦ "The Church Responsible"

In this section of the address, Douglass condemns the established churches in the United States, claiming that they have taken the side of slaveholders in the debate over slavery. He refers to three famous supporters of deism from the eighteenth and nineteenth centuries: Thomas Paine (1737–1809), an American Revolutionary and author of *Common Sense*; François-Marie Arouet de Voltaire (1694–1778), a French playwright and author; and Henry St. John, Viscount Bolingbroke, an English statesman and author. In the second paragraph of the section, Douglass quotes biblical passages from James 1:27, "Pure religion and undefiled … is this," and James 3:17, "But the wisdom that is from above is first pure, then peaceable, gentle, and easy to be intreated, full of mercy and good fruits, without partiality and without hypocrisy." The second series of quotes originates from Isaiah 1:13–17. The fourth paragraph refers to the radical New Light Presbyterian minister Albert Barnes (1798–1870), who opposed slavery and made a similar condemnation of the complicity of the American church in maintaining slavery. In the sixth paragraph of this section, Douglass names several well-known American ministers as individuals particularly supportive of slaveholding and teaching "that we ought to obey man's laws before the law of God," including John Chase Lord, Gardiner Spring, Leonard Elijah Lathrop, Samuel Hanson Cox, Ichabod Smith Spencer, Ezra Stiles Gannett, Daniel

Essential Quotes

"This Fourth [of] July is yours, not mine. You may rejoice, I must mourn."

("The Present," paragraph 7)

"What, to the American slave, is your 4th of July? I answer: a day that reveals to him, more than all other days in the year, the gross injustice and cruelty to which he is the constant victim."

("The Present," paragraph 16)

Sharp, and Orville Dewey. Douglass concludes this section by reminding the audience that although his words apply to the majority of American ministers, notable exceptions include the Reverend Robert R. Raymond, who also spoke at the Corinthian Hall event.

♦ **"Religion in England and Religion in America"**

To draw a clear contrast between the antislavery activism of the British and those in the United States, Douglass includes this segment juxtaposing prominent antislavery British activists including Granville Sharp, Thomas Clarkson, William Wilberforce, Thomas Fowell Buxton, Thomas Burchell, and William Knibb. Douglass had traveled for a year and a half in Great Britain and Ireland in 1845 to 1847, during which time he met and worked with a number of British reformers. Unlike the U.S. antislavery movement, when Great Britain ended slavery under the Act for the Abolition of Slavery of 1833, the established Anglican Church supported the abolition of slavery in the British West Indies. In the second paragraph of the section, Douglass contrasts the failure of American clergy to oppose slavery with their sympathy for such foreign causes as the movement of Hungarians to shake off an invasion by Russian and Austrian troops in 1849. Near the end of this lengthy paragraph, Douglass paraphrases Acts 17:26, "And [God] hath made of one blood all the nations of men for to dwell upon the earth," and quotes the Declaration of Independence. Douglass attributes the quote to a letter written on June 26, 1786, by Thomas Jefferson to the French author and politician Jean-Nicolas Démeunier.

♦ **"The Constitution"**

The final section of the speech turns to the constitutionality of slavery. Although Douglass once held the view that the U.S. Constitution was a proslavery document, by 1852 he was committed to using political means to end slavery. In the opening paragraph he paraphrases Shakespeare's *Macbeth* to emphasize the fallacy of those who believe that the Constitution sanctions slavery. He mentions several prominent northerners committed to antislavery politics, each of whom had published works arguing that the Constitution does not support slavery. Beginning with the third paragraph, Douglass outlines the evidence for his argument, pointing especially to the fact that the words *slave* and *slavery* do not appear anywhere in the document. Although some historians argue that slavery was implicitly protected in several articles of the Constitution, Douglass does not see a single proslavery clause. In support of his position, he points to prominent politicians outside the antislavery circle, including George Mifflin Dallas, who served as vice president under James Polk; the Georgia senator John MacPherson Berrien; the Illinois Democrat Sidney Breese; and Lewis Cass, Michigan senator and Democratic candidate for president in 1848.

Douglass turns more hopeful for the speech's conclusion. He believes that slavery will one day be abolished, paraphrasing Isaiah 59:1 in the sixth paragraph of the section: "Behold, the Lord's hand is not shortened, that it cannot save, neither His ear heavy, that it cannot hear." He takes inspiration that the Declaration of Independence will one day apply to all. In the final paragraph, he proclaims that slavery will end when the light of freedom reaches the United States, alluding to Psalms 68:31: "Princes shall come out of Egypt; Ethiopia shall soon stretch out her hands unto God." The essay concludes with the poem "The Triumph of Freedom" authored by the famous abolitionist William Lloyd Garrison.

Audience

Douglass's speech was delivered before a crowd of reform-minded citizens of Rochester, New York. Many in the audience probably shared his belief that slavery was a moral sin and should be immediately ended. With publication of the speech in pamphlet form, Douglass was able to increase the number of Americans who heard his words. At least seven hundred copies of the speech were printed and distributed for a nominal fee that covered

printing. Douglass aimed his message at the American public and hoped his words might persuade many to join the antislavery cause.

Impact

Douglass's "Fourth of July" speech made an immediate impact on the northern American reading public. It was published in pamphlet form in the weeks following the address and read by hundreds who had not attended the Rochester event. The speech endures as one of the most articulate expressions of what it means to be excluded from the republican experiment that resulted in the democracy of the United States. Yet beyond a condemnation of slavery, the speech endures because Douglass adopted a hopeful tone, believing that the United States would be more complete once slavery ended. Today scholars and students of American history still widely read Douglass's "Fourth of July" speech.

See also Fugitive Slave Act of 1850; *Dred Scott v. Sandford* (1857); Frederick Douglass: "Men of Color to Arms!" (1863).

Further Reading

■ Books

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Colaiaco, James A. *Frederick Douglass and the Fourth of July*. New York: Palgrave Macmillan, 2006.

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—L. Diane Barnes

Questions for Further Study

1. How does Douglass align himself with the audience while still expressing a point of view that differs from theirs?

2. Douglass was a renowned orator who drew large audiences to hear him speak on many topics. What rhetorical and persuasive devices does he employ in this address?

3. For Douglass, freedom is clearly tied to the idea of the progress of the American empire. What portions of the speech best reflect this assertion?

Frederick Douglass's "What to the Slave Is the Fourth of July?"

July 5, 1852

Mr. President, Friends and Fellow Citizens:

He who could address this audience without a quailing sensation, has stronger nerves than I have. I do not remember ever to have appeared as a speaker before any assembly more shrinkingly, nor with greater distrust of my ability, than I do this day. A feeling has crept over me, quite unfavorable to the exercise of my limited powers of speech. The task before me is one which requires much previous thought and study for its proper performance. I know that apologies of this sort are generally considered flat and unmeaning. I trust, however, that mine will not be so considered. Should I seem at ease, my appearance would much misrepresent me. The little experience I have had in addressing public meetings, in country school houses, avails me nothing on the present occasion.

The papers and placards say, that I am to deliver a 4th July oration. This certainly, sounds large, and out of the common way, for me. It is true that I have often had the privilege to speak in this beautiful Hall, and to address many who now honor me with their presence. But neither their familiar faces, nor the perfect gage I think I have of Corinthian Hall, seems to free me from embarrassment.

The fact is, ladies and gentlemen, the distance between this platform and the slave plantation, from which I escaped, is considerable—and the difficulties to be overcome in getting from the latter to the former, are by no means slight. That I am here today, is, to me, a matter of astonishment as well as of gratitude. You will not, therefore, be surprised, if in what I have to say, I evince no elaborate preparation, nor grace my speech with any high sounding exordium. With little experience and with less learning, I have been able to throw my thoughts hastily and imperfectly together; and trusting to your patient and generous indulgence, I will proceed to lay them before you.

This, for the purpose of this celebration, is the 4th of July. It is the birthday of your National Independence, and of your political freedom. This, to you, is what the Passover was to the emancipated people of God. It carries your minds back to the clay, and to the act of your great deliverance; and to the signs, and to the wonders, associated with that act that day. This celebration also marks the beginning of another year of your national life; and reminds you that the Republic of America is now 76 years old. I am glad, fellow-citizens, that your nation is so young. Seventy-six years, though a good old age for a man, is but a mere speck in the life of a nation. Three score years and ten is the allotted time for individual men; but nations number their years by thousands. According to this fact, you are, even now only in the beginning of your national career, still lingering in the period of childhood. I repeat, I am glad this is so. There is hope in the thought, and hope is much needed, under the dark clouds which lower above the horizon. The eye of the reformer is met with angry flashes, portending disastrous times; but his heart may well beat lighter at the thought that America is young, and that she is still in the impressible stage of her existence. May he not hope that high lessons of wisdom, of justice and of truth, will yet give direction to her destiny? Were the nation older, the patriot's heart might be sadder, and the reformer's brow heavier. Its future might be shrouded in gloom, and the hope of its prophets go out in sorrow. There is consolation in the thought, that America is young. Great streams are not easily turned from channels, worn deep in the course of ages. They may sometimes rise in quiet and stately majesty, and inundate the land, refreshing and fertilizing the earth with their mysterious properties. They may also rise in wrath and fury, and bear away, on their angry waves, the accumulated wealth of years of toil and hardship. They, however, gradually flow back to the same old channel, and flow on as serenely as ever. But, while the river may not be turned aside, it may dry up, and leave nothing behind but the withered branch, and the unsightly rock, to howl in the abyss-sweeping wind, the sad tale of departed glory. As with rivers so with nations.

Fellow-citizens, I shall not presume to dwell at length on the associations that cluster about this day. The simple story of it is, that, 76 years ago, the people of this country were British subjects. The style and title of your "sovereign people" (in which you now glory) was not then born. You were under the British Crown. Your fathers esteemed the English Government as the home government and England as the fatherland. This home government, you know,

although a considerable distance from your home, did, in the exercise of its parental prerogatives, impose upon its colonial children, such restraints, burdens and limitations, as, in its mature judgment, it deemed wise, right and proper.

But, your fathers, who had not adopted the fashionable idea of this day, of the infallibility of government, and the absolute character of its acts, presumed to differ from the home government in respect to the wisdom and the justice of some of those burdens and restraints. They went so far in their excitement as to pronounce the measures of government unjust, unreasonable, and oppressive, and altogether such as ought not to be quietly submitted to. I scarcely need say, fellow-citizens, that my opinion of those measures fully accords with that of your fathers. Such a declaration of agreement on my part, would not be worth much to anybody. It would, certainly, prove nothing, as to what part I might have taken, had I lived during the great controversy of 1776. To say now that America was right, and England wrong, is exceedingly easy. Everybody can say it; the dastard, not less than the noble brave, can flippantly discant on the tyranny of England towards the American Colonies. It is fashionable to do so; but there was a time when, to pronounce against England, and in favor of the cause of the colonies, tried men' souls. They who did so were accounted in their day, plotters of mischief, agitators and rebels, dangerous men. To side with the right, against the wrong, with the weak against the strong, and with the oppressed against the oppressor! here lies the merit, and the one which, of all others, seems un fashionable in our day. The cause of liberty may be stabbed by the men who glory in the deeds of your fathers. But, to proceed.

Feeling themselves harshly and unjustly treated, by the home government, your fathers, like men of honesty, and men of spirit, earnestly sought redress. They petitioned and remonstrated; they did so in a decorous, respectful, and loyal manner. Their conduct was wholly unexceptionable. This, however, did not answer the purpose. They saw themselves treated with sovereign indifference, coldness and scorn. Yet they persevered. They were not the men to look back.

As the sheet anchor takes a firmer hold, when the ship is tossed by the storm, so did the cause of your fathers grow stronger, as it breasted the chilling blasts of kingly displeasure. The greatest and best of British statesmen admitted its justice, and the loftiest eloquence of the British Senate came to its support. But, with that blindness which seems to be the unvarying characteristic of tyrants, since Pharaoh and his hosts were drowned in the Red sea, the British Government persisted in the exactions complained of.

The madness of this course, we believe, is admitted now, even by England; but, we fear the lesson is wholly lost on our present rulers.

Oppression makes a wise man mad. Your fathers were wise men, and if they did not go mad, they became restive under this treatment. They felt themselves the victims of grievous wrongs, wholly incurable in their colonial capacity. With brave men there is always a remedy for oppression. Just here, the idea of a total separation of the colonies from the crown was born! It was a startling idea, much more so, than we, at this distance of time, regard it. The timid and the prudent (as has been intimated) of that day, were, of course, shocked and alarmed by it.

Such people lived then, had lived before, and will, probably, ever have a place on this planet; and their course, in respect to any great change, (no matter how great the good to be attained, or the wrong to be redressed by it,) may be calculated with as much precision as can be the course of the stars. They hate all changes, but silver, gold and copper change! Of this sort of change they are always strongly in favor.

These people were called tories in the days of your fathers; and the appellation, probably, conveyed the same idea that is meant by a more modern, though a somewhat less euphonious term, which we often find in our papers, applied to some of our old politicians.

Their opposition to the then dangerous thought was earnest and powerful; but, amid all their terror and affrighted vociferations against it, the alarming and revolutionary idea moved on, and the country with it.

On the 2d of July, 1776, the old Continental Congress, to the dismay of the lovers of ease, and the worshippers of property, clothed that dreadful idea with all the authority of national sanction. They did so in the form of a resolution; and as we seldom hit upon resolutions, drawn up in our day, whose transparency is at all equal to this, it may refresh your minds and help my story if I read it.

Resolved, That these united colonies are, and of right, ought to be free and Independent States; that they are absolved from all allegiance to the British Crown; and that all political connection between them and the State of Great Britain is, and ought to be, dissolved.

Citizens, your fathers Made good that resolution. They succeeded; and today you reap the fruits of

their success. The freedom gained is yours; and you, therefore, may properly celebrate this anniversary. The 4th of July is the first great fact in your nation's history—the very ring-bolt in the chain of your yet undeveloped destiny.

Pride and patriotism, not less than gratitude, prompt you to celebrate and to hold it in perpetual remembrance. I have said that the Declaration of Independence is the RINGBOLT to the chain of your nation's destiny; so, indeed, I regard it. The principles contained in that instrument are saving principles. Stand by those principles, be true to them on all occasions, in all places, against all foes, and at whatever cost.

From the round top of your ship of state, dark and threatening clouds may be seen. Heavy billows, like mountains in the distance, disclose to the leeward huge forms of flinty rocks! That bolt drawn, that chain, broken, and all is lost. Cling to this day—cling to it, and to its principles, with the grasp of a storm-tossed mariner to a spar at midnight.

The coining into being of a nation, in any circumstances, is an interesting event. But, besides general considerations, there were peculiar circumstances which make the advent of this republic an event of special attractiveness.

The whole scene, as I look back to it, was simple, dignified and sublime.

The population of the country, at the time, stood at the insignificant number of three millions. The country was poor in the munitions of war. The population was weak and scattered, and the country a wilderness unsubdued. There were then no means of concert and combination, such as exist now. Neither steam nor lightning had then been reduced to order and discipline. From the Potomac to the Delaware was a journey of many days. Under these, and innumerable other disadvantages, your fathers declared for liberty and independence and triumphed.

Fellow Citizens, I am not wanting in respect for the fathers of this republic. The signers of the Declaration of Independence were brave men. They were great men too—great enough to give fame to a great age. It does not often happen to a nation to raise, at one time, such a number of truly great men. The point from which I am compelled to view them is not, certainly the most favorable; and yet I cannot contemplate their great deeds with less than admiration. They were statesmen, patriots and heroes, and for the good they did, and the principles they contended for, I will unite with you to honor their memory.

They loved their country better than their own private interests; and, though this is not the highest form of human excellence, all will concede that it is a rare virtue, and that when it is exhibited, it ought to command respect. He who will, intelligently, lay down his life for his country, is a man whom it is not in human nature to despise. Your fathers staked their lives, their fortunes, and their sacred honor, on the cause of their country. In their admiration of liberty, they lost sight of all other interests.

They were peace men; but they preferred revolution to peaceful submission to bondage. They were quiet men; but they did not shrink from agitating against oppression. They showed forbearance; but that they knew its limits. They believed in order; but not in the order of tyranny. With them, nothing was "settled" that was not right. With them, justice, liberty and humanity were "final;" not slavery and oppression. You may well cherish the memory of such men. They were great in their day and generation. Their solid manhood stands out the more as we contrast it with these degenerate times.

How circumspect, exact and proportionate were all their movements! How unlike the politicians of an hour! Their statesmanship looked beyond the passing moment, and stretched away in strength into the distant future. They seized upon eternal principles, and set a glorious example in their defence. Mark them!

Fully appreciating the hardships to be encountered, firmly believing in the right of their cause, honorably inviting the scrutiny of an on-looking world, reverently appealing to heaven to attest their sincerity, soundly comprehending the solemn responsibility they were about to assume, wisely measuring the terrible odds against them, your fathers, the fathers of this republic, did, most deliberately, under the inspiration of a glorious patriotism, and with a sublime faith in the great principles of justice and freedom, lay deep, the corner-stone of the national superstructure, which has risen and still rises in grandeur around you.

Of this fundamental work, this day is the anniversary. Our eyes are met with demonstrations of joyous enthusiasm. Banners and pennants wave exultingly on the breeze. The din of business, too, is hushed. Even mammon seems to have quitted his grasp on this day. The ear-piercing fife and the stirring drum unite their accents with the ascending peal of a thousand church bells. Prayers are made, hymns are sung, and sermons are preached in honor of this day; while the quick martial tramp of a great and multitudinous nation, echoed back by all the hills, valleys and mountains of a vast continent, bespeak the occasion one of thrilling and universal interest—a nation's jubilee.

Document Text

Friends and citizens, I need not enter further into the causes which led to this anniversary. Many of you understand them better than I do. You could instruct me in regard to them. That is a branch of knowledge in which you feel, perhaps, a much deeper interest than your speaker. The causes which led to the separation of the colonies from the British crown have never lacked for a tongue. They have all been taught in your common schools, narrated at your firesides, unfolded from your pulpits, and thundered from your legislative halls, and are as familiar to you as household words. They form the staple of your national poetry and eloquence.

I remember, also, that, as a people, Americans are remarkably familiar with all facts which make in in their own favor. This is esteemed by some as a national trait—perhaps a national weakness. It is a fact, that whatever makes for the wealth or for the reputation of Americans, and can be had cheap! will be found by Americans. I shall not be charged with slandering Americans, if I say I think the American side of any question may be safely left in American hands.

I leave, therefore, the great deeds of your fathers to other gentlemen whose claim to have been regularly descended will be less likely to be disputed than mine!

♦ The Present

My business, if I have any here today, is with the present. The accepted time with God and his cause is the ever-living now.

"Trust no future, however pleasant, Let the dead past bury its dead; Act, act in the living present, Heart within, and God overhead."

We have to do with the past only as we can make it useful to the present and to the future. To all inspiring motives, to noble deeds which can be gained from the past, we are welcome. But now is the time, the important time. Your fathers have lived, died, and have done their work, and have done much of it well. You live and must die, and you must do your work. You have no right to enjoy a child's share in the labor of your fathers, unless your children are to be blest by your labors. You have no right to wear out and waste the hard-earned fame of your fathers to cover your indolence. Sydney Smith tells us that men seldom eulogize the wisdom and virtues of their fathers, but to excuse some folly or wickedness of their own. This truth is not a doubtful one. There are illustrations of it near and remote, ancient and modern. It was fashionable, hundreds of years ago, for the children of Jacob to boast, we have "Abraham to our father," when they had long lost Abraham's faith and spirit. That people contented themselves under the shadow of Abraham's great name, while they repudiated the deeds which made his name great. Need I remind you that a similar thing is being done all over this country today? Need I tell you that the Jews are not the only people who built the tombs of the prophets, and garnished the sepulchres of the righteous? Washington could not die till he had broken the chains of his slaves. Yet his monument is built up by the price of human blood, and the traders in the bodies and souls of men, shout, "We have Washington to 'our father.'" Alas! that it should be so; yet so it is.

"The evil that men do, lives after them, The good is oft interred with their bones."

Fellow-citizens, pardon me, allow me to ask, why am I called upon to speak here today? What have I, or those I represent, to do with your national independence? Are the great principles of political freedom and of natural justice, embodied in that Declaration of Independence, extended to us? and am I, therefore, called upon to bring our humble offering to the national altar, and to confess the benefits and express devout gratitude for the blessings resulting from your independence to us?

Would to God, both for your sakes and ours, that an affirmative answer could be truthfully returned to these questions! Then would my task be light, and my burden easy and delightful. For who is there so cold, that a nation's sympathy could not warm him? Who so obdurate and dead to the claims of gratitude, that would not thankfully acknowledge such priceless benefits? Who so stolid and selfish, that would not give his voice to swell the hallelujahs of a nation's jubilee, when the chains of servitude had been torn from his limbs? I am not that man. In a case like that, the dumb might eloquently speak, and the "lame man leap as an hart."

But, such is not the state of the case. I say it with a sad sense of the disparity between us. I am not included within the pale of this glorious anniversary! Your high independence only reveals the immeasurable distance between us. The blessings in which you, this day, rejoice, are not enjoyed in common. The rich inheritance of justice, liberty, prosperity and independence, bequeathed by your fathers, is shared by you, not by me. The sunlight that brought life and healing to you, has brought stripes and death to me. This Fourth [of] July is yours, not mine. You may rejoice, I must mourn. To drag a man in fetters into the grand illuminated temple of liberty, and call upon him to join you in

joyous anthems, were inhuman mockery and sacrilegious irony. Do you mean, citizens, to mock me, by asking me to speak today? If so, there is a parallel to your conduct. And let me warn you that it is dangerous to copy the example of a nation whose crimes, towering up to heaven, were thrown down by the breath of the Almighty, burying that nation in irrecoverable ruin! I can today take up the plaintive lament of a peeled and woe-smitten people!

"By the rivers of Babylon, there we sat down. Yea! we wept when we remembered Zion. We hanged our harps upon the willows in the midst thereof. For there, they that carried us away captive, required of us a song; and they who wasted us required of us mirth, saying, Sing us one of the songs of Zion. How can we sing the Lord's song in a strange land? If I forget thee, O Jerusalem, let my right hand forget her cunning. If I do not remember thee, let my tongue cleave to the roof of my mouth."

Fellow citizens; above your national, tumultuous joy, I hear the mournful wail of millions! whose chains, heavy and grievous yesterday, are, today, rendered more intolerable by the jubilee shouts that reach them. If I do forget, if I do not faithfully remember those bleeding children of sorrow this day, "may my right hand forget her cunning, and may my tongue cleave to the roof of my mouth!" To forget them, to pass lightly over their wrongs, and to chime in with the popular theme, would be treason most scandalous and shocking, and would make me a reproach before God and the world. My subject, then, fellow-citizens, is AMERICAN SLAVERY. I shall see, this day, and its popular characteristics, from the slave's point of view. Standing, there, identified with the American bondman, making his wrongs mine, I do not hesitate to declare, with all my soul, that the character and conduct of this nation never looked blacker to me than on this 4th of July! Whether we turn to the declarations of the past, or to the professions of the present, the conduct of the nation seems equally hideous and revolting. America is false to the past, false to the present, and solemnly binds herself to be false to the future. Standing with God and the crushed and bleeding slave on this occasion, I will, in the name of humanity which is outraged, in the name of liberty which is fettered, in the name of the constitution and the Bible, which are disregarded and trampled upon, dare to call in question and to denounce, with all the emphasis I can command, everything that serves to perpetuate slavery—the great sin and shame of America! "I will not equivocate; I will not excuse;" I will use the severest language I can command; and yet not one word shall escape me that any man, whose judgment is not blinded by prejudice, or who is not at heart a slaveholder, shall not confess to be right and just.

But I fancy I hear some one of my audience say, it is just in this circumstance that you and your brother abolitionists fail to make a favorable impression on the public mind. Would you argue more, and denounce less, would you persuade more, and rebuke less, your cause would be much more likely to succeed. But, I submit, where all is plain there is nothing to be argued. What point in the anti-slavery creed would you have me argue? On what branch of the subject do the people of this country need light? Must I undertake to prove that the slave is a man? That point is conceded already. Nobody doubts it. The slave-holders themselves acknowledge it in the enactment of laws for their government. They acknowledge it when they punish disobedience on the part of the slave. There are seventy-two crimes in the State of Virginia, which, if committed by a black man (no matter how ignorant he be), subject him to the punishment of death; while only two of the same crimes will subject a white man to the like punishment. What is this but the acknowledgement that the slave is a moral, intellectual and responsible being. The manhood of the slave is conceded. It is admitted in the fact that Southern statute books are covered with enactments forbidding, under severe fines and penalties, the teaching of the slave to read or to write. When you can point to any such laws, in reference to the beasts of the field, then I may consent to argue the manhood of the slave. When the dogs in your streets, when the fowls of the air, when the cattle on your hills, when the fish of the sea, and the reptiles that crawl, shall be unable to distinguish the slave from a brute, then will I argue with you that the slave is a man.

For the present, it is enough to affirm the equal manhood of the negro race. Is it not astonishing that, while we are ploughing, planting and reaping, using all kinds of mechanical tools, erecting houses, constructing bridges, building ships, working in metals of brass, iron, copper, silver and gold; that, while we are reading, writing and cyphering, acting as clerks, merchants and secretaries, having among us lawyers, doctors, ministers, poets, authors, editors, orators and teachers; that, while we are engaged in all manner of enterprises common to other men, digging gold in California, capturing the whale in the Pacific,

feeding sheep and cattle on the hillside, living, moving, acting, thinking, planning, living in families as husbands, wives and children, and, above all, confessing and worshipping the Christian's God, and looking hopefully for life and immortality beyond the grave, we are called upon to prove that we are men!

Would you have me argue that man is entitled to liberty? that he is the rightful owner of his own body? You have already declared it. Must I argue the wrongfulness of slavery? Is that a question for Republicans? Is it to be settled by the rules of logic and argumentation, as a matter beset with great difficulty, involving a doubtful application of the principle of justice, hard to be understood? How should I look today, in the presence of Americans, dividing, and subdividing a discourse, to show that men have a natural right to freedom? speaking of it relatively, and positively, negatively, and affirmatively. To do so, would be to make myself ridiculous, and to offer an insult to your understanding. There is not a man beneath the canopy of heaven, that does not know that slavery is wrong for him.

What, am I to argue that it is wrong to make men brutes, to rob them of their liberty, to work them without wages, to keep them ignorant of their relations to their fellow men, to beat them with sticks, to flay their flesh with the lash, to load their limbs with irons, to hunt them with dogs, to sell them at auction, to sunder their families, to knock out their teeth, to burn their flesh, to starve them into obedience and submission to their masters? Must I argue that a system thus marked with blood, and stained with pollution, is wrong? No I will not. I have better employment for my time and strength, than such arguments would imply.

What, then, remains to be argued? Is it that slavery is not divine; that God did not establish it; that our doctors of divinity are mistaken? There is blasphemy in the thought. That which is inhuman, cannot be divine! Who can reason on such a proposition? They that can, may; I cannot. The time for such argument is past.

At a time like this, scorching irony, not convincing argument, is needed. O! had I the ability, and could I reach the nation' ear, I would, to day, pour out a fiery stream of biting ridicule, blasting reproach, withering sarcasm, and stern rebuke. For it is not light that is needed, but fire; it is not the gentle shower, but thunder. We need the storm, the whirlwind, and the earthquake. The feeling of the nation must be quickened; the conscience of the nation must be roused; the propriety of the nation must be startled; the hypocrisy of the nation must be exposed; and its crimes against God and man must be proclaimed and denounced.

What, to the American slave, is your 4th of July? I answer: a day that reveals to him, more than all other days in the year, the gross injustice and cruelty to which he is the constant victim. To him, your celebration is a sham; your boasted liberty, an unholy license; your national greatness, swelling vanity; your sounds of rejoicing are empty and heartless; your denunciations of tyrants, brass fronted impudence; your shouts of liberty and equality, hollow mockery; your prayers and hymns, your sermons and thanksgivings, with all your religious parade, and solemnity, are, to him, mere bombast, fraud, deception, impiety, and hypocrisy—a thin veil to cover up crimes which would disgrace a nation of savages. There is not a nation on the earth guilty of practices, more shocking and bloody, than are the people of these United States, at this very hour.

Go where you may, search where you will, roam through all the monarchies and despotisms of the old world, travel through South America, search out every abuse, and when you have found the last, lay your facts by the side of the every day practices of this nation, and you will say with me, that, for revolting barbarity and shameless hypocrisy, America reigns without a rival.

♦ The Internal Slave Trade

Take the American slave-trade, which we are told by the papers, is especially prosperous just now. Ex-Senator Benton tells us that the price of men was never higher than now. He mentions the fact to show that slavery is in no danger. This trade is one of the peculiarities of American institutions. It is carried on in all the large towns and cities in one half of this confederacy; and millions are pocketed every year, by dealers in this horrid traffic. In several states, this trade is a chief source of wealth. It is called (in contradistinction to the foreign slave-trade) "the internal slave-trade." It is, probably, called so, too, in order to divert from it the horror with which the foreign slave-trade is contemplated. That trade has long since been denounced by this government, as piracy. It has been denounced with burning words, from the high places of the nation, as an execrable traffic. To arrest it, to put an end to it, this nation keeps a squadron, at immense cost, on the coast of Africa. Everywhere, in this country, it is safe to speak of this foreign slave-

trade, as a most inhuman traffic, opposed alike to the laws of God and of man. The duty to extirpate and destroy it, is admitted even by our DOCTORS OF DIVINITY. In order to put an end to it, some of these last have consented that their colored brethren (nominally free) should leave this country, and establish themselves on the western coast of Africa! It is, however, a notable fact, that, while so much execration is poured out by Americans, upon those engaged in the foreign slave-trade, the men engaged in the slave-trade between the states pass without condemnation, and their business is deemed honorable.

Behold the practical operation of this internal slave-trade, the American slave-trade, sustained by American politics and American religion. Here you will see men and women, reared like swine, for the market. You know what is a swine-drover? I will show you a man-drover. They inhabit all our Southern States. They perambulate the country, and crowd the highways of the nation, with droves of human stock. You will see one of these human flesh jobbers, armed with pistol, whip and bowie-knife, driving a company of a hundred men, women, and children, from the Potomac to the slave market at New Orleans. These wretched people are to be sold singly, or in lots, to suit purchasers. They are food for the cotton-field, and the deadly sugar-mill. Mark the sad procession, as it moves wearily along, and the inhuman wretch who drives them. Hear his savage yells and his blood-chilling oaths, as he hurries on his affrighted captives! There, see the old man, with locks thinned and gray. Cast one glance, if you please, upon that young mother, whose shoulders are bare to the scorching sun, her briny tears falling on the brow of the babe in her arms. See, too, that girl of thirteen, weeping, yes! weeping, as she thinks of the mother from whom she has been torn! The drove moves tardily. Heat and sorrow have nearly consumed their strength; suddenly you hear a quick snap, like the discharge of a rifle; the fetters clank, and the chain rattles simultaneously; your ears are saluted with a scream, that seems to have torn its way to the centre of your soul! The crack you heard, was the sound of the slave-whip; the scream you heard, was from the woman you saw with the babe. Her speed had faltered under the weight of her child and her chains! that gash on her shoulder tells her to move on. Follow this drove to New Orleans. Attend the auction; see men examined like horses; see the forms of women rudely and brutally exposed to the shocking gaze of American slave-buyers. See this drove sold and separated for ever; and never forget the deep, sad sobs that arose from that scattered multitude. Tell me citizens, WHERE, under the sun, you can witness a spectacle more fiendish and shocking. Yet this is but a glance at the American slave-trade, as it exists, at this moment, in the ruling part of the United States.

I was born amid such sights and scenes. To me the American slave-trade is a terrible reality. When a child, my soul was often pierced with a sense of its horrors. I lived on Philpot Street, Fell's Point, Baltimore, and have watched from the wharves, the slave ships in the Basin, anchored from the shore, with their cargoes of human flesh, waiting for favorable winds to waft them down the Chesapeake. There was, at that time, a grand slave mart kept at the head of Pratt Street, by Austin Woldfolk. His agents were sent into every town and county in Maryland, announcing their arrival, through the papers, and on flaming "hand-bills," headed CASH FOR NEGROES. These men were generally well dressed men, and very captivating in their manners. Ever ready to drink, to treat, and to gamble. The fate of many a slave has depended upon the turn of a single card; and many a child has been snatched from the arms of its mother, by bargains arranged in a state of brutal drunkenness.

The flesh-mongers gather up their victims by dozens, and drive them, chained, to the general depot at Baltimore. When a sufficient number have been collected here, a ship is chartered, for the purpose of conveying the forlorn crew to Mobile, or to New Orleans. From the slave prison to the ship, they are usually driven in the darkness of night; for since the anti-slavery agitation, a certain caution is observed.

In the deep still darkness of midnight, I have been often aroused by the dead heavy footsteps, and the piteous cries of the chained gangs that passed our door. The anguish of my boyish heart was intense; and I was often consoled, when speaking to my mistress in the morning, to hear her say that the custom was very wicked; that she hated to hear the rattle of the chains, and the heart-rending cries. I was glad to find one who sympathized with me in my horror.

Fellow-citizens, this murderous traffic is, to-day, in active operation in this boasted republic. In the solitude of my spirit, I see clouds of dust raised on the highways of the South; I see the bleeding footsteps; I hear the doleful wail of fettered humanity, on the way to the slave-markets, where the victims are to be sold like horses, sheep, and swine, knocked off to the highest bidder. There I see the tenderest ties ruthlessly broken, to gratify the lust, caprice and rapacity of the buyers and sellers of men. My soul sickens at the sight.

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"Is this the land your Fathers loved, The freedom which they toiled to win? Is this the earth whereon they moved? Are these the graves they slumber in?"

But a still more inhuman, disgraceful, and scandalous state of things remains to be presented.

By an act of the American Congress, not yet two years old, slavery has been nationalized in its most horrible and revolting form. By that act, Mason & Dixon's line has been obliterated; New York has become as Virginia; and the power to hold, hunt, and sell men, women and children, as slaves, remains no longer a mere state institution, but is now an institution of the whole United States. The power is co-extensive with the star-spangled banner, and American Christianity. Where these go, may also go the merciless slave-hunter. Where these are, man is not sacred. He is a bird for the sportsman's gun. By that most foul and fiendish of all human decrees, the liberty and person of every man are put in peril. Your broad republican domain is hunting ground for men. Not for thieves and robbers, enemies of society, merely, but for men guilty of no crime. Your lawmakers have commanded all good citizens to engage in this hellish sport. Your President, your Secretary of State, your lords, nobles, and ecclesiastics, enforce, as a duty you owe to your free and glorious country, and to your God, that you do this accursed thing. Not fewer than forty Americans, have, within the past two years, been hunted down, and, without a moment's warning, hurried away in chains, and consigned to slavery, and excruciating torture. Some of these have had wives and children, dependent on them for bread; but of this, no account was made. The right of the hunter to his prey, stands superior to the right of marriage, and to all rights in this republic, the rights of God included! For black men there are neither law, justice, humanity, nor religion.

The Fugitive Slave Law makes MERCY TO THEM, A CRIME; and bribes the judge who tries them. An American JUDGE GETS TEN DOLLARS FOR EVERY VICTIM HE CONSIGNS to slavery, and five, when he fails to do so. The oath of any two villains is sufficient, under this hell-black enactment, to send the most pious and exemplary black man into the remorseless jaws of slavery! His own testimony is nothing. He can bring no witnesses for himself. The minister of American justice is bound by the law to hear but one side; and that side, is the side of the oppressor. Let this damning fact be perpetually told. Let it be thundered around the world, that, in tyrant-killing, king-hating, people-loving, democratic, Christian America, the seats of justice are filled with judges, who hold their offices under an open and palpable bribes, and are bound, in deciding in the case of a man's liberty, to hear only his accusers!

In glaring violation of justice, in shameless disregard of the forms of administering law, in cunning arrangement to entrap the defenceless, and in diabolical intent, this Fugitive Slave Law stands alone in the annals of tyrannical legislation. I doubt if there be another nation on the globe, having the brass and the baseness to put such a law on the statute-book. If any man in this assembly thinks differently from me in this matter, and feels able to disprove my statements, I will gladly confront him at any suitable time and place he may select.

♦ Religious Liberty

I take this law to be one of the grossest infringements of Christian Liberty, and, if the churches and ministers of our country were not stupidly blind, or most wickedly indifferent, they, too, would so regard it.

At the very moment that they are thanking God for the enjoyment of civil and religious liberty, and for the right to worship God according to the dictates of their own consciences, they are utterly silent in respect to a law which robs religion of its chief significance, and makes it utterly worthless to a world lying in wickedness. Did this law concern the "mint, anise and cumin," abridge the right to sing psalms, to partake of the sacrament, or to engage in any of the ceremonies of religion, it would be smitten by the thunder of a thousand pulpits. A general shout would go up from the church, demanding repeal, repeal, instant repeal! And it would go hard with that politician who presumed to solicit the votes of the people without inscribing this motto on his banner. Further, if this demand were not complied with, another Scotland would be added to the history of religious liberty, and the stern old covenanters would be thrown into the shade. A John Knox would be seen at every church door, and heard from every pulpit, and Fillmore would have no more quarter than was shown by Knox, to the beautiful, but treacherous Queen Mary of Scotland. The fact that the church of our country, (with fractional exceptions,) does not esteem "the Fugitive Slave Law" as a declaration of war against religious liberty, implies that that church regards religion simply as a form of worship, an empty ceremony, and not a vital principle, requiring active benevolence, justice, love and good will towards man. It esteems sacrifice above mercy; psalm-singing above right doing; solemn meetings above practical righteousness. A worship that can be conducted by

persons who refuse to give shelter to the houseless, to give bread to the hungry, clothing to the naked, and who enjoin obedience to a law forbidding these acts of mercy, is a curse, not a blessing to mankind. The Bible addresses all such persons as "scribes, pharisees, hypocrites, who pay tithe of mint, anise, and cumin, and have omitted the weightier matters of the law, judgment, mercy and faith."

♦ The Church Responsible

But the church of this country is not only indifferent to the wrongs of the slave, it actually takes sides with the oppressors. It has made itself the bulwark of American slavery, and the shield of American slave-hunters. Many of its most eloquent Divines, who stand as the very lights of the church, have shamelessly given the sanction of religion, and the bible, to the whole slave system. They have taught that man may, properly, be a slave; that the relation of master and slave is ordained of God; that to send back an escaped bondman to his master is clearly the duty of all the followers of the Lord Jesus Christ; and this horrible blasphemy is palmed off upon the world for Christianity.

For my part, I would say, welcome infidelity! welcome atheism! welcome anything! in preference to the gospel, as preached by those Divines! They convert the very name of religion into an engine of tyranny, and barbarous cruelty, and serve to confirm more infidels, in this age, than all the infidel writings of Thomas Paine, Voltaire, and Bolingbroke, put together, have done! These ministers make religion a cold and flinty-hearted thing, having neither principles of right action, nor bowels of compassion. They strip the love of God of its beauty, and leave the throne of religion a huge, horrible, repulsive form. It is a religion for oppressors, tyrants, man-stealers, and thugs. It is not that "pure and undefiled religion" which is from above, and which is "first pure, then peaceable, easy to be entreated, full of mercy and good fruits, without partiality, and without hypocrisy." But a religion which favors the rich against the poor; which exalts the proud above the humble; which divides mankind into two classes, tyrants and slaves; which says to the man in chains, stay there; and to the oppressor, oppress on; it is a religion which may be professed and enjoyed by all the robbers and enslavers of mankind; it makes God a respecter of persons, denies his fatherhood of the race, and tramples in the dust the great truth of the brotherhood of man. All this we affirm to be true of the popular church, and the popular worship of our land and nation—a religion, a church and a worship which, on the authority of inspired wisdom, we pronounce to be an abomination in the sight of God. In the language of Isaiah, the American church might be well addressed, "Bring no more vain oblations; incense is an abomination unto me: the new moons and Sabbaths, the calling of assemblies, I cannot away with; it is iniquity, even the solemn meeting. Your new moons, and your appointed feasts my soul hatest. They are a trouble to me; I am weary to bear them; and when ye spread forth your hands I will hide mine eyes from you. Yea! when ye make many prayers, I will not hear. YOUR HANDS ARE FULL OF BLOOD; cease to do evil, learn to do well; seek judgment; relieve the oppressed; judge for the fatherless; plead for the widow."

The American church is guilty, when viewed in connection with what it is doing to uphold slavery; but it is superlatively guilty when viewed in connection with its ability to abolish slavery.

The sin of which it is guilty is one of omission as well as of commission. Albert Barnes but uttered what the common sense of every man at all observant of the actual state of the case will receive as truth, when he declared that "There is no power out of the church that could sustain slavery an hour, if it were not sustained in it."

Let the religious press, the pulpit, the Sunday school, the conference meeting, the great ecclesiastical, missionary, bible and tract associations of the land array their immense powers against slavery, and slave-holding; and the whole system of crime and blood would be scattered to the winds, and that they do not do this involves them in the most awful responsibility of which the mind can conceive.

In prosecuting the anti-slavery enterprise, we have been asked to spare the church, to spare the ministry; but how, we ask, could such a thing be done? We are met on the threshold of our efforts for the redemption of the slave, by the church and ministry of the country, in battle arrayed against us; and we are compelled to fight or flee. From what quarter, I beg to know, has proceeded a fire so deadly upon our ranks, during the last two years, as from the Northern pulpit? As the champions of oppressors, the chosen men of American theology have appeared—men, honored for their so called piety, and their real learning. The LORDS of Buffalo, the SPRINGS of New York, the LATHROPS of Auburn, the COXES and SPENCERS of Brooklyn, the GANNETS and SHARPS of Boston, the DEWEYS of Washington, and other great religious lights of the land, have, in utter denial of the authority of Him, by whom they professed

to be called to the ministry, deliberately taught us, against the example of the Hebrews, and against the remonstrance of the Apostles, they teach that we ought to obey man' law before the law of God.

My spirit wearies of such blasphemy; and how such men can be supported, as the "standing types and representatives of Jesus Christ," is a mystery which I leave others to penetrate. In speaking of the American church, however, let it be distinctly understood that I mean the great mass of the religious organizations of our land. There are exceptions, and I thank God that there are. Noble men may be found, scattered all over these Northern States, of whom Henry Ward Beecher, of Brooklyn, Samuel J. May, of Syracuse, and my esteemed friend on the platform, are shining examples; and let me say further, that, upon these men lies the duty to inspire our ranks with high religious faith and zeal, and to cheer us on in the great mission of the slave's redemption from his chains.

♦ Religion in England and Religion in America

One is struck with the difference between the attitude of the American church towards the anti-slavery movement, and that occupied by the churches in England towards a similar movement in that country. There, the church, true to its mission of ameliorating, elevating, and improving the condition of mankind, came forward promptly, bound up the wounds of the West Indian slave, and restored him to his liberty. There, the question of emancipation was a high religious question. It was demanded, in the name of humanity, and according to the law of the living God. The Sharps, the Clarksons, the Wilberforces, the Buxtons, the Burchells and the Knibbs, were alike famous for their piety, and for their philanthropy. The anti-slavery movement there, was not an anti-church movement, for the reason that the church took its full share in prosecuting that movement: and the anti-slavery movement in this country will cease to be an anti-church movement, when the church of this country shall assume a favorable, instead of a hostile position towards that movement.

Americans! your republican politics, not less than your republican religion, are flagrantly inconsistent. You boast of your love of liberty, your superior civilization, and your pure Christianity, while the whole political power of the nation, (as embodied in the two great political parties), is solemnly pledged to support and perpetuate the enslavement of three millions of your countrymen. You hurl your anathemas at the crowned headed tyrants of Russia and Austria, and pride yourselves on your Democratic institutions, while you yourselves consent to be the mere tools and body-guards of the tyrants of Virginia and Carolina. You invite to your shores fugitives of oppression from abroad, honor them with banquets, greet them with ovations, cheer them, toast them, salute them, protect them, and pour out your money to them like water; but the fugitives from your own land, you advertise, hunt, arrest, shoot and kill. You glory in your refinement, and your universal education; yet you maintain a system as barbarous and dreadful, as ever stained the character of a nation—a system begun in avarice, supported in pride, and perpetuated in cruelty. You shed tears over fallen Hungary, and make the sad story of her wrongs the theme of your poets, statesmen and orators, till your gallant sons are ready to fly to arms to vindicate her cause against her oppressors; but, in regard to the ten thousand wrongs of the American slave, you would enforce the strictest silence, and would hail him as an enemy of the nation who dares to make those wrongs the subject of public discourse! You are all on fire at the mention of liberty for France or for Ireland; but are as cold as an iceberg at the thought of liberty for the enslaved of America. You discourse eloquently on the dignity of labor; yet, you sustain a system which, in its very essence, casts a stigma upon labor. You can bare your bosom to the storm of British artillery, to throw off a three-penny tax on tea; and yet wring the last hard earned farthing from the grasp of the black laborers of your country. You profess to believe "that, of one blood, God made all nations of men to dwell on the face of all the earth," and hath commanded all men, everywhere to love one another; yet you notoriously hate, (and glory in your hatred,) all men whose skins are not colored like your own. You declare, before the world, and are understood by the world to declare, that you "hold these truths to be self evident, that all men are created equal; and are endowed by their Creator with certain inalienable rights; and that, among these are, life, liberty, and the pursuit of happiness"; and yet, you hold securely, in a bondage, which according to your own Thomas Jefferson, "is worse than ages of that which your fathers rose in rebellion to oppose," a seventh part of the inhabitants of your country.

Fellow-citizens! I will not enlarge further on your national inconsistencies. The existence of slavery in this country brands your republicanism as a sham, your humanity as a base pretence, and your Christianity as a lie. It destroys your moral power abroad it corrupts your politicians at home. It saps the foundation of religion; it makes your name a hissing, and a

bye-word to a mocking earth. It is the antagonistic force in your government, the only thing that seriously disturbs and endangers your Union. It fetters your progress; it is the enemy of improvement, the deadly foe of education; it fosters pride; it breeds insolence; it promotes vice; it shelters crime; it is a curse to the earth that supports it; and yet, you cling to it, as if it were the sheet anchor of all your hopes. Oh! be warned! be warned! a horrible reptile is coiled up in your nation's bosom; the venomous creature is nursing at the tender breast of your youthful republic; for the love of God, tear away, and fling from you the hideous monster, and let the weight of twenty millions, crush and destroy it forever!

♦ The Constitution

But it is answered in reply to all this, that precisely what I have now denounced is, in fact, guaranteed and sanctioned by the Constitution of the United States; that, the right to hold, and to hunt slaves is a part of that Constitution framed by the illustrious Fathers of this Republic. Then, I dare to affirm, notwithstanding all I have said before, your fathers stooped, basely stooped. "To palter with us in a double sense: And keep the word of promise to the ear, But break it to the heart."

And instead of being the honest men I have before declared them to be, they were the veriest imposters that ever practiced on mankind. This is the inevitable conclusion, and from it there is no escape; but I differ from those who charge this baseness on the framers of the Constitution of the United States. It is a slander upon their memory, at least, so I believe. There is not time now to argue the constitutional question at length; nor have I the ability to discuss it as it ought to be discussed. The subject has been handled with masterly power by Lysander Spooner, Esq., by William Goodell, by Samuel E. Sewall, Esq., and last, though not least, by Gerritt Smith, Esq. These gentlemen have, as I think, fully and clearly vindicated the Constitution from any design to support slavery for an hour.

Fellow-citizens! there is no matter in respect to which, the people of the North have allowed themselves to be so ruinously imposed upon, as that of the pro-slavery character of the Constitution. In that instrument I hold there is neither warrant, license, nor sanction of the hateful thing; but interpreted, as it ought to be interpreted, the Constitution is a GLORIOUS LIBERTY DOCUMENT. Read its preamble, consider its purposes. Is slavery among them? Is it at the gateway? or is it in the temple? It is neither. While I do not intend to argue this question on the present occasion, let me ask, if it be not somewhat singular that, if the Constitution were intended to be, by its framers and adopters, a slave-holding instrument, why neither slavery, slaveholding, nor slave can anywhere be found in it. What would be thought of an instrument, drawn up, legally drawn up, for the purpose of entitling the city of Rochester to a track of land, in which no mention of land was made? Now, there are certain rules of interpretation, for the proper understanding of all legal instruments. These rules are well established. They are plain, common-sense rules, such as you and I, and all of us, can understand and apply, without having passed years in the study of law. I scout the idea that the question of the constitutionality, or unconstitutionality of slavery, is not a question for the people. I hold that every American citizen has a right to form an opinion of the constitution, and to propagate that opinion, and to use all honorable means to make his opinion the prevailing one. Without this right, the liberty of an American citizen would be as insecure as that of a Frenchman. Ex-Vice-President Dallas tells us that the constitution is an object to which no American mind can be too attentive, and no American heart too devoted. He further says, the constitution, in its words, is plain and intelligible, and is meant for the home-bred, unsophisticated understandings of our fellow-citizens. Senator Berrien tells us that the Constitution is the fundamental law, that which controls all others. The charter of our liberties, which every citizen has a personal interest in understanding thoroughly. The testimony of Senator Breese, Lewis Cass, and many others that might be named, who are everywhere esteemed as sound lawyers, so regard the constitution. I take it, therefore, that it is not presumption in a private citizen to form an opinion of that instrument.

Now, take the constitution according to its plain reading, and I defy the presentation of a single pro-slavery clause in it. On the other hand it will be found to contain principles and purposes, entirely hostile to the existence of slavery.

I have detained my audience entirely too long already. At some future period I will gladly avail myself of an opportunity to give this subject a full and fair discussion.

Allow me to say, in conclusion, notwithstanding the dark picture I have this day presented, of the state of the nation, I do not despair of this country. There are forces in operation, which must inevitably, work the downfall of slavery. "The arm of the Lord is not shortened," and the doom of slavery is certain.

I, therefore, leave off where I began, with hope. While drawing encouragement from "the Declara-

Document Text

tion of Independence," the great principles it contains, and the genius of American Institutions, my spirit is also cheered by the obvious tendencies of the age. Nations do not now stand in the same relation to each other that they did ages ago. No nation can now shut itself up, from the surrounding world, and trot round in the same old path of its fathers without interference. The time was when such could be done. Long established customs of hurtful character could formerly fence themselves in, and do their evil work with social impunity. Knowledge was then confined and enjoyed by the privileged few, and the multitude walked on in mental darkness. But a change has now come over the affairs of mankind. Walled cities and empires have become unfashionable. The arm of commerce has borne away the gates of the strong city. Intelligence is penetrating the darkest corners of the globe. It makes its pathway over and under the sea, as well as on the earth. Wind, steam, and lightning are its chartered agents. Oceans no longer divide, but link nations together. From Boston to London is now a holiday excursion. Space is comparatively annihilated. Thoughts expressed on one side of the Atlantic, are distinctly heard on the other.

The far off and almost fabulous Pacific rolls in grandeur at our feet. The Celestial Empire, the mystery of ages, is being solved. The fiat of the Almighty, "Let there be Light," has not yet spent its force. No abuse, no outrage whether in taste, sport or avarice, can now hide itself from the all-pervading light. The iron shoe, and crippled foot of China must be seen, in contrast with nature. Africa must rise and put on her yet unwoven garment. "Ethiopia shall stretch out her hand unto God." In the fervent aspirations of William Lloyd Garrison, I say, and let every heart join in saying it:

God speed the year of jubilee
The wide world o'er!
When from their galling chains set free, Th'
    oppress'd shall vilely bend the knee, And
    wear the yoke of tyranny
    Like brutes no more.
That year will come, and freedom's reign, To man his
    plundered rights again Restore.
God speed the day when human blood
Shall cease to flow!
In every clime be understood,
The claims of human brotherhood,
And each return for evil, good, Not blow for blow;
That day will come all feuds to end,
And change into a faithful friend
Each foe.
God speed the hour, the glorious hour, When none
    on earth
Shall exercise a lordly power,
Nor in a tyrant's presence cower; But all to manhood's stature tower, By equal birth!
THAT HOUR WILL COME, to each, to all,
And from his prison-house, the thrall Go forth.
Until that year, day, hour, arrive,
With head, and heart, and hand I'll strive, To
    break the rod, and rend the gyve, The spoiler of
    his prey deprive
So witness Heaven!
And never from my chosen post,
Whate'er the peril or the cost,
Be driven.

Glossary

despotisms	absolute rules
ecclesiastics	priests and ministers
euphonious	agreeable sounding, pleasing to the ear
exordium	introduction, especially in a classic or rhetorical text
mammon	riches
perambulate	walk around

Martin Delany: *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States*

1852

"Our elevation must be the result of self-efforts, and work of our own hands."

Overview

Martin Robison Delany's famous 1852 work *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States, Politically Considered* is an early black nationalist manifesto. Delany was a significant early founder of the philosophy of black nationalism, and over the course of his life he contributed in a variety of ways to the black freedom struggle. He developed a number of practical strategies, including education, to promote black independence, self-determination, and self-sufficiency. To this end, he also strongly supported African emigration. Delany stands at the head of a succession of black leaders known for their staunch advocacy of black nationalism, including Henry McNeal Turner, Marcus Garvey, Malcolm X, and Louis Farrakhan. In his influential work, Delany offers a close examination of the merits of black emigration as a means of elevation to freedom and equality.

Context

The African and Native American Quaker Paul Cuffe, the African Methodist Episcopal bishop Daniel Coker, and other black nationalists of the late eighteenth and early nineteenth centuries, such as Alexander Crummell and Henry Highland Garnet, first advanced the Back to Africa movement because of their belief that African Americans could never achieve equality in the United States under the existing oppressive conditions promoted by whites. In 1811, Cuffe addressed Congress regarding the establishment of African American Christian colonies on the African continent. In 1815 he enacted such a plan himself, taking thirty-four African Americans to settle in the British colony of Sierra Leone. At about this time, between eight thousand and thirteen thousand African Americans immigrated to Haiti, though, despite early idealism, their experience proved less than optimal. About one-third of these emigrants returned to the United States.

With the notion of mass emigration in mind, the Society for the Colonization of Free People of Color of America was officially formed in 1816 at a meeting in Washington, D.C. Although it was nominally an antislavery organization, the American Colonization Society (ACS), as the society was known, was primarily concerned with eliminating the threat of the class of free African Americans deemed dangerous to the maintenance of slavery. Early presidents of the society included Bushrod Washington, George Washington's nephew, and the Kentucky senator Henry Clay. The ACS emphasized two main aims: First, it supported the gradual abolition of slavery, with an added measure of compensation to slave owners for their losses, and, second, it advocated the resettlement of free blacks in colonies outside the United States, arguing that slave owners would eventually be more open to emancipation if they were not fearful of increases in the American free black population. In 1821 the ACS established Liberia as a colony for the resettlement of free African Americans.

Initially, black abolitionists such as Cuffe supported the work of the ACS. Most black abolitionists, however, including David Walker, viewed the ACS as a proslavery plan to drive African Americans from the United States, diluting abolitionist efforts to end slavery. Thus arose a debate about the sociocultural fit of Africa as a place of settlement for those who had been exposed to slavery in the United States. Put simply, the debate was between the holders of two competing positions. The "integrationists" argued that the United States was their home and sought ways to become more fully integrated into American society. The "nationalists" believed that blacks could achieve freedom and equality only in their own nation.

One of the key figures in that debate was the abolitionist Frederick Douglass. Delany was a contemporary of Douglass and worked for some time on Douglass's newspaper, the *North Star*. However, the two came to differ on the direction and destiny of the black freedom struggle. Douglass supported the integrationist philosophy, which concentrated energies on working within the American system to improve the condition of African Americans. Delany, on the other hand, adopted a more culture-centered and independent approach, one that concentrated on his unique form of black nationalism. In 1852, he wrote the small, yet significant book *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States, Politi-*

Time Line

1811

- Paul Cuffe addresses Congress regarding the establishment of African American Christian colonies in Africa.

1812

- **May 6**
  Martin Robison Delany is born in what is now known as Charles Town, West Virginia.

1815

- Paul Cuffe takes thirty-four African Americans to settle in the British colony of Sierra Leone.

1816

- **December 21**
  The Society for the Colonization of Free People of Color of America, also called the American Colonization Society (ACS), is officially formed in Washington, D.C.

1820

- The black educator and diplomat Prince Saunders launches plans to transport African Americans to Haiti; the plans collapse after a military coup in Haiti.

1822

- The ACS establishes the nation of Liberia in Africa.

1833

- The American Anti-Slavery Society, one of the nation's most significant abolitionist groups, is established; Delany joins the Pittsburgh Anti-Slavery Society.

1841

- **August**
  Delany organizes the Convention of the Colored Freemen of Pennsylvania in Pittsburgh.

1843

- Delany founds a newspaper, *The Mystery*, one of the earliest African American newspapers.

1847

- **July 26**
  Americo-Liberian settlers declare the independence of the Republic of Liberia.

cally Considered. In this work, Delany advanced a serious and thoughtful plan of action for the emigration of African Americans. He advocated Central and South America as prime destinations for the race, also supporting the continent of Africa in the book's appendix.

About the Author

Martin Robison Delany was born on May 6, 1812, in what is now known as Charles Town, West Virginia, although at the time the territory was located in Virginia. Delany was born to the enslaved Samuel Delany and Pati Peace Delany, a free woman of color. Delany's grandparents were native Africans, who were brought to the United States as slaves. In fact, his paternal grandfather was known to be a Mandingo prince, while his maternal grandfather was believed to be a Gullah village chieftain. Delany and his siblings were taught to read by a northern peddler, and, as a result, a white neighbor threatened to imprison Delany's mother. In response to this threat, Pati Delany uprooted her children and took them to Chambersburg, Pennsylvania, just across the Mason-Dixon Line. In 1822, Delany's father bought his freedom and was reunited with his family.

Delany received an elementary education in Chambersburg, where he remained until he was nineteen. He then traveled to Pittsburgh on foot, via the Allegheny Mountains. In Pittsburgh, he attended a night school held in the basement of one of the local African Methodist Episcopal churches, gaining instruction from a young divinity student. Thereafter he began studying medicine with a local white doctor, gaining enough expertise to practice "as a cupper, leecher, and bleeder." Delany soon became a local leader in the fast-developing black community in Pittsburgh. While working as an officer with the Pittsburgh Anti-Slavery Society, he served as an ardent activist on the Underground Railroad. In these capacities he aided in the organization and development of temperance, literary, and reform groups. In 1836, he served as a delegate to one National Negro Convention in Philadelphia and another in New York.

The 1840s were a busy time for Delany. In 1843 he married Catherine Richards, whose grandfather Benjamin Richards was reportedly the richest black man in the city, and the couple had eleven children. Shortly after his marriage, Delany launched the newspaper *The Mystery*, the first black newspaper west of the Allegheny Mountains, which he edited until the paper went out of business in 1847. That year he joined Frederick Douglass's *North Star* newspaper in Rochester, New York. At the same time, he maintained a vigorous speaking schedule, making antislavery addresses in many areas of the antebellum public sphere, including churches, schools, and farmhouses. He maintained a regular schedule of three meetings a day, traveling by horseback from one event to the next. In a rural Ohio town, Delany barely escaped with his life when he faced the very real threat of lynching.

In 1849 he was accepted as a student by Harvard Medical School, though he and three other black students were

dismissed after complaints from the student body about the admission of African Americans. In 1854 he led the National Emigration Convention of Colored People in Cleveland, Ohio. During the 1850s he worked on a novel, *Blake; or, The Huts of America*, which was published in two parts in 1859 and 1862. During the Civil War he recruited African American troops and achieved distinction himself by being promoted to major, the first African American line field officer in U.S. military history. By 1864, Delany had moved with his family to Wilberforce, Ohio. In a tragic set of circumstances, on April 14, 1865—the evening of President Abraham Lincoln's assassination, just days following the end of the Civil War—Delany's personal papers and memorabilia, stored at Wilberforce University, were destroyed in a fire.

Delany ran an unsuccessful bid for the position of lieutenant governor of the state of South Carolina in 1874. After the attempt, Delany lectured and found support in the areas of medicine and anthropology, selling copies of his 1879 *Principia of Ethnology: The Origin of Races and Color, with an Archeological Compendium of Ethiopian and Egyptian Civilization, from Years of Careful Examination and Enquiry* to attending crowds. During the latter part of 1884, Delany returned to Wilberforce, where he died on January 24, 1885.

Time Line

1852	■ Delany publishes *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States, Politically Considered.*
1854	■ **August 24** The National Emigration Convention of Colored People, organized by Delany, begins in Cleveland, Ohio, and runs to August 26.
1865	■ During the Civil War, Delany is promoted to the rank of major, becoming the first black line field officer in U.S. military history.

Explanation and Analysis of the Document

Overall, *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States* has three significant aspects: It provides a unique report on the successes and achievements of black men and women in the United States, a severe indictment of abolitionists for what Delany believed to be a serious lack of consistent effort in fighting for the rights of blacks and gaining for them full integration into American society, and advocacy of emigration as a solution to racial discrimination. Of paramount importance in this book is one of the most compelling concepts to capture the essence of black nationalist philosophy, as coined by Delany—the idea of a nation within a nation. With this key idea, Delany instituted a conceptualization of African America that stands to this very day, having been adopted in various contexts by a number of scholars and race leaders, including E. Franklin Frazier, W. E. B. Du Bois, Albert B. Cleage, Jr., and Darlene Clark Hine.

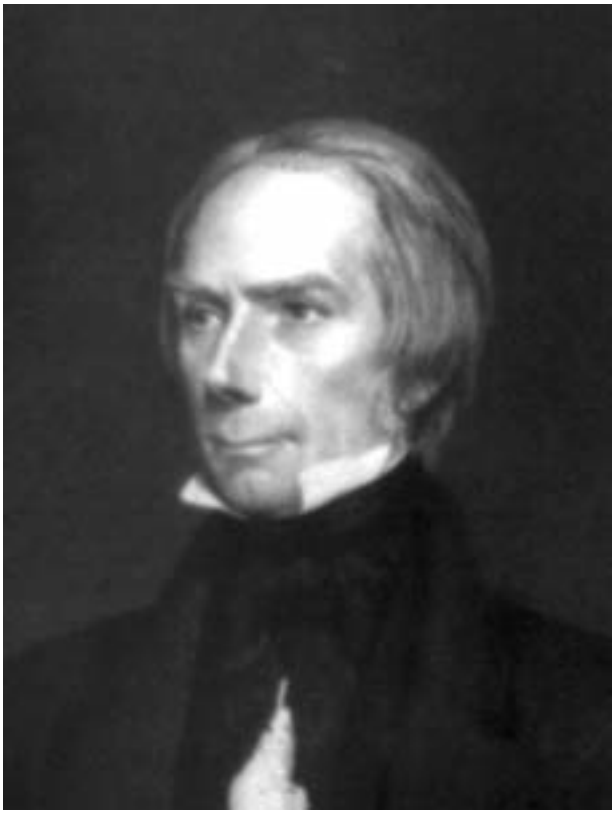
♦ "V. Means of Elevation"

In "Means of Elevation," Delany opens by questioning the manner in which what he calls "moral theories" have been advanced as a means of racial empowerment for black people in America. Delany asserts that, instead of the continued dispersal of moral pronouncements as a solution to the race problem, another approach needs to be adopted. Using experience as his source, he argues for not just the development of moral principles but also "the *practical* application of principles adduced."

In the second paragraph, Delany bemoans the incongruence of equality and politics in the current world system, but he recognizes that certain policies are needed in the regulation of "well-organized institutions and corporate bodies." Here he concentrates his attention on business and social policies. Using the infamous euphemism "the white man," he launches into a discussion about how blacks have become dependent upon the skill of whites. Drawing attention to the vast array of industry, infrastructure, and architecture produced by white Americans, Delany seems baffled that blacks, in their present condition, can claim any measure of equality. He notes the social circumstance whereby free blacks often function primarily in service-oriented capacities toward whites, such that the latter benefit exclusively and the former remain dependent. To illustrate his point, he mentions black men serving as coachmen, cooks, and "waiting-men" of whites, whereas black women function as "nurse-women," "scrubwomen," maids, and washerwomen. Delany ends the fourth paragraph with the declaration that in watching African Americans, the world harbors "feelings of commiseration, sorrow, and contempt." He notes his belief that African Americans do not deserve any form of sympathy as long as they refuse to take advice concerning their present dismal condition.

In the fifth paragraph, Delany begins by offering a powerful commentary stating that "white men are producers" and blacks "are consumers." He further contrasts blacks as renters and whites as owners of homes; whites as manufacturers of clothing and blacks as wearers of clothing; whites as developing "coaches, vessels, cars, hotels, saloons, and other vehicles and places of accommodation" while blacks complain about their rights to enter institutions not designed for them. Last, Delany characterizes whites as contributors to science, religion, law, medicine, and other subjects, whereas blacks function "with no reference to ancient times," speaking only "of modern things."

Delany then appeals to religious rhetoric, denoting the aforementioned approaches to life practiced by whites as being the God-given means of success; in doing so, he



Henry Clay, an early president of the American Colonization Society (Library of Congress)

ironically associates whites' success with wickedness and black subjugation with an overly religious posture, yielding no real, tangible results insofar as equality goes. Delany explains that he is providing this hard-hitting, clear critique of the black condition in America so as to make the truth of black people's lives as visible as possible. His wake-up call to black America includes a serious indictment of the seeming complacency exhibited by the race. He forcefully argues that unless blacks demonstrate their determination to change their condition, they should hang their heads in shame. It is not enough for black people to be aware of the conditions of their race but only talk about the problems and never do anything to confront or change the conditions themselves. He goes so far as to state that he and many others are weary of this strictly discursive approach. He squarely argues that what is needed is the ushering in of a remedy, which he pointedly ties to "*self-efforts*, and work of our *own hands*." He asserts that nothing else can bring the kind of change African Americans desire, assuring blacks that if they would just decide to act, they would accomplish what they set out to do. Delany challenges each and every African American to get involved in a spirited contest of collective self-determination.

Delany ends this section with a resounding appeal to embolden the black self, stating that the approach he is outlining represents the only sure means of elevating the race, be it in the United States or in any other country where blacks would settle. He poses a series of questions to gauge the mettle in African Americans' desire for freedom. As a stark example, he contrasts blacks' possibly remaining noncommittal at this juncture with the determination of those of his parents' generation who moved north to acquire a greater measure of equality than they had in the South. But he then discusses their dismay at realizing that conditions for blacks in the North were not in a real sense much better than in the South, despite their vision of the North as the domain of the free states. Considering that black labor is typically restricted to the domestic sphere anyway, especially in the positions of maid, servant, cook, waiter, and general menial, Delany asserts that there really is no difference, north or south, regarding the nature of black labor and the race's constrained economic condition in the United States. In this contrast, he draws out the falsity of the northern black notion of superiority over southern blacks. Delany essentially concludes that African Americans, regardless of where they reside or any small measures of difference in their conditions, share the same experience as an oppressed cultural group in the United States.

♦ "VI. The United States Our Country"

In chapter VI, Delany begins by stating the obvious point that the United States functions as the common country of every African American. This relates to matters of birth, education, and familial and community relations as well as death and burial, all of which contribute to a common experience familiar to most African Americans. Delany affirms the American birthright of African Americans, relating their rights of citizenship as natural rights that though repeatedly denied "never can be annulled."

♦ "XXIII. Things as They Are"

In the twenty-third chapter of his work, Delany states his single overarching purpose: "to inform the minds of the colored people at large, upon many things pertaining to their elevation, that but few among us are acquainted with." He cites the inability of African Americans to think for themselves as a collective, without a supposed spokesperson speaking for them and telling them what to think. He notes that black inferiority is assumed by many, such that the expertise of African Americans, regardless of their level of intelligence or qualifications, goes unappreciated, dismissed, or ignored, whereas any ordinary white American gains instant credibility, even reverence, for no other reason than whiteness and its associated privileges and perceived superiority, among blacks as well as whites.

Delany condemns prior advice that things could improve for American blacks if they would simply follow the path to equality proposed by friends of the race. He cites the current 1850s climate as one of "hate and jealousy" toward blacks that has diminished any sort of hope among blacks for equality on the horizon. With respect to voting, Delany distinguishes between the ideal of having the right to vote as well as to run for office, in which case blacks could vote for those of their own race, and the present circumstance in which some African Americans have the "elective fran-

Theatrical poster with scenes from Uncle Tom's Cabin (Library of Congress)

chise" but cannot run for office, such that they can vote only for whites who will "help to make laws to degrade us."

Delany cites the spheres of religion and politics in furthering his argument. He mentions again that, in these areas and others, African Americans are discouraged from thinking for themselves and are constantly told what to think and believe. Even those taking part in the antislavery movement are considered suspect, as he indicts white abolitionists for dominating the debate. Regarding the possibility of emigration, he conveys that there are African Americans who automatically adopt the positions of "white brethren" who happen to be representing the interests of slave owners, such as with the establishment of Liberia as a settlement for free slaves—an option Delany rejects outright, labeling that nation as being under "a government of American slaveholders."

In contrast to the constrained and limited opportunities available to blacks in America and even Liberia, Delany offers alternatives for African Americans in places like Mexico, Central America, the West Indies, and South America. He places a high premium on the education and training African American men and women need in order to take advantage of these opportunities. While acknowledging the importance of a classical or "finished education," Delany bluntly states, in a manner that prefigures the debate between Booker T. Washington—an advocate of practical industrial education and assimilation—and W. E. B. Du Bois—who wrote for the more militant "thinking class of American Negroes"—that "a good business practical Education" is what is most needed for the race.

Delany indeed advocates that young black women receive an education. The type of education he advances for women is one that will provide them with information that is useful and has practical applications. He argues against what he calls "light superficial acquirements" that masquerade as "accomplishments." Here Delany seems to offer a more far-reaching educational philosophy for women than was generally supported during his era in many quarters of the United States.

♦ "XXIV. A Glance at Ourselves—Conclusion"

In chapter XXIV, as a final plea and closing argument, Delany returns to the reasons for his black nationalist position. He appeals to race loyalty and love of race as reasons for his insistent urging of emigration for African Americans. Here Delany offers what has been interpreted by some scholars as evidence of his "Africana womanist" views, as he articulates convincingly that the black race cannot rise any higher than the position and condition of black women. He argues that with black women being subjected persistently to degrading and menial jobs, the entire black race is disgraced across the globe.

Essential Quotes

"Until we are determined to change the condition of things, and raise ourselves above the position in which we are now prostrated, we must hang our heads in sorrow, and hide our faces in shame."

("V. Means of Elevation")

"What we desire to learn now is, how to effect a remedy*; this we have endeavored to point out. Our elevation must be the result of* self-efforts*, and work of our* own hands*. No other human power can accomplish it. If we but determine it shall be so, it will be so."*

("V. Means of Elevation")

"Unfortunately for us, as a body, we have been taught to believe, that we must have some person to think for us, instead of thinking for ourselves. So accustomed are we to submission and this kind of training, that it is with difficulty, even among the most intelligent of the colored people, an audience may be elicited for any purpose whatever, if the expounder is to be a colored person."

("XXIII. Things as They Are")

"Let us have an education, that shall practically develop our thinking faculties and manhood; and then, and not until then, shall we be able to vie with our oppressors, go where we may."

("XXIII. Things as They Are")

"No people are ever elevated above the condition of their females*; hence, the condition of the mother determines the condition of the child. To know the position of a people, it is only necessary to know the* condition *of their females; and despite themselves, they cannot rise above their level."*

("XXIV. A Glance at Ourselves")

"To compete now with the mighty odds of wealth, social and religious preferences, and political influences of this country, at this advanced stage of its national existence, we never may expect. A new country, and a new beginning, is the only true, rational, politic remedy for our disadvantageous position."

("XXIV. A Glance at Ourselves")

Delany positions himself not as a man of great prestige but as a humble person who has worked hard to obtain what he has in life. He presents this aside in an accessible manner, stating that other young men can achieve similar levels of success in their own lifetimes if they apply themselves. He also addresses the matter of the socioeconomic condition of the race. He cites "consummate poverty" as "one of our great temporal curses." He characterizes contemporary African Americans as the poorest class of people in the civilized world, with one result being that they are unable to adequately assist one another. This was indeed a stark and sobering reality that has had implications well beyond Delany's mid-nineteenth-century context. Considering the odds against African Americans in a wide variety of spheres, as demonstrated by their lagging significantly behind white Americans in terms of social, religious, economic, and political indicators and circumstances, Delany suggests that the best option for many—perhaps even for the entire class of free blacks—would be to start fresh in a new country.

Delany concludes by addressing certain concerns and objections to the project of emigration. Among them he cites blacks' attachment to whites as objects of love and admiration along with reluctance to leave loved ones behind. Dismissing those claims and others, Delany argues that free African Americans have a duty to elevate themselves, as the freedom of those enslaved is tied to those who are free and make the most of their freedom.

Audience

Delany's words were addressed to all African Americans in the United States, although many other Americans read and reacted to them, including politicians and abolitionists. Delany was mainly attempting to persuade everyday African Americans that the benefits of emigration made such a prospect a preferable alternative to the race conundrum in the United States. Within the black community, reactions to his proposals differed widely in accord with the variety of political stances adopted by black intellectuals.

Impact

Delany's text was published in Philadelphia and represented the very first book-length distillation of black nationalism as a political philosophy. The book thus met with a great deal of criticism as well as staunch support. Many figures of national black leadership at the time, including Frederick Douglass, made the decision to ignore the work. Members of the antislavery press condemned Delany's overall strategy and position in the work. Other members of black communities, on the other hand, strongly supported Delany's proposed plan. For example, his urgings were powerful enough to persuade one hundred men and women to meet at his National Emigration Convention of Colored People, held August 24–26, 1854, in Cleveland, Ohio. The Delany biographer Victor Ullman asserts that the Cleveland emigration convention represented the societal birth of modern black nationalism. There, conferees designated Delany as head of a board of commissioners tasked with locating a potential black homeland in Central or South America. Having his marching orders, Delany proceeded to investigate Hawaii and Central America while also sending a representative to Haiti.

During the Cleveland convention, Delany delivered a report titled "The Political Destiny of the Colored Race." In this report, Delany admonished the group on the need to develop an independent black nation, predating the black nationalist pleas later issued by groups such as the Nation of Islam and the Shrine of the Black Madonna. Anticipating Du Bois's notion of the color line by almost a half century, Delany also emphasized that "the great issue" facing the world would involve "the question of black and white." Delany also stated that every individual person would have to make a decision as to which identity or side he or she would assume.

Delany's plans for a mass emigration of blacks to Liberia never materialized as he had hoped. In 1859 he traveled to Liberia and spent nine months in the region. In the Abeokuta region of Liberia he signed an agreement with a number of chiefs that would allow American blacks to settle on unused land in exchange for a promise that they would work for the good of the community. He published the results of his explorations in an 1861 book, *Official Report of the Niger Valley Exploring Party*, providing information about conditions in the region. The agreement, though, was never exercised. After he returned to the United States in 1860, he began to gather funding and prospective settlers for the Abeokuta project. But the plans collapsed in part because of warfare in the region, in part because the plan was opposed by white missionaries, and in part by the beginning of the U.S. Civil War and Delany's decision to remain in the United States and work for emancipation. In the late nineteenth century, Liberia remained an isolated nation. In effect, it was two nations in one—the community of native Africans with an overlay of black American settlers with a government modeled on that of the United States. The two components of the nation were never able to merge, with native Africans looking on the settlers with distrust and the settlers, perhaps reflecting their own exposure to the caste system of the American South, regarding the natives as backward.

Despite the partial failure of his plans, Delany became a critical figure in African American history and, in particular, in the black nationalist movement. His views would influence those of contemporary and later black nationalists such as Henry Highland Garnet, Henry McNeal Turner, Marcus Garvey (founder of the Universal Negro Improvement Association), Elijah Muhammad (the leader of the Nation of Islam), and numerous others. Throughout its history, different strands of black nationalism emerged. For some, the only solution to discrimination was the actual establishment of a separate black nation. While Africa remained central to this line of thinking for some and spawned the Back to Africa movement, for others the notion of mass migration of American blacks to Africa was impractical, so

Africa to them would remain a symbol, not a destination. At the extreme, these black nationalists called for the establishment of a black nation in the Western Hemisphere. More mainstream black nationalists placed less emphasis on geography and more on the structure and goals of the black community. Rejecting anything approaching assimilation, they called on American blacks to ameliorate their own condition by focusing their attention on black institutions, including culture, art, and religion. Further, the call was for blacks to achieve a greater measure of self-determination in the economic arena by pooling resources and supporting black-owned enterprises. Put simply, black nationalists came to call not for a black country but for self-governing black communities and black enterprise.

In recent years, the black nationalist movement has remained alive in various forms. One was the Black Power movement, which gained momentum in the 1960s and 1970s in such organizations as the Black Panther Party. In 1980 the Uhuru Movement was founded in Saint Petersburg, Florida. The movement, whose name is the Swahili word for "freedom," comprises a number of affiliated organizations, including the African People's Socialist Party, the African Socialist International, the Black Is Back Coalition, and similar groups.

See also David Walker's *Appeal to the Coloured Citizens of the World* (1829); Henry Highland Garnet: "An Address to the Slaves of the United States of America" (1843); First Editorial of the *North Star* (1847); Henry McNeal Turner's Speech on His Expulsion from the Georgia Legislature (1868); Booker T. Washington's Atlanta Exposition Address (1895); W. E. B. Du Bois: *The Souls of Black Folk* (1903); Marcus Garvey: "The Principles of the Universal Negro Improvement Association" (1922); Stokely Carmichael's "Black Power" (1966).

Further Reading

■ Articles

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Questions for Further Study

1. Given the condition of most African Americans before the Civil War, why do you think so few immigrated to Liberia, Haiti, and other places?

2. On what basis did some people at the time view the American Colonization Society as proslavery? Do you believe they were correct? Explain.

3. In what ways did Delany anticipate the views of Booker T. Washington, as outlined in his Atlanta Exposition Address?

4. Delany wrote that "the redemption of the bondman depends entirely upon the elevation of the freeman; therefore, to elevate the free colored people of America, anywhere upon this continent; forebodes the speedy redemption of the slaves." What did he mean by this? Would you have agreed with this statement?

5. Comment on whether African Americans in general and particularly those still living under slavery in the South would have learned of Delany and his views—as well as the views of other African American writers at the time. What problems would Delany have faced in reaching his intended audience?

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■ Web Sites

"To Be More Than Equal: The Many Lives of Martin R. Delany, 1812–1885." Martin Delany Web site.
http://www.libraries.wvu.edu/delany/home.htm.

—Zachery Williams

Martin Delany: *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States*

V. Means of Elevation

Moral theories have long been resorted to by us, as a means of effecting the redemption of our brethren in bonds, and the elevation of the free colored people in this country. Experience has taught us, that speculations are not enough; that the *practical* application of principles adduced, the thing carried out, is the only true and proper course to pursue.

We have speculated and moralised much about equality—claiming to be as good as our neighbors, and everybody else—all of which, may do very well in ethics—but not in politics. We live in society among men, conducted by men, governed by rules and regulations. However arbitrary, there are certain policies that regulate all well-organized institutions and corporate bodies. We do not intend here to speak of the legal political relations of society, for those are treated on elsewhere. The business and social, or voluntary and mutual policies, are those that now claim our attention. Society regulates itself—being governed by mind, which like water, finds its own level. "Like seeks like," is a principle in the laws of matter, as well as of mind. There is such a thing as inferiority of things, and positions; at least society has made them so; and while we continue to live among men, we must agree to all *just* measures—all those we mean, that do not necessarily infringe on the rights of others. By the regulations of society, there is no equality of persons, where there is not an equality of attainments. By this, we do not wish to be understood as advocating the actual equal attainments of every individual; but we mean to say, that if these attainments be necessary for the elevation of the white man, they are necessary for the elevation of the colored man. That some colored men and women, in a like proportion to the whites, should be qualified in all the attainments possessed by them. It is one of the regulations of society the world over, and we shall have to conform to it, or be discarded as unworthy of the associations of our fellows.

Cast our eyes about us and reflect for a moment, and what do we behold! Every thing that presents to view gives evidence of the skill of the white man. Should we purchase a pound of groceries, a yard of linen, a vessel of crockeryware, a piece of furniture, the very provisions that we eat,—all, all are the products of the white man, purchased by us from the white man, consequently, our earnings and means, are all given to the white man.

Pass along the avenues of any city or town, in which you live—behold the trading shops—the manufactories—see the operations of the various machinery—see the stage-coaches coming in, bringing the mails of intelligence—look at the railroads interlining every section, bearing upon them their mighty trains, flying with the velocity of the swallow, ushering in the hundreds of industrious, enterprising travelers. Cast again your eyes widespread over the ocean—see the vessels in every direction with their white sheets spread to the winds of heaven, freighted with the commerce, merchandise and wealth of many nations. Look as you pass along through the cities, at the great and massive buildings—the beautiful and extensive structures of architecture—behold the ten thousand cupolas, with their spires all reared up towards heaven, intersecting the territory of the clouds—all standing as mighty living monuments, of the industry, enterprise, and intelligence of the white man. And yet, with all these living truths, rebuking us with scorn, we strut about, place our hands akimbo, straighten up ourselves to our greatest height, and talk loudly about being "as good as any body." How do we compare with them? Our fathers are their coachmen, our brothers their cookmen, and ourselves their waiting-men. Our mothers their nurse-women, our sisters their scrubwomen, our daughters their maid-women, and our wives their washer-women. Until colored men, attain to a position above permitting their mothers, sisters, wives, and daughters, to do the drudgery and "menial" offices of other men's wives and daughters; it is useless, it is nonsense, it is pitiable mockery, to talk about equality and elevation in society. The world is looking upon us, with feelings of commiseration, sorrow, and contempt. We scarcely deserve sympathy, if we peremptorily refuse advice, bearing upon our elevation.…

White men are producers—we are consumers. They build houses, and we rent them. They raise produce, and we consume it. They manufacture clothes and wares, and we garnish ourselves with them. They build coaches, vessels, cars, hotels, saloons, and other vehicles and places of accommodation, and we de-

liberately wait until they have got them in readiness, then walk in, and contend with as much assurance for a "right," as though the whole thing was bought by, paid for, and belonged to us. By their literary attainments, they are the contributors to, authors and teachers of, literature, science, religion, law, medicine, and all other useful attainments that the world now makes use of. We have no reference to ancient times—we speak of modern things.

These are the means by which God intended man to succeed; and this discloses the secret of the white man's success with all of his wickedness, over the head of the colored man, with all of his religion. We have been pointed and plain, on this part of the subject, because we desire our readers to see persons and things in their true position. Until we are determined to change the condition of things, and raise ourselves above the position in which we are now prostrated, we must hang our heads in sorrow, and hide our faces in shame. It is enough to know that these things are so; the causes we care little about. Those we have been examining, complaining about, and moralising over, all our life time. This we are weary of. What we desire to learn now is, how to effect a *remedy*; this we have endeavored to point out. Our elevation must be the result of *self-efforts*, and work of our *own hands*. No other human power can accomplish it. If we but determine it shall be so, it will be so. Let each one make the case his own, and endeavor to rival his neighbor, in honorable competition.

These are the proper and only means of elevating ourselves and attaining equality in this country or any other, and it is useless, utterly futile, to think about going any where, except we are determined to use these as the necessary means of developing our manhood. The means are at hand, within our reach. Are we willing to try them? Are we willing to raise ourselves superior to the condition of slaves, or continue the meanest underlings, subject to the beck and call of every creature bearing a pale complexion? If we are, we had as well remained in the South, as to have come to the North in search of more freedom. What was the object of our parents in leaving the South, if it were not for the purpose of attaining equality in common with others of their fellow citizens, by giving their children access to all the advantages enjoyed by others? Surely this was their object. They heard of liberty and equality here, and they hastened on to enjoy it, and no people are more astonished and disappointed than they, who for the first time, on beholding the position we occupy here in the free North—what is called, and what they expect to find, the free States. They at once tell us, that they have as much liberty in the South as we have in the North—that there as free people, they are protected in their rights—that we have nothing more—that in other respects they have the same opportunity, indeed the preferred opportunity, of being their maids, servants, cooks, waiters, and menials in general, there, as we have here—that had they known for a moment, before leaving, that such was to be the only position they occupied here, they would have remained where they were, and never left. Indeed, such is the disappointment in many cases, that they immediately return back again, completely insulted at the idea, of having us here at the north, assume ourselves to be their superiors. Indeed, if our superior advantages of the free States, do not induce and stimulate us to the higher attainments in life, what in the name of degraded humanity will do it?

VI. The United States Our Country

Our common country is the United States. Here were we born, here raised and educated; here are the scenes of childhood; the pleasant associations of our school going days; the loved enjoyments of our domestic and fireside relations, and the sacred graves of our departed fathers and mothers, and from here will we not be driven by any policy that may be schemed against us.

We are Americans, having a birthright citizenship—natural claims upon the country—claims common to all others of our fellow citizens—natural rights, which may, by virtue of unjust laws, be obstructed, but never can be annulled. Upon these do we place ourselves, as immovably fixed as the decrees of the living God. But according to the economy that regulates the policy of nations, upon which rests the basis of justifiable claims to all freemen's rights, it may be necessary to take another view of, and enquire into the political claims of colored men.…

XXIII. Things as They Are

"And if thou boast Truth to utter, Speak, and leave the rest to God."

In presenting this work, we have but a single object in view, and that is, to inform the minds of the colored people at large, upon many things pertaining to their elevation, that but few among us are acquainted with. Unfortunately for us, as a body, we have been

taught to believe, that we must have some person to think for us, instead of thinking for ourselves. So accustomed are we to submission and this kind of training, that it is with difficulty, even among the most intelligent of the colored people, an audience may be elicited for any purpose whatever, if the expounder is to be a colored person; and the introduction of any subject is treated with indifference, if not contempt, when the originator is a colored person. Indeed, the most ordinary white person, is almost revered, while the most qualified colored person is totally neglected. Nothing from them is appreciated.

We have been standing comparatively still for years, following in the footsteps of our friends, believing that what they promise us can be accomplished, just because they say so, although our own knowledge should long since, have satisfied us to the contrary. Because even were it possible, with the present hate and jealousy that the whites have towards us in this country, for us to gain equality of rights with them; we never could have an equality of the exercise and enjoyment of those rights—because, the great odds of numbers are against us. We might indeed, as some at present, have the right of the elective franchise—nay, it is not the elective franchise, because the *elective franchise* makes the enfranchised, *eligible* to any position attainable; but we may exercise the right of *voting* only, which to us, is but poor satisfaction; and we by no means care to cherish the privilege of voting somebody into office, to help to make laws to degrade us.

In religion—because they are both *translators* and *commentators*, we must believe nothing, however absurd, but what our oppressors tell us. In Politics, nothing but such as they promulge; in Anti-Slavery, nothing but what our white brethren and friends say we must; in the mode and manner of our elevation, we must do nothing, but that which may be laid down to be done by our white brethren from some quarter or other; and now, even in the subject of emigration, there are some colored people to be found, so lost to their own interest and self-respect, as to be gulled by slave owners and colonizationists, who are led to believe there is no other place in which they can become elevated, but Liberia, a government of American slaveholders, as we have shown—simply, because white men have told them so.

Upon the possibility, means, mode and manner, of our Elevation in the United States—Our Original Rights and Claims as Citizens—Our Determination not to be Driven from our Native Country—the Difficulties in the Way of our Elevation—Our Position in Relation to our Anti-Slavery Brethren—the Wicked Design and Injurious Tendency of the American Colonization Society—Objections to Liberia—Objections to Canada—Preferences to South America, &c., &c., all of which we have treated without reserve; expressing our mind freely, and with candor, as we are determined that as far as we can at present do so, the minds of our readers shall be enlightened. The custom of concealing information upon vital and important subjects, in which the interest of the people is involved, we do not agree with, nor favor in the least; we have therefore, laid this cursory treatise before our readers, with the hope that it may prove instrumental in directing the attention of our people in the right way, that leads to their Elevation. Go or stay—of course each is free to do as he pleases—one thing is certain; our Elevation is the work of our own hands. And Mexico, Central America, the West Indies, and South America, all present now, opportunities for the individual enterprise of our young men, who prefer to remain in the United States, in preference to going where they can enjoy real freedom, and equality of rights. Freedom of Religion, as well as of politics, being tolerated in all of these places.

Let our young men and women, prepare themselves for usefulness and business; that the men may enter into merchandise, trading, and other things of importance; the young women may become teachers of various kinds, and otherwise fill places of usefulness. Parents must turn their attention more to the education of their children. We mean, to educate them for useful practical business purposes. Educate them for the Store and the Counting House—to do every-day practical business. Consult the children's propensities, and direct their education according to their inclinations. It may be, that there is too great a desire on the part of parents to give their children a professional education, before the body of the people are ready for it. A people must be a business people, and have more to depend upon than mere help in people's houses and Hotels, before they are either able to support, or capable of properly appreciating the services of professional men among them. This has been one of our great mistakes—we have gone in advance of ourselves. We have commenced at the superstructure of the building, instead of the foundation—at the top instead of the bottom. We should first be mechanics and common tradesmen, and professions as a matter of course would grow out of the wealth made thereby. Young men and women, must now prepare for usefulness—the day of our Elevation is at hand—all the world now gazes at us—and

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Central and South America, and the West Indies, bid us come and be men and women, protected, secure, beloved and Free.

The branches of Education most desirable for the preparation of youth, for practical useful every-day life, are Arithmetic and good Penmanship, in order to be Accountants; and a good rudimental knowledge of Geography—which has ever been neglected, and underestimated—and of Political Economy; which without the knowledge of the first, no people can ever become adventurous—nor of the second, never will be an enterprising people. Geography, teaches a knowledge of the world, and Political Economy, a knowledge of the wealth of nations; or how to make money. These are not abstruse sciences, or learning not easily acquired or understood; but simply, common School Primer learning, that every body may get. And, although it is the very Key to prosperity and success in common life, but few know anything about it. Unfortunately for our people, so soon as their children learn to read a Chapter in the New Testament, and scribble a miserable hand, they are pronounced to have "Learning enough"; and taken away from School, no use to themselves, nor community. This is apparent in our Public Meetings, and Official Church Meetings; of the great number of men present, there are but few capable of filling a Secretaryship. Some of the large cities may be an exception to this. Of the multitudes of Merchants, and Business men throughout this country, Europe, and the world, few are qualified, beyond the branches here laid down by us as necessary for business. What did John Jacob Astor, Stephen Girard, or do the millionaires and the greater part of the merchant princes, and mariners, know about Latin and Greek, and the Classics? Precious few of them know any thing. In proof of this, in 1841, during the Administration of President Tyler, when the mutiny was detected on board of the American Man of War Brig Somers. the names of the Mutineers, were recorded by young S—a Midshipman in Greek. Captain Alexander Slidell McKenzie, Commanding, was unable to read them; and in his despatches to the Government, in justification of his policy in executing the criminals, said that he "discovered some curious characters which he was unable to read," &c.; showing thereby, that that high functionary, did not understand even the Greek Alphabet, which was only necessary, to have been able to read proper names written in Greek.

What we most need then, is a good business practical Education; because, the Classical and Professional education of so many of our young men, before their parents are able to support them, and community ready to patronize them, only serves to lull their energy, and cripple the otherwise, praiseworthy efforts they would make in life. A Classical education, is only suited to the wealthy, or those who have a prospect of gaining a livelihood by it. The writer does not wish to be understood, as underrating a Classical and Professional education; this is not his intention; he fully appreciates them, having had some such advantages himself; but he desires to give a proper guide, and put a check to the extravagant idea that is fast obtaining, among our people especially, that a Classical, or as it is named, a "finished education," is necessary to prepare one for usefulness in life. Let us have an education, that shall practically develop our thinking faculties and manhood; and then, and not until then, shall we be able to vie with our oppressors, go where we may. We as heretofore, have been on the extreme; either no qualification at all, or a Collegiate education. We jumped too far; taking a leap from the deepest abyss to the highest summit; rising from the ridiculous to the sublime; without medium or intermission.

Let our young women have an education; let their minds be well informed; well stored with useful information and practical proficiency, rather than the light superficial acquirements, popularly and fashionably called accomplishments. We desire accomplishments, but they must be useful.

Our females must be qualified, because they are to be the mothers of our children. As mothers are the first nurses and instructors of children; from them children consequently, get their first impressions, which being always the most lasting, should be the most correct. Raise the mothers above the level of degradation, and the offspring is elevated with them. In a word, instead of our young men, transcribing in their blank books, recipes for *Cooking;* we desire to see them making the transfer of *Invoices of Merchandise.* Come to our aid then; the *morning* of our *Redemption* from degradation, adorns the horizon.

In our selection of individuals, it will be observed, that we have confined ourself entirely to those who occupy or have occupied positions among the whites, consequently having a more general bearing as useful contributors to society at large. While we do not pretend to give all such worthy cases, we gave such as we possessed information of, and desire it to be understood, that a large number of our most intelligent and worthy men and women, have not been named, because from their more private position in community, it was foreign to the object and design of

this work. If we have said aught to offend, "take the will for the deed," and be assured, that it was given with the purest of motives, and best intention, from a true-hearted man and brother; deeply lamenting the sad fate of his race in this country, and sincerely desiring the elevation of man, and submitted to the serious consideration of all, who favor the promotion of the cause of God and humanity.

XXIV. A Glance at Ourselves—Conclusion

With broken hopes—sad devastation; a race *resigned* to degradation! …

If we did not love our race superior to others, we would not concern ourself about their degradation; for the greatest desire of our heart is, to see them stand on a level with the most elevated of mankind. No people are ever elevated above the condition of their *females;* hence, the condition of the mother determines the condition of the child. To know the position of a people, it is only necessary to know the *condition* of their females; and despite themselves, they cannot rise above their level. Then what is our condition? Our *best ladies* being washerwomen, chambermaids, children's traveling nurses, and common house servants, and menials, we are all a degraded, miserable people, inferior to any other people as a whole, on the face of the globe.

These great truths, however unpleasant, must be brought before the minds of our people in its true and proper light, as we have been too delicate about them, and too long concealed them for fear of giving offence. It would have been infinitely better for our race, if these facts had been presented before us half a century ago—we would have been now proportionably benefitted by it.

As an evidence of the degradation to which we have been reduced, we dare premise, that this chapter will give offence to many, very many, and why? Because they may say, "He dared to say that the occupation of a *servant* is a degradation." It is not necessarily degrading; it would not be, to one or a few people of a land; but a *whole race of servants* are a degradation to that people.

Efforts made by men of qualifications for the toiling and degraded millions among the whites, neither gives offence to that class, nor is it taken unkindly by them; but received with manifestations of gratitude; to know that they are thought to be, equally worthy of, and entitled to stand on a level with the elevated classes; and they have only got to be informed of the way to raise themselves, to make the effort and do so as far as they can. But how different with us. Speak of our position in society, and it at once gives insult. Though we are servants; among ourselves we claim to be *ladies* and *gentlemen*, equal in standing, and as the popular expression goes, "Just as good as any body"—and so believing, we make no efforts to raise above the common level of menials; because the *best* being in that capacity, all are content with the position. We cannot at the same time, be domestic and lady; servant and gentleman. We must be the one or the other. Sad, sad indeed, is the thought, that hangs drooping in our mind, when contemplating the picture drawn before us. Young men and women, "we write these things unto you, because ye are strong," because the writer, a few years ago, gave unpardonable offence to many of the young people of Philadelphia and other places, because he dared tell them, that he thought too much of them, to be content with seeing them the servants of other people. Surely, she that could be the mistress, would not be the maid; neither would he that could be the master, be content with being the servant; then why be offended, when we point out to you, the way that leads from the menial to the mistress or the master. All this we seem to reject with fixed determination, repelling with anger, every effort on the part of our intelligent men and women to elevate us, with true Israelitish degradation, in reply to any suggestion or proposition that may be offered, "Who made thee a ruler and judge?"

The writer is no "Public Man," in the sense in which this is understood among our people, but simply an humble individual, endeavoring to seek a livelihood by a profession obtained entirely by his own efforts, without relatives and friends able to assist him; except such friends as he gained by the merit of his course and conduct, which he here gratefully acknowledges; and whatever he has accomplished, other young men may, by making corresponding efforts, also accomplish.

In our own country, the United States, there are *three million five hundred thousand slaves;* and we, the nominally free colored people, are *six hundred thousand* in number; estimating one-sixth to be men, we have *one hundred thousand* able bodied freemen, which will make a powerful auxiliary in any country to which we may become adopted—an ally not to be despised by any power on earth. We love our country, dearly love her, but she doesn't love us—she despises us, and bids us begone, driving us from her embraces; but we shall not go where she desires us; but when we do go, whatever love we have for her, we

shall love the country none the less that receives us as her adopted children.

For the want of business habits and training, our energies have become paralyzed; our young men never think of business, any more than if they were so many bondmen, without the right to pursue any calling they may think most advisable. With our people in this country, dress and good appearances have been made the only test of gentleman and ladyship, and that vocation which offers the best opportunity to dress and appear well, has generally been preferred, however menial and degrading, by our young people, without even, in the majority of cases, an effort to do better; indeed, in many instances, refusing situations equally lucrative, and superior in position; but which would not allow as much display of dress and personal appearance. This, if we ever expect to rise, must be discarded from among us, and a high and respectable position assumed.

One of our great temporal curses is our consummate poverty. We are the poorest people, as a class, in the world of civilized mankind—abjectly, miserably poor, no one scarcely being able to assist the other. To this, of course, there are noble exceptions; but that which is common to, and the very process by which white men exist, and succeed in life, is unknown to colored men in general. In any and every considerable community may be found, some one of our white fellow-citizens, who is worth more than all the colored people in that community put together. We consequently have little or no efficiency. We must have means to be practically efficient in all the undertakings of life; and to obtain them, it is necessary that we should be engaged in lucrative pursuits, trades, and general business transactions. In order to be thus engaged, it is necessary that we should occupy positions that afford the facilities for such pursuits. To compete now with the mighty odds of wealth, social and religious preferences, and political influences of this country, at this advanced stage of its national existence, we never may expect. A new country, and new beginning, is the only true, rational, politic remedy for our disadvantageous position; and that country we have already pointed out, with triple golden advantages, all things considered, to that of any country to which it has been the province of man to embark.

Every other than we, have at various periods of necessity, been a migratory people; and all when oppressed, shown a greater abhorrence of oppression, if not a greater love of liberty, than we. We cling to our oppressors as the objects of our love. It is true that our enslaved brethren are here, and we have been led to believe that it is necessary for us to remain, on that account. Is it true, that all should remain in degradation, because a part are degraded? We believe no such thing. We believe it to be the duty of the Free, to elevate themselves in the most speedy and effective manner possible; as the redemption of the bondman depends entirely upon the elevation of the freeman; therefore, to elevate the free colored people of America, anywhere upon this continent; forebodes the speedy redemption of the slaves. We shall hope to hear no more of so fallacious a doctrine—the necessity of the free remaining in degradation, for the sake of the oppressed. Let us apply, first, the lever to ourselves; and the force that elevates us to the position of manhoods considerations and honors, will cleft the manacle of every slave in the land.

When such great worth and talents—for want of a better sphere—of men like Rev. Jonathan Robinson, Robert Douglass, Frederick A. Hinton, and a hundred others that might be named, were permitted to expire in a barber-shop; and such living men as may be found in Boston, New York, Philadelphia, Baltimore, Richmond, Washington City, Charleston (S.C.), New Orleans, Cincinnati, Louisville, St, Louis, Pittsburg, Buffalo, Rochester, Albany, Utica, Cleveland, Detroit, Milwaukee, Chicago, Columbus, Zanesville, Wheeling, and a hundred other places, confining themselves to barber-shops and waiterships in Hotels; certainly the necessity of such a course as we have pointed out, must be cordially acknowledged; appreciated by every brother and sister of oppression; and not rejected as heretofore, as though they preferred inferiority to equality. These minds must become "unfettered," and have "space to rise." This cannot be in their present positions. A continuance in any position, becomes what is termed "Second Nature"; it begets an *adaptation*, and *reconciliation* of *mind* to such condition. It changes the whole physiological condition of the system, and adapts man and woman to a higher or lower sphere in the pursuits of life. The offsprings of slaves and peasantry, have the general characteristics of their parents; and nothing but a different course of training and education, will change the character.

The slave may become a lover of his master, and learn to forgive him for continual deeds of maltreatment and abuse; just as the Spaniel would couch and fondle at the feet that kick him; because he has been taught to reverence them, and consequently, becomes adapted in body and mind to his condition. Even the shrubbery-loving Canary, and lofty-soaring Eagle, may be tamed to the cage, and learn to love it

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from habit of confinement. It has been so with us in our position among our oppressors; we have been so prone to such positions, that we have learned to love them. When reflecting upon this all important, and to us, all absorbing subject; we feel in the agony and anxiety of the moment, as though we could cry out in the langauge of a Prophet of old: "Oh that my head were waters, and mine eyes a fountain of tears, that I might weep day and night for the" degradation "of my people! Oh that I had in the wilderness a lodging place of wayfaring men; that I might leave my people, and go from them!"

The Irishman and German in the United States, are very different persons to what they were when in Ireland and Germany, the countries of their nativity. There their spirits were depressed and downcast; but the instant they set their foot upon unrestricted soil; free to act and untrammelled to move; their physical condition undergoes a change, which in time becomes physiological, which is transmitted to the offspring, who when born under such circumstances, is a decidedly different being to what it would have been, had it been born under different circumstances.

A child born under oppression, has all the elements of servility in its constitution; who when bom under favorable circumstances, has to the contrary, all the elements of freedom and independence of feeling. Our children then, may not be expected, to maintain that position and manly bearing; born under the unfavorable circumstances with which we are surrounded in this country; that we so much desire. To use the language of the talented Mr. Whipper, "they cannot be raised in this country, without being stoop shouldered." Heaven's pathway stands unobstructed, which will lead us into a Paradise of bliss. Let us go on and possess the land, and the God of Israel will be our God.

The lessons of every school book, the pages of every history, and columns of every newspaper, are so replete with stimuli to nerve us on to manly aspirations, that those of our young people, who will now refuse to enter upon this great theatre of Polynesian adventure, and take their position on the stage of

Glossary

akimbo	hands at the waist, with elbows out to the side
And if thou boast Truth to utter …	quotation from William D. Gallagher's poem "Truth and Freedom"
elective franchise	the right to vote
Frederick A. Hinton	the African American proprietor of the Gentleman's Dressing Room in Philadelphia
Israelitish	referring to the people of ancient Israel; Hebrew; Jewish
John Jacob Astor	the nation's first multimillionaire businessman
Jonathan Robinson	a black abolitionist about whom little is known
Mr. Whipper	William Whipper of Pennsylvania, one of the wealthiest African Americans at the time and the leader of the American Moral Reform Society
mutiny	a reference to the "*Somers*' affair," an alleged mutiny aboard the naval ship in 1842, the only shipboard mutiny in American naval history that led to executions of the perpetrators
President Tyler	John Tyler, the tenth U.S. president
Prophet of old	the prophet Jeremiah in the Christian Old Testament; the quotation is from the book of Jeremiah, chapter 9, verse 1, which concludes with the words "slain of the daughter of my people"
Robert Douglass	a well-to-do African American barber in Philadelphia
Stephen Girard	a French-born American banker and among the wealthiest Americans at the time
West Indies	the island nations of the Caribbean Sea

Document Text

Central and South America, where a brilliant engagement, of certain and most triumphant success, in the drama of human equality awaits them; then, with the blood of *slaves*, write upon the lintel of every door in sterling Capitals, to be gazed and hissed at by every passer by—

Doomed by the Creator
To servility and degradation;
The SERVANT of the *white man*,
And despised of every nation!

1853 - 1900

A slave pen in Alexandria, Virginia (Library of Congress)

Twelve Years a Slave: Narrative of Solomon Northup

1853

"Never have I seen such an exhibition of intense, unmeasured, and unbounded grief, as when Eliza was parted from her child."

Overview

Solomon Northup's *Twelve Years a Slave*, published in 1853, stands out as an important piece of literature about slavery because it is written from the perspective of a free man who was captured and forced into bondage and who wrote in great detail about this experience after his release twelve years later. Northup's insights into the workings of the southern slave system reveal the spiritual and physical torment slaves endured. Northup's powerful language describing his capture, his life as a slave, and then his release helps explain why *Twelve Years a Slave* became one of the fastest-selling and most popular narratives of the nineteenth century. Although the authenticity and reliability of slave narratives have been frequently challenged, such narratives are recognized as essential sources for the study of American slavery in the antebellum South.

Prior to Solomon Northup's capture in 1841 at the age of thirty-three, he led a relatively quiet life as a free black man in Saratoga Springs, New York. To care for his wife and three children, he worked in a variety of jobs in agriculture, lumbering, and hotel services. He also used his talent for the violin to earn money throughout his life. In 1841 he met two white men, who overheard him playing the violin and offered to travel with him to New York and later Washington, D.C., where they assured him that he would be able to earn money playing music for a traveling circus. Believing that he would be gone only a short while, Northup did not notify his family. Little did he know that this trip, which would end with his enslavement, would be the beginning of the twelve most difficult years of his life.

Context

The decades before the American Civil War were rife with conflict as sectional discord gripped the nation. Debates over the extension of slavery into newly acquired territory divided the country and would culminate in the secession of the southern states and the war. As early as 1820 Congress grappled with the question of how to appease all sides as slavery extended into the new territories. The Missouri Compromise of 1820 established a dividing line between the free states of the North and the slaveholding states of the South. This, however, would be only a temporary solution to a much larger problem. In 1846 war with Mexico broke out and sparked an explosion of patriotic support in the United States. But by the end of the Mexican-American War in 1848 and the resulting acquisition of new territory, new questions about statehood and the status of slavery arose with the nation now stretching from ocean to ocean. This expansionist agenda created ripple effects nationwide, as political parties shifted, pockets of violence broke out, and Congress wrestled with how to please all sectional interests.

The 1850s have been nicknamed the "Decade of Crisis" by many historians who see the events over these ten years, and responses to them, as thrusting the United States toward civil conflict. The Compromise of 1850 opened the decade by attempting to meet northern, southern, and western interests after the territorial expansions of the 1840s. The most controversial aspect of the 1850 agreement was a new and harsher federal measure called the Fugitive Slave Act, which required federal authorities in the northern states to assist southern slave catchers in returning runaway slaves to their owners. Many northern states responded by enacting personal liberty laws that increased the legal rights of accused fugitives. However, these laws were overturned by the U.S. Supreme Court based on the constitutional premise that federal laws took supremacy over state laws. As a way for the territories of New Mexico and Utah to resolve the question of slavery, the Compromise of 1850 also invoked the controversial idea of popular sovereignty, in which the local population, rather than Congress, decided whether or not to adopt slavery.

In 1854 the Missouri Compromise of 1820 was repealed by the Kansas-Nebraska Act, designed by Senator Stephen A. Douglas of Illinois, in which Congress tried to organize territories carved from the Louisiana Purchase that had been ignored for decades. The two territories of Kansas and Nebraska were formed, and the decision about slavery within them was to be resolved by popular sovereignty. Although Douglas's hope had been to appease all sectional interests, what resulted was an unheard-of level of violence

Time Line

1820	■ The Missouri Compromise establishes 36° 30′ as the dividing line between the free states of the North and the slaveholding states of the South.
1841	■ Solomon Northup is kidnapped from the free state of New York and taken to slave territory.
1845	■ The *Narrative of the Life of Frederick Douglass* is published in Boston.
1846–1848	■ The Mexican-American war reopens the issue of the expansion of slavery when new territory is acquired in the peace settlement.
1850	■ The Fugitive Slave Act, passed as part of the Compromise of 1850, requires that federal authorities in the North assist southern slave catchers in returning runaway slaves to their owners.
1852	■ Harriet Beecher Stowe publishes *Uncle Tom's Cabin*.
1853	■ Solomon Northup is released from slavery and publishes his narrative, *Twelve Years a Slave*. ■ *A Key to Uncle Tom's Cabin* is published by Harriet Beecher Stowe to document the information in *Uncle Tom's Cabin* and to refute critics who have argued that it is not authentic.
1854	■ **May 30** The Kansas-Nebraska Act is passed, making the status of slavery in new territories subject to popular sovereignty.
1855–1856	■ Violence breaks out between proslavery and antislavery proponents in "Bleeding Kansas."

over the issue of slavery—and a disaster for the American political system. Horace Greeley, editor of the *New York Tribune*, coined the name "Bleeding Kansas" as he watched proslavery and antislavery gangs attack each other between 1855 and 1856 as they tried to settle the slavery question in these new territories.

One other question regarding slavery in the new territories had to be resolved as masters took their slaves and began to move west with them, often into free territories. In 1857 the Supreme Court declared in *Dred Scott v. Sandford* that blacks, whether enslaved or free, were not citizens of the United States and could not therefore sue in federal courts. Further, because slaves were declared to be property, the Court ruled that freeing Dred Scott would be a clear violation of the Fifth Amendment because it would amount to depriving Sanford, his owner, of his property without due process of law.

While lawmakers and justices debated and decided the fate of slavery and slaves, many individuals embarked on campaigns of their own. Frederick Douglass became one of the most powerful abolitionists and orators of the nineteenth century as he spoke out against the evils of slavery. After spending twenty years in bondage, Douglass published his autobiography, the *Narrative of the Life of Frederick Douglass* (1845), and created an antislavery newspaper titled the *North Star*. Harriet Beecher Stowe's *Uncle Tom's Cabin*, published in 1852, fanned opposition to the Fugitive Slave Act with a graphic story of slavery that evoked empathy and outrage throughout the North. Her picture of Tom's enslaved life and what he suffered at the hands of his evil white overseer, Simon Legree, mobilized not only abolitionists but also many northerners and antislavers around the nation who had been unaware of the level of the atrocities inflicted upon slaves.

It was in this context that the story of Solomon Northup unfolded. When he was kidnapped in 1841, Northup was unaware that his twelve-year episode would coincide with an escalation of sectional discord that would tear the nation apart eight years after his release and the publication of his narrative in 1853.

About the Author

Solomon Northup was born into a free black family in Minerva, New York, in 1808. His father, Mintus, was a freed slave who early in life took the surname Northup from his owner. Mintus Northup worked as a slave in Rhode Island; when his owner moved to Rensselaer County, New York, and took the elder Northup with him, he promised the slave emancipation upon his death. Solomon's father was a man respected for his industry and integrity. Once free, he worked in agriculture and ultimately acquired enough property to entitle him to the right to vote in New York. Mintus Northup felt that it was important to educate his children, so he encouraged Solomon to read when his duties on the family farm were completed. The younger Northup spent many of his leisure hours playing the violin,

which gave him amusement and served as consolation for the limited possibilities for blacks to advance in nineteenth-century America.

In 1829, Solomon Northup married Anne Hampton, a mixed-race woman. They had three children, and she supported him as he provided for this family. Northup purchased part of a farm, which he diligently worked for many years, but he was never satisfied with the income produced by agriculture. During the winters he and his family lived in a variety of hotels, where he worked as a carriage driver and relied upon his violin for additional earnings. As he stated in his autobiographical narrative, his life up to this point was nothing unusual. But one day in March 1841, he accepted an offer that would result in the loss of his freedom for the next twelve years.

While he was working in Saratoga Springs, New York, Northup was approached by two white men, Merrill Brown and Abram Hamilton, who offered him a job playing violin for a circus, which was located in Washington, D.C. Northup accepted the offer and first traveled to New York City, where his soon-to-be captors suggested he acquire papers declaring his status as a free black citizen of New York, since he would be traveling to Washington, D.C., where slavery was legal. Believing they were protecting his freedom and looking out for his best interests, Northup cooperated with Brown and Hamilton and even enjoyed their polite company.

When the three men arrived in Washington, D.C., in April 1841, the decision was made to attend the funeral procession of President William Henry Harrison. That afternoon, the three spent time in a local saloon, which is where Northup believed he was drugged with laudanum. He passed out that evening; when he awoke a few days later, he found himself in chains in a prison cell, having been robbed of his documents, money, and ultimately his freedom.

The slave pen Northup woke up in was owned by a man named James H. Burch, a well-known slave dealer in Washington, D.C. To force Northup to cooperate, Burch inflicted multiple beatings with a hardwood paddle and cat-o'-nine-tails and insisted that Northup accept the story that he was a runaway slave from Georgia. This was the first of many brutal treatments Northup endured as a slave. He was eventually sent to a slave pen operated by Burch's partner, Theophilus Freeman, in New Orleans, Louisiana. It was here that Northup realized the extent to which slaves were property, as he became part of a slave auction where slaves were sold to the highest bidder.

Northup spent the next twelve years with three different slave owners, William Ford, John M. Tibeats, and Edwin Epps, as he experienced the horrors of slavery. Early in 1852, a benevolent white man named Bass came to work for his last owner, Edwin Epps. Northup, hearing Bass speak about his hatred for slavery, told Bass his true identity and the story of his enslavement. Bass then agreed to help him send letters to people in New York to try to procure his freedom. One of these letters was forwarded to his wife, Anne, who found a lawyer by the name of Henry B. Northup (a member of the slaveholding family that had employed his father) to review Northup's case. Once a New York court heard the evidence (since a law existed that stated that free black residents unlawfully taken into captivity must be released), Northup regained his freedom.

After being released from slavery on January 4, 1853, Solomon and Henry Northup left the Epps plantation in Bayou Boeuf, Louisiana, and headed north to New York. None of his captors was ever convicted despite the fact that they all were eventually arrested, and Northup never received legal compensation for the crimes committed against him. With the help of David Wilson, a local lawyer and legislator, he wrote his narrative so that readers could come to their own conclusions about slavery.

Time Line

1856

■ **May 24–25**
John Brown and an antislavery party massacre five proslavery men at Pottawatomie Creek, Kansas.

1857

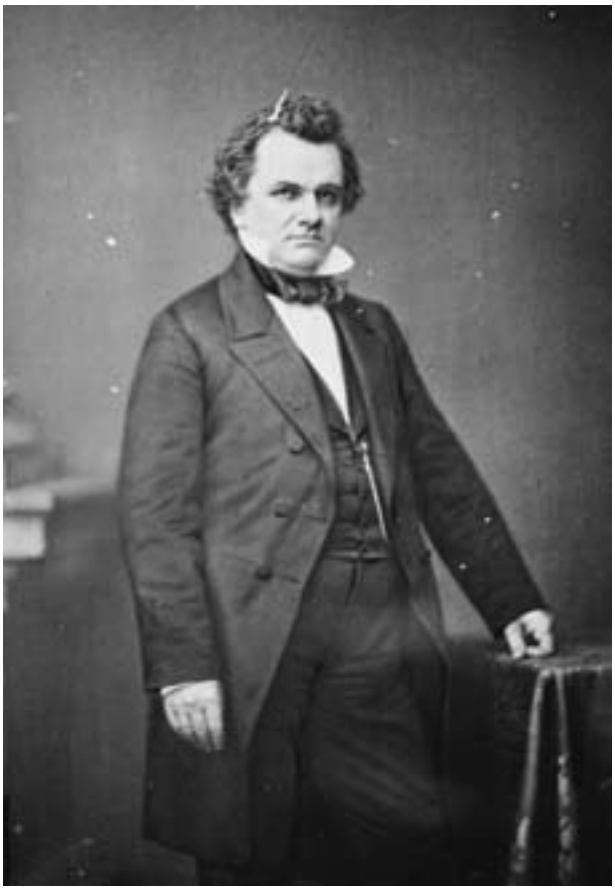
■ **March 6**
The Supreme Court hands down its decision in *Dred Scott v. Sandford* stating that slaves are not U.S. citizens and that Congress has no jurisdiction over slavery in the territories.

1859

■ **October 16**
John Brown leads a failed raid on a federal arsenal at Harpers Ferry, Virginia, in an attempt to free slaves.

Explanation and Analysis of the Document

For many years historians have debated whether slave narratives are reliable sources for historical research. Those who doubt their authenticity, reliability, and usefulness begin with the argument that often these narratives were written by a so-called white amanuensis or recorder who was able to shape the narrative in ways not intended by the slave storyteller. Northup's *Twelve Years a Slave* is considered suspect by some for having been authored by David Wilson, a small-town New York lawyer, former school superintendent, and amateur writer. However, unlike some copyists, Wilson was not an abolitionist and seems to have had no political agenda to promote. Most historians believe that Wilson was faithful to the facts of the story as Northup described them and amply able to capture Northup's sentiments, so Northup's narrative is considered by most to be autobiographical and authentic. Further evidence that Northup's narrative is authen-



Senator Stephen A. Douglas of Illinois (Library of Congress)

tic is that many scholars have investigated various documents, among them, judicial proceedings, census returns and other such public records, the diaries and letters of whites, and newspaper stories, and deemed it credible. In most narratives, including Northup's *Twelve Years a Slave*, the simple stories of slave life follow consistent themes of escape, life on the plantation, religion and its hypocrisy, survival and deceit, class and color, use and abuse of black women, the role of the white mistress, and mobility. Northup's narrative documents most of these aspects of slave life through a unique perspective as a man who was forcibly removed from a life of freedom in the North to enslavement in the Deep South.

Northup chose to dedicate his narrative, titled *Twelve Years a Slave: Narrative of Solomon Northup, Citizen of New York, Kidnapped in Washington City in 1841 and Rescued in 1853, From a Cotton Plantation Near the Red River, in Louisiana*, to Harriet Beecher Stowe. Some historians believe that Northup's narrative may have attempted to revise aspects of Stowe's novel, *Uncle Tom's Cabin*, since they were published a year apart. Another comparison is frequently made between Northup's narrative and the *Narrative of the Life of Frederick Douglass*, published in 1845. Whereas Douglass uses the model of "rags to riches" as the reader follows his life from his enslavement to his eventual freedom and economic self-sufficiency, Northup starts with these freedoms and takes his reader on his own downward journey into enslavement. Upon reading Northup's narrative, Douglass stated, "Think of it: For thirty years a *man*, with all a man's hopes, fears and aspirations … then for twelve years a *thing*, a chattel personal, classed with mules and horses.… Oh! it is horrible. It chills the blood to think that such are."

♦ The Domestic Slave Trade: Slave Pen and Slave Auction

Chapter VI in *Twelve Years a Slave* discusses Northup's experience in going from a slave pen to a slave auction after his kidnapping in Washington, D.C. In the opening paragraph, Northup introduces the reader to Mr. Theophilus Freeman, a partner of James H. Burch and keeper of the slave pen in New Orleans. Burch was the slave dealer who bought Northup in Washington, D.C., destroyed his freedom papers, and beat him when he insisted that he was a free man. Burch was also responsible for assigning him his new name, Platt, along with the story that he was an escaped slave from Georgia. The District of Columbia contained many prisons full of slaves without travel passes and free blacks without proper certificates proving their freedom. Even before the Fugitive Slave Act of 1850, state and regional laws permitted slave dealers to round up potential fugitive slaves and offer them for sale to willing slave owners. The penalty was $800, but the fines were no deterrence to slavers. In an earlier chapter, Northup notes the irony of this location as the seat of the national government where such liberties could be denied. As he is being led out of Washington on his way to the slave auction in New Orleans, Northup notes the hypocrisy between the Founders' desire to guarantee the right to life, liberty, and the pursuit of happiness, as found in the Declaration of Independence, and his imminent enslavement.

In the first paragraph of chapter VI, Northup begins with a description of Freeman as amiable and pious-hearted, but he continues with zoo imagery, where Freeman goes "out among his animals" and proceeds to beat them into submission to prepare them to be sold. Northup seems careful to describe the people he encounters. He gives them the benefit of the doubt, by offering both positive and negative descriptions of their behavior toward him and others. Critics of his narrative have suggested that Northup is too gentle in some of his descriptions and therefore fails to adequately illustrate the cruelties of slavery. Others think that he did a good job of illustrating the psychological and physical effects of forced servitude while pointing out the amenities that made his life endurable.

In the third paragraph, Northup describes how he and the rest of those captive in the slave pen are paraded out to impress future owners. He explains how Freeman discovers that Northup can play the violin and then orders him to play so the others might dance. Earlier in the narrative, Northup had described his love for the violin, which he had played since his youth, as a source of amusement, consolation, and income. Now his musical talent is being exploited as part of his own degradation. In later chapters of the narrative, he would explain that once he had settled on the

Essential Quotes

"I expected to die. Though there was little in the prospect before me worth living for, the near approach of death appalled me. I thought I could have been resigned to yield up my life in the bosom of my family, but to expire in the midst of strangers, under such circumstances, was a bitter reflection."

(Paragraph 12)

"I have seen mothers kissing for the last time the faces of their dead offspring; I have seen them looking down into the grave, as the earth fell with a dull sound upon their coffins, hiding them from their eyes forever; but never have I seen such an exhibition of intense, unmeasured, and unbounded grief, as when Eliza was parted from her child."

(Paragraph 17)

"She was no common slave.… To a large share of intelligence which she possessed, was added a general knowledge and information on most subjects.… She had been lifted up into the regions of a higher life. Freedom—freedom for herself and for her offspring, for many years had been her cloud by day, her pillar of fire by night.… In an unexpected moment she was utterly overwhelmed with disappointment and despair."

(Paragraph 27)

Louisiana plantation, his talent gained him a degree of mobility when he played for dances at neighboring plantations.

In the fourth and fifth paragraphs, Northup portrays the dehumanizing treatment of slaves in the pen and what it felt like to be bartered as someone's property. He describes in detail how they were examined, some of them right down to their naked bodies, and how slave buyers would look for scars on slaves' bodies as a way to gauge their level of rebelliousness. When a gentleman begins bargaining with Freeman, it becomes clear that the more Freeman emphasizes Northup's talents, the higher the price will be for his sale.

♦ Slave Culture

Although Northup thinks himself unique among his fellow slaves, his narrative describes a distinct slave culture, as William Nichols puts it, of "close friendships, secret conversations, folk humor, communally shared anger, and what might be called a mythology of escape and rebellion." This culture was shared by all slaves, regardless of where they worked and lived. Northup discusses many aspects of the cultural life of slaves throughout his narrative, but in chapter VI he focuses on the importance of family, health, and religion.

The importance of family becomes evident in Northup's description of a mother's response to her children's sale. In the sixth paragraph, we are reintroduced to two children, Randall and Emily, and their mother, Eliza, who are waiting with Northup to be purchased by southern plantation owners. Despite her pleadings and promises to be "the most faithful slave that ever lived" if she could be sold together with her two children, Freeman refuses to accommodate her, and Randall is sold off separately. Freeman calls her "a blubbering, bawling wench and order[s] her to go to her place, and behave herself.… or he would give her something to cry about." Later, in paragraph 17, with the prospect of the sale of Eliza without Emily, Eliza's "intense, unmeasured, and unbounded grief" causes her to attempt to physically prevent the sale. This action results in Free-

man's inflicting "a heartless blow" to Eliza, which does not check her from imploring him to stop the sale. When the prospective owner agrees to purchase Emily also to keep the family together, Freeman, realizing the desirability of Emily and believing that he could receive more money "for such an extra, handsome, fancy piece as Emily would be," refuses to sell the child. Eliza is sold off, never again to hear from either of her children. Northup's detail in describing Eliza's grief and his depiction of her as "no common slave" with her "natural intelligence" helps the reader understand how powerless slaves were even to protect their young children. In the last paragraph of this chapter, Northup connects lack of freedom with a total loss of hope. Eliza stands for all slave mothers who watched their future generations descend into slavery.

From the moment he realizes he has been kidnapped, Northup understands that survival will be his main concern. In the middle of this chapter, in paragraph 12, he describes his bout with smallpox. Brought to a hospital to receive care, his fear was "to expire in the midst of strangers," but he thought that he "could have been resigned to yield up [his] life in the bosom of [his] family." He dwells on the number of coffins being hauled away to the potters' field, never to be mourned by their loved ones.

Most authors of slave narratives describe religious beliefs, frequently as part of their search for spiritual guidance. Northup accepts religious gospel yet sees the hypocrisy of such gospel being spread by the slaveholders of the Deep South. He feels that religion and freedom go hand in hand and speaks about this topic regularly among his fellow slaves. Northup opens his entire narrative with a poem by William Cowper that questions how slavery has been allowed to exist over time, when God created both master and slave as equals. In the last paragraph of chapter VI he further connects freedom to religion when he discusses Eliza's grief over losing her children. He refers to the biblical Mount Pisgah, where Moses climbed to view the "land of promise." Eliza has evidently also seen a promised land, but with the sale of her children to a different owner all promise has been lost. Religion, it seems, was both a source of hope for the slaves and, as in the story of Moses' leading the formerly enslaved Jews out of Egypt, a connection with their own desire for freedom.

♦ Slave versus Master

The relationship between slave and slave master is not directly addressed in this chapter, but Northup provides a glimpse into this relationship when he discusses the slave dealers who brought him from Washington, D.C., to New Orleans and the potential buyers who attend the auction. In the fourth paragraph, Northup describes the first customer as "very loquacious," even as he is looking over their bodies "precisely as a jockey examines a horse which he is about to barter for or purchase." A slave in the South had a dual role—as a commodity and as a producer of more commodities. In paragraph 15, the slave owner who will eventually purchase Northup is described as "a good-looking man …[with] something cheerful and attractive in his face, and in his tone of voice." Northup describes those who have power over him as he sees them; he speaks highly of people when it seems fitting to do so, even about those who are contributing to his enslavement.

Audience

Northup wrote *Twelve Years* to inform the general public about the tragic intricacies of slavery. *Uncle Tom's Cabin*, published a year earlier, had such a strong public response that Northup could be perceived by the historians Charles Twitchell Davis and Henry Louis Gates as "riding on Miss Stowe's coattails to share in her immense notoriety." Northup writes that he wanted to repeat the story of his life so that others could determine whether this "peculiar institution" should be allowed to continue. Because of his frustration over the eventual release of his captors, he also probably wanted other citizens of the United States to see the injustice in criminal proceedings that involved the rights of free blacks and slaves. It would not be until the *Dred Scott* case in 1857 that slaves would hear from the Supreme Court that they had no civil liberties because they were considered property.

Impact

Although Northup's narrative did not have an immediate impact on the course of slavery, it succeeded in giving the American public a unique view of slavery as seen through the eyes of a once-free northern black man. The reliability of slave narratives as sources of historical fact has been questioned in the past; however, most historians now believe that such stories as Northup's and those authored by Henry Bibb and William Wells Brown, among others, are authentic autobiographical statements that shed light on the institution of slavery at a time when the nation was heading toward the Civil War. Coming on the heels of *Uncle Tom's Cabin* during the "Decade of Crisis" before the Civil War, Northup's slave narrative added more controversy to the disputes between the North and the South. Whereas earlier authors moderated their stories about slavery to gain credibility with white audiences, Northup provided his readers with the honest and open truth about the horrors of slavery. It is easy to understand its popularity in this context.

See also First Editorial of the *North Star* (1847); Fugitive Slave Act of 1850; *Dred Scott v. Sandford* (1857).

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—Wendy Thowdis

Questions for Further Study

1. Why has the decade of the 1850s been called the "Decade of Crisis"?

2. In the early and mid-nineteenth century, slave narratives became a widely read form of literature. Why do you believe Americans were so interested in reading these narratives?

3. Compare Northup's account with that of William Wells Brown in "Slavery As It Is." What experiences did the two men share? Where there any differences in their experiences?

4. What were some of the characteristics of "slave culture"? Why do you think these cultural characteristics among slaves emerged? What function did they serve?

5. What was Northup's attitude to religion, particularly Christianity as it was practiced in the antebellum South?

Twelve Years a Slave: Narrative of Solomon Northup

Chapter VI.

The very amiable, pious-hearted Mr. Theophilus Freeman, partner or consignee of James H. Burch, and keeper of the slave pen in New-Orleans, was out among his animals early in the morning. With an occasional kick of the older men and women, and many a sharp crack of the whip about the ears of the younger slaves, it was not long before they were all astir, and wide awake. Mr. Theophilus Freeman bustled about in a very industrious manner, getting his property ready for the sales-room, intending, no doubt, to do that day a rousing business.

In the first place we were required to wash thoroughly, and those with beards, to shave. We were then furnished with a new suit each, cheap, but clean. The men had hat, coat, shirt, pants and shoes; the women frocks of calico, and handkerchiefs to bind about their heads. We were now conducted into a large room in the front part of the building to which the yard was attached, in order to be properly trained, before the admission of customers. The men were arranged on one side of the room, the women on the other. The tallest was placed at the head of the row, then the next tallest, and so on in the order of their respective heights. Emily was at the foot of the line of women. Freeman charged us to remember our places; exhorted us to appear smart and lively,—sometimes threatening, and again, holding out various inducements. During the day he exercised us in the art of "looking smart," and of moving to our places with exact precision.

After being fed, in the afternoon, we were again paraded and made to dance. Bob, a colored boy, who had some time belonged to Freeman, played on the violin. Standing near him, I made bold to inquire if he could play the "Virginia Reel." He answered he could not, and asked me if I could play. Replying in the affirmative, he handed me the violin. I struck up a tune, and finished it. Freeman ordered me to continue playing, and seemed well pleased, telling Bob that I far excelled him—a remark that seemed to grieve my musical companion very much.

Next day many customers called to examine Freeman's "new lot." The latter gentleman was very loquacious, dwelling at much length upon our several good points and qualities. He would make us hold up our heads, walk briskly back and forth, while customers would feel of our hands and arms and bodies, turn us about, ask us what we could do, make us open our mouths and show our teeth, precisely as a jockey examines a horse which he is about to barter for or purchase. Sometimes a man or woman was taken back to the small house in the yard, stripped, and inspected more minutely. Scars upon a slave's back were considered evidence of a rebellious or unruly spirit, and hurt his sale.

One old gentleman, who said he wanted a coachman, appeared to take a fancy to me. From his conversation with Burch, I learned he was a resident in the city. I very much desired that he would buy me, because I conceived it would not be difficult to make my escape from New-Orleans on some northern vessel. Freeman asked him fifteen hundred dollars for me. The old gentleman insisted it was too much, as times were very hard. Freeman, however, declared that I was sound and healthy, of a good constitution, and intelligent. He made it a point to enlarge upon my musical attainments. The old gentleman argued quite adroitly that there was nothing extraordinary about the nigger, and finally, to my regret, went out, saying he would call again. During the day, however, a number of sales were made. David and Caroline were purchased together by a Natchez planter. They left us, grinning broadly, and in the most happy state of mind, caused by the fact of their not being separated. Lethe was sold to a planter of Baton Rouge, her eyes flashing with anger as she was led away.

The same man also purchased Randall. The little fellow was made to jump, and run across the floor, and perform many other feats, exhibiting his activity and condition. All the time the trade was going on, Eliza was crying aloud, and wringing her hands. She besought the man not to buy him, unless he also bought her self and Emily. She promised, in that case, to be the most faithful slave that ever lived. The man answered that he could not afford it, and then Eliza burst into a paroxysm of grief, weeping plaintively. Freeman turned round to her, savagely, with his whip in his uplifted hand, ordering her to stop her noise, or he would flog her. He would not have such work—such snivelling; and unless she ceased that minute, he would take her to the yard and give her a

hundred lashes. Yes, he would take the nonsense out of her pretty quick—if he didn't, might he be dead. Eliza shrunk before him, and tried to wipe away her tears, but it was all in vain. She wanted to be with her children, she said, the little time she had to live. All the frowns and threats of Freeman, could not wholly silence the afflicted mother. She kept on begging and beseeching them, most piteously not to separate the three. Over and over again she told them how she loved her boy. A great many times she repeated her former promises—how very faithful and obedient she would be; how hard she would labor day and night, to the last moment of her life, if he would only buy them all together. But it was of no avail; the man could not afford it. The bargain was agreed upon, and Randall must go alone. Then Eliza ran to him; embraced him passionately; kissed him again and again; told him to remember her—all the while her tears falling in the boy's face like rain.

Freeman damned her, calling her a blubbering, bawling wench, and ordered her to go to her place, and behave herself; and be somebody. He swore he wouldn't stand such stuff but a little longer. He would soon give her something to cry about, if she was not mighty careful, and that she might depend upon.

The planter from Baton Rouge, with his new purchases, was ready to depart.

"Don't cry, mama. I will be a good boy. Don't cry," said Randall, looking back, as they passed out of the door.

What has become of the lad, God knows. It was a mournful scene indeed. I would have cried myself if I had dared.

That night, nearly all who came in on the brig Orleans, were taken ill. They complained of violent pain in the head and back. Little Emily—a thing unusual with her—cried constantly. In the morning, a physician was called in, but was unable to determine the nature of our complaint. While examining me, and asking questions touching my symptoms, I gave it as my opinion that it was an attack of smallpox—mentioning the fact of Robert's death as the reason of my belief. It might be so indeed, he thought, and he would send for the head physician of the hospital. Shortly, the head physician came—a small, light-haired man, whom they called Dr. Carr. He pronounced it small-pox, whereupon there was much alarm throughout the yard. Soon after Dr. Carr left, Eliza, Emmy, Harry and myself were put into a hack and driven to the hospital a large white marble building, standing on the outskirts of the city. Harry and I were placed in a room in one of the upper stories. I became very sick. For three days I was entirely blind. While lying in this state one day, Bob came in, saying to Dr. Carr that Freeman had sent him over to inquire how we were getting on. Tell him, said the doctor, that Platt is very bad, but that if he survives until nine o'clock, he may recover.

I expected to die. Though there was little in the prospect before me worth living for, the near approach of death appalled me. I thought I could have been resigned to yield up my life in the bosom of my family, but to expire in the midst of strangers, under such circumstances, was a bitter reflection.

There were a great number in the hospital, of both sexes, and of all ages. In the rear of the building coffins were manufactured. When one died, the bell tolled—a signal to the undertaker to come and bear away the body to the potter's field. Many times, each day and night, the tolling bell sent forth its melancholy voice, announcing another death. But my time had not yet come. The crisis having passed, I began to revive, and at the end of two weeks and two days, returned with Harry to the pen, bearing upon my face the effects of the malady, which to this day continues to disfigure it. Eliza and Emily were also brought back next day in a hack, and again were we paraded in the sales-room, for the inspection and examination of purchasers. I still indulged the hope that the old gentleman in search of a coachman would call again, as he had promised, and purchase me. In that event I felt an abiding confidence that I would soon regain my liberty. Customer after customer entered, but the old gentleman never made his appearance.

At length, one day, while we were in the yard, Freeman came out and ordered us to our places, in the great room. A gentleman was waiting for us as we entered, and inasmuch as he will be often mentioned in the progress of this narrative, a description of his personal appearance, and my estimation of his character, at first sight, may not be out of place.

He was a man above the ordinary height, somewhat bent and stooping forward. He was a good-looking man, and appeared to have reached about the middle age of life. There was nothing repulsive in his presence; but on the other hand, there was something cheerful and attractive in his face, and in his tone of voice. The finer elements were all kindly mingled in his breast, as any one could see. He moved about among us, asking many questions, as to what we could do, and what labor we had been accustomed to; if we thought we would like to live with him, and would be good boys if he would buy us, and other interrogatories of like character.

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After some further inspection, and conversation touching prices, he finally offered Freeman one thousand dollars for me, nine hundred for Harry, and seven hundred for Eliza. Whether the small-pox had depreciated our value, or from what cause Freeman had concluded to fall five hundred dollars from the price I was before held at, I cannot say. At any rate, after a little shrewd reflection, he announced his acceptance of the offer.

As soon as Eliza heard it, she was in an agony again. By this time she had become haggard and hollow-eyed with sickness and with sorrow. It would be a relief if I could consistently pass over in silence the scene that now ensued. It recalls memories more mournful and affecting than any language can portray. I have seen mothers kissing for the last time the faces of their dead offspring; I have seen them looking down into the grave, as the earth fell with a dull sound upon their coffins, hiding them from their eyes forever; but never have I seen such an exhibition of intense, unmeasured, and unbounded grief, as when Eliza was parted from her child. She broke from her place in the line of women, and rushing down where Emily was standing, caught her in her arms. The child, sensible of some impending danger, instinctively fastened her hands around her mother's neck, and nestled her little head upon her bosom. Freeman sternly ordered her to be quiet, but she did not heed him. He caught her by the arm and pulled her rudely, but she only clung the closer to the child. Then, with a volley of great oaths, he struck her such a heartless blow, that she staggered backward, and was like to fall. Oh! how piteously then did she beseech and beg and pray that they might not be separated. Why could they not be purchased together? Why not let her have one of her dear children? "Mercy, mercy, master!" she cried, falling on her knees. "Please, master, buy Emily. I can never work any if she is taken from me: I will die."

Freeman interfered again, but, disregarding him, she still plead most earnestly, telling how Randall had been taken from her—how she never him see him again, and now it was too bad—oh, God! it was too bad, too cruel, to take her away from Emily—her pride—her only darling, that could not live, it was so young, without its mother!

Finally, after much more of supplication, the purchaser of Eliza stepped forward, evidently affected, and said to Freeman he would buy Emily, and asked him what her price was.

"What is her *price*? *Buy* her?" was the responsive interrogatory of Theophilus Freeman. And instantly answering his own inquiry, he added, "I won't sell her. She's not for sale."

The man remarked he was not in need of one so young—that it would be of no profit to him, but since the mother was so fond of her, rather than see them separated, he would pay a reasonable price. But to this humane proposal Freeman was entirely deaf. He would not sell her then on any account whatever. There were heaps and piles of money to be made of her, he said, when she was a few years older. There were men enough in New-Orleans who would give five thousand dollars for such an extra, handsome, fancy piece as Emily would be, rather than not get her. No, no, he would not sell her then. She was a beauty—a picture—a doll—one of the regular bloods—none of your thick-lipped, bullet-headed, cotton-picking niggers—if she was might he be d—d.

When Eliza heard Freeman's determination not to part with Emily, she became absolutely frantic.

"I will *not* go without her. They shall *not* take her from me," she fairly shrieked, her shrieks commingling with the loud and angry voice of Freeman, commanding her to be silent.

Meantime Harry and myself had been to the yard and returned with our blankets, and were at the front door ready to leave. Our purchaser stood near us, gazing at Eliza with an expression indicative of regret at having bought her at the expense of so much sorrow. We waited some time, when, finally, Freeman, out of patience, tore Emily from her mother by main force, the two clinging to each other with all their might.

"Don't leave me, mama—don't leave me," screamed the child, as its mother was pushed harshly forward; "Don't leave me—come back, mama," she still cried, stretching forth her little arms imploringly. But she cried in vain. Out of the door and into the street we were quickly hurried. Still we could hear her calling to her mother, "Come back—don't leave me—come back, mama," until her infant voice grew faint and still more faint, and gradually died away as distance intervened, and finally was wholly lost.

Eliza never after saw or heard of Emily or Randall. Day nor night, however, were they ever absent from her memory. In the cotton field, in the cabin, always and everywhere, she was talking of them—often *to* them, as if they were actually present. Only when absorbed in that illusion, or asleep, did she ever have a moment's comfort afterwards.

She was no common slave, as has been said. To a large share of natural intelligence which she possessed, was added a general knowledge and information on most subjects. She had enjoyed opportuni-

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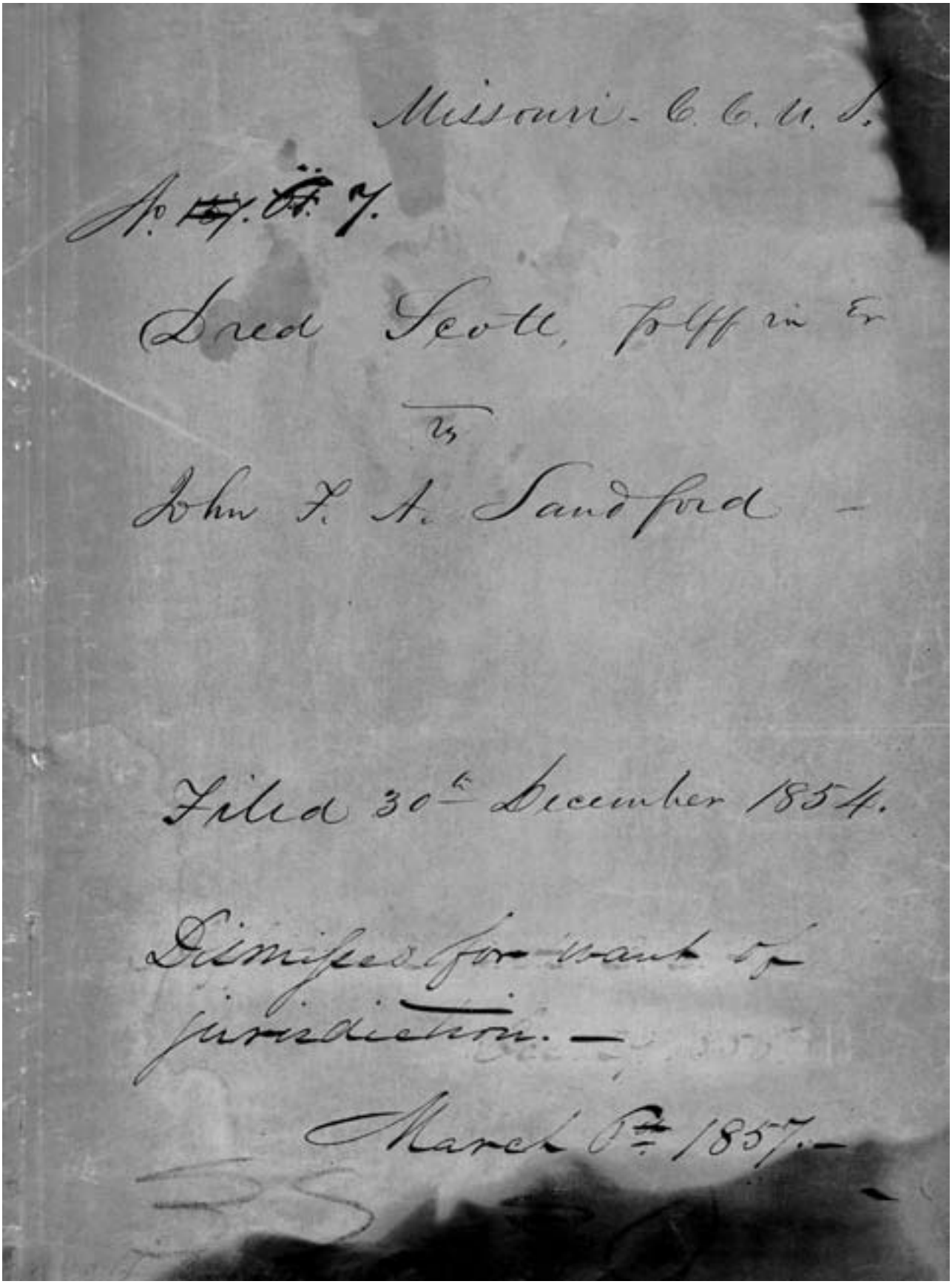
ties such as are afforded to very few of her oppressed class. She had been lifted up into the regions of a higher life. Freedom—freedom for herself and for her offspring, for many years had been her cloud by day, her pillar of fire by night. In her pilgrimage through the wilderness of bondage, with eyes fixed upon that hope-inspiring beacon, she had at length ascended to "the top of Pisgah," and beheld "the land of promise." In an unexpected moment she was utterly overwhelmed with disappointment and despair. The glorious vision of liberty faded from her sight as they led her away into captivity. Now "she weepeth sore in the night, and tears are on her cheeks: all her friends have dealt treacherously with her: they have become her enemies."

Glossary

Pisgah	In the Christian Old Testament book of Deuteronomy, the name of a mountain in Palestine, probably Mount Nebo, from which Moses looks out over the "land of promise"
potter's field	a burial place for criminals, paupers, and indigent people
"she weepeth sore in the night …"	from the Christian Old Testament book of Lamentations, chapter 1, verse 2



Dred Scott v. Sandford (National Archives and Records Administration)

Dred Scott v. Sandford

1857

"[African Americans] are not included, and were not intended to be included, under the word 'citizens' in the Constitution."

Overview

In March 1857 Chief Justice Roger B. Taney announced the opinion of the U.S. Supreme Court in *Dred Scott v. John F. A. Sandford*, which was the Court's most important decision ever issued on slavery. The decision had a dramatic effect on American politics as well as law. The case involved a Missouri slave named Dred Scott who claimed to be free because his master had taken him to what was then the Wisconsin Territory and is today the state of Minnesota. In the Missouri Compromise (also known as the Compromise of 1820), Congress declared that there would be no slavery north of the state of Missouri. Thus, Scott claimed to be free because he had lived in a federal territory where slavery was not allowed. In an opinion that was more than fifty pages long, Chief Justice Taney held that Scott was still a slave, that the Missouri Compromise was unconstitutional, and that Congress had no power to ban slavery from a federal territory. In a part of the decision that shocked many northerners, Chief Justice Taney also held that blacks could never be citizens of the United States and that they had no rights under the Constitution. With notorious bluntness, Taney declared that blacks were "so far inferior, that they had no rights which the white man was bound to respect." The decision was criticized by many northerners and led many to support the new Republican Party. While it is an exaggeration to say the case caused the Civil War, Chief Justice Taney's decision certainly inflamed sectional tensions. It also helped lead to the nomination and election of Abraham Lincoln in 1860, which in turn led to secession and the war.

Context

In the Northwest Ordinance of 1787, the Congress, under the Articles of Confederation, banned slavery from all of the territories north and west of the Ohio River. This area, known as the Northwest Territory, would ultimately become the states of Ohio, Indiana, Illinois, Michigan, and Wisconsin. At the time, the western boundary of the United States was the Mississippi River. The territory west of the Mississippi belonged to Spain.

In 1802 Spain ceded its territories north of Mexico to France, and in 1803 the United States acquired all this land through the Louisiana Purchase. Most of the Louisiana Purchase territory was directly west of the Ohio River and north of the point where the Ohio flowed into the Mississippi. In 1812 Louisiana entered the Union as a slave state without any controversy. When Missouri sought admission to the Union in 1818 as a slave state, however, a number of members of Congress from the North objected on the ground that Missouri should be governed by the Northwest Ordinance. This led to a protracted two-year debate over the status of slavery in Missouri. In the end Congress accepted a compromise developed by Representative Henry Clay of Kentucky. Known as the Missouri Compromise, the law allowed Missouri to enter the Union as a slave state and admitted Maine as a free state. The law also prohibited slavery north and west of Missouri.

At the time of these debates Dred Scott was a slave in Virginia. In 1830 his master, Peter Blow, moved to St. Louis, taking Dred Scott with him. In 1832 Peter Blow died, and shortly after that Dred Scott was sold to Captain John Emerson, a U.S. Army surgeon. In 1833 Emerson was sent to Fort Armstrong, which was located on the site of the modern-day city of Rock Island, Illinois. Scott might have claimed his freedom while at Fort Armstrong because Illinois was a free state. Under the accepted rule of law at the time, slaves could usually become free if their masters voluntarily took them to a free state. Indeed, as early as 1824 the Missouri Supreme Court had freed a slave named Winny because her master had taken her to Illinois. In 1836 the Missouri Supreme Court freed another slave woman, Rachel, because her master, who was in the army, had taken her to forts in present-day Michigan and Minnesota. However, Scott, who was illiterate, probably did not know he could be freed, and he made no effort to gain his freedom at this time.

In 1836 the army sent Emerson to Fort Snelling in what is today the city of St. Paul, Minnesota. At the time, this area was called the Wisconsin Territory, and slavery was illegal there under the Missouri Compromise. Once again, Scott might have claimed his freedom because of his resi-

Time Line

1795–1800

- Dred Scott is born in Virginia. The exact date and year are unknown.

1821

- Missouri enters the Union as a slave state under the Missouri Compromise, which bans slavery north and west of Missouri.

1830

- Peter Blow moves to St. Louis with his slave Dred Scott.

1831

- **January 1**
  In Boston the abolitionist William Lloyd Garrison begins to publish the *Liberator*, the first successful abolitionist newspaper in the United States.
- **August 21**
  In Southampton County, Virginia, Nat Turner leads the bloodiest slave rebellion in American history, leaving white southerners deeply shaken as more than fifty whites and about one hundred blacks die.

1832

- Peter Blow, Dred Scott's owner, dies in St. Louis.
- Captain John Emerson, a U.S. Army surgeon, purchases Dred Scott from the estate of Peter Blow.

1833

- **December 1**
  Emerson is assigned to Fort Armstrong, on the present-day site of Rock Island, Illinois. He brings Dred Scott with him.

1836

- **May 4**
  Emerson transfers to Fort Snelling, bringing Dred Scott with him.

1837

- **November**
  Emerson transfers to Fort Jessup in Louisiana, but he leaves Dred Scott and his wife at Fort Snelling, where they are rented out.

dence in a free jurisdiction, but he did not. From 1836 to 1840 Scott lived at Fort Snelling, at Fort Jessup in Louisiana, and then again at Fort Snelling. During this time he married a slave named Harriet, who was then owned by Lawrence Taliaferro, the Indian agent at Fort Snelling. Taliaferro either sold or gave Harriet to Emerson so the newly married couple could be together. In 1838 Emerson married Irene Sanford.

In 1840 Captain Emerson left the Scotts and their two daughters in St. Louis while he went to Florida during the Second Seminole War. In 1842 Emerson left the army and moved to Iowa, a free territory, but he left his slaves and his wife in St. Louis. In 1843 Dr. Emerson died, and ownership of the Scotts passed to Irene Sanford Emerson.

At this point Dred Scott attempted to purchase his freedom with the help of the sons of his former master, Peter Blow. However, Irene Emerson refused to allow Scott to buy his freedom. Thus, in 1846 a lawyer—the first of five who volunteered to help Scott—filed a suit in St. Louis Circuit Court, claiming that he had become free while living in both Illinois and the Wisconsin Territory (Minnesota) and that once free he could not be reenslaved when he returned to Missouri. By this time there had been numerous cases on the issue in the Missouri courts, and usually slaves who had lived in free states or territories were declared free. For technical reasons, however, Dred Scott did not get his hearing until 1850, about four years after he first sued for freedom. At that point a jury of twelve white men, sitting in the slave state of Missouri, declared Scott and his family to be free.

This should have ended the case, but Irene Emerson appealed to the Missouri Supreme Court in an effort to retain her property. The Scotts were a valuable asset. In addition, while the case had been pending, the Court had hired out the Scotts and kept their wages in an account. Thus, Irene Emerson was trying to keep four slaves plus the wages of Dred and Harriet for the previous four years.

Under the existing precedents, Irene Emerson should not have held out much hope that she would win her case. However, a recent amendment to the Missouri Constitution provided for the election of the state supreme court, and in 1851 a new court took office. Two of the new justices were adamantly proslavery. It therefore seemed like the right time for Mrs. Emerson to challenge the decisions that had led to Scott's freedom.

In 1852 the Missouri Supreme Court, by a two-to-one vote, reversed the decision freeing Dred Scott. Reflecting his proslavery sentiments and his hostility to the growing antislavery movement in the North, Justice William Scott (who was not related to Dred Scott) declared that the state would no longer follow its own precedents on slavery. This decision revolutionized Missouri law, but it was consistent with decisions in some Deep South states, which had also abandoned the idea that slaves could become free if they were taken to free states.

Dred Scott's quest for freedom should have ended here, because there was no higher court where he could appeal the decision. Under American law at the time, Scott had no

grounds for appealing to the U.S. Supreme Court because no constitutional issue had been raised in the case. The federal courts did not have jurisdiction over the status of slaves within the states.

By this time, however, Mrs. Emerson had moved east and married another physician, Dr. Calvin Chaffee of Springfield, Massachusetts. She could not take her slaves with her because slavery was illegal in Massachusetts. Moreover, her new husband was a firm opponent of slavery, and any discussion of her property interest in the Scotts might have undermined her new marriage. Thus, she either gave or sold the Scotts to her brother, John F. A. Sanford, who lived in New York City but had business interests in both St. Louis and New York. (He spelled his last name Sanford, but the clerk of the U.S. Supreme Court would add an extra "d" to his name, and thus the case would be known as *Dred Scott v. Sandford*.)

Sanford's residence in New York opened up the possibility that Dred Scott could now reopen his case in a federal court. Under the Constitution, citizens of one state are allowed to sue citizens of another state. This is known as diversity jurisdiction because there is a diversity (or difference) in the state citizenship of the people involved in the lawsuit. The framers of the Constitution believed that it was necessary for federal courts to be able to hear suits between citizens of different states because otherwise the people would fear that the courts of one state would favor the state's own citizens. The federal courts presumably would be neutral.

Thus, in 1853 Scott's newest lawyer filed a suit in federal court against John Sanford. Scott alleged that he was a "citizen" of Missouri and sued Sanford for assault and battery, asking for $10,000 in damages. Sanford responded with something called a plea in abatement. In this response Sanford argued that the court should abate (stop) the case immediately because, as Sanford argued, Dred Scott "was not a citizen of the State of Missouri, as alleged in his declaration, being a negro of African descent, whose ancestors were of pure African blood, and who were brought into this country and sold as slaves." In essence, Sanford argued that no black person could be a citizen of Missouri, so even if Dred Scott was free, the federal court did not have jurisdiction to hear the case.

In 1854 U.S. District Judge Robert Wells rejected this argument. He held that *if* Dred Scott was free, then he should be considered a citizen for the purpose of diversity jurisdiction. This was the first and only victory Dred Scott had in the federal courts. After hearing all the evidence, Wells decided that Scott's status had to be determined by applying the law of Missouri. Since the Missouri Supreme Court had already held that Scott was not free, Judge Wells ruled against Scott. This set the stage for the case to go to the U.S. Supreme Court. In the December 1855 term the Supreme Court heard arguments in the case, but in the spring of 1856, with a presidential election looming, the Court declined to decide the case and instead asked for new arguments in the next term, beginning in December 1856, which was after the election.

Time Line

1838

- **February 6** Emerson marries Irene Sanford and brings the Scotts to Louisiana.
- **July** Emerson is reassigned to Fort Snelling, and the Scotts accompany him.

1840

- Emerson is reassigned to Florida, and the Scotts are left in St. Louis with Irene Emerson.

1843

- **December** Emerson dies, and ownership of the Scotts passes to Irene Emerson.

1846

- Dred Scott files suit to gain freedom in St. Louis Circuit Court; he loses the suit on a technicality.

1848

- The Missouri Supreme Court grants Dred Scott the right to have a new trial to test his freedom.
- **February 2** The Treaty of Guadalupe Hidalgo ends the Mexican-American War.

1850

- A jury of twelve white men in St. Louis, Missouri, declares Dred Scott free, based on his residence in Illinois and at Fort Snelling.
- Congress passes a series of statutes collectively known as the Compromise of 1850.
- **November** Irene Emerson marries Dr. Calvin Chaffee of Springfield, Massachusetts. Her brother, John F. A. Sanford, continues to defend her claim to Dred Scott.

1852

- In *Scott v. Emerson*, the Missouri Supreme Court overturns nearly three decades of precedents and reverses Dred Scott's victory in the lower court.

Time Line

1853

- Dred Scott initiates a new suit, against John F. A. Sanford, in the U.S. Circuit Court for Missouri.

1854

- U.S. Judge Robert Wells allows Dred Scott to sue in federal court but then rules against him. Scott remains a slave.

1856

- **December**
  The U.S. Supreme Court hears arguments in the Dred Scott case.

1857

- **March 4**
  James Buchanan is inaugurated as president. In his address he urges all Americans to support the outcome of the pending case on slavery in the territories (the Dred Scott case).
- **March 6**
  Chief Justice Taney announces his decision in *Dred Scott v. Sandford*.
- **May 26**
  Taylor Blow, the son of Peter Blow, formally manumits the Scotts, having purchased them from John Sanford after the Supreme Court decision.

1858

- **September 17**
  Dred Scott dies in St. Louis from tuberculosis.

While Dred Scott's case was making its way through the courts, slavery had emerged as the central issue of American politics. In 1820 the Missouri Compromise had settled the issue of slavery in the territories. Starting in 1836, however, the Republic of Texas requested to become part of the United States. Presidents Andrew Jackson and Martin Van Buren resisted accepting Texas because they knew that bringing Texas into the Union would reopen the issue of slavery in the West and probably would lead to a war with Mexico. In late 1844 President John Tyler, who was coming to the end of his term, managed to get Congress to accept Texas, which entered the Union in 1845. This immediately let to a confrontation with Mexico, which had never recognized Texas independence. In April 1846 American and Mexican troops clashed, and by May the two nations were at war. The war ended in September 1847, when General Zachary Taylor entered Mexico City. In the Treaty of Guadalupe Hidalgo, signed on February 2, 1848, Mexico recognized the Texas annexation and ceded all of its northern lands, which included all or part of the present-day states of California, Arizona, New Mexico, Nevada, Utah, and Colorado.

The acquisition of this territory, known as the Mexican Cession, led to a crisis in the Union as the nation debated the status of slavery in the new territories. Congress finally broke the deadlock with a series of statutes collectively known as the Compromise of 1850. These laws allowed slavery in the new territories but admitted California as a free state. This compromise did not satisfy the South, which wanted to repeal the restrictions on slavery in the Missouri Compromise. This was accomplished in 1854 with the passage of the Kansas-Nebraska Act. This law allowed the creation of territorial governments in the territories west and northwest of Missouri—including the present-day states of Kansas, Nebraska, South Dakota, and North Dakota—without regard to slavery. The law allowed the settlers of these territories to decide for themselves whether or not to allow slavery.

The Kansas-Nebraska Act had two immediate results. First was a revolution in politics and the emergence of a new political organization that became the Republican Party. By 1856 it was the dominant party in the North. Its main goal was to prevent the spread of slavery into the territories. Meanwhile, in Kansas a small civil war broke out between supporters and opponents of slavery. Known as Bleeding Kansas, the conflict claimed more than fifty lives in 1855 and 1856.

In 1856 the new Republican Party nominated John C. Frémont for the presidency. Frémont, nicknamed "the Pathfinder," was a national hero for his explorations in the West and his role in securing California during the Mexican-American War. Running on a slogan of "Free Soil, Free Labor, Free Speech, Free Men," Frémont and the new party carried eleven northern states. This was not enough to win but was nevertheless a very impressive showing for a brand-new party. The winning candidate, James Buchanan, was a Pennsylvanian but strongly sympathetic to the South and slavery. He supported opening all of the territories to slavery. In his inaugural address Buchanan declared that the issue of slavery in the territories was a question for the judicial branch and urged Americans to accept the outcome of the Court's pending ruling in the Dred Scott case. Buchanan could so confidently take this position because two justices on the court, Robert C. Grier and John Catron, had told him how the case would be decided. Two days later Chief Justice Taney announced the decision. Rather than settling the issue of slavery in the territories, the decision only made it more troublesome and controversial.

About the Author

Roger Brooke Taney (pronounced "Tawnee") had a long and distinguished career in American politics and law. He was born in 1777 into a wealthy slaveholding family on the

eastern shore of Maryland. He served in the Maryland legislature as a Federalist, but in the 1820s he became a supporter of Andrew Jackson. He was attorney general in Jackson's administration and drafted what became Jackson's famous veto in 1831 of the bill to recharter the Second Bank of the United States. As a young lawyer he freed his own slaves because he had no use for them, but he never opposed slavery or favored abolition. As attorney general he prepared a detailed opinion for President Jackson asserting that free blacks were not entitled to passports and could never be considered citizens of the United States. Taney served briefly as secretary of the treasury, overseeing the removal of deposits from the Bank of the United States.

In 1837 Taney became chief justice of the United States, a position he held until 1864, longer than any other chief justice except John Marshall. As chief justice he was a staunch supporter of slavery and the interests of the southern states. By 1857, when he delivered his opinion in Dred Scott's case, Taney was deeply hostile to abolitionism and vigorously proslavery. In 1860 and 1861 he tacitly supported secession and opposed all of President Lincoln's efforts to maintain the Union, suppress the insurrection, and end slavery. When Taney died in 1864, the U.S. Senate refused to authorize a statue for him, as it had for other deceased justices. In arguing against the proposal for a statue, Senator Charles Sumner of Massachusetts declared that Taney had "administered justice at last wickedly, and degraded the judiciary of the country, and degraded the age." He predicted that "the name is to be hooted down the pages of history."

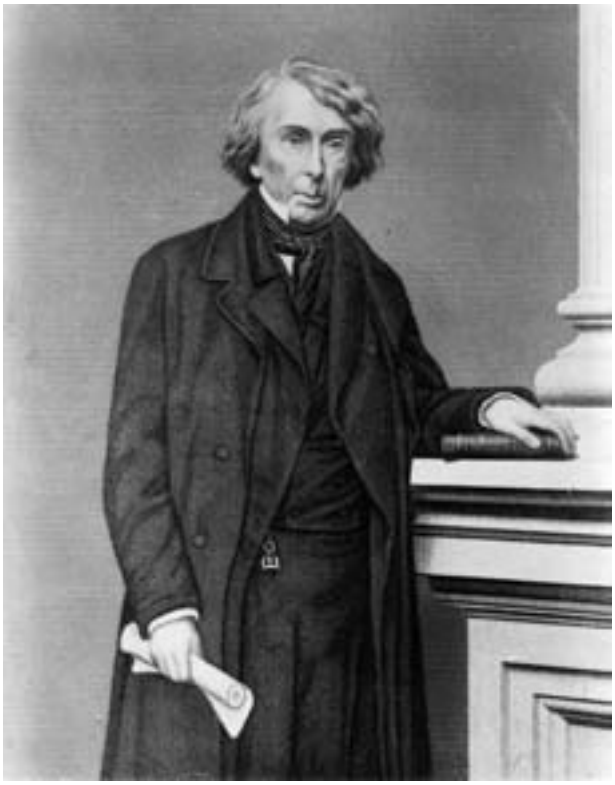
An 1887 engraving of Dred Scott (Library of Congress)

Explanation and Analysis of the Document

All nine justices wrote an opinion in this case. The opinions range in length from Justice Robert C. Grier's half-page concurrence to Justice Benjamin R. Curtis's seventy-page dissent. Chief Justice Taney's "Opinion of the Court" is fifty-four pages long. The nine opinions, along with a handful of pages summarizing the lawyers' arguments, consume 260 pages of *United States Supreme Court Reports*. In his opinion Chief Justice Taney declares that the Missouri Compromise is unconstitutional. This was only the second Supreme Court decision to strike down a federal law. The only other antebellum decision to strike down a federal act—*Marbury v. Madison* (1803)—held unconstitutional a minor portion of the Judiciary Act of 1789. Here the Court struck down a major statute. In his opinion Chief Justice Taney discusses three issues: black citizenship, the constitutionality of the Missouri Compromise, and the power of Congress to ban slavery from the territories. First he examines whether the question of citizenship is legitimately before the Court. The lower federal court had assumed that if Dred Scott was free, he was a citizen of the state where he lived, and he had a right to sue a citizen of another state in federal court. Taney rejects this conclusion. Since the 1830s he had believed that blacks could never be citizens of the United States. Now he had a chance to make his views the law. Taney bases his argu-ment entirely on race. In a very inaccurate history of the founding period, which ignored the fact that free blacks had voted in a number of states at the time of the ratification of the Constitution, Taney asserts that at the founding of the nation blacks, whether enslaved or free, were without any political or legal rights. He declares that blacks

> are not included, and were not intended to be included, under the word "citizens" in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time [1787] considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them.

In one of the most notoriously racist statement in American law, Taney declares that blacks are "so far inferior, that they had no rights which the white man was bound to respect." He therefore concludes that blacks could never be citizens of the United States, even if they were born in the United States. Taney then turns to the issue of slavery in the territories. Here he discusses the constitutionality of



Justice Roger B. Taney (Library of Congress)

the Missouri Compromise and the status of slavery in the territories. His goal is to settle, in favor of the South, the status of slavery in the territories. To do this, Taney had to overcome two strong arguments in favor of congressional power over slavery in the territories. First was the clause in the Constitution that explicitly gave Congress the power to regulate the territories. Second was the political tradition, dating from the Northwest Ordinance, that Congress had such a power. Taney accomplished this through an examination of two separate provisions of the Constitution: the territories clause and the Fifth Amendment.

The territories clause of the Constitution (Article IV, Section 3, Paragraph 2) provides that "Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." Congress had used this clause to govern the territories, prohibiting slavery in some territories and allowing it in others. As recently as 1854 Congress had passed the Kansas-Nebraska Act, allowing the settlers of a territory to allow or ban slavery as they wished. Almost all Americans assumed that Congress had the power to prohibit slavery in the territories. One American who did not was Chief Justice Taney.

In his opinion Taney interprets the territories clause to apply only to those territories the United States had owned in 1787. Taney writes that the clause is

> confined, and was intended to be confined, to the territory which at that time belonged to, or was claimed by, the United States, and was within their boundaries as settled by the treaty with Great Britain, and can have no influence upon a territory afterwards acquired from a foreign Government. It was a special provision for a known and particular territory, and to meet a present emergency, and nothing more.

Few scholars today find this argument even remotely plausible. This was also true in 1857. Justice John Catron, who agreed with Taney on almost every other point, dissented from the claim that Congress could not pass laws to regulate the territories. Nevertheless, Taney asserts that Congress had only the power to provide a minimal government in the territories, but nothing beyond that. Taney implies that allowing Congress to actually govern the territories would be equivalent to "establish[ing] or maintain[ing] colonies bordering on the United States or at a distance, to be ruled and governed at its own pleasure." Taney's argument here is absurd. By 1857 the United States had held some territory (what later became the eastern tip of Minnesota) for the entire period since the adoption of the Constitution without making it a state or treating it as a colony.

The weakness of his argument did not stop Taney, who was determined, as few justices have been, to reach a specific result. His goal was to prohibit the congressional regulation of slavery in the territories, and any argument, it seemed, would do the trick. However, if Congress could not govern the territories, then they would be governed by the settlers. What would happen if the settlers, such as those in Kansas, voted to prohibit slavery? Taney found an answer to this question in the Fifth Amendment to the U.S. Constitution, which prohibits the government from taking private property without due process of law.

Thus, Taney argues that forbidding slavery in the territories violated the due process clause of the Fifth Amendment, which declares that under federal law no person could "be deprived of life, liberty, or property without due process of law." Taney asserts that "an act of Congress which deprives a citizen of the United States of his liberty or property, merely because he came himself or brought his property into a particular Territory of the United States, and who had committed no offence against the laws, could hardly be dignified with the name of due process of law."

This led Taney to assert that slavery was a special form of property with special constitutional protection. Thus he writes:

> the right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, like an ordinary article of merchandise and property, was guarantied to the citizens of the United States, in every State that might desire it, for twenty years. And the Government in express terms is pledged to protect it in all future time, if the slave escapes from his owner. This is done in plain words—too plain to be misunderstood. And no word can be found in the Constitution which gives Congress a greater power over slave property, or which entitles property of that kind to less protection than property

Essential Quotes

"No one, we presume, supposes that any change in public opinion or feeling, in relation to this unfortunate race, in the civilized nations of Europe or in this country, should induce the court to give to the words of the Constitution a more liberal construction in their favor than they were intended to bear when the instrument was framed and adopted."

(Chief Justice Roger Taney, Majority Opinion)

"They [African Americans] are not included, and were not intended to be included, under the word 'citizens' in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time [1787] considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them."

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(Chief Justice Roger Taney, Majority Opinion)

"At the time of the ratification of the Articles of Confederation, all free native-born inhabitants of the States of New Hampshire, Massachusetts, New York, New Jersey, and North Carolina, though descended from African slaves, were not only citizens of those States, but such of them as had the other necessary qualifications possessed the franchise of electors, on equal terms with other citizens."

(Justice Benjamin R. Curtis, Dissenting Opinion)

of any other description. The only power conferred is the power coupled with the duty of guarding and protecting the owner in his rights.

This was perhaps Chief Justice Taney's strongest argument. The Constitution of 1787 clearly protected slavery in a number of places. It was an important and unique kind of property, and thus it needed to be protected. Moreover, Taney's argument that all citizens should be able to take their property with them into every federal territory was not wholly wrong. Indeed, the heart of Taney's argument was that slavery was an important part of American society; therefore slave owners had to have equal access to federal lands.

Chief Justice Taney thus declares that any prohibition on slavery in the territories violated the Fifth Amendment. Even the people of a territory could not ban slavery through the territorial legislature. Taney writes, "And if Congress itself cannot do this—if it is beyond the powers conferred on the Federal Government—it will be admitted, we presume, that it could not authorize a Territorial Government to exercise them. It could confer no power on any local Government, established by its authority, to violate the provisions of the Constitution." Like the Missouri Compromise, under Taney's interpretation of the Constitution, popular sovereignty also was unconstitutional.

Six other justices agreed with all or some of Taney's decision. Four were from the South, and two, Samuel Nelson of New York and Robert C. Grier of Pennsylvania, were northern Democrats with southern sympathies. Two justices, John McLean of Ohio and Benjamin R. Curtis of Massachusetts, issued stinging dissents. Both pointed out, at great length, that Taney's history was wrong and that blacks had voted in a number of states at the time of the country's founding. Both justices also pointed out that since African Americans voted for the ratification of the Constitution in 1787, it was hard to argue that they could not be considered citizens of the nation they had helped to create. The dissenters also stressed that since 1787 no one had doubted that Congress could regulate the territories and ban slavery in them. On both grounds they may have had the better historical arguments but not the votes on the Court.

Audience

The main audience for this law was the people of the United States, and particularly the Congress. Chief Justice Taney hoped this decision would forever settle the question of slavery in the territories and stop Congress from trying to ban slavery. He also hoped it would end the conflict in Kansas over slavery, because under this decision the Kansas territorial government could not prohibit slavery.

Impact

Few cases have had such a huge impact on American politics. Most southerners cheered the decision. So did President Buchanan, who hoped the decision would bring peace to Kansas and destroy the Republican Party, since its main platform was prohibiting slavery in the territories. It also undercut Buchanan's rival in the Democratic Party, Senator Stephen A. Douglas. He had been the leading proponent of popular sovereignty in the territories, which would have allowed the settlers in the territories to decide for themselves whether they wanted slavery. This had been the basis of the Kansas-Nebraska Act, which Douglas sponsored. Under *Dred Scott*, however, popular sovereignty was unconstitutional because the territorial governments were prohibited from banning slavery. Douglas would give tacit support for the decision, but it undermined his political strength in the North.

Republicans around the nation attacked the decision. Horace Greeley, the Republican editor of the *New York Tribune*, responded to the decision with outrage, calling Taney's opinion "wicked," "atrocious," and "abominable" and a "collation of false statements and shallow sophistries." The paper's editor thought Taney's decision had no more validity than the opinions that might be expressed in any "Washington bar-room." The *Chicago Tribune* declared that Taney's statements on black citizenship were "inhuman dicta." The black abolitionist Frederick Douglass called it a "devilish decision—this judicial incarnation of wolfishness!" He also believed, however, that the decision would lead more people to oppose slavery. In 1858 Abraham Lincoln, in his "House Divided" speech, attacked the

Questions for Further Study

1. While most Americans find Taney's decision morally wrong, do any of his arguments make sense?

2. Why do you think Dred Scott did not try to gain his freedom when he lived in Illinois or at Fort Snelling?

3. What are the legacies of the decision today? Are there ways in which the ideas of Chief Justice Taney might still be alive in our culture?

decision and warned that if Republicans were not elected to office, the "next Dred Scott decision" would lead to the nationalization of slavery. Lincoln predicted, "We shall *lie down* pleasantly dreaming that the people of *Missouri* are on the verge of making their state *free*; and we shall *awake* to the *reality*, instead that the *Supreme* Court has made *Illinois* a *slave* state." Lincoln was convinced that the "logical conclusion" of Taney's opinion was that "what one master might lawfully do with Dred Scott, in the free state of Illinois, every master might lawfully do with any other *one*, or *one thousand* slaves in Illinois, or in any other free state."

The decision helped make Abraham Lincoln a national figure and led to his nomination and election as president in 1861. The nation would overrule *Dred Scott* with the adoption of the Thirteenth Amendment to the Constitution in 1865, which ended all slavery in the United States, and the Fourteenth Amendment in 1868, which made all people born in the United States citizens of the United States.

See also Thirteenth Amendment to the U.S. Constitution(1865); Fourteenth Amendment to the U.S. Constitution(1868).

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—Paul Finkelman

Dred Scott v. Sandford

This case has been twice argued. After the argument at the last term, differences of opinion were found to exist among the members of the court; and as the questions in controversy are of the highest importance, and the court was at that time much pressed by the ordinary business of the term, it was deemed advisable to continue the case, and direct a re-argument on some of the points, in order that we might have an opportunity of giving to the whole subject a more deliberate consideration. It has accordingly been again argued by counsel, and considered by the court; and I now proceed to deliver its opinion. There are two leading questions presented by the record: 1. Had the Circuit Court of the United States jurisdiction to hear and determine the case between these parties? And 2. If it had jurisdiction, is the judgment it has given erroneous or not? The plaintiff in error, who was also the plaintiff in the court below, was, with his wife and children, held as slaves by the defendant, in the State of Missouri; and he brought this action in the Circuit Court of the United States for that district, to assert the title of himself and his family to freedom. The declaration is in the form usually adopted in that State to try questions of this description, and contains the averment necessary to give the court jurisdiction; that he and the defendant are citizens of different States; that is, that he is a citizen of Missouri, and the defendant a citizen of New York. The defendant pleaded in abatement to the jurisdiction of the court, that the plaintiff was not a citizen of the State of Missouri, as alleged in his declaration, being a negro of African descent, whose ancestors were of pure African blood, and who were brought into this country and sold as slaves. To this plea the plaintiff demurred, and the defendant joined in demurrer. The court overruled the plea, and gave judgment that the defendant should answer over. And he thereupon put in sundry pleas in bar, upon which issues were joined; and at the trial the verdict and judgment were in his favor. Whereupon the plaintiff brought this writ of error. Before we speak of the pleas in bar, it will be proper to dispose of the questions which have arisen on the plea in abatement. That plea denies the right of the plaintiff to sue in a court of the United States, for the reasons therein stated. If the question raised by it is legally before us, and the court should be of opinion that the facts stated in it disqualify the plaintiff from becoming a citizen, in the sense in which that word is used in the Constitution of the United States, then the judgment of the Circuit Court is erroneous, and must be reversed. It is suggested, however, that this plea is not before us; and that as the judgment in the court below on this plea was in favor of the plaintiff, he does not seek to reverse it, or bring it before the court for revision by his writ of error; and also that the defendant waived this defence by pleading over, and thereby admitted the jurisdiction of the court. But, in making this objection, we think the peculiar and limited jurisdiction of courts of the United States has not been adverted to. This peculiar and limited jurisdiction has made it necessary, in these courts, to adopt different rules and principles of pleading, so far as jurisdiction is concerned, from those which regulate courts of common law in England, and in the different States of the Union which have adopted the common-law rules.

In these last-mentioned courts, where their character and rank are analogous to that of a Circuit Court of the United States; in other words, where they are what the law terms courts of general jurisdiction; they are presumed to have jurisdiction, unless the contrary appears. No averment in the pleadings of the plaintiff is necessary, in order to give jurisdiction. If the defendant objects to it, he must plead it specially, and unless the fact on which he relies is found to be true by a jury, or admitted to be true by the plaintiff, the jurisdiction cannot be disputed in an appellate court.

Now, it is not necessary to inquire whether in courts of that description a party who pleads over in bar, when a plea to the jurisdiction has been ruled against him, does or does not waive his plea; nor whether upon a judgment in his favor on the pleas in bar, and a writ of error brought by the plaintiff, the question upon the plea in abatement would be open for revision in the appellate court. Cases that may have been decided in such courts, or rules that may have been laid down by common-law pleaders, can have no influence in the decision in this court. Because, under the Constitution and laws of the United

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States, the rules which govern the pleadings in its courts, in questions of jurisdiction, stand on different principles and are regulated by different laws.

This difference arises, as we have said, from the peculiar character of the Government of the United States. For although it is sovereign and supreme in its appropriate sphere of action, yet it does not possess all the powers which usually belong to the sovereignty of a nation. Certain specified powers, enumerated in the Constitution, have been conferred upon it; and neither the legislative, executive, nor judicial departments of the Government can lawfully exercise any authority beyond the limits marked out by the Constitution. And in regulating the judicial department, the cases in which the courts of the United States shall have jurisdiction are particularly and specifically enumerated and defined; and they are not authorized to take cognizance of any case which does not come within the description therein specified. Hence, when a plaintiff sues in a court of the United States, it is necessary that he should show, in his pleading, that the suit he brings is within the jurisdiction of the court, and that he is entitled to sue there. And if he omits to do this, and should, by any oversight of the Circuit Court, obtain a judgment in his favor, the judgment would be reversed in the appellate court for want of jurisdiction in the court below. The jurisdiction would not be presumed, as in the case of a common-law English or State court, unless the contrary appeared. But the record, when it comes before the appellate court, must show, affirmatively, that the inferior court had authority, under the Constitution, to hear and determine the case. And if the plaintiff claims a right to sue in a Circuit Court of the United States, under that provision of the Constitution which gives jurisdiction in controversies between citizens of different States, he must distinctly aver in his pleading that they are citizens of different States; and he cannot maintain his suit without showing that fact in the pleadings.

This point was decided in the case of *Bingham v. Cabot*, (in 3 Dall., 382,) and ever since adhered to by the court. And in *Jackson v. Ashton*, (8 Pet., 148,) it was held that the objection to which it was open could not be waived by the opposite party, because consent of parties could not give jurisdiction.

It is needless to accumulate cases on this subject. Those already referred to, and the cases of *Capron v. Van Noorden*, (in 2 Cr., 126,) and *Montalet v. Murray*, (4 Cr., 46,) are sufficient to show the rule of which we have spoken. The case of *Capron v. Van Noorden* strikingly illustrates the difference between a common-law court and a court of the United States.

If, however, the fact of citizenship is averred in the declaration, and the defendant does not deny it, and put it in issue by plea in abatement, he cannot offer evidence at the trial to disprove it, and consequently cannot avail himself of the objection in the appellate court, unless the defect should be apparent in some other part of the record. For if there is no plea in abatement, and the want of jurisdiction does not appear in any other part of the transcript brought up by the writ of error, the undisputed averment of citizenship in the declaration must be taken in this court to be true. In this case, the citizenship is averred, but it is denied by the defendant in the manner required by the rules of pleading, and the fact upon which the denial is based is admitted by the demurrer. And, if the plea and demurrer, and judgment of the court below upon it, are before us upon this record, the question to be decided is, whether the facts stated in the plea are sufficient to show that the plaintiff is not entitled to sue as a citizen in a court of the United States. We think they are before us. The plea in abatement and the judgment of the court upon it, are a part of the judicial proceedings in the Circuit Court, and are there recorded as such; and a writ of error always brings up to the superior court the whole record of the proceedings in the court below. And in the case of the *United States v. Smith*, (11 Wheat., 172,) this court said, that the case being brought up by writ of error, the whole record was under the consideration of this court. And this being the case in the present instance, the plea in abatement is necessarily under consideration; and it becomes, therefore, our duty to decide whether the facts stated in the plea are or are not sufficient to show that the plaintiff is not entitled to sue as a citizen in a court of the United States.

This is certainly a very serious question, and one that now for the first time has been brought for decision before this court. But it is brought here by those who have a right to bring it, and it is our duty to meet it and decide it.

The question is simply this: Can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges, and immunities, guarantied by that instrument to the citizen? One of which rights is the privilege of suing in a court of the United States in the cases specified in the Constitution.

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It will be observed, that the plea applies to that class of persons only whose ancestors were negroes of the African race, and imported into this country, and sold and held as slaves. The only matter in issue before the court, therefore, is, whether the descendants of such slaves, when they shall be emancipated, or who are born of parents who had become free before their birth, are citizens of a State, in the sense in which the word citizen is used in the Constitution of the United States. And this being the only matter in dispute on the pleadings, the court must be understood as speaking in this opinion of that class only, that is, of those persons who are the descendants of Africans who were imported into this country, and sold as slaves.

The situation of this population was altogether unlike that of the Indian race. The latter, it is true, formed no part of the colonial communities, and never amalgamated with them in social connections or in government. But although they were uncivilized, they were yet a free and independent people, associated together in nations or tribes, and governed by their own laws. Many of these political communities were situated in territories to which the white race claimed the ultimate right of dominion. But that claim was acknowledged to be subject to the right of the Indians to occupy it as long as they thought proper, and neither the English nor colonial Governments claimed or exercised any dominion over the tribe or nation by whom it was occupied, nor claimed the right to the possession of the territory, until the tribe or nation consented to cede it. These Indian Governments were regarded and treated as foreign Governments, as much so as if an ocean had separated the red man from the white; and their freedom has constantly been acknowledged, from the time of the first emigration to the English colonies to the present day, by the different Governments which succeeded each other. Treaties have been negotiated with them, and their alliance sought for in war; and the people who compose these Indian political communities have always been treated as foreigners not living under our Government. It is true that the course of events has brought the Indian tribes within the limits of the United States under subjection to the white race; and it has been found necessary, for their sake as well as our own, to regard them as in a state of pupilage, and to legislate to a certain extent over them and the territory they occupy. But they may, without doubt, like the subjects of any other foreign Government, be naturalized by the authority of Congress, and become citizens of a State, and of the United States; and if an individual should leave his nation or tribe, and take up his abode among the white population, he would be entitled to all the rights and privileges which would belong to an emigrant from any other foreign people.

We proceed to examine the case as presented by the pleadings.

The words "people of the United States" and "citizens" are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives. They are what we familiarly call the "sovereign people," and every citizen is one of this people, and a constituent member of this sovereignty. The question before us is, whether the class of persons described in the plea in abatement compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word "citizens" in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them.

It is not the province of the court to decide upon the justice or injustice, the policy or impolicy, of these laws. The decision of that question belonged to the political or law-making power; to those who formed the sovereignty and framed the Constitution. The duty of the court is, to interpret the instrument they have framed, with the best lights we can obtain on the subject, and to administer it as we find it, according to its true intent and meaning when it was adopted.

In discussing this question, we must not confound the rights of citizenship which a State may confer within its own limits, and the rights of citizenship as a member of the Union. It does not by any means follow, because he has all the rights and privileges of a citizen of a State, that he must be a citizen of the United States. He may have all of the rights and privileges of the citizen of a State, and yet not be entitled to the rights and privileges of a citizen in any other State. For, previous to the adoption of the Constitution of the United States, every State

had the undoubted right to confer on whomsoever it pleased the character of citizen, and to endow him with all its rights. But this character of course was confined to the boundaries of the State, and gave him no rights or privileges in other States beyond those secured to him by the laws of nations and the comity of States. Nor have the several States surrendered the power of conferring these rights and privileges by adopting the Constitution of the United States. Each State may still confer them upon an alien, or any one it thinks proper, or upon any class or description of persons; yet he would not be a citizen in the sense in which that word is used in the Constitution of the United States, nor entitled to sue as such in one of its courts, nor to the privileges and immunities of a citizen in the other States. The rights which he would acquire would be restricted to the State which gave them. The Constitution has conferred on Congress the right to establish an uniform rule of naturalization, and this right is evidently exclusive, and has always been held by this court to be so. Consequently, no State, since the adoption of the Constitution, can by naturalizing an alien invest him with the rights and privileges secured to a citizen of a State under the Federal Government, although, so far as the State alone was concerned, he would undoubtedly be entitled to the rights of a citizen, and clothed with all the rights and immunities which the Constitution and laws of the State attached to that character.

It is very clear, therefore, that no State can, by any act or law of its own, passed since the adoption of the Constitution, introduce a new member into the political community created by the Constitution of the United States. It cannot make him a member of this community by making him a member of its own. And for the same reason it cannot introduce any person, or description of persons, who were not intended to be embraced in this new political family, which the Constitution brought into existence, but were intended to be excluded from it.

The question then arises, whether the provisions of the Constitution, in relation to the personal rights and privileges to which the citizen of a State should be entitled, embraced the negro African race, at that time in this country, or who might afterwards be imported, who had then or should afterwards be made free in any State; and to put it in the power of a single State to make him a citizen of the United States, and endue him with the full rights of citizenship in every other State without their consent? Does the Constitution of the United States act upon him whenever he shall be made free under the laws of a State, and raised there to the rank of a citizen, and immediately clothe him with all the privileges of a citizen in every other State, and in its own courts?

The court think the affirmative of these propositions cannot be maintained. And if it cannot, the plaintiff in error could not be a citizen of the State of Missouri, within the meaning of the Constitution of the United States, and, consequently, was not entitled to sue in its courts.

It is true, every person, and every class and description of persons, who were at the time of the adoption of the Constitution recognised as citizens in the several States, became also citizens of this new political body; but none other; it was formed by them, and for them and their posterity, but for no one else. And the personal rights and privileges guarantied to citizens of this new sovereignty were intended to embrace those only who were then members of the several State communities, or who should afterwards by birthright or otherwise become members, according to the provisions of the Constitution and the principles on which it was founded. It was the union of those who were at that time members of distinct and separate political communities into one political family, whose power, for certain specified purposes, was to extend over the whole territory of the United States. And it gave to each citizen rights and privileges outside of his State which he did not before possess, and placed him in every other State upon a perfect equality with its own citizens as to rights of person and rights of property; it made him a citizen of the United States.

It becomes necessary, therefore, to determine who were citizens of the several States when the Constitution was adopted. And in order to do this, we must recur to the Governments and institutions of the thirteen colonies, when they separated from Great Britain and formed new sovereignties, and took their places in the family of independent nations. We must inquire who, at that time, were recognised as the people or citizens of a State, whose rights and liberties had been outraged by the English Government; and who declared their independence, and assumed the powers of Government to defend their rights by force of arms.

In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence, show, that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument.

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It is difficult at this day to realize the state of public opinion in relation to that unfortunate race, which prevailed in the civilized and enlightened portions of the world at the time of the Declaration of Independence, and when the Constitution of the United States was framed and adopted. But the public history of every European nation displays it in a manner too plain to be mistaken.

They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals as well as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion.

And in no nation was this opinion more firmly fixed or more uniformly acted upon than by the English Government and English people. They not only seized them on the coast of Africa, and sold them or held them in slavery for their own use; but they took them as ordinary articles of merchandise to every country where they could make a profit on them, and were far more extensively engaged in this commerce than any other nation in the world.

The opinion thus entertained and acted upon in England was naturally impressed upon the colonies they founded on this side of the Atlantic. And, accordingly, a negro of the African race was regarded by them as an article of property, and held, and bought and sold as such, in every one of the thirteen colonies which united in the Declaration of Independence, and afterwards formed the Constitution of the United States. The slaves were more or less numerous in the different colonies, as slave labor was found more or less profitable. But no one seems to have doubted the correctness of the prevailing opinion of the time.

The legislation of the different colonies furnishes positive and indisputable proof of this fact.

It would be tedious, in this opinion, to enumerate the various laws they passed upon this subject. It will be sufficient, as a sample of the legislation which then generally prevailed throughout the British colonies, to give the laws of two of them; one being still a large slaveholding State, and the other the first State in which slavery ceased to exist.

The province of Maryland, in 1717, (ch. 13, s. 5,) passed a law declaring "that if any free negro or mulatto intermarry with any white woman, or if any white man shall intermarry with any negro or mulatto woman, such negro or mulatto shall become a slave during life, excepting mulattoes born of white women, who, for such intermarriage, shall only become servants for seven years, to be disposed of as the justices of the county court, where such marriage so happens, shall think fit; to be applied by them towards the support of a public school within the said county. And any white man or white woman who shall intermarry as aforesaid, with any negro or mulatto, such white man or white woman shall become servants during the term of seven years, and shall be disposed of by the justices as aforesaid, and be applied to the uses aforesaid."

The other colonial law to which we refer was passed by Massachusetts in 1705, (chap. 6.) It is entitled "An act for the better preventing of a spurious and mixed issue," &c.; and it provides, that "if any negro or mulatto shall presume to smite or strike any person of the English or other Christian nation, such negro or mulatto shall be severely whipped, at the discretion of the justices before whom the offender shall be convicted."

And "that none of her Majesty's English or Scottish subjects, nor of any other Christian nation, within this province, shall contract matrimony with any negro or mulatto; nor shall any person, duly authorized to solemnize marriage, presume to join any such in marriage, on pain of forfeiting the sum of fifty pounds; one moiety thereof to her Majesty, for and towards the support of the Government within this province, and the other moiety to him or them that shall inform and sue for the same, in any of her Majesty's courts of record within the province, by bill, plaint, or information."

We give both of these laws in the words used by the respective legislative bodies, because the language in which they are framed, as well as the provisions contained in them, show, too plainly to be misunderstood, the degraded condition of this unhappy race. They were still in force when the Revolution began, and are a faithful index to the state of feeling towards the class of persons of whom they speak, and of the position they occupied throughout the thirteen colonies, in the eyes and thoughts of the

Document Text

men who framed the Declaration of Independence and established the State Constitutions and Governments. They show that a perpetual and impassable barrier was intended to be erected between the white race and the one which they had reduced to slavery, and governed as subjects with absolute and despotic power, and which they then looked upon as so far below them in the scale of created beings, that intermarriages between white persons and negroes or mulattoes were regarded as unnatural and immoral, and punished as crimes, not only in the parties, but in the person who joined them in marriage. And no distinction in this respect was made between the free negro or mulatto and the slave, but this stigma, of the deepest degradation, was fixed upon the whole race.

We refer to these historical facts for the purpose of showing the fixed opinions concerning that race, upon which the statesmen of that day spoke and acted. It is necessary to do this, in order to determine whether the general terms used in the Constitution of the United States, as to the rights of man and the rights of the people, was intended to include them, or to give to them or their posterity the benefit of any of its provisions.

The language of the Declaration of Independence is equally conclusive:

It begins by declaring that, "when in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and nature's God entitle them, a decent respect for the opinions of mankind requires that they should declare the causes which impel them to the separation."

It then proceeds to say: "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among them is life, liberty, and the pursuit of happiness; that to secure these rights, Governments are instituted, deriving their just powers from the consent of the governed."

The general words above quoted would seem to embrace the whole human family, and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute, that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted this declaration; for if the language, as understood in that day, would embrace them, the conduct of the distinguished men who framed the Declaration of Independence would have been utterly and flagrantly inconsistent with the principles they asserted; and instead of the sympathy of mankind, to which they so confidently appealed, they would have deserved and received universal rebuke and reprobation.

Yet the men who framed this declaration were great men—high in literary acquirements—high in their sense of honor, and incapable of asserting principles inconsistent with those on which they were acting. They perfectly understood the meaning of the language they used, and how it would be understood by others; and they knew that it would not in any part of the civilized world be supposed to embrace the negro race, which, by common consent, had been excluded from civilized Governments and the family of nations, and doomed to slavery. They spoke and acted according to the then established doctrines and principles, and in the ordinary language of the day, and no one misunderstood them. The unhappy black race were separated from the white by indelible marks, and laws long before established, and were never thought of or spoken of except as property, and when the claims of the owner or the profit of the trader were supposed to need protection.

This state of public opinion had undergone no change when the Constitution was adopted, as is equally evident from its provisions and language.

The brief preamble sets forth by whom it was formed, for what purposes, and for whose benefit and protection. It declares that it is formed by the people of the United States; that is to say, by those who were members of the different political communities in the several States; and its great object is declared to be to secure the blessings of liberty to themselves and their posterity. It speaks in general terms of the people of the United States, and of citizens of the several States, when it is providing for the exercise of the powers granted or the privileges secured to the citizen. It does not define what description of persons are intended to be included under these terms, or who shall be regarded as a citizen and one of the people. It uses them as terms so well understood, that no further description or definition was necessary.

But there are two clauses in the Constitution which point directly and specifically to the negro race as a separate class of persons, and show clearly that they were not regarded as a portion of the people or citizens of the Government then formed.

One of these clauses reserves to each of the thirteen States the right to import slaves until the year 1808, if it thinks proper. And the importation which it thus sanctions was unquestionably of persons of

the race of which we are speaking, as the traffic in slaves in the United States had always been confined to them. And by the other provision the States pledge themselves to each other to maintain the right of property of the master, by delivering up to him any slave who may have escaped from his service, and be found within their respective territories. By the first above-mentioned clause, therefore, the right to purchase and hold this property is directly sanctioned and authorized for twenty years by the people who framed the Constitution. And by the second, they pledge themselves to maintain and uphold the right of the master in the manner specified, as long as the Government they then formed should endure. And these two provisions show, conclusively, that neither the description of persons therein referred to, nor their descendants, were embraced in any of the other provisions of the Constitution; for certainly these two clauses were not intended to confer on them or their posterity the blessings of liberty, or any of the personal rights so carefully provided for the citizen.

No one of that race had ever migrated to the United States voluntarily; all of them had been brought here as articles of merchandise. The number that had been emancipated at that time were but few in comparison with those held in slavery; and they were identified in the public mind with the race to which they belonged, and regarded as a part of the slave population rather than the free. It is obvious that they were not even in the minds of the framers of the Constitution when they were conferring special rights and privileges upon the citizens of a State in every other part of the Union.

Indeed, when we look to the condition of this race in the several States at the time, it is impossible to believe that these rights and privileges were intended to be extended to them.

It is very true, that in that portion of the Union where the labor of the negro race was found to be unsuited to the climate and unprofitable to the master, but few slaves were held at the time of the Declaration of Independence; and when the Constitution was adopted, it had entirely worn out in one of them, and measures had been taken for its gradual abolition in several others. But this change had not been produced by any change of opinion in relation to this race; but because it was discovered, from experience, that slave labor was unsuited to the climate and productions of these States: for some of the States, where it had ceased or nearly ceased to exist, were actively engaged in the slave trade, procuring cargoes on the coast of Africa, and transporting them for sale to those parts of the Union where their labor was found to be profitable, and suited to the climate and productions. And this traffic was openly carried on, and fortunes accumulated by it, without reproach from the people of the States where they resided. And it can hardly be supposed that, in the States where it was then countenanced in its worst form—that is, in the seizure and transportation—the people could have regarded those who were emancipated as entitled to equal rights with themselves.

And we may here again refer, in support of this proposition, to the plain and unequivocal language of the laws of the several States, some passed after the Declaration of Independence and before the Constitution was adopted, and some since the Government went into operation.

We need not refer, on this point, particularly to the laws of the present slaveholding States. Their statute books are full of provisions in relation to this class, in the same spirit with the Maryland law which we have before quoted. They have continued to treat them as an inferior class, and to subject them to strict police regulations, drawing a broad line of distinction between the citizen and the slave races, and legislating in relation to them upon the same principle which prevailed at the time of the Declaration of Independence. As relates to these States, it is too plain for argument, that they have never been regarded as a part of the people or citizens of the State, nor supposed to possess any political rights which the dominant race might not withhold or grant at their pleasure. And as long ago as 1822, the Court of Appeals of Kentucky decided that free negroes and mulattoes were not citizens within the meaning of the Constitution of the United States; and the correctness of this decision is recognized, and the same doctrine affirmed, in 1 Meigs's Tenn. Reports, 331.

And if we turn to the legislation of the States where slavery had worn out, or measures taken for its speedy abolition, we shall find the same opinions and principles equally fixed and equally acted upon.

Thus, Massachusetts, in 1786, passed a law similar to the colonial one of which we have spoken. The law of 1786, like the law of 1705, forbids the marriage of any white person with any negro, Indian, or mulatto, and inflicts a penalty of fifty pounds upon any one who shall join them in marriage; and declares all such marriage absolutely null and void, and degrades thus the unhappy issue of the marriage by fixing upon it the stain of bastardy. And this mark of degradation was renewed, and again impressed upon the race, in the careful and deliberate preparation of their revised code published in 1836. This

Document Text

code forbids any person from joining in marriage any white person with any Indian, negro, or mulatto, and subjects the party who shall offend in this respect, to imprisonment, not exceeding six months, in the common jail, or to hard labor, and to a fine of not less than fifty nor more than two hundred dollars; and, like the law of 1786, it declares the marriage to be absolutely null and void. It will be seen that the punishment is increased by the code upon the person who shall marry them, by adding imprisonment to a pecuniary penalty.

So, too, in Connecticut. We refer more particularly to the legislation of this State, because it was not only among the first to put an end to slavery within its own territory, but was the first to fix a mark of reprobation upon the African slave trade. The law last mentioned was passed in October, 1788, about nine months after the State had ratified and adopted the present Constitution of the United States; and by that law it prohibited its own citizens, under severe penalties, from engaging in the trade, and declared all policies of insurance on the vessel or cargo made in the State to be null and void. But, up to the time of the adoption of the Constitution, there is nothing in the legislation of the State indicating any change of opinion as to the relative rights and position of the white and black races in this country, or indicating that it meant to place the latter, when free, upon a level with its citizens. And certainly nothing which would have led the slaveholding States to suppose, that Connecticut designed to claim for them, under the new Constitution, the equal rights and privileges and rank of citizens in every other State.

The first step taken by Connecticut upon this subject was as early as 1774, when it passed an act forbidding the further importation of slaves into the State. But the section containing the prohibition is introduced by the following preamble:

> "And whereas the increase of slaves in this State is injurious to the poor, and inconvenient."

This recital would appear to have been carefully introduced, in order to prevent any misunderstanding of the motive which induced the Legislature to pass the law, and places it distinctly upon the interest and convenience of the white population—excluding the inference that it might have been intended in any degree for the benefit of the other.

And in the act of 1784, by which the issue of slaves, born after the time therein mentioned, were to be free at a certain age, the section is again introduced by a preamble assigning a similar motive for the act. It is in these words:

> "Whereas sound policy requires that the abolition of slavery should be effected as soon as may be consistent with the rights of individuals, and the public safety and welfare"

showing that the right of property in the master was to be protected, and that the measure was one of policy, and to prevent the injury and inconvenience, to the whites, of a slave population in the State.

And still further pursuing its legislation, we find that in the same statute passed in 1774, which prohibited the further importation of slaves into the State, there is also a provision by which any negro, Indian, or mulatto servant, who was found wandering out of the town or place to which he belonged, without a written pass such as is therein described, was made liable to be seized by any one, and taken before the next authority to be examined and delivered up to his master—who was required to pay the charge which had accrued thereby. And a subsequent section of the same law provides, that if any free negro shall travel without such pass, and shall be stopped, seized, or taken up, he shall pay all charges arising thereby. And this law was in full operation when the Constitution of the United States was adopted, and was not repealed till 1797. So that up to that time free negroes and mulattoes were associated with servants and slaves in the police regulations established by the laws of the State.

And again, in 1833, Connecticut passed another law, which made it penal to set up or establish any school in that State for the instruction of persons of the African race not inhabitants of the State, or to instruct or teach in any such school or institution, or board or harbor for that purpose, any such person, without the previous consent in writing of the civil authority of the town in which such school or institution might be.

And it appears by the case of *Crandall v. The State*, reported in 10 Conn. Rep., 340, that upon an information filed against Prudence Crandall for a violation of this law, one of the points raised in the defence was, that the law was a violation of the Constitution of the United States; and that the persons instructed, although of the African race, were citizens of other States, and therefore entitled to the rights and privileges of citizens in the State of Connecticut. But Chief Justice Dagget, before whom the case was tried, held, that persons of that description were not citizens of a State, within the meaning of the word citizen in the Constitution of the

United States, and were not therefore entitled to the privileges and immunities of citizens in other States.

The case was carried up to the Supreme Court of Errors of the State, and the question fully argued there. But the case went off upon another point, and no opinion was expressed on this question.

We have made this particular examination into the legislative and judicial action of Connecticut, because, from the early hostility it displayed to the slave trade on the coast of Africa, we may expect to find the laws of that State as lenient and favorable to the subject race as those of any other State in the Union; and if we find that at the time the Constitution was adopted, they were not even there raised to the rank of citizens, but were still held and treated as property, and the laws relating to them passed with reference altogether to the interest and convenience of the white race, we shall hardly find them elevated to a higher rank anywhere else.

A brief notice of the laws of two other States, and we shall pass on to other considerations.

By the laws of New Hampshire, collected and finally passed in 1815, no one was permitted to be enrolled in the militia of the State, but free white citizens; and the same provision is found in a subsequent collection of the laws, made in 1855. Nothing could more strongly mark the entire repudiation of the African race. The alien is excluded, because, being born in a foreign country, he cannot be a member of the community until he is naturalized. But why are the African race, born in the State, not permitted to share in one of the highest duties of the citizen? The answer is obvious; he is not, by the institutions and laws of the State, numbered among its people. He forms no part of the sovereignty of the State, and is not therefore called on to uphold and defend it. Again, in 1822, Rhode Island, in its revised code, passed a law forbidding persons who were authorized to join persons in marriage, from joining in marriage any white person with any negro, Indian, or mulatto, under the penalty of two hundred dollars, and declaring all such marriages absolutely null and void; and the same law was again re-enacted in its revised code of 1844. So that, down to the last-mentioned period, the strongest mark of inferiority and degradation was fastened upon the African race in that State.

It would be impossible to enumerate and compress in the space usually allotted to an opinion of a court, the various laws, marking the condition of this race, which were passed from time to time after the Revolution, and before and since the adoption of the Constitution of the United States. In addition to those already referred to, it is sufficient to say, that Chancellor Kent, whose accuracy and research no one will question, states in the sixth edition of his *Commentaries*, (published in 1848, 2 vol., 258, note b,) that in no part of the country except Maine, did the African race, in point of fact, participate equally with the whites in the exercise of civil and political rights.

The legislation of the States therefore shows, in a manner not to be mistaken, the inferior and subject condition of that race at the time the Constitution was adopted, and long afterwards, throughout the thirteen States by which that instrument was framed; and it is hardly consistent with the respect due to these States, to suppose that they regarded at that time, as fellow-citizens and members of the sovereignty, a class of beings whom they had thus stigmatized; whom, as we are bound, out of respect to the State sovereignties, to assume they had deemed it just and necessary thus to stigmatize, and upon whom they had impressed such deep and enduring marks of inferiority and degradation; or, that when they met in convention to form the Constitution, they looked upon them as a portion of their constituents, or designed to include them in the provisions so carefully inserted for the security and protection of the liberties and rights of their citizens. It cannot be supposed that they intended to secure to them rights, and privileges, and rank, in the new political body throughout the Union, which every one of them denied within the limits of its own dominion. More especially, it cannot be believed that the large slaveholding States regarded them as included in the word citizens, or would have consented to a Constitution which might compel them to receive them in that character from another State. For if they were so received, and entitled to the privileges and immunities of citizens, it would exempt them from the operation of the special laws and from the police regulations which they considered to be necessary for their own safety. It would give to persons of the negro race, who were recognised as citizens in any one State of the Union, the right to enter every other State whenever they pleased, singly or in companies, without pass or passport, and without obstruction, to sojourn there as long as they pleased, to go where they pleased at every hour of the day or night without molestation, unless they committed some violation of law for which a white man would be punished; and it would give them the full liberty of speech in public and in private upon all subjects upon which its own citizens might speak; to hold public meetings upon political

affairs, and to keep and carry arms wherever they went. And all of this would be done in the face of the subject race of the same color, both free and slaves, and inevitably producing discontent and insubordination among them, and endangering the peace and safety of the State.

It is impossible, it would seem, to believe that the great men of the slaveholding States, who took so large a share in framing the Constitution of the United States, and exercised so much influence in procuring its adoption, could have been so forgetful or regardless of their own safety and the safety of those who trusted and confided in them.

Besides, this want of foresight and care would have been utterly inconsistent with the caution displayed in providing for the admission of new members into this political family. For, when they gave to the citizens of each State the privileges and immunities of citizens in the several States, they at the same time took from the several States the power of naturalization, and confined that power exclusively to the Federal Government. No State was willing to permit another State to determine who should or should not be admitted as one of its citizens, and entitled to demand equal rights and privileges with their own people, within their own territories. The right of naturalization was therefore, with one accord, surrendered by the States, and confided to the Federal Government. And this power granted to Congress to establish an uniform rule of naturalization is, by the well-understood meaning of the word, confined to persons born in a foreign country, under a foreign Government. It is not a power to raise to the rank of a citizen any one born in the United States, who, from birth or parentage, by the laws of the country, belongs to an inferior and subordinate class. And when we find the States guarding themselves from the indiscreet or improper admission by other States of emigrants from other countries, by giving the power exclusively to Congress, we cannot fail to see that they could never have left with the States a much more important power—that is, the power of transforming into citizens a numerous class of persons, who in that character would be much more dangerous to the peace and safety of a large portion of the Union, than the few foreigners one of the States might improperly naturalize. The Constitution upon its adoption obviously took from the States all power by any subsequent legislation to introduce as a citizen into the political family of the United States any one, no matter where he was born, or what might be his character or condition; and it gave to Congress the power to confer this character upon those only who were born outside of the dominions of the United States. And no law of a State, therefore, passed since the Constitution was adopted, can give any right of citizenship outside of its own territory.

A clause similar to the one in the Constitution, in relation to the rights and immunities of citizens of one State in the other States, was contained in the Articles of Confederation. But there is a difference of language, which is worthy of note. The provision in the Articles of Confederation was, "that the free inhabitants of each of the States, paupers, vagabonds, and fugitives from justice, excepted, should be entitled to all the privileges and immunities of free citizens in the several States."

It will be observed, that under this Confederation, each State had the right to decide for itself, and in its own tribunals, whom it would acknowledge as a free inhabitant of another State. The term free inhabitant, in the generality of its terms, would certainly include one of the African race who had been manumitted. But no example, we think, can be found of his admission to all the privileges of citizenship in any State of the Union after these Articles were formed, and while they continued in force. And, notwithstanding the generality of the words "free inhabitants," it is very clear that, according to their accepted meaning in that day, they did not include the African race, whether free or not: for the fifth section of the ninth article provides that Congress should have the power "to agree upon the number of land forces to be raised, and to make requisitions from each State for its quota in proportion to the number of white inhabitants in such State, which requisition should be binding."

Words could hardly have been used which more strongly mark the line of distinction between the citizen and the subject; the free and the subjugated races. The latter were not even counted when the inhabitants of a State were to be embodied in proportion to its numbers for the general defence. And it cannot for a moment be supposed, that a class of persons thus separated and rejected from those who formed the sovereignty of the States, were yet intended to be included under the words "free inhabitants," in the preceding article, to whom privileges and immunities were so carefully secured in every State.

But although this clause of the Articles of Confederation is the same in principle with that inserted in the Constitution, yet the comprehensive word inhabitant, which might be construed to include an emancipated slave, is omitted; and the privilege is

confined to citizens of the State. And this alteration in words would hardly have been made, unless a different meaning was intended to be conveyed, or a possible doubt removed. The just and fair inference is, that as this privilege was about to be placed under the protection of the General Government, and the words expounded by its tribunals, and all power in relation to it taken from the State and its courts, it was deemed prudent to describe with precision and caution the persons to whom this high privilege was given—and the word citizen was on that account substituted for the words free inhabitant. The word citizen excluded, and no doubt intended to exclude, foreigners who had not become citizens of some one of the States when the Constitution was adopted; and also every description of persons who were not fully recognised as citizens in the several States. This, upon any fair construction of the instruments to which we have referred, was evidently the object and purpose of this change of words.

To all this mass of proof we have still to add, that Congress has repeatedly legislated upon the same construction of the Constitution that we have given. Three laws, two of which were passed almost immediately after the Government went into operation, will be abundantly sufficient to show this. The two first are particularly worthy of notice, because many of the men who assisted in framing the Constitution, and took an active part in procuring its adoption, were then in the halls of legislation, and certainly understood what they meant when they used the words "people of the United States" and "citizen" in that well-considered instrument.

The first of these acts is the naturalization law, which was passed at the second session of the first Congress, March 26, 1790, and confines the right of becoming citizens "to aliens being free white persons."

Now, the Constitution does not limit the power of Congress in this respect to white persons. And they may, if they think proper, authorize the naturalization of any one, of any color, who was born under allegiance to another Government. But the language of the law above quoted, shows that citizenship at that time was perfectly understood to be confined to the white race; and that they alone constituted the sovereignty in the Government.

Congress might, as we before said, have authorized the naturalization of Indians, because they were aliens and foreigners. But, in their then untutored and savage state, no one would have thought of admitting them as citizens in a civilized community. And, moreover, the atrocities they had but recently committed, when they were the allies of Great Britain in the Revolutionary war, were yet fresh in the recollection of the people of the United States, and they were even then guarding themselves against the threatened renewal of Indian hostilities. No one supposed then that any Indian would ask for, or was capable of enjoying, the privileges of an American citizen, and the word white was not used with any particular reference to them.

Neither was it used with any reference to the African race imported into or born in this country; because Congress had no power to naturalize them, and therefore there was no necessity for using particular words to exclude them.

It would seem to have been used merely because it followed out the line of division which the Constitution has drawn between the citizen race, who formed and held the Government, and the African race, which they held in subjection and slavery, and governed at their own pleasure.

Another of the early laws of which we have spoken, is the first militia law, which was passed in 1792, at the first session of the second Congress. The language of this law is equally plain and significant with the one just mentioned. It directs that every "free able-bodied white male citizen" shall be enrolled in the militia. The word white is evidently used to exclude the African race, and the word "citizen" to exclude unnaturalized foreigners; the latter forming no part of the sovereignty, owing it no allegiance, and therefore under no obligation to defend it. The African race, however, born in the country, did owe allegiance to the Government, whether they were slave or free; but it is repudiated, and rejected from the duties and obligations of citizenship in marked language.

The third act to which we have alluded is even still more decisive; it was passed as late as 1813, (2 Stat., 809,) and it provides: "That from and after the termination of the war in which the United States are now engaged with Great Britain, it shall not be lawful to employ, on board of any public or private vessels of the United States, any person or persons except citizens of the United States, or persons of color, natives of the United States." Here the line of distinction is drawn in express words. Persons of color, in the judgment of Congress, were not included in the word citizens, and they are described as another and different class of persons, and authorized to be employed, if born in the United States.

And even as late as 1820, (chap. 104, sec. 8,) in the charter to the city of Washington, the corpora-

tion is authorized "to restrain and prohibit the nightly and other disorderly meetings of slaves, free negroes, and mulattoes," thus associating them together in its legislation; and after prescribing the punishment that may be inflicted on the slaves, proceeds in the following words: "And to punish such free negroes and mulattoes by penalties not exceeding twenty dollars for any one offence; and in case of the inability of any such free negro or mulatto to pay any such penalty and cost thereon, to cause him or her to be confined to labor for any time not exceeding six calendar months." And in a subsequent part of the same section, the act authorizes the corporation "to prescribe the terms and conditions upon which free negroes and mulattoes may reside in the city."

This law, like the laws of the States, shows that this class of persons were governed by special legislation directed expressly to them, and always connected with provisions for the government of slaves, and not with those for the government of free white citizens. And after such an uniform course of legislation as we have stated, by the colonies, by the States, and by Congress, running through a period of more than a century, it would seem that to call persons thus marked and stigmatized, "citizens" of the United States, "fellow-citizens," a constituent part of the sovereignty, would be an abuse of terms, and not calculated to exalt the character of an American citizen in the eyes of other nations.

The conduct of the Executive Department of the Government has been in perfect harmony upon this subject with this course of legislation. The question was brought officially before the late William Wirt, when he was the Attorney General of the United States, in 1821, and he decided that the words "citizens of the United States" were used in the acts of Congress in the same sense as in the Constitution; and that free persons of color were not citizens, within the meaning of the Constitution and laws; and this opinion has been confirmed by that of the late Attorney General, Caleb Cushing, in a recent case, and acted upon by the Secretary of State, who refused to grant passports to them as "citizens of the United States."

But it is said that a person may be a citizen, and entitled to that character, although he does not possess all the rights which may belong to other citizens; as, for example, the right to vote, or to hold particular offices; and that yet, when he goes into another State, he is entitled to be recognised there as a citizen, although the State may measure his rights by the rights which it allows to persons of a like character or class resident in the State, and refuse to him the full rights of citizenship.

This argument overlooks the language of the provision in the Constitution of which we are speaking. Undoubtedly, a person may be a citizen, that is, a member of the community who form the sovereignty, although he exercises no share of the political power, and is incapacitated from holding particular offices. Women and minors, who form a part of the political family, cannot vote; and when a property qualification is required to vote or hold a particular office, those who have not the necessary qualification cannot vote or hold the office, yet they are citizens.

So, too, a person may be entitled to vote by the law of the State, who is not a citizen even of the State itself. And in some of the States of the Union foreigners not naturalized are allowed to vote. And the State may give the right to free negroes and mulattoes, but that does not make them citizens of the State, and still less of the United States. And the provision in the Constitution giving privileges and immunities in other States, does not apply to them.

Neither does it apply to a person who, being the citizen of a State, migrates to another State. For then he becomes subject to the laws of the State in which he lives, and he is no longer a citizen of the State from which he removed. And the State in which he resides may then, unquestionably, determine his status or condition, and place him among the class of persons who are not recognised as citizens, but belong to an inferior and subject race; and may deny him the privileges and immunities enjoyed by its citizens.

But so far as mere rights of person are concerned, the provision in question is confined to citizens of a State who are temporarily in another State without taking up their residence there. It gives them no political rights in the State, as to voting or holding office, or in any other respect. For a citizen of one State has no right to participate in the government of another. But if he ranks as a citizen in the State to which he belongs, within the meaning of the Constitution of the United States, then, whenever he goes into another State, the Constitution clothes him, as to the rights of person, with all the privileges and immunities which belong to citizens of the State. And if persons of the African race are citizens of a State, and of the United States, they would be entitled to all of these privileges and immunities in every State, and the State could not restrict them; for they would hold these privileges and immunities under the paramount authority of the Federal Government, and its courts would be bound to maintain and enforce

them, the Constitution and laws of the State to the contrary notwithstanding. And if the States could limit or restrict them, or place the party in an inferior grade, this clause of the Constitution would be unmeaning, and could have no operation; and would give no rights to the citizen when in another State. He would have none but what the State itself chose to allow him. This is evidently not the construction or meaning of the clause in question. It guaranties rights to the citizen, and the State cannot withhold them. And these rights are of a character and would lead to consequences which make it absolutely certain that the African race were not included under the name of citizens of a State, and were not in the contemplation of the framers of the Constitution when these privileges and immunities were provided for the protection of the citizen in other States.

The case of *Legrand v. Darnall* (2 Peters, 664) has been referred to for the purpose of showing that this court has decided that the descendant of a slave may sue as a citizen in a court of the United States; but the case itself shows that the question did not arise and could not have arisen in the case.

It appears from the report, that Darnall was born in Maryland, and was the son of a white man by one of his slaves, and his father executed certain instruments to manumit him, and devised to him some landed property in the State. This property Darnall afterwards sold to Legrand, the appellant, who gave his notes for the purchase-money. But becoming afterwards apprehensive that the appellee had not been emancipated according to the laws of Maryland, he refused to pay the notes until he could be better satisfied as to Darnall's right to convey. Darnall, in the mean time, had taken up his residence in Pennsylvania, and brought suit on the notes, and recovered judgment in the Circuit Court for the district of Maryland.

The whole proceeding, as appears by the report, was an amicable one; Legrand being perfectly willing to pay the money, if he could obtain a title, and Darnall not wishing him to pay unless he could make him a good one. In point of fact, the whole proceeding was under the direction of the counsel who argued the case for the appellee, who was the mutual friend of the parties, and confided in by both of them, and whose only object was to have the rights of both parties established by judicial decision in the most speedy and least expensive manner.

Legrand, therefore, raised no objection to the jurisdiction of the court in the suit at law, because he was himself anxious to obtain the judgment of the court upon his title. Consequently, there was nothing in the record before the court to show that Darnall was of African descent, and the usual judgment and award of execution was entered. And Legrand thereupon filed his bill on the equity side of the Circuit Court, stating that Darnall was born a slave, and had not been legally emancipated, and could not therefore take the land devised to him, nor make Legrand a good title; and praying an injunction to restrain Darnall from proceeding to execution on the judgment, which was granted. Darnall answered, averring in his answer that he was a free man, and capable of conveying a good title.

Testimony was taken on this point, and at the hearing the Circuit Court was of opinion that Darnall was a free man and his title good, and dissolved the injunction and dismissed the bill; and that decree was affirmed here, upon the appeal of Legrand.

Now, it is difficult to imagine how any question about the citizenship of Darnall, or his right to sue in that character, can be supposed to have arisen or been decided in that case. The fact that he was of African descent was first brought before the court upon the bill in equity. The suit at law had then passed into judgment and award of execution, and the Circuit Court, as a court of law, had no longer any authority over it. It was a valid and legal judgment, which the court that rendered it had not the power to reverse or set aside. And unless it had jurisdiction as a court of equity to restrain him from using its process as a court of law, Darnall, if he thought proper, would have been at liberty to proceed on his judgment, and compel the payment of the money, although the allegations in the bill were true, and he was incapable of making a title. No other court could have enjoined him, for certainly no State equity court could interfere in that way with the judgment of a Circuit Court of the United States.

But the Circuit Court as a court of equity certainly had equity jurisdiction over its own judgment as a court of law, without regard to the character of the parties; and had not only the right, but it was its duty—no matter who were the parties in the judgment—to prevent them from proceeding to enforce it by execution, if the court was satisfied that the money was not justly and equitably due. The ability of Darnall to convey did not depend upon his citizenship, but upon his title to freedom. And if he was free, he could hold and convey property, by the laws of Maryland, although he was not a citizen. But if he was by law still a slave, he could not. It was therefore the duty of the court, sitting as a court of equity in the latter case, to prevent him from using its process,

as a court of common law, to compel the payment of the purchase-money, when it was evident that the purchaser must lose the land. But if he was free, and could make a title, it was equally the duty of the court not to suffer Legrand to keep the land, and refuse the payment of the money, upon the ground that Darnall was incapable of suing or being sued as a citizen in a court of the United States. The character or citizenship of the parties had no connection with the question of jurisdiction, and the matter in dispute had no relation to the citizenship of Darnall. Nor is such a question alluded to in the opinion of the court.

Besides, we are by no means prepared to say that there are not many cases, civil as well as criminal, in which a Circuit Court of the United States may exercise jurisdiction, although one of the African race is a party; that broad question is not before the court. The question with which we are now dealing is, whether a person of the African race can be a citizen of the United States, and become thereby entitled to a special privilege, by virtue of his title to that character, and which, under the Constitution, no one but a citizen can claim. It is manifest that the case of Legrand and Darnall has no bearing on that question, and can have no application to the case now before the court.

This case, however, strikingly illustrates the consequences that would follow the construction of the Constitution which would give the power contended for to a State. It would in effect give it also to an individual. For if the father of young Darnall had manumitted him in his lifetime, and sent him to reside in a State which recognised him as a citizen, he might have visited and sojourned in Maryland when he pleased, and as long as he pleased, as a citizen of the United States; and the State officers and tribunals would be compelled, by the paramount authority of the Constitution, to receive him and treat him as one of its citizens, exempt from the laws and police of the State in relation to a person of that description, and allow him to enjoy all the rights and privileges of citizenship, without respect to the laws of Maryland, although such laws were deemed by it absolutely essential to its own safety.

The only two provisions which point to them and include them, treat them as property, and make it the duty of the Government to protect it; no other power, in relation to this race, is to be found in the Constitution; and as it is a Government of special, delegated, powers, no authority beyond these two provisions can be constitutionally exercised. The Government of the United States had no right to interfere for any other purpose but that of protecting the rights of the owner, leaving it altogether with the several States to deal with this race, whether emancipated or not, as each State may think justice, humanity, and the interests and safety of society, require. The States evidently intended to reserve this power exclusively to themselves.

No one, we presume, supposes that any change in public opinion or feeling, in relation to this unfortunate race, in the civilized nations of Europe or in this country, should induce the court to give to the words of the Constitution a more liberal construction in their favor than they were intended to bear when the instrument was framed and adopted. Such an argument would be altogether inadmissible in any tribunal called on to interpret it. If any of its provisions are deemed unjust, there is a mode prescribed in the instrument itself by which it may be amended; but while it remains unaltered, it must be construed now as it was understood at the time of its adoption. It is not only the same in words, but the same in meaning, and delegates the same powers to the Government, and reserves and secures the same rights and privileges to the citizen; and as long as it continues to exist in its present form, it speaks not only in the same words, but with the same meaning and intent with which it spoke when it came from the hands of its framers, and was voted on and adopted by the people of the United States. Any other rule of construction would abrogate the judicial character of this court, and make it the mere reflex of the popular opinion or passion of the day. This court was not created by the Constitution for such purposes. Higher and graver trusts have been confided to it, and it must not falter in the path of duty.

What the construction was at that time, we think can hardly admit of doubt. We have the language of the Declaration of Independence and of the Articles of Confederation, in addition to the plain words of the Constitution itself; we have the legislation of the different States, before, about the time, and since, the Constitution was adopted; we have the legislation of Congress, from the time of its adoption to a recent period; and we have the constant and uniform action of the Executive Department, all concurring together, and leading to the same result. And if anything in relation to the construction of the Constitution can be regarded as settled, it is that which we now give to the word "citizen" and the word "people."

And upon a full and careful consideration of the subject, the court is of opinion, that, upon the facts stated in the plea in abatement, Dred Scott was not a citizen of Missouri within the meaning of the Constitution of the United States, and not

entitled as such to sue in its courts; and, consequently, that the Circuit Court had no jurisdiction of the case, and that the judgment on the plea in abatement is erroneous.

We are aware that doubts are entertained by some of the members of the court, whether the plea in abatement is legally before the court upon this writ of error; but if that plea is regarded as waived, or out of the case upon any other ground, yet the question as to the jurisdiction of the Circuit Court is presented on the face of the bill of exception itself, taken by the plaintiff at the trial; for he admits that he and his wife were born slaves, but endeavors to make out his title to freedom and citizenship by showing that they were taken by their owner to certain places, hereinafter mentioned, where slavery could not by law exist, and that they thereby became free, and upon their return to Missouri became citizens of that State.

Now, if the removal of which he speaks did not give them their freedom, then by his own admission he is still a slave; and whatever opinions may be entertained in favor of the citizenship of a free person of the African race, no one supposes that a slave is a citizen of the State or of the United States. If, therefore, the acts done by his owner did not make them free persons, he is still a slave, and certainly incapable of suing in the character of a citizen.

The principle of law is too well settled to be disputed, that a court can give no judgment for either party, where it has no jurisdiction; and if, upon the showing of Scott himself, it appeared that he was still a slave, the case ought to have been dismissed, and the judgment against him and in favor of the defendant for costs, is, like that on the plea in abatement, erroneous, and the suit ought to have been dismissed by the Circuit Court for want of jurisdiction in that court.

But, before we proceed to examine this part of the case, it may be proper to notice an objection taken to the judicial authority of this court to decide it; and it has been said, that as this court has decided against the jurisdiction of the Circuit Court on the plea in abatement, it has no right to examine any question presented by the exception; and that anything it may say upon that part of the case will be extra-judicial, and mere obiter dicta.

This is a manifest mistake; there can be no doubt as to the jurisdiction of this court to revise the judgment of a Circuit Court, and to reverse it for any error apparent on the record, whether it be the error of giving judgment in a case over which it had no jurisdiction, or any other material error; and this, too, whether there is a plea in abatement or not.

The objection appears to have arisen from confounding writs of error to a State court, with writs of error to a Circuit Court of the United States. Undoubtedly, upon a writ of error to a State court, unless the record shows a case that gives jurisdiction, the case must be dismissed for want of jurisdiction in this court. And if it is dismissed on that ground, we have no right to examine and decide upon any question presented by the bill of exceptions, or any other part of the record. But writs of error to a State court, and to a Circuit Court of the United States, are regulated by different laws, and stand upon entirely different principles. And in a writ of error to a Circuit Court of the United States, the whole record is before this court for examination and decision; and if the sum in controversy is large enough to give jurisdiction, it is not only the right, but it is the judicial duty of the court, to examine the whole case as presented by the record; and if it appears upon its face that any material error or errors have been committed by the court below, it is the duty of this court to reverse the judgment, and remand the case. And certainly an error in passing a judgment upon the merits in favor of either party, in a case which it was not authorized to try, and over which it had no jurisdiction, is as grave an error as a court can commit.

The plea in abatement is not a plea to the jurisdiction of this court, but to the jurisdiction of the Circuit Court. And it appears by the record before us, that the Circuit Court committed an error, in deciding that it had jurisdiction, upon the facts in the case, admitted by the pleadings. It is the duty of the appellate tribunal to correct this error; but that could not be done by dismissing the case for want of jurisdiction here—for that would leave the erroneous judgment in full force, and the injured party without remedy. And the appellate court therefore exercises the power for which alone appellate courts are constituted, by reversing the judgment of the court below for this error. It exercises its proper and appropriate jurisdiction over the judgment and proceedings of the Circuit Court, as they appear upon the record brought up by the writ of error.

The correction of one error in the court below does not deprive the appellate court of the power of examining further into the record, and correcting any other material errors which may have been committed by the inferior court. There is certainly no rule of law—nor any practice—nor any decision of a court—which even questions this power in the appellate tribunal. On the contrary, it is the daily practice of this

court, and of all appellate courts where they reverse the judgment of an inferior court for error, to correct by its opinions whatever errors may appear on the record material to the case; and they have always held it to be their duty to do so where the silence of the court might lead to misconstruction or future controversy, and the point has been relied on by either side, and argued before the court.

In the case before us, we have already decided that the Circuit Court erred in deciding that it had jurisdiction upon the facts admitted by the pleadings. And it appears that, in the further progress of the case, it acted upon the erroneous principle it had decided on the pleadings, and gave judgment for the defendant, where, upon the facts admitted in the exception, it had no jurisdiction.

We are at a loss to understand upon what principle of law, applicable to appellate jurisdiction, it can be supposed that this court has not judicial authority to correct the last-mentioned error, because they had before corrected the former; or by what process of reasoning it can be made out, that the error of an inferior court in actually pronouncing judgment for one of the parties, in a case in which it had no jurisdiction, cannot be looked into or corrected by this court, because we have decided a similar question presented in the pleadings. The last point is distinctly presented by the facts contained in the plaintiff's own bill of exceptions, which he himself brings here by this writ of error. It was the point which chiefly occupied the attention of the counsel on both sides in the argument—and the judgment which this court must render upon both errors is precisely the same. It must, in each of them, exercise jurisdiction over the judgment, and reverse it for the errors committed by the court below; and issue a mandate to the Circuit Court to conform its judgment to the opinion pronounced by this court, by dismissing the case for want of jurisdiction in the Circuit Court. This is the constant and invariable practice of this court, where it reverses a judgment for want of jurisdiction in the Circuit Court.

It can scarcely be necessary to pursue such a question further. The want of jurisdiction in the court below may appear on the record without any plea in abatement. This is familiarly the case where a court of chancery has exercised jurisdiction in a case where the plaintiff had a plain and adequate remedy at law, and it so appears by the transcript when brought here by appeal. So also where it appears that a court of admiralty has exercised jurisdiction in a case belonging exclusively to a court of common law. In these cases there is no plea in abatement. And for the same reason, and upon the same principles, where the defect of jurisdiction is patent on the record, this court is bound to reverse the judgment, although the defendant has not pleaded in abatement to the jurisdiction of the inferior court.

The cases of *Jackson v. Ashton* and of *Capron v. Van Noorden*, to which we have referred in a previous part of this opinion, are directly in point. In the last-mentioned case, Capron brought an action against Van Noorden in a Circuit Court of the United States, without showing, by the usual averments of citizenship, that the court had jurisdiction. There was no plea in abatement put in, and the parties went to trial upon the merits. The court gave judgment in favor of the defendant with costs. The plaintiff thereupon brought his writ of error, and this court reversed the judgment given in favor of the defendant, and remanded the case with directions to dismiss it, because it did not appear by the transcript that the Circuit Court had jurisdiction.

The case before us still more strongly imposes upon this court the duty of examining whether the court below has not committed an error, in taking jurisdiction and giving a judgment for costs in favor of the defendant; for in *Capron v. Van Noorden* the judgment was reversed, because it did not appear that the parties were citizens of different States. They might or might not be. But in this case it does appear that the plaintiff was born a slave; and if the facts upon which he relies have not made him free, then it appears affirmatively on the record that he is not a citizen, and consequently his suit against Sandford was not a suit between citizens of different States, and the court had no authority to pass any judgment between the parties. The suit ought, in this view of it, to have been dismissed by the Circuit Court, and its judgment in favor of Sandford is erroneous, and must be reversed.

It is true that the result either way, by dismissal or by a judgment for the defendant, makes very little, if any, difference in a pecuniary or personal point of view to either party. But the fact that the result would be very nearly the same to the parties in either form of judgment, would not justify this court in sanctioning an error in the judgment which is patent on the record, and which, if sanctioned, might be drawn into precedent, and lead to serious mischief and injustice in some future suit.

We proceed, therefore, to inquire whether the facts relied on by the plaintiff entitled him to his free-

dom. The case, as he himself states it, on the record brought here by his writ of error, is this:

The plaintiff was a negro slave, belonging to Dr. Emerson, who was a surgeon in the army of the United States. In the year 1834, he took the plaintiff from the State of Missouri to the military post at Rock Island, in the State of Illinois, and held him there as a slave until the month of April or May, 1836. At the time last mentioned, said Dr. Emerson removed the plaintiff from said military post at Rock Island to the military post at Fort Snelling, situated on the west bank of the Mississippi river, in the Territory known as Upper Louisiana, acquired by the United States of France, and situate north of the latitude of thirty-six degrees thirty minutes north, and north of the State of Missouri. Said Dr. Emerson held the plaintiff in slavery at said Fort Snelling, from said last-mentioned date until the year 1838.

In the year 1835, Harriet, who is named in the second count of the plaintiff's declaration, was the negro slave of Major Taliaferro, who belonged to the army of the United States. In that year, 1835, said Major Taliaferro took said Harriet to said Fort Snelling, a military post, situated as hereinbefore stated, and kept her there as a slave until the year 1836, and then sold and delivered her as a slave, at said Fort Snelling, unto the said Dr. Emerson hereinbefore named. Said Dr. Emerson held said Harriet in slavery at said Fort Snelling until the year 1838.

In the year 1836, the plaintiff and Harriet intermarried, at Fort Snelling, with the consent of Dr. Emerson, who then claimed to be their master and owner. Eliza and Lizzie, named in the third count of the plaintiff's declaration, are the fruit of that marriage. Eliza is about fourteen years old, and was born on board the steamboat Gipsey, north of the north line of the State of Missouri, and upon the river Mississippi. Lizzie is about seven years old, and was born in the State of Missouri, at the military post called Jefferson Barracks.

In the year 1838, said Dr. Emerson removed the plaintiff and said Harriet, and their said daughter Eliza, from said Fort Snelling to the State of Missouri, where they have ever since resided.

Before the commencement of this suit, said Dr. Emerson sold and conveyed the plaintiff, and Harriet, Eliza, and Lizzie, to the defendant, as slaves, and the defendant has ever since claimed to hold them, and each of them, as slaves.

In considering this part of the controversy, two questions arise: 1. Was he, together with his family, free in Missouri by reason of the stay in the territory of the United States hereinbefore mentioned? And 2. If they were not, is Scott himself free by reason of his removal to Rock Island, in the State of Illinois, as stated in the above admissions?

We proceed to examine the first question.

The act of Congress, upon which the plaintiff relies, declares that slavery and involuntary servitude, except as a punishment for crime, shall be forever prohibited in all that part of the territory ceded by France, under the name of Louisiana, which lies north of thirty-six degrees thirty minutes north latitude, and not included within the limits of Missouri. And the difficulty which meets us at the threshold of this part of the inquiry is, whether Congress was authorized to pass this law under any of the powers granted to it by the Constitution; for if the authority is not given by that instrument, it is the duty of this court to declare it void and inoperative, and incapable of conferring freedom upon any one who is held as a slave under the have of any one of the States.

The counsel for the plaintiff has laid much stress upon that article in the Constitution which confers on Congress the power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States;" but, in the judgment of the court, that provision has no bearing on the present controversy, and the power there given, whatever it may be, is confined, and was intended to be confined, to the territory which at that time belonged to, or was claimed by, the United States, and was within their boundaries as settled by the treaty with Great Britain, and can have no influence upon a territory afterwards acquired from a foreign Government. It was a special provision for a known and particular territory, and to meet a present emergency, and nothing more.

A brief summary of the history of the times, as well as the careful and measured terms in which the article is framed, will show the correctness of this proposition.

It will be remembered that, from the commencement of the Revolutionary war, serious difficulties existed between the States, in relation to the disposition of large and unsettled territories which were included in the chartered limits of some of the States. And some of the other States, and more especially Maryland, which had no unsettled lands, insisted that as the unoccupied lands, if wrested from Great Britain, would owe their preservation to the common purse and the common sword, the money arising from them ought to be applied in just proportion among the several States to pay the expenses of the war, and ought not to be appropriated to the use of the State in whose chartered

limits they might happen to lie, to the exclusion of the other States, by whose combined efforts and common expense the territory was defended and preserved against the claim of the British Government.

These difficulties caused much uneasiness during the war, while the issue was in some degree doubtful, and the future boundaries of the United States yet to be defined by treaty, if we achieved our independence.

The majority of the Congress of the Confederation obviously concurred in opinion with the State of Maryland, and desired to obtain from the States which claimed it a cession of this territory, in order that Congress might raise money on this security to carry on the war. This appears by the resolution passed on the 6th of September, 1780, strongly urging the States to cede these lands to the United States, both for the sake of peace and union among themselves, and to maintain the public credit; and this was followed by the resolution of October 10th, 1780, by which Congress pledged itself, that if the lands were ceded, as recommended by the resolution above mentioned, they should be disposed of for the common benefit of the United States, and be settled and formed into distinct republican States, which should become members of the Federal Union, and have the same rights of sovereignty, and freedom, and independence, as other States.

But these difficulties became much more serious after peace took place, and the boundaries of the United States were established. Every State, at that time, felt severely the pressure of its war debt; but in Virginia, and some other States, there were large territories of unsettled lands, the sale of which would enable them to discharge their obligations without much inconvenience; while other States, which had no such resource, saw before them many years of heavy and burdensome taxation; and the latter insisted, for the reasons before stated, that these unsettled lands should be treated as the common property of the States, and the proceeds applied to their common benefit.

The letters from the statesmen of that day will show how much this controversy occupied their thoughts, and the dangers that were apprehended from it. It was the disturbing element of the time, and fears were entertained that it might dissolve the Confederation by which the States were then united.

These fears and dangers were, however, at once removed, when the State of Virginia, in 1784, voluntarily ceded to the United States the immense tract of country lying northwest of the river Ohio, and which was within the acknowledged limits of the State. The only object of the State, in making this cession, was to put an end to the threatening and exciting controversy, and to enable the Congress of that time to dispose of the lands, and appropriate the proceeds as a common fund for the common benefit of the States. It was not ceded, because it was inconvenient to the State to hold and govern it, nor from any expectation that it could be better or more conveniently governed by the United States.

The example of Virginia was soon afterwards followed by other States, and, at the time of the adoption of the Constitution, all of the States, similarly situated, had ceded their unappropriated lands, except North Carolina and Georgia. The main object for which these cessions were desired and made, was on account of their money value, and to put an end to a dangerous controversy, as to who was justly entitled to the proceeds when the lands should be sold. It is necessary to bring this part of the history of these cessions thus distinctly into view, because it will enable us the better to comprehend the phraseology of the article in the Constitution, so often referred to in the argument.

Undoubtedly the powers of sovereignty and the eminent domain were ceded with the land. This was essential, in order to make it effectual, and to accomplish its objects. But it must be remembered that, at that time, there was no Government of the United States in existence with enumerated and limited powers; what was then called the United States, were thirteen separate, sovereign, independent States, which had entered into a league or confederation for their mutual protection and advantage, and the Congress of the United States was composed of the representatives of these separate sovereignties, meeting together, as equals, to discuss and decide on certain measures which the States, by the Articles of Confederation, had agreed to submit to their decision. But this Confederation had none of the attributes of sovereignty in legislative, executive, or judicial power. It was little more than a congress of ambassadors, authorized to represent separate nations, in matters in which they had a common concern.

It was this Congress that accepted the cession from Virginia. They had no power to accept it under the Articles of Confederation. But they had an undoubted right, as independent sovereignties, to accept any cession of territory for their common benefit, which all of them assented to; and it is equally clear, that as their common property, and having no superior to control them, they had the right to exercise absolute dominion over it, subject only to the restrictions which Virginia had imposed in her act

of cession. There was, as we have said, no Government of the United States then in existence with special enumerated and limited powers. The territory belonged to sovereignties, who, subject to the limitations above mentioned, had a right to establish any form of government they pleased, by compact or treaty among themselves, and to regulate rights of person and rights of property in the territory, as they might deem proper. It was by a Congress, representing the authority of these several and separate sovereignties, and acting under their authority and command, (but not from any authority derived from the Articles of Confederation,) that the instrument usually called the ordinance of 1787 was adopted; regulating in much detail the principles and the laws by which this territory should be governed; and among other provisions, slavery is prohibited in it. We do not question the power of the States, by agreement among themselves, to pass this ordinance, nor its obligatory force in the territory, while the confederation or league of the States in their separate sovereign character continued to exist.

This was the state of things when the Constitution of the United States was formed. The territory ceded by Virginia belonged to the several confederated States as common property, and they had united in establishing in it a system of government and jurisprudence, in order to prepare it for admission as States, according to the terms of the cession. They were about to dissolve this federative Union, and to surrender a portion of their independent sovereignty to a new Government, which, for certain purposes, would make the people of the several States one people, and which was to be supreme and controlling within its sphere of action throughout the United States; but this Government was to be carefully limited in its powers, and to exercise no authority beyond those expressly granted by the Constitution, or necessarily to be implied from the language of the instrument, and the objects it was intended to accomplish; and as this league of States would, upon the adoption of the new Government, cease to have any power over the territory, and the ordinance they had agreed upon be incapable of execution, and a mere nullity, it was obvious that some provision was necessary to give the new Government sufficient power to enable it to carry into effect the objects for which it was ceded, and the compacts and agreements which the States had made with each other in the exercise of their powers of sovereignty. It was necessary that the lands should be sold to pay the war debt; that a Government and system of jurisprudence should be maintained in it, to protect the citizens of the United States who should migrate to the territory, in their rights of person and of property. It was also necessary that the new Government, about to be adopted, should be authorized to maintain the claim of the United States to the unappropriated lands in North Carolina and Georgia, which had not then been ceded, but the cession of which was confidently anticipated upon some terms that would be arranged between the General Government and these two States. And, moreover, there were many articles of value besides this property in land, such as arms, military stores, munitions, and ships of war, which were the common property of the States, when acting in their independent characters as confederates, which neither the new Government nor any one else would have a right to take possession of, or control, without authority from them; and it was to place these things under the guardianship and protection of the new Government, and to clothe it with the necessary powers, that the clause was inserted in the Constitution which give Congress the power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." It was intended for a specific purpose, to provide for the things we have mentioned. It was to transfer to the new Government the property then held in common by the States, and to give to that Government power to apply it to the objects for which it had been destined by mutual agreement among the States before their league was dissolved. It applied only to the property which the States held in common at that time, and has no reference whatever to any territory or other property which the new sovereignty might afterwards itself acquire.

The language used in the clause, the arrangement and combination of the powers, and the somewhat unusual phraseology it uses, when it speaks of the political power to be exercised in the government of the territory, all indicate the design and meaning of the clause to be such as we have mentioned. It does not speak of any territory, nor of Territories, but uses language which, according to its legitimate meaning, points to a particular thing. The power is given in relation only to the territory of the United States—that is, to a territory then in existence, and then known or claimed as the territory of the United States. It begins its enumeration of powers by that of disposing, in other words, making sale of the lands, or raising money from them, which, as we have already said, was the main object of the cession, and which is accordingly the first thing provided for in the article. It

then gives the power which was necessarily associated with the disposition and sale of the lands—that is, the power of making needful rules and regulations respecting the territory. And whatever construction may now be given to these words, every one, we think, must admit that they are not the words usually employed by statesmen in giving supreme power of legislation. They are certainly very unlike the words used in the power granted to legislate over territory which the new Government might afterwards itself obtain by cession from a State, either for its seat of Government, or for forts, magazines, arsenals, dock yards, and other needful buildings.

And the same power of making needful rules respecting the territory is, in precisely the same language, applied to the other property belonging to the United States—associating the power over the territory in this respect with the power over movable or personal property—that is, the ships, arms, and munitions of war, which then belonged in common to the State sovereignties. And it will hardly be said, that this power, in relation to the last-mentioned objects, was deemed necessary to be thus specially given to the new Government, in order to authorize it to make needful rules and regulations respecting the ships it might itself build, or arms and munitions of war it might itself manufacture or provide for the public service.

No one, it is believed, would think a moment of deriving the power of Congress to make needful rules and regulations in relation to property of this kind from this clause of the Constitution. Nor can it, upon any fair construction, be applied to any property but that which the new Government was about the receive from the confederated States. And if this be true as to this property, it must be equally true and limited as to the territory, which is so carefully and precisely coupled with it—and like it referred to as property in the power granted. The concluding words of the clause appear to render this construction irresistible; for, after the provisions we have mentioned, it proceeds to say, "that nothing in the Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State."

Now, as we have before said, all of the States, except North Carolina and Georgia, had made the cession before the Constitution was adopted, according to the resolution of Congress of October 10, 1780. The claims of other States, that the unappropriated lands in these two States should be applied to the common benefit, in like manner, was still insisted on, but refused by the States. And this member of the clause in question evidently applies to them, and can apply to nothing else. It was to exclude the conclusion that either party, by adopting the Constitution, would surrender what they deemed their rights. And when the latter provision relates so obviously to the unappropriated lands not yet ceded by the States, and the first clause makes provision for those then actually ceded, it is impossible, by any just rule of construction, to make the first provision general, and extend to all territories, which the Federal Government might in any way afterwards acquire, when the latter is plainly and unequivocally confined to a particular territory; which was a part of the same controversy, and involved in the same dispute, and depended upon the same principles. The union of the two provisions in the same clause shows that they were kindred subjects; and that the whole clause is local, and relates only to lands, within the limits of the United States, which had been or then were claimed by a State; and that no other territory was in the mind of the framers of the Constitution, or intended to be embraced in it. Upon any other construction it would be impossible to account for the insertion of the last provision in the place where it is found, or to comprehend why, or for what object, it was associated with the previous provision.

This view of the subject is confirmed by the manner in which the present Government of the United States dealt with the subject as soon as it came into existence. It must be borne in mind that the same States that formed the Confederation also formed and adopted the new Government, to which so large a portion of their former sovereign powers were surrendered. It must also be borne in mind that all of these same States which had then ratified the new Constitution were represented in the Congress which passed the first law for the government of this territory; and many of the members of that legislative body had been deputies from the States under the Confederation—had united in adopting the ordinance of 1787, and assisted in forming the new Government under which they were then acting, and whose powers they were then exercising. And it is obvious from the law they passed to carry into effect the principles and provisions of the ordinance, that they regarded it as the act of the States done in the exercise of their legitimate powers at the time. The new Government took the territory as it found it, and in the condition in which it was transferred, and did not attempt to undo anything that had been done. And, among the earliest laws passed under the new Government, is one reviving the ordinance of 1787, which had be-

come inoperative and a nullity upon the adoption of the Constitution. This law introduces no new form or principles for its government, but recites, in the preamble, that it is passed in order that this ordinance may continue to have full effect, and proceeds to make only those rules and regulations which were needful to adapt it to the new Government, into whose hands the power had fallen. It appears, therefore, that this Congress regarded the purposes to which the land in this Territory was to be applied, and the form of government and principles of jurisprudence which were to prevail there, while it remained in the Territorial state, as already determined on by the States when they had full power and right to make the decision; and that the new Government, having received it in this condition, ought to carry substantially into effect the plans and principles which had been previously adopted by the States, and which no doubt the States anticipated when they surrendered their power to the new Government. And if we regard this clause of the Constitution as pointing to this Territory, with a Territorial Government already established in it, which had been ceded to the States for the purposes hereinbefore mentioned—every word in it is perfectly appropriate and easily understood, and the provisions it contains are in perfect harmony with the objects for which it was ceded, and with the condition of its government as a Territory at the time. We can, then, easily account for the manner in which the first Congress legislated on the subject—and can also understand why this power over the territory was associated in the same clause with the other property of the United States, and subjected to the like power of making needful rules and regulations. But if the clause is construed in the expanded sense contended for, so as to embrace any territory acquired from a foreign nation by the present Government, and to give it in such territory a despotic and unlimited power over persons and property, such as the confederated States might exercise in their common property, it would be difficult to account for the phraseology used, when compared with other grants of power—and also for its association with the other provisions in the same clause.

The Constitution has always been remarkable for the felicity of its arrangement of different subjects, and the perspicuity and appropriateness of the language it uses. But if this clause is construed to extend to territory acquired by the present Government from a foreign nation, outside of the limits of any charter from the British Government to a colony, it would be difficult to say, why it was deemed necessary to give the Government the power to sell any vacant lands belonging to the sovereignty which might be found within it; and if this was necessary, why the grant of this power should precede the power to legislate over it and establish a Government there; and still more difficult to say, why it was deemed necessary so specially and particularly to grant the power to make needful rules and regulations in relation to any personal or movable property it might acquire there. For the words, other property necessarily, by every known rule of interpretation, must mean property of a different description from territory or land. And the difficulty would perhaps be insurmountable in endeavoring to account for the last member of the sentence, which provides that "nothing in this Constitution shall be so construed as to prejudice any claims of the United States or any particular State," or to say how any particular State could have claims in or to a territory ceded by a foreign Government, or to account for associating this provision with the preceding provisions of the clause, with which it would appear to have no connection.

The words "needful rules and regulations" would seem, also, to have been cautiously used for some definite object. They are not the words usually employed by statesmen, when they mean to give the powers of sovereignty, or to establish a Government, or to authorize its establishment. Thus, in the law to renew and keep alive the ordinance of 1787, and to re-establish the Government, the title of the law is: "An act to provide for the government of the territory northwest of the river Ohio." And in the Constitution, when granting the power to legislate over the territory that may be selected for the seat of Government independently of a State, it does not say Congress shall have power "to make all needful rules and regulations respecting the territory;" but it declares that "Congress shall have power to exercise exclusive legislation in all cases whatsoever over such District (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States."

The words "rules and regulations" are usually employed in the Constitution in speaking of some particular specified power which it means to confer on the Government, and not, as we have seen, when granting general powers of legislation. As, for example, in the particular power to Congress "to make rules for the government and regulation of the land and naval forces, or the particular and specific power to regulate commerce;" "to establish an uniform rule of naturalization;" "to coin money and regulate the

value thereof." And to construe the words of which we are speaking as a general and unlimited grant of sovereignty over territories which the Government might afterwards acquire, is to use them in a sense and for a purpose for which they were not used in any other part of the instrument. But if confined to a particular Territory, in which a Government and laws had already been established, but which would require some alterations to adapt it to the new Government, the words are peculiarly applicable and appropriate for that purpose. The necessity of this special provision in relation to property and the rights or property held in common by the confederated States, is illustrated by the first clause of the sixth article. This clause provides that "all debts, contracts, and engagements entered into before the adoption of this Constitution, shall be as valid against the United States under this Government as under the Confederation." This provision, like the one under consideration, was indispensable if the new Constitution was adopted. The new Government was not a mere change in a dynasty, or in a form of government, leaving the nation or sovereignty the same, and clothed with all the rights, and bound by all the obligations of the preceding one. But, when the present United States came into existence under the new Government, it was a new political body, a new nation, then for the first time taking its place in the family of nations. It took nothing by succession from the Confederation. It had no right, as its successor, to any property or rights of property which it had acquired, and was not liable for any of its obligations. It was evidently viewed in this light by the framers of the Constitution. And as the several States would cease to exist in their former confederated character upon the adoption of the Constitution, and could not, in that character, again assemble together, special provisions were indispensable to transfer to the new Government the property and rights which at that time they held in common; and at the same time to authorize it to lay taxes and appropriate money to pay the common debt which they had contracted; and this power could only be given to it by special provisions in the Constitution. The clause in relation to the territory and other property of the United States provided for the first, and the clause last quoted provided for the other. They have no connection with the general powers and rights of sovereignty delegated to the new Government, and can neither enlarge nor diminish them. They were inserted to meet a present emergency, and not to regulate its powers as a Government.

Indeed, a similar provision was deemed necessary, in relation to treaties made by the Confederation; and when in the clause next succeeding the one of which we have last spoken, it is declared that treaties shall be the supreme law of the land, care is taken to include, by express words, the treaties made by the confederated States. The language is: "and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

Whether, therefore, we take the particular clause in question, by itself, or in connection with the other provisions of the Constitution, we think it clear, that it applies only to the particular territory of which we have spoken, and cannot, by any just rule of interpretation, be extended to territory which the new Government might afterwards obtain from a foreign nation. Consequently, the power which Congress may have lawfully exercised in this Territory, while it remained under a Territorial Government, and which may have been sanctioned by judicial decision, can furnish no justification and no argument to support a similar exercise of power over territory afterwards acquired by the Federal Government. We put aside, therefore, any argument, drawn from precedents, showing the extent of the power which the General Government exercised over slavery in this Territory, as altogether inapplicable to the case before us.

But the case of the *American and Ocean Insurance Companies v. Canter* (1 Pet., 511) has been quoted as establishing a different construction of this clause of the Constitution. There is, however, not the slightest conflict between the opinion now given and the one referred to; and it is only by taking a single sentence out of the latter and separating it from the context, that even an appearance of conflict can be shown. We need not comment on such a mode of expounding an opinion of the court. Indeed it most commonly misrepresents instead of expounding it. And this is fully exemplified in the case referred to, where, if one sentence is taken by itself, the opinion would appear to be in direct conflict with that now given; but the words which immediately follow that sentence show that the court did not mean to decide the point, but merely affirmed the power of Congress to establish a Government in the Territory, leaving it an open question, whether that power was derived from this clause in the Constitution, or was to be necessarily inferred from a power to acquire territory by cession from a foreign Government. The opinion on this part of the case is short, and we give the whole of it to show how well the selection of a single sentence is calculated to mislead.

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The passage referred to is in page 542, in which the court, in speaking of the power of Congress to establish a Territorial Government in Florida until it should become a State, uses the following language:

> "In the mean time Florida continues to be a Territory of the United States, governed by that clause of the Constitution which empowers Congress to make all needful rules and regulations respecting the territory or other property of the United States. Perhaps the power of governing a Territory belonging to the United States, which has not, by becoming a State, acquired the means of self-government, may result, necessarily, from the facts that it is not within the jurisdiction of any particular State, and is within the power and jurisdiction of the United States. The right to govern may be the inevitable consequence of the right to acquire territory. Whichever may be the source from which the power is derived, the possession of it is unquestionable."

It is thus clear, from the whole opinion on this point, that the court did not mean to decide whether the power was derived from the clause in the Constitution, or was the necessary consequence of the right to acquire. They do decide that the power in Congress is unquestionable, and in this we entirely concur, and nothing will be found in this opinion to the contrary. The power stands firmly on the latter alternative put by the court—that is, as "the inevitable consequence of the right to acquire territory."

And what still more clearly demonstrates that the court did not mean to decide the question, but leave it open for future consideration, is the fact that the case was decided in the Circuit Court by Mr. Justice Johnson, and his decision was affirmed by the Supreme Court. His opinion at the circuit is given in full in a note to the case, and in that opinion he states, in explicit terms, that the clause of the Constitution applies only to the territory then within the limits of the United States, and not to Florida, which had been acquired by cession from Spain. This part of his opinion will be found in the note in page 517 of the report. But he does not dissent from the opinion of the Supreme Court; thereby showing that, in his judgment, as well as that of the court, the case before them did not call for a decision on that particular point, and the court abstained from deciding it. And in a part of its opinion subsequent to the passage we have quoted, where the court speak of the legislative power of Congress in Florida, they still speak with the same reserve. And in page 546, speaking of the power of Congress to authorize the Territorial Legislature to establish courts there, the court say: "They are legislative courts, created in virtue of the general right of sovereignty which exists in the Government, or in virtue of that clause which enables Congress to make all needful rules and regulations respecting the territory belonging to the United States."

It has been said that the construction given to this clause is new, and now for the first time brought forward. The case of which we are speaking, and which has been so much discussed, shows that the fact is otherwise. It shows that precisely the same question came before Mr. Justice Johnson, at his circuit, thirty years ago—was fully considered by him, and the same construction given to the clause in the Constitution which is now given by this court. And that upon an appeal from his decision the same question was brought before this court, but was not decided because a decision upon it was not required by the case before the court.

There is another sentence in the opinion which has been commented on, which even in a still more striking manner shows how one may mislead or be misled by taking out a single sentence from the opinion of a court, and leaving out of view what precedes and follows. It is in page 546, near the close of the opinion, in which the court say: "In legislating for them," (the territories of the United States,) "Congress exercises the combined powers of the General and of a State Government." And it is said, that as a State may unquestionably prohibit slavery within its territory, this sentence decides in effect that Congress may do the same in a Territory of the United States, exercising there the powers of a State, as well as the power of the General Government.

The examination of this passage in the case referred to, would be more appropriate when we come to consider in another part of this opinion what power Congress can constitutionally exercise in a Territory, over the rights of person or rights of property of a citizen. But, as it is in the same case with the passage we have before commented on, we dispose of it now, as it will save the court from the necessity of referring again to the case. And it will be seen upon reading the page in which this sentence is found, that it has no reference whatever to the power of Congress over rights of person or rights of property—but relates altogether to the power of establishing judicial tribunals to administer the laws constitutionally passed, and defining the jurisdiction they may exercise.

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The law of Congress establishing a Territorial Government in Florida, provided that the Legislature of the Territory should have legislative powers over "all rightful objects of legislation; but no law should be valid which was inconsistent with the laws and Constitution of the United States."

Under the power thus conferred, the Legislature of Florida passed an act, erecting a tribunal at Key West to decide cases of salvage. And in the case of which we are speaking, the question arose whether the Territorial Legislature could be authorized by Congress to establish such a tribunal, with such powers; and one of the parties, among other objections, insisted that Congress could not under the Constitution authorize the Legislature of the Territory to establish such a tribunal with such powers, but that it must be established by Congress itself; and that a sale of cargo made under its order, to pay salvors, was void, as made without legal authority, and passed no property to the purchaser. It is in disposing of this objection that the sentence relied on occurs, and the court begin that part of the opinion by stating with great precision the point which they are about to decide.

They say: "It has been contended that by the Constitution of the United States, the judicial power of the United States extends to all cases of admiralty and maritime jurisdiction; and that the whole of the judicial power must be vested 'in one Supreme Court, and in such inferior courts as Congress shall from time to time ordain and establish.' Hence it has been argued that Congress cannot vest admiralty jurisdiction in courts created by the Territorial Legislature."

And after thus clearly stating the point before them, and which they were about to decide, they proceed to show that these Territorial tribunals were not constitutional courts, but merely legislative, and that Congress might, therefore, delegate the power to the Territorial Government to establish the court in question; and they conclude that part of the opinion in the following words: "Although admiralty jurisdiction can be exercised in the States in those courts only which are established in pursuance of the third article of the Constitution, the same limitation does not extend to the Territories. In legislating for them, Congress exercises the combined powers of the General and State Governments."

Thus it will be seen by these quotations from the opinion, that the court, after stating the question it was about to decide in a manner too plain to be misunderstood, proceeded to decide it, and announced, as the opinion of the tribunal, that in organizing the judicial department of the Government in a Territory of the United States, Congress does not act under, and is not restricted by, the third article in the Constitution, and is not bound, in a Territory, to ordain and establish courts in which the judges hold their offices during good behaviour, but may exercise the discretionary power which a State exercises in establishing its judicial department, and regulating the jurisdiction of its courts, and may authorize the Territorial Government to establish, or may itself establish, courts in which the judges hold their offices for a term of years only; and may vest in them judicial power upon subjects confided to the judiciary of the United States. And in doing this, Congress undoubtedly exercises the combined power of the General and a State Government. It exercises the discretionary power of a State Government in authorizing the establishment of a court in which the judges hold their appointments for a term of years only, and not during good behaviour; and it exercises the power of the General Government in investing that court with admiralty jurisdiction, over which the General Government had exclusive jurisdiction in the Territory.

No one, we presume, will question the correctness of that opinion; nor is there anything in conflict with it in the opinion now given. The point decided in the case cited has no relation to the question now before the court. That depended on the construction of the third article of the Constitution, in relation to the judiciary of the United States, and the power which Congress might exercise in a Territory in organizing the judicial department of the Government. The case before us depends upon other and different provisions of the Constitution, altogether separate and apart from the one above mentioned. The question as to what courts Congress may ordain or establish in a Territory to administer laws which the Constitution authorizes it to pass, and what laws it is or is not authorized by the Constitution to pass, are widely different—are regulated by different and separate articles of the Constitution, and stand upon different principles. And we are satisfied that no one who reads attentively the page in Peters's Reports to which we have referred, can suppose that the attention of the court was drawn for a moment to the question now before this court, or that it meant in that case to say that Congress had a right to prohibit a citizen of the United States from taking any property which he lawfully held into a Territory of the United States.

This brings us to examine by what provision of the Constitution the present Federal Government, under its delegated and restricted powers, is au-

thorized to acquire territory outside of the original limits of the United States, and what powers it may exercise therein over the person or property of a citizen of the United States, while it remains a Territory, and until it shall be admitted as one of the States of the Union.

There is certainly no power given by the Constitution to the Federal Government to establish or maintain colonies bordering on the United States or at a distance, to be ruled and governed at its own pleasure; nor to enlarge its territorial limits in any way, except by the admission of new States. That power is plainly given; and if a new State is admitted, it needs no further legislation by Congress, because the Constitution itself defines the relative rights and powers, and duties of the State, and the citizens of the State, and the Federal Government. But no power is given to acquire a Territory to be held and governed permanently in that character.

And indeed the power exercised by Congress to acquire territory and establish a Government there, according to its own unlimited discretion, was viewed with great jealousy by the leading statesmen of the day. And in the Federalist, (No. 38,) written by Mr. Madison, he speaks of the acquisition of the Northwestern Territory by the confederated States, by the cession from Virginia, and the establishment of a Government there, as an exercise of power not warranted by the Articles of Confederation, and dangerous to the liberties of the people. And he urges the adoption of the Constitution as a security and safeguard against such an exercise of power.

We do not mean, however, to question the power of Congress in this respect. The power to expand the territory of the United States by the admission of new States is plainly given; and in the construction of this power by all the departments of the Government, it has been held to authorize the acquisition of territory, not fit for admission at the time, but to be admitted as soon as its population and situation would entitle it to admission. It is acquired to become a State, and not to be held as a colony and governed by Congress with absolute authority; and as the propriety of admitting a new State is committed to the sound discretion of Congress, the power to acquire territory for that purpose, to be held by the United States until it is in a suitable condition to become a State upon an equal footing with the other States, must rest upon the same discretion. It is a question for the political department of the Government, and not the judicial; and whatever the political departent of the Government shall recognise as within the limits of the United States, the judicial department is also bound to recognise, and to administer in it the laws of the United States, so far as they apply, and to maintain in the Territory the authority and rights of the Government, and also the personal rights and rights of property of individual citizens, as secured by the Constitution. All we mean to say on this point is, that, as there is no express regulation in the Constitution defining the power which the General Government may exercise over the person or property of a citizen in a Territory thus acquired, the court must necessarily look to the provisions and principles of the Constitution, and its distribution of powers, for the rules and principles by which its decision must be governed.

Taking this rule to guide us, it may be safely assumed that citizens of the United States who migrate to a Territory belonging to the people of the United States, cannot be ruled as mere colonists, dependent upon the will of the General Government, and to be governed by any laws it may think proper to impose. The principle upon which our Governments rest, and upon which alone they continue to exist, is the union of States, sovereign and independent within their own limits in their internal and domestic concerns, and bound together as one people by a General Government, possessing certain enumerated and restricted powers, delegated to it by the people of the several States, and exercising supreme authority within the scope of the powers granted to it, throughout the dominion of the United States. A power, therefore, in the General Government to obtain and hold colonies and dependent territories, over which they might legislate without restriction, would be inconsistent with its own existence in its present form. Whatever it acquires, it acquires for the benefit of the people of the several States who created it. It is their trustee acting for them, and charged with the duty of promoting the interests of the whole people of the Union in the exercise of the powers specifically granted.

At the time when the Territory in question was obtained by cession from France, it contained no population fit to be associated together and admitted as a State; and it therefore was absolutely necessary to hold possession of it, as a Territory belonging to the United States, until it was settled and inhabited by a civilized community capable of self-government, and in a condition to be admitted on equal terms with the other States as a member of the Union. But, as we have before said, it was acquired by the General Government, as the representative and trustee of the people of the United States, and it must therefore be

held in that character for their common and equal benefit; for it was the people of the several States, acting through their agent and representative, the Federal Government, who in fact acquired the Territory in question, and the Government holds it for their common use until it shall be associated with the other States as a member of the Union.

But until that time arrives, it is undoubtedly necessary that some Government should be established, in order to organize society, and to protect the inhabitants in their persons and property; and as the people of the United States could act in this matter only through the Government which represented them, and the through which they spoke and acted when the Territory was obtained, it was not only within the scope of its powers, but it was its duty to pass such laws and establish such a Government as would enable those by whose authority they acted to reap the advantages anticipated from its acquisition, and to gather there a population which would enable it to assume the position to which it was destined among the States of the Union. The power to acquire necessarily carries with it the power to preserve and apply to the purposes for which it was acquired. The form of government to be established necessarily rested in the discretion of Congress. It was their duty to establish the one that would be best suited for the protection and security of the citizens of the United States, and other inhabitants who might be authorized to take up their abode there, and that must always depend upon the existing condition of the Territory, as to the number and character of its inhabitants, and their situation in the Territory. In some cases a Government, consisting of persons appointed by the Federal Government, would best subserve the interests of the Territory, when the inhabitants were few and scattered, and new to one another. In other instances, it would be more advisable to commit the powers of self-government to the people who had settled in the Territory, as being the most competent to determine what was best for their own interests. But some form of civil authority would be absolutely necessary to organize and preserve civilized society, and prepare it to become a State; and what is the best form must always depend on the condition of the Territory at the time, and the choice of the mode must depend upon the exercise of a discretionary power by Congress, acting within the scope of its constitutional authority, and not infringing upon the rights of person or rights of property of the citizen who might go there to reside, or for any other lawful purpose. It was acquired by the exercise of this discretion, and it must be held and governed in like manner, until it is fitted to be a State.

But the power of Congress over the person or property of a citizen can never be a mere discretionary power under our Constitution and form of Government. The powers of the Government and the rights and privileges of the citizen are regulated and plainly defined by the Constitution itself. And when the Territory becomes a part of the United States, the Federal Government enters into possession in the character impressed upon it by those who created it. It enters upon it with its powers over the citizen strictly defined, and limited by the Constitution, from which it derives its own existence, and by virtue of which alone it continues to exist and act as a Government and sovereignty. It has no power of any kind beyond it; and it cannot, when it enters a Territory of the United States, put off its character, and assume discretionary or despotic powers which the Constitution has denied to it. It cannot create for itself a new character separated from the citizens of the United States, and the duties it owes them under the provisions of the Constitution. The Territory being a part of the United States, the Government and the citizen both enter it under the authority of the Constitution, with their respective rights defined and marked out; and the Federal Government can exercise no power over his person or property, beyond what that instrument confers, nor lawfully deny any right which it has reserved.

A reference to a few of the provisions of the Constitution will illustrate this proposition.

For example, no one, we presume, will contend that Congress can make any law in a Territory respecting the establishment of religion, or the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people of the Territory peaceably to assemble, and to petition the Government for the redress of grievances.

Nor can Congress deny to the people the right to keep and bear arms, nor the right to trial by jury, nor compel any one to be a witness against himself in a criminal proceeding.

These powers, and others, in relation to rights of person, which it is not necessary here to enumerate, are, in express and positive terms, denied to the General Government; and the rights of private property have been guarded with equal care. Thus the rights of property are united with the rights of person, and placed on the same ground by the fifth amendment to the Constitution, which provides that no person shall be deprived of life, liberty, and property, without

due process of law. And an act of Congress which deprives a citizen of the United States of his liberty or property, merely because he came himself or brought his property into a particular Territory of the United States, and who had committed no offence against the laws, could hardly be dignified with the name of due process of law.

So, too, it will hardly be contended that Congress could by law quarter a soldier in a house in a Territory without the consent of the owner, in time of peace; nor in time of war, but in a manner prescribed by law. Nor could they by law forfeit the property of a citizen in a Territory who was convicted of treason, for a longer period than the life of the person convicted; nor take private property for public use without just compensation.

The powers over person and property of which we speak are not only not granted to Congress, but are in express terms denied, and they are forbidden to exercise them. And this prohibition is not confined to the States, but the words are general, and extend to the whole territory over which the Constitution gives it power to legislate, including those portions of it remaining under Territorial Government, as well as that covered by States. It is a total absence of power everywhere within the dominion of the United States, and places the citizens of a Territory, so far as these rights are concerned, on the same footing with citizens of the States, and guards them as firmly and plainly against any inroads which the General Government might attempt, under the plea of implied or incidental powers.

And if Congress itself cannot do this—if it is beyond the powers conferred on the Federal Government—it will be admitted, we presume, that it could not authorize a Territorial Government to exercise them. It could confer no power on any local Government, established by its authority, to violate the provisions of the Constitution.

It seems, however, to be supposed, that there is a difference between property in a slave and other property, and that different rules may be applied to it in expounding the Constitution of the United States. And the laws and usages of nations, and the writings of eminent jurists upon the relation of master and slave and their mutual rights and duties, and the powers which Governments may exercise over it, have been dwelt upon in the argument.

But in considering the question before us, it must be borne in mind that there is no law of nations standing between the people of the United States and their Government, and interfering with their relation to each other. The powers of the Government, and the rights of the citizen under it, are positive and practical regulations plainly written down. The people of the United States have delegated to it certain enumerated powers, and forbidden it to exercise others. It has no power over the person or property of a citizen but what the citizens of the United States have granted. And no laws or usages of other nations, or reasoning of statesmen or jurists upon the relations of master and slave, can enlarge the powers of the Government, or take from the citizens the rights they have reserved. And if the Constitution recognises the right of property of the master in a slave, and makes no distinction between that description of property and other property owned by a citizen, no tribunal, acting under the authority of the United States, whether it be legislative, executive, or judicial, has a right to draw such a distinction, or deny to it the benefit of the provisions and guarantees which have been provided for the protection of private property against the encroachments of the Government.

Now, as we have already said in an earlier part of this opinion, upon a different point, the right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, like an ordinary article of merchandise and property, was guarantied to the citizens of the United States, in every State that might desire it, for twenty years. And the Government in express terms is pledged to protect it in all future time, if the slave escapes from his owner. This is done in plain words—too plain to be misunderstood. And no word can be found in the Constitution which gives Congress a greater power over slave property, or which entitles property of that kind to less protection than property of any other description. The only power conferred is the power coupled with the duty of guarding and protecting the owner in his rights.

Upon these considerations, it is the opinion of the court that the act of Congress which prohibited a citizen from holding and owning property of this kind in the territory of the United States north of the line therein mentioned, is not warranted by the Constitution, and is therefore void; and that neither Dred Scott himself, nor any of his family, were made free by being carried into this territory; even if they had been carried there by the owner, with the intention of becoming a permanent resident.

We have so far examined the case, as it stands under the Constitution of the United States, and the powers thereby delegated to the Federal Government.

But there is another point in the case which depends on State power and State law. And it is contended, on the part of the plaintiff, that he is made free by being taken to Rock Island, in the State of Illinois, independently of his residence in the territory of the United States; and being so made free, he was not again reduced to a state of slavery by being brought back to Missouri.

Our notice of this part of the case will be very brief; for the principle on which it depends was decided in this court, upon much consideration, in the case of *Strader et al. v. Graham*, reported in 10th Howard, 82. In that case, the slaves had been taken from Kentucky to Ohio, with the consent of the owner, and afterwards brought back to Kentucky. And this court held that their status or condition, as free or slave, depended upon the laws of Kentucky, when they were brought back into that State, and not of Ohio; and that this court had no jurisdiction to revise the judgment of a State court upon its own laws. This was the point directly before the court, and the decision that this court had not jurisdiction turned upon it, as will be seen by the report of the case.

So in this case. As Scott was a slave when taken into the State of Illinois by his owner, and was there held as such, and brought back in that character, his status, as free or slave, depended on the laws of Missouri, and not of Illinois.

It has, however, been urged in the argument, that by the laws of Missouri he was free on his return, and that this case, therefore, cannot be governed by the case of *Strader et al. v. Graham*, where it appeared, by the laws of Kentucky, that the plaintiffs continued to be slaves on their return from Ohio. But whatever doubts or opinions may, at one time, have been entertained upon this subject, we are satisfied, upon a careful examination of all the cases decided in the State courts of Missouri referred to, that it is now firmly settled by the decisions of the highest court in the State, that Scott and his family upon their return were not free, but were, by the laws of Missouri, the property of the defendant; and that the Circuit Court of the United States had no jurisdiction, when, by the laws of the State, the plaintiff was a slave, and not a citizen.

Moreover, the plaintiff, it appears, brought a similar action against the defendant in the State court of Missouri, claiming the freedom of himself and his family upon the same grounds and the same evidence upon which he relies in the case before the court. The case was carried before the Supreme Court of the State; was fully argued there; and that court decided that neither the plaintiff nor his family were entitled to freedom, and were still the slaves of the defendant; and reversed the judgment of the inferior State court, which had given a different decision. If the plaintiff supposed that this judgment of the Supreme Court of the State was erroneous, and that this court had jurisdiction to revise and reverse it, the only mode by which he could legally bring it before this court was by writ of error directed to the Supreme Court of the State, requiring it to transmit the record to this court. If this had been done, it is too plain for argument that the writ must have been dismissed for want of jurisdiction in this court. The case of *Strader and others v. Graham* is directly in point; and, indeed, independent of any decision, the language of the 25th section of the act of 1789 is too clear and precise to admit of controversy.

But the plaintiff did not pursue the mode prescribed by law for bringing the judgment of a State court before this court for revision, but suffered the case to be remanded to the inferior State court, where it is still continued, and is, by agreement of parties, to await the judgment of this court on the point. All of this appears on the record before us, and by the printed report of the case.

And while the case is yet open and pending in the inferior State court, the plaintiff goes into the Circuit Court of the United States, upon the same case and the same evidence, and against the same party, and proceeds to judgment, and then brings here the same case from the Circuit Court, which the law would not have permitted him to bring directly from the State court. And if this court takes jurisdiction in this form, the result, so far as the rights of the respective parties are concerned, is in every respect substantially the same as if it had in open violation of law entertained jurisdiction over the judgment of the State court upon a writ of error, and revised and reversed its judgment upon the ground that its opinion upon the question of law was erroneous. It would ill become this court to sanction such an attempt to evade the law, or to exercise an appellate power in this circuitous way, which it is forbidden to exercise in the direct and regular and invariable forms of judicial proceedings.

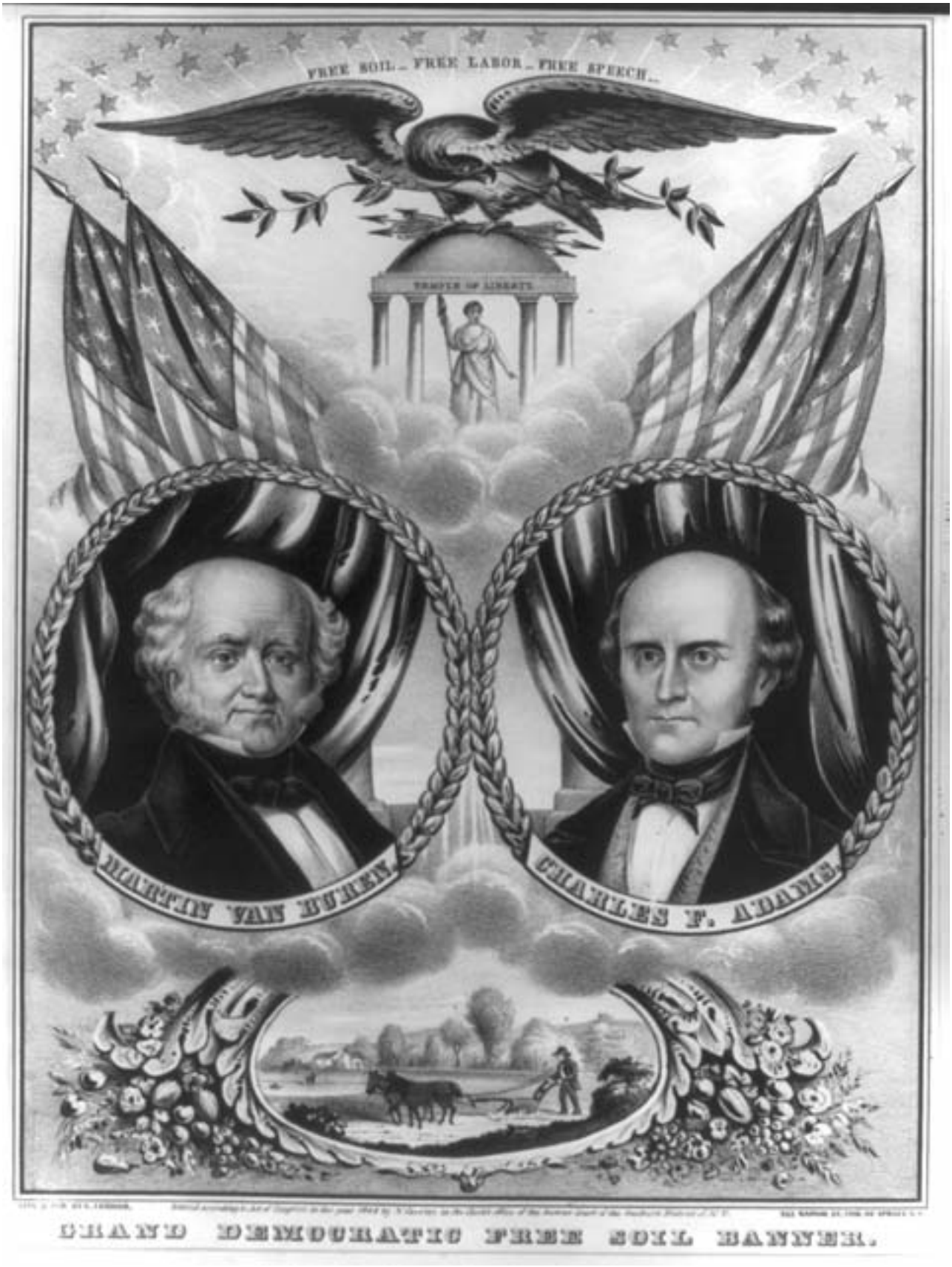
Upon the whole, therefore, it is the judgment of this court, that it appears by the record before us that the plaintiff in error is not a citizen of Missouri, in the sense in which that word is used in the Constitution; and that the Circuit Court of the United States, for that reason, had no jurisdiction in the case, and

Document Text

could give no judgment in it. Its judgment for the defendant must, consequently, be reversed, and a mandate issued, directing the suit to be dismissed for want of jurisdiction.

Glossary

jurisdiction	the power or right of a court to hear a case
mulatto	a person of mixed European and African ancestry; technically, a mulatto was considered half European and half African, but the term was more loosely used to describe all people with some African and some European ancestry.



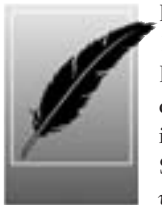
Martin Van Buren and Charles Francis Adams in the presidential race of 1848 (Library of Congress)

John S. Rock's "Whenever the Colored Man Is Elevated, It Will Be by His Own Exertions"

1858

"When the white man was created, nature was pretty well exhausted."

Overview



First delivered in Boston's Faneuil Hall in March 1858, "Whenever the Colored Man Is Elevated, It Will Be by His Own Exertions" was an address given by the black physician and abolitionist John Swett Rock. Coming one year after the Supreme Court's pronouncement in *Dred Scott v. Sandford* that African Americans lacked all legal rights, Scott's speech was at once a challenge to the Court and a plea for blacks to shift their emphasis away from formal legal equality and toward economic power. Although African Americans had endorsed racial nationalism earlier, Rock differed from proponents of self-help like Martin Delany by rejecting the idea that African Americans should return to Africa, as proposed by the American Colonization Society in 1817.

Instead, Rock prefigured the self-help arguments that would be made by later black leaders like Booker T. Washington, who declared in the 1890s that African American interests would be better served by replacing the quest for legal rights with a more pragmatic quest for technical education and property accumulation. Yet Rock went further than Washington even, by hinting at the idea that African Americans might actually be superior to whites in certain regards. Foreshadowing the Afrocentric arguments of the 1960s, Rock publicly declared African Americans to be more physically appealing than whites, a claim that roundly rejected the white racist views dominant in both the North and the South at the time.

Notable for both its racial claims and its eloquence, Rock's address stands out among contemporary abolitionist statements primarily for its anticipation of trends in black politics that would not come to fruition until the 1960s and 1970s. Rock also outlined a relatively sophisticated analysis of the social construction of race, observing that many of the inferior characteristics that whites seemed to find endemic to blacks were actually the direct result of the oppression and deprivation that African Americans suffered at white hands.

Context

John Rock's Boston address came near the tail end of over a century of abolitionist activity in the North. Perhaps the first sign of such activity emerged in Philadelphia, where the Quaker minister John Woolman took a public stand against slavery in his 1754 tract *Some Considerations on the Keeping of Negroes*. Working off Quaker theology, Woolman posited that slavery actually corrupted slave owners, distancing them from God. By 1780, Woolman's work culminated in a Pennsylvania statute calling for the gradual abolition of slavery in the state. Seven years later, delegates to the Constitutional Convention in Philadelphia debated whether the slave trade should be terminated by constitutional provision, with some delegates, even some from southern states, declaring the trade a scourge.

Nine years after the importation of slaves was abolished, in 1817, opponents of slavery in Virginia formed the American Colonization Society (ACS), arguably the first abolitionist organization in the country, which aimed to free black slaves and return them to Africa. In 1822 the ACS had established its first colony, Liberia, which would become an independent nation in 1846. Despite the ACS's hope that slave owners could be paid to manumit their slaves and those slaves then transported outside of the United States, few took advantage of the agency's services, creating a vacuum that would be filled by more radical opponents of slavery, such as William Lloyd Garrison.

Garrison, who initially belonged to the ACS, grew frustrated with the organization and suspected that it was secretly trying to prolong slavery by reducing the number of free blacks in the South. Increasingly convinced that slavery should be abolished outright, Garrison went to work for an antislavery newspaper run by Quakers, only to grow frustrated with their gradualist approach. In 1831 he established his own weekly newspaper, *The Liberator*, an antislavery publication that propounded a markedly different view from the one espoused by John Woolman in 1754. Rather than focus on the negative effect that slavery had on white owners, Garrison chose to emphasize the harm that slavery caused African Americans, using that harm as a justification for ending slavery immediately. Electrified by the message that blacks should be manumitted immediately and granted full political rights, northern readers of *The Liberator* became so numerous that Garrison founded the New England Anti-Slavery Society in 1832 and, one year later, the American Anti-Slavery Society. By 1838 more

Time Line

1825	■ **October 13** John S. Rock is born in Salem, New Jersey.
1831	■ William Lloyd Garrison begins publishing *The Liberator*.
1833	■ **December** The American Anti-Slavery Society is founded.
1852	■ **July 5** Frederick Douglass delivers his oration "What to the Slave Is the Fourth of July?"
1854	■ The Kansas-Nebraska Act leads to violence on the Missouri-Kansas border.
1857	■ **March 6** *Dred Scott v. Sandford* is decided by the Supreme Court, effectively denying citizenship to all blacks.
1858	■ **March 5** John S. Rock delivers his Faneuil Hall address.
1859	■ **October 16** The abolitionist John Brown leads an assault on a federal arsenal at Harpers Ferry, Virginia.
1861	■ **April 12** Civil War breaks out over the secession crisis.
1865	■ **February 1** John S. Rock becomes the first black man admitted to practice before the Supreme Court. ■ **April 9** The Civil War ends with the Confederate surrender at Appomattox Court House.
1866	■ **December 3** John S. Rock dies.

than one thousand branches of the American Anti-Slavery Society had been founded, and its membership numbered over two hundred fifty thousand.

Of course, whites like Garrison were not the only Americans to oppose slavery. African Americans fought slavery from both within and without. Slave revolts began as early as 1739 in Stono, South Carolina; continued through the eighteenth century; and culminated in the rebellion of Nat Turner, a Virginia slave who, purportedly acting upon God's command, roused sixty of his peers and killed over fifty whites, sending tremors of fear across the South. Less violent forms of revolt emerged in the North, many led by Frederick Douglass, a Maryland slave who escaped to Massachusetts in 1838. Like Garrison, Douglass also founded an abolitionist newspaper, the *North Star*, and allied himself with other reformist causes, among them women's suffrage. However, he became best known for his autobiography, a riveting account of the evils of slavery published in 1845.

In a manner that would come to be representative of abolitionists generally, Douglass and Garrison split in the 1830s, Garrison actually going down the more radical path of criticizing not only southern slavery but also the national government and even the Constitution. Declaring America's founding document a "covenant with death," Garrison succeeded in fracturing his own organization, the American Anti-Slavery Society, contributing to a larger dissonance in the abolitionist movement. Although Douglass charted a more moderate path, eventually becoming an influential figure in the Republican Party, other black abolitionists followed the more radical, Garrisonian road. Indeed, by the early 1850s, abolitionist sentiment had intensified in the North, producing the first hints of black nationalism. In 1852, for example, the black journalist Martin R. Delany announced that black elevation would come only from "self-efforts"—a claim that John Rock would reiterate six years later—and called for black colonization of Central and South America. Even Frederick Douglass—who advocated working for change from within American society—took an increasingly critical stance on the national implications of slavery. In 1852 he delivered a scathing address arguing that the Fourth of July had little significance for blacks, a charge extending the usual abolitionist emphasis on the South northward, to include liberal elites in Boston, New York, and Philadelphia.

Amid such calumny, larger historical forces pushed the country toward civil war. Perhaps foremost among them was westward settlement. Northern settlers, or homesteaders, flooded into the Ohio River Valley during the early years of the nineteenth century and, by 1820, had crossed the Mississippi in sufficient numbers to request that Congress admit Missouri as an independent state, albeit one tolerating slavery. The Missouri Compromise, enacted that year, limited slavery to all places south of Missouri's southern border, an arrangement that seemed to keep North and South satisfied until 1848, when American victory in the Mexican-American War raised the question of whether the South was entitled to establish slave plantations in Arizona, New Mexico, Texas, and southern California, pursuant to the Missouri Compromise. After heated debate between

northern and southern leaders in Congress, a new series of compromises was introduced, including the Compromise of 1850 and the Kansas-Nebraska Act of 1854. This last act declared that the newly formed states of Kansas and Nebraska could decide for themselves, by popular vote, whether they were to be slave or free, essentially nullifying the Missouri Compromise of 1820.

Almost immediately, violence erupted along the Kansas-Missouri border, as proslavery settlers clashed with free-soil advocates, leading to insurgent warfare. Convinced that the Supreme Court should intervene to settle the slave question once and for all, Chief Justice Roger Taney agreed to hear a case brought by a slave who had left Missouri to live in free territory, only to then return to St. Louis and sue for his freedom. In *Dred Scott v. Sandford*, decided in 1857, the Court ruled the Missouri Compromise unconstitutional, opening much of the West to proslavery settlers. The Court also declared that no African American, whether slave or free, had constitutional rights that the Court was "bound to respect," an added barb that did much to set the stage for John S. Rock's speech at Boston's Faneuil Hall one year later.

Organized by the black abolitionist William Cooper Nell, the Faneuil Hall event was designed to commemorate the death of the black patriot Crispus Attucks during the Boston Massacre of 1770, meanwhile providing a platform for abolitionists to refute the Supreme Court's recent ruling in *Dred Scott v. Sandford*. Among those invited were John S. Rock and Theodore Parker, a white Unitarian minister and radical abolitionist who was active in the protection of fugitive slaves but who was also a firm believer in Anglo-Saxon racial superiority. Parker's racial paternalism angered black abolitionists like Douglass and Rock, who took the Faneuil Hall event as an opportunity to engage his white peer.

About the Author

Born a free black on October 13, 1825, in Salem, New Jersey, John Swett Rock became known early in life for being studious. Noticing that their son rarely went anywhere without a book, Rock's parents encouraged him, at age nineteen, to become a schoolteacher in his hometown of Salem. The yearning for further education goaded him onward to spend his free time studying, in the hope of becoming a physician. Two local doctors, both white, allowed him to use their libraries, and though he took quickly to the material, he failed to gain admittance to medical school in Massachusetts on account of his color. Undaunted, Rock sought out a related profession that did not require formal training, dentistry, and was able to persuade a white dentist to hire him as a servant and tutor him in his off-hours. Open to anyone who completed an apprenticeship, dentistry provided Rock with a potentially more lucrative profession than teaching.

Consequently, once his apprenticeship was over, he opened his own office and even won a medal for his ability to make dentures. However, he quickly learned that only African Americans would seek out his services, and most

Faneuil Hall in the nineteenth century (Library of Congress)

of them did not have enough money to provide him with a good living. Even after moving to Philadelphia in the hope of finding more black clients, Rock struggled, eventually taking up teaching again, though he taught only part time at an evening school for African Americans.

Unwilling to give up his original dream, Rock returned to his medical books and, with the help of well-connected white associates, was able to gain admission to the American Medical College in Philadelphia. After two years of work, Rock attained his medical degree, only to then find himself, as one of the few black professionals in the city, increasingly caught up in the abolitionist movement. Blessed with a compelling speaking style, Rock became sought after as a public speaker and, sensing a new calling, left Philadelphia for Boston, the hub of abolitionist politics. Once there, Rock began to attract attention as a lyceum lecturer, delivering talks on race, slavery, and black life and even gaining notice in William Lloyd Garrison's *The Liberator*, which praised Rock as a "first class" lecturer who could dazzle audiences both in the formal setting of the lyceum and on the stump.

Although he is remembered for his lectures on race, Rock also addressed other popular reform topics, including temperance and women's rights. In fact, one of his most popular speeches advocated the political and intellectual equality of women, a subject that he became interested in after visiting the influential literary salon of Madame de Staël in Paris in 1858. Impressed by de Staël's literary prowess, Rock proceeded to compare her with Napoléon, whom he deemed to be de Staël's intellectual inferior. Intrigued,

Essential Quotes

"Nothing but superior force keeps us down."

"Sooner or later, the clashing of arms will be heard in this country, and the black man's services will be needed."

"When I contrast the fine tough muscular system, the beautiful, rich color, the full broad features, and the gracefully frizzled hair of the Negro, with the delicate physical organization, wan color, sharp features and lank hair of the Caucasian, I am inclined to believe that when the white man was created, nature was pretty well exhausted."

"The colored man, by dint of perseverance and industry, educates and elevates himself, prepares the way for others, gives character to the race, and hastens the day of general emancipation."

reformers in Massachusetts invited Rock to address the Massachusetts legislature, which he did in 1860.

As he became increasingly well known for his speeches, Rock decided to abandon medicine and commence the study of law. By 1861 he had learned enough to impress the Massachusetts Superior Court, gaining admission to the state bar. That same year, he opened his own law office and gained employment as the justice of the peace for Boston County, a promotion noted by Garrison's *Liberator*. In 1864 Rock applied for and gained admission to practice before the Supreme Court of the United States, a feat aided by Charles Sumner—the same abolitionist senator who (in a notorious incident in 1856 on the Senate floor) had been caned by the proslavery South Carolinian Preston Brooks—and by Supreme Court Justice Salmon Chase. Although he never argued a case before the Court, Rock's admission made him the first African American admitted to practice there, a feat that did much to undermine the still persuasive legal authority of *Dred Scott v. Sandford*, which had denied all rights to African Americans. Two years after this singular accomplishment, Rock died of consumption, only forty-one years old.

Explanation and Analysis of Document

Rock begins by refuting white claims that African Americans were "cowards" too afraid to resist their own enslavement. Ironically, Rock's target in this attack was a white abolitionist named Theodore Parker, who had recently argued before the Massachusetts legislature that white Anglo-Saxons were naturally more courageous than their black counterparts, who were by nature pacifist and cowardly. Even Native Americans, Parker contended, were more warlike than Africans, which explained their freedom from enslavement.

Incensed, Rock asserts that unlike Indians, Africans were brought to the New World unarmed and bound in chains, conditions that made their plight different from the Indian, who possessed "armies," "battle-grounds," and "places of retreat" and whom whites often cited for bravery. If whites dared engage black people only on their home terrain, whether in Africa or "Hayti," then they would meet a very different foe. As it was, however, black submission to slavery was not cowardice but common sense, a survival mechanism that whites themselves would resort to if they found themselves enslaved in Africa. Indeed, posits Rock,

a form of white slavery did exist, in Europe, where peasants suffered under the "iron heel of oppression" but did not dare "protest against it." Moreover, such slavery went back to Roman times, when Romans had enslaved "Anglo-Saxon" tribes from northern Europe, despite the fact that leading citizens like Cicero cautioned against it on account of Anglo-Saxon "stupidity."

In contrast to Anglo-Saxons and subservient European peasants, Rock invokes the legendary slave rebellion in Haiti, led by Toussaint-Louverture, during which "blacks whipped the French and the English" and proceeded to establish an independent black nation, even overcoming the opposition of Napoléon ("that villainous First Consul"). Rock also invokes the black soldiers who fought in the American Revolution, the War of 1812, and the Mexican-American War. Such historical examples of black militancy enable Rock to undermine a more recent claim made by his fellow black abolitionist Reverend Theodore Parker, who just a "few weeks" before had argued that slavery could have been ended long ago with a black "stroke of the axe." To Rock's mind, Parker did not fully understand the challenges to black armed revolt in the United States, nor did he recognize the role that "superior force" played in maintaining the slave system. Despite claims by white southerners that slaves were content in the South, Rock held the more accurate view that slaves existed in a state of perpetual resistance, disciplined by fear and threats of violence.

Precisely because African Americans had proved their military capabilities in the past, so, too, Rock believes they can be relied upon in the future. Anticipating the Civil War, Rock notes that "sooner or later, the clashing of arms will be heard in this country" and, upon such notice, "150,000 freemen capable of bearing arms," together with "three quarters of a million slaves" will be eager to "strike a genuine blow for freedom." Even the racist pronouncements of *Dred Scott* supporters like Supreme Court Justice Roger Taney or Attorney General Caleb Cushing would not discourage blacks from fighting, their ultimate allegiance going not so much to nation as to race. "Will the blacks fight? Of Course they will.… No man shall cause me to turn my back upon my race. With it I will sink or swim."

Race pride here surges to the fore, pushing Rock not only to defend black courage in battle but also to extol black beauty. Conceding admiration for "the talents and noble characters" of many whites, he confesses to being generally disappointed by "their physical appearance." To him, whites possess "sharp features," "lank hair," and a "wan color," that was far less attractive than the "fine tough muscular system," "full broad features," and "gracefully frizzled hair of the Negro." An ironic reversal of white claims that it was blacks who were unattractive, Rock's celebration of black features is at once reactionary and forward looking. Reactionary in the sense that he had clearly not transcended racialist thinking but simply cobbled together his own form of black supremacism. Forward looking precisely because black radicals would make similar claims over a century later in the 1960s, advancing a "black is beautiful" aesthetic.

In close conjunction with his aesthetic views, Rock proceeds to outline a theory of uplift that hinges not on white magnanimity but on black ingenuity and hard work. Prefiguring Booker T. Washington by almost half a century, Rock argues that the future of black advancement lies not in abolitionist politics (what he terms making "brilliant speeches") but in "work," "perseverance," and "industry." Whites can help in this regard, says Rock, by removing "the obstacles which prevent our elevation," but blacks must not "rely on them." Again foreshadowing Washington, Rock focuses not on the acquisition of civil rights for blacks so much as the importance of economics and, in particular, business for black advancement. "Money is the great sympathetic nerve which ramifies" American society. Therefore, only when "the avenues to wealth are opened to us," would blacks truly gain equality.

Black economic success, Rock concludes, would have a transformative effect on white attitudes. "Then, and not till then," he concludes, "will the tongue of slander be silenced, and the lip of prejudice sealed." This is because economic success would have a transformative effect on African Americans themselves. Wealth "will make our jargon, wit—our words, oracles; flattery will then take the place of slander, and you will find no prejudice in the Yankee whatever." By arguing that money would transform black jargon, reducing white prejudice in the process, Rock is essentially making a prescient analysis of race as a social construct rather than an innate characteristic, that is, a product of legal repression and economic deprivation, not of blood. Although he is clearly unafraid to argue that some aspects of racialism are positive, Rock seems to believe that, ultimately, the most significant racial categories are contrived by society. What whites cited as black inferiority, he argues, is in fact a logical result of circumstance, not heredity.

Audience

John S. Rock's immediate audience consisted of black and white abolitionists at Faneuil Hall as well as abolitionist readers of *The Liberator*. Aware that abolitionists varied from moderate to extreme in their views, however, he specifically targeted increasingly militant white abolitionists who had impugned the honor of African Americans by implying that they lacked courage and could have ended slavery earlier had they only risen up violently against their masters. Perhaps foremost among these abolitionists was Reverend Theodore Parker, a Unitarian minister from Lexington, Massachusetts, cited by name in the speech, who had became increasingly convinced that violence was justified in the struggle against slavery. Parker personally declared that blacks could have ended slavery themselves had they only resorted to the "axe," but were too afraid to do so. Their fear, Parker maintained, was attributable to their racial inferiority.

Outraged, Rock sought to discredit Parker's racial views before Boston's abolitionist community, a bold move given that many African Americans and whites alike supported

Parker's work, particularly his success at protecting fugitive slaves. Rock risked abolitionist admonishment in order to make a case for black military honor, a strategic move given that abolitionist thinking was assuming a more militant form. Parker himself had provided weapons to free militias in Kansas, even joining a subversive organization, the "Secret Six," who supported the insurgent plans of the renegade abolitionist John Brown. Brown rejected the pacifism of abolitionist leaders like William Lloyd Garrison and Frederick Douglass, even orchestrating the brutal murder of five proslavery settlers in Pottawatomie, Kansas, in 1856.

Despite the cold-blooded nature of Brown's attack, radical abolitionists in the North hailed him as a hero, marking the rise of a new, decidedly martial strain of abolitionist thought. Although he refuted Parker on the question of black cowardice, Rock identified himself with this assertive strain of thinking, spending much of his 1858 speech extolling black potential in combat. Yet Rock did not himself engage in violence, nor did he show much interest in funneling money to radicals like Brown. Instead, his militant stance remained largely rhetorical, a muscular complement to his larger emphasis on black self-help.

By endorsing self-help—and refuting Parker—Rock successfully pressed the abolitionist community in Boston to come to terms with its own often patronizing views toward blacks. At the time, even the most fervent white abolitionists tended to consider African Americans to be their racial inferiors. Still, few blacks dared to challenge them, partly out of a strategic apprehension that these white advocates might abandon the abolitionist cause, cease to help fugitive slaves, and turn to other reform struggles. For this very reason, Rock's targeting of white abolitionists was important, an intellectual challenge that exposed fault lines within the abolitionist movement, even as it shamed whites into accepting blacks as their intellectual equals.

Of course, Rock's speech also aimed to reach African Americans, warning them not to rely on the support of people who did not truly accept them as equals and also to work to gain financial independence and success on their own. Like Booker T. Washington, in his controversial Atlanta Exposition Address of 1895, Rock charged African Americans to become self-reliant, particularly in economic matters. Once blacks were economically successful, argued Rock, white attitudes would change automatically, something that could otherwise take centuries. Indeed, by positing that African Americans were superior to whites in certain respects, Rock offered a message that was both a barb to his white listeners and an inspirational note to the black members of his audience.

Impact

Although Rock would never become as influential as abolitionists like Douglass, Garrison, or even Theodore Parker, his speech did have an immediate effect in Boston. Many white listeners confessed to being persuaded by his argument, particularly his allusion to black armed re-

Questions for Further Study

1. How did Rock's views on black nationalism differ from those expressed by Martin Delany in *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States* (1852)?

2. How did Rock's address anticipate the debate about economic versus political power that took place later in the century and into the twentieth century between such advocates as Booker T. Washington and W. E. B. Du Bois?

3. In the later years of the nineteenth century, numerous key documents in African American history were written by men: John S. Rock, Frederick Douglass, Martin R. Delany, Richard Cain, T. Thomas Fortune, John E. Bruce, John L. Moore, and others. By the end of the century, though, the voices of numerous women were being heard: Anna Julia Cooper, Josephine St. Pierre Ruffin, Mary Church Terrell, and Ida B. Wells-Barnett. What changes, if any, in social, economic, or political circumstances provided women with a wider platform at the end of the century?

4. In what ways did Rock's address prefigure the black nationalism of such twentieth-century figures as Stokely Carmichael, as manifested in his "Black Power" speech (1966)?

5. Describe the events surrounding John Brown's raid on Harpers Ferry, Virginia, and Rock's relationship to those events. What do these events tell you about the attitudes and tensions in the African American community on the eve of the Civil War?

volt in Haiti, which they agreed refuted Parker's charges that blacks were cowardly and inherently nonviolent. This alone was significant, for racial attitudes in the North were already beginning to crystallize under newly emerging scientific theories about ethnology and human development, theories that, by the end of the nineteenth century would lead most Americans, northerners and southerners alike, to accept the theory of black inferiority.

Rock's speech may have had a dramatic effect. The day after the Faneuil Hall event, Theodore Parker met with the militant abolitionist John Brown at the American House Hotel in Boston, agreeing to raise funds for his efforts. While Parker would normally have scoffed at plans for an armed insurrection (out of his conviction that blacks were congenital cowards), John Rock's speech seems to have convinced even him that African Americans would rise up against their owners and bring about their own liberation. Of course, John Brown's plan, which resulted in the raid on Harpers Ferry, Virginia, on October 16 of the following year, went horribly awry after Brown fired on a Baltimore & Ohio train traveling through the town. It is certainly possible that Parker's support of the mission derived from Rock's strident words.

Perhaps the ultimate significance of Rock's speech would not become manifest until a century later, when young black activists like Stokely Carmichael tired of the pacifist stance of the civil rights movement and lobbied for Black Power. Calls for armed self-defense by Carmichael and others seemed to echo Rock's words, as would an emerging Afrocentrism that rejected white, Eurocentric models of beauty and fashion in favor of black alternatives. While there is relatively little evidence that the Black Panthers and others were reading Rock, black scholars like Manning Marable and Leith Mullings would recover his words, entering him into the canon of black political writings in the United States.

See also John Woolman's *Some Considerations on the Keeping of Negroes* (1754); Pennsylvania: An Act for the Gradual Abolition of Slavery (1780); Slavery Clauses in the U.S. Constitution (1787); *The Confessions of Nat Turner* (1831); William Lloyd Garrison's First *Liberator* Editorial (1831); Martin Delany: *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States* (1852); Frederick Douglass's "What to the Slave Is the Fourth of July?" (1852); *Dred Scott v. Sandford* (1857); Booker T. Washington's Atlanta Exposition Address (1895); Stokely Carmichael's "Black Power" (1966).

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—Anders Walker

Document Text

John S. Rock's "Whenever the Colored Man Is Elevated, It Will Be by His Own Exertions"

You will not expect a lengthened speech from me to-night. My health is too poor to allow me to indulge much in speech-making. But I have not been able to resist the temptation to unite with you in this demonstration of respect for some of my noble but misguided ancestors.

White Americans have taken great pains to try to prove that we are cowards. We are often insulted with the assertion, that if we had had the courage of the Indians or the white man, we would never have submitted to be slaves. I ask if Indians and white men have never been slaves? The white man tested the Indian's courage here when he had his organized armies, his battle-grounds, his places of retreat, with everything to hope for and everything to lose. The position of the African slave has been very different. Seized a prisoner of war, unarmed, bound hand and foot, and conveyed to a distant country among what to him were worse than cannibals; brutally beaten, half-starved, closely watched by armed men, with no means of knowing their own strength or the strength of their enemies, with no weapons, and without a probability of success. But if the white man will take the trouble to fight the black man in Africa or in Hayti, and fight him as fair as the black man will fight him there—if the black man does not come off victor, I am deceived in his prowess. But, take a man, armed or unarmed, from his home, his country or his friends, and place him among savages, and who is he that would not make good his retreat? "Discretion is the better part of valor," but for a man to resist where he knows it will destroy him, shows more fool-hardiness than courage. There have been many Anglo-Saxons and Anglo-Americans enslaved in Africa, but I have never heard that they successfully resisted any government. They always resort to running indispensables.

The courage of the Anglo-Saxon is best illustrated in his treatment of the negro. A score or two of them can pounce upon a poor negro, tie and beat him, and then call him a coward because he submits. Many of their most brilliant victories have been achieved in the same manner. But the greatest battles which they have fought have been upon paper. We can easily account for this; their trumpeter is dead. He died when they used to be exposed for sale in the Roman market, about the time that Cicero cautioned his friend Atticus not to buy them, on account of their stupidity. A little more than half a century ago, this race, in connection with their Celtic neighbors, who have long been considered (by themselves, of course,) the bravest soldiers in the world, so far forgot themselves, as to attack a few cowardly, stupid negro slaves, who, according to their accounts, had not sense enough to go to bed. And what was the result? Why, sir, the negroes drove them out from the island like so many sheep, and they have never dared to show their faces, except with hat in hand.

Our true and tried friend, Rev. Theodore Parker, said, in his speech at the State House, a few weeks since, that "the stroke of the axe would have settled the question long ago, but the black man would not strike." Mr, Parker makes a very low estimate of the courage of his race, if he means that one, two or three millions of these ignorant and cowardly black slaves could, without means, have brought to their knees five, ten, or twenty millions of intelligent, brave white men, backed up by a rich oligarchy. But I know of no one who is more familiar with the true character of the Anglo-Saxon race than Mr. Parker. I will not dispute this point with him, but I will thank him or any one else to tell us how it could have been done. His remark calls to my mind the day which is to come, when one shall chase a thousand, and two put ten thousand to flight. But when he says that "the black man *would not* strike," I am prepared to say that he does us great injustice. The black man is not a coward. The history of the bloody struggles for freedom in Hayti, in which the blacks whipped the French and the English, and gained their independence, in spite of the perfidy of that villainous First Consul, will be a lasting refutation of the malicious aspersions of our enemies. The history of the struggles for the liberty of the U.S. ought to silence every American calumniator. I have learned that even so late as the Texan war, a number of black men were silly enough to offer themselves as living sacrifices for our country's shame. A gentleman who delivered a lecture before the New York Legislature, a few years since, whose name I do not now remember, but whose language I give with some precision, said, "In the Revolution, colored soldiers fought side by side with you in your struggles for liberty, and there is not a battle-field

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from Maine to Georgia that has not been crimsoned with their blood, and whitened with their bones." In 1814, a bill passed the Legislature of New York, accepting the services of 2000 colored volunteers. Many black men served under Com. McDonough when he conquered on Lake Champlain. Many were in the battles of Plattsburgh and Sackett's Harbor, and General Jackson called out colored troops from Louisiana and Alabama, and in a solemn proclamation attested to their fidelity and courage.

The white man contradicts himself who says, that if he were in our situation, he would throw off the yoke. Thirty millions of white men of this proud Caucasian race are at this moment held as slaves, and bought and sold with horses and cattle. The iron heel of oppression grinds the masses of all European races to the dust. They suffer every kind of oppression, and no one dares to open his mouth to protest against it. Even in the Southern portion of this boasted land of liberty, no white man dares, advocate so much of the Declaration of Independence as declares that "all men are created free and equal, and have an inalienable right to life, liberty," &c.

White men have no room to taunt us with tamely submitting. If they were black men, they would work wonders; but, as white men, they can do nothing. "O, Consistency, thou art a jewel!"

Now, it would not be surprising if the brutal treatment which we have received for the past two centuries should have crushed our spirits. But this is not the case. Nothing but a superior force keeps us down. And when I see the slaves rising up by hundreds annually, in the majesty of human nature, bidding defiance to every slave code and its penalties, making the issue Canada or death, and that too while they are closely watched by paid men armed with pistols, clubs and bowie-knives, with the army and navy of this great Model Republic arrayed against them, I am disposed to ask if the charge of cowardice does not come with ill-grace.

But some men are so steeped in folly and imbecility; so lost to all feelings of their own littleness; so destitute of principle, and so regardless of humanity, that they dare attempt to destroy everything which exists in opposition to their interests or opinions which their narrow comprehensions cannot grasp.

We ought not to come here simply to honor those brave men who shed their blood for freedom, or to protest against the Dred Scott decision, but to take counsel of each other, and to enter into new vows of duty. Our fathers fought nobly for freedom, but they were not victorious. They fought for liberty, but they got slavery. The white man was benefitted, but the black man was injured. I do not envy the white American the little liberty which he enjoys. It is his right, and he ought to have it. I wish him success, though I do not think he deserves it. But I would have all men free. We have had much sad experience in this country, and it would be strange indeed if we do not profit by some of the lessons which we have so dearly paid for. Sooner or later, the clashing of arms will be heard in this country, and the black man's services will be needed: 150,000 freemen capable of bearing arms, and not all cowards and fools, and three quarters of a million slaves, wild with the enthusiasm caused by the dawn of the glorious opportunity of being able to strike a genuine blow for freedom, will be a power which white men will be "bound to respect." Will the blacks fight? Of course they will. The black man will never be neutral. He could not if he would, and he would not if he could. Will he fight for this country, right or wrong? This the common sense of every one answers; and when the time comes, and come it will, the black man will give an intelligent answer. Judge Taney may outlaw us; Caleb Cushing may show the depravity of his heart by abusing us; and this wicked government may oppress us; but the black man will live when Judge Taney, Caleb Cushing and this wicked government are no more. White man may despise, ridicule, slander and abuse us; they may seek as they always have done to divide us, and make us feel degraded; but no man shall cause me to turn my back upon my race. With it I will sink or swim.

The prejudice which some white men have, or affected to have, against my color gives me no pain. If any man does not fancy my color, that is his business, and I shall not meddle with it. I shall give myself no trouble because he lacks good taste. If he judges my intellectual capacity by my color, he certainly cannot expect much profundity, for it is only skin deep, and is really of no very great importance to any one but myself. I will not deny that I admire the talents and noble characters of many white men. But I cannot say that I am particularly pleased with their physical appearance. If old mother nature had held out as well as she commenced, we should, probably, have had fewer varieties in the races. When I contrast the fine tough muscular system, the beautiful, rich color, the full broad features, and the gracefully frizzled hair of the Negro, with the delicate physical organization, wan color, sharp features and lank hair of the Caucasian, I am inclined to believe that when the white man was created, nature was pretty well exhausted—but determined to keep up appearances, she pinched

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up his features, and did the best she could under the circumstances.

I would have you understand, that I not only love my race, but am pleased with my color; and while many colored persons may feel degraded by being called negroes, and wish to be classed among other races more favored, I shall feel it my duty, my pleasure and my pride, to concentrate my feeble efforts in elevating to a fair position a race to which I am especially identified by feelings and by blood.

My friends, we can never become elevated until we are true to ourselves. We can come here and make brilliant speeches, but our field of duty is elsewhere. Let us go to work—each man in his place, determined to do what he can for himself and his race. Let us try to carry out some of the resolutions which we have made, and are so fond of making. If we do this, friends will spring up in every quarter, and where we least expect them. But we must not rely on them. They cannot elevate us. Whenever the colored man is elevated, it will be by his own exertions. Our friends can do what many of them are nobly doing, assist us to remove the obstacles which prevent our elevation, and stimulate the worthy to persevere. The colored man who, by dint of perseverance and industry, educates and elevates himself, prepares the way for others, gives character to the race, and hastens the day of general emancipation. While the negro who hangs around the corners of the streets, or lives in the grog-shops or by gambling, or who has no higher ambition than to serve, is by his vocation forging fetters for the slave, and is "to all intents and purposes" a curse to his race. It is true, considering the circumstances under which we have been placed by our white neighbors, we have a right to ask them not only to cease to oppress us, but to give us that encouragement which our talents and industry may merit. When this is done, they will see our minds expand, and our pockets filled with rocks. How very few colored men are encouraged in their trades or business! Our young men see this, and become disheartened. In this country, where money is the great sympathetic nerve which ramifies society, and has a ganglia in every man's pocket, a man is respected in proportion to his success in business. When the avenues to wealth are opened to us, we will then become educated and wealthy, and then the roughest looking colored man that you ever saw, or ever will see, will be pleasanter than the harmonies of Orpheus, and black will be a very pretty color. It will make our jargon, wit—our words, oracles; flattery will then take the place of slander, and you will find no prejudice

Glossary

Anglo-Saxons	the Germanic tribes that overran Europe and the British Isles after the collapse of the Roman Empire; used loosely to refer to white northern Europeans
"bound to respect"	a quotation from the U.S. Supreme Court's decision in *Dred Scott v. Sandford*, which stated that blacks "had no rights which the white man was bound to respect."
bowie-knives	fixed-blade knives named after Colonel James Bowie, a frontiersman who fought and died at the Battle of the Alamo during the Texas War of Independence
Caleb Cushing	a U.S. attorney general and member of the U.S. House of Representatives from Massachusetts
Celtic	a reference to the Celts, widespread European ethnic group; used loosely in modern times to refer to the peoples of Ireland, Scotland, Brittany, Wales, and Cornwall
Cicero	Marcus Tullius Cicero, an ancient Roman historian, philosopher, and statesman and the biographer and close friend of Titus Pomponius Atticus
Com. McDonough	Commander Thomas McDonough, the leader of U.S. naval forces that won a decisive victory at the Battle of Lake Champlain, also called the Battle of Plattsburgh, during the War of 1812

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in the Yankee whatever. We do not expect to occupy a much better position than we now do, until we shall have our educated and wealthy men, who can wield a power that cannot be misunderstood. Then, and not till then, will the tongue of slander be silenced, and the lip of prejudice sealed. Then, and hot till then, will we be able to enjoy true equality, which can exist only among peers.

Glossary

"Discretion is the better part of valor"	common misquotation from Shakespeare's *Henry IV*, Part 1, act 5, scene 4; the correct quotation is "The better part of valor is discretion."
Dred Scott decision	the decision of the U.S. Supreme Court in *Dred Scott v. Sandford* (1857)
General Jackson	Andrew Jackson, the seventh U.S. president and a military commander best known for the U.S. victory at the Battle of New Orleans during the War of 1812
Hayti	Haiti, the site of a revolution that ended slavery in the late eighteenth and early nineteenth centuries
Judge Taney	Roger Taney, chief justice of the United States, who delivered the Court's decision in *Dred Scott v. Sandford*
"O, Consistency, thou art a jewel!"	a traditional proverb of unknown origin
Orpheus	a Greek god associated with, among other things, music
Sackett's Harbor	Sackets Harbor, New York, the site of a battle during the War of 1812
Texan war	the Texas War of Independence (from Mexico) in 1835–1836
Theodore Parker	a white abolitionist and Unitarian minister
villainous First Counsel	Napoléon Bonaparte, the ruler of France and its colonies
Yankee	a common nickname for northerners

Virginia Slave Code

1860

"If a free person ... maintain that owners have not right of property in their slaves, he shall be confined in jail."

Overview

Virginia's legal defense of slave ownership began in 1662 and ended in 1865, so Virginia statutes concerning slaves reflected two centuries of lawmaking. In the nineteenth century, these statutes were incorporated into the much broader *Code of Virginia*. Thus, to refer to a single "slave code" is a bit of a misnomer, for the "Virginia Slave Code" consisted in fact of provisions that were made part of the 1860 version of the *Code of Virginia*, which was in turn the "second edition" of the 1849 revised code. The fact that none of the many slave revolts over the centuries ever fully succeeded testifies to the lawmakers' role in perpetuating the "peculiar institution." As in other slaveholding societies, white Virginians were continually alert to any signs of slave rebelliousness, and they modified their laws accordingly.

Context

The Virginia Slave Code of 1860 reflected a deep history. The mother country had shipped an estimated one hundred fourteen thousand Africans to the Old Dominion (as King Charles II fondly called the prized colony of Virginia) between 1619 and 1778, when the state government outlawed the importation of Africans. Virginians were not the first Europeans to impose lifetime servitude in the Americas. Dutch, French, Portuguese, and Spanish slave traders and planters had sent approximately twelve million enslaved Africans into their New World settlements from the 1500s to the 1800s. To maintain control over their African servants, the county governments of Virginia began to rely on court decisions and statutes created by the colonial assembly, the House of Burgesses. These judicial and legislative developments, based sometimes on English laws and court decisions in English Caribbean colonies, buttressed the successful slave society that Old Dominion planters created.

Many English people assumed that Africans were to be treated not only as servants but also as "lesser" human beings. Two statutes especially prepared the way for legally protected slavery. The first, passed in 1662, declared that children of enslaved African women and European men in Virginia were slaves from their birth (slave status being passed through the female line). Such children inherited legal debasement as soon as they were born. The second statute (1667) pronounced, lest anyone had doubts, that Christian baptism would not emancipate any slave. This law, having denied freedom to newborn black Christians, went on to declare that masters could now "carefully endeavor the propagation of Christianity by permitting children, though slaves, or those of greater growth if capable to be admitted to that sacrament."

From 1700 to 1865, diverse white Virginians relied on themselves, on their employees, and on laws and courts to protect their investment in and to maintain their control over their increasing numbers of slaves. The white leaders mostly succeeded. Despite the Virginia government's 1778 decision to outlaw African importation and increased sales of slaves out of the Old Dominion, the state's enslaved population grew steadily from 1790 to 1860. During this period the slave population increased by 68 percent and the free white population by 137 percent. By 1860 the enslaved population of the Old Dominion was 490,865. This steady growth of human bondage required diverse legal revisions, innovations, and many court cases—local, county, and state.

Virginia leaders and legislators developed the law of slavery over two centuries—from the 1660s until 1860. The slave laws in the second edition of the *Code of Virginia* differed to some extent from seventeenth-century slave laws, but there was continuity as well. At first, the royal governors joined with plantation owners to secure what would later be called the "peculiar institution." And English monarchs, members of Parliament, government officials, writers, and other leaders defended human bondage—that is, enslavement of Africans and of Native Americans as well. The laws enacted by the House of Burgesses under Governor William Berkeley in 1662 and 1667 protected slave owners' legal rights for years to come. Berkeley and his immediate successors all had some military experience, unlike many later governors. That experience helped when rebellious people challenged slaveholders.

Time Line

1676	■ At least eighty enslaved Africans join Bacon's Rebellion but are eventually captured and punished.
1680	■ The Virginia House of Burgesses passes An Act for Preventing Negroes Insurrections, citing the "frequent meeting of considerable numbers of negroe slaves" as justification for prohibiting slaves' carrying arms.
1687	■ A failed black conspiracy in Tidewater, Virginia, leads authorities to find new ways to control the African population.
1692	■ An Act for the More Speedy Prosecution of Slaves Committing Capitall Crimes prescribes hanging as the penalty for insurrection.
1705	■ An Act concerning Servants and Slaves becomes the first comprehensive statute concerning slavery in Virginia.
1710–1732	■ A period of vigorous prosecutions in Virginia leads to at least twenty convictions relating to insurrection by 1732.
1748	■ The Virginia burgesses enact An Act Directing the Trial of Slaves Committing Capital Crimes; and for the More Effectual Punishing Conspiracies and Insurrections of Them; and for the Better Government of Negroes, Mulattoes, and Indians, Bond or Free.
1765	■ The Virginia burgesses pass An Act for Amending the Act Entitled An Act Directing the Trial of Slaves Committing Capital Crimes; and for the More Effectual Punishing Conspiracies and Insurrections of Them; and for the Better Government Of Negroes, Mulattoes, and Indians, Bond or Free.

Later royal governors wrestled not only with property law but also with rebellious slaves. Bacon's Rebellion of 1674–1676, an uprising of aggrieved frontier settlers, had the support of some indentured servants and slaves, who presumably hoped to gain their freedom amid the havoc of revolt. Many of the African men were ultimately killed or punished, but white leaders undoubtedly remembered the specter of bondsmen attaining temporary freedom. In 1680, Governor Thomas Culpeper and the House of Burgesses were clearly aware of this possibility when they declared in 1680 that "the frequent meeting of considerable numbers of negroe slaves under pretence of feasts and burials is judged of dangerous consequence." Therefore no African should carry any weapon, nor should any leave his master's land without a certificate from his "master, mistress or overseer."

Judicial power gradually became more important as a means of controlling bondspeople. In April 1692, Lieutenant Governor Francis Nicholson and the burgesses created the oyer and terminer (hearing and determining) courts, in which local judges would try slaves for capital criminal offenses. (These courts were separate from other oyer and terminer courts in Virginia.) Courts of oyer and terminer had existed for centuries in England to try cases of treason, felony, and misdemeanors. In Virginia, these courts would be called as needed in all counties from April 1692 to April 1865—173 years. Was it logical to deny trial by jury to enslaved men and women? Who would have been a jury of their peers? Numerous slaves were hanged upon condemnation by an oyer and terminer court. Others were transported out of the Old Dominion or whipped. And some were found not guilty. The judges did not have absolute power. From 1692 to 1765, the courts required authorization from the colonial governor to carry out an execution. Afterward, state governors could authorize or block executions. Eventually, lawyers were allowed to represent enslaved defendants. Clemency petitions sometimes gained relief for slaves.

Laws concerning slavery were harsh and fearsome from many enslaved people's point of view—and properly strong as far as slave owners were concerned. Still, over time, some owners tried to alleviate the burden that enslaved people carried. Thomas Jefferson's famous statement in his *Notes on the State of Virginia*—"I tremble for my country when I reflect that God is just: that his justice cannot sleep for ever"—reflected his conscience. But such thoughts resulted in relatively few people being freed. Some later commentators advocated a rational approach to enslaved people. Among the most effective efforts to employ rational jurisprudence with respect to Virginia's Slave Code was the work of St. George Tucker, who, in addition to serving on the Virginia Court of Appeals, published an edition of Blackstone's *Commentaries on the Laws of England* in 1803 that included judges' opinions and Tucker's discussion of slave law. Virginia Supreme Court opinions also parsed the practical legal questions related to slavery in Virginia. On the whole, however, judges and legislators continued to support restrictive laws related to enslaved people under their jurisdiction. In turn, the oyer

and terminer judges found slaves innocent or guilty and rarely recorded their reasoning.

There were occasions when judges tried to persuade the state governor and council to make exceptions concerning capital punishment for some condemned men and women. Judges sometimes argued with one another about a person condemned to death for conspiracy to rebel, taking into account extenuating circumstances. Finally, during the aftermath of slave plots or rebellions, occasionally the state government concluded that, as happened after Gabriel's conspiracy of 1800, there had been enough public hangings. On September 15, 1800, Governor James Monroe told the presidential candidate Thomas Jefferson that "when to arrest the hand of the Executioner, is a question of great importance." On September 20, Jefferson responded, "There is a strong sentiment that there has been hanging enough." Twenty men had been hanged by September 22; thereafter only six rebels, including Gabriel, went to their deaths on the gallows. A few months later, with President Jefferson's help, Governor Monroe persuaded the Virginia legislators to pass a law that allowed the transportation out of Virginia and away from the United States of enslaved men and women condemned to death but granted mercy. Soon the Virginia government transported nine men held in jail after being convicted of conspiring with Gabriel, including Jack Bowler, a plot leader. After Nat Turner's revolt in 1831, eighteen men convicted of rebellion were transported. It should be noted that transportation (usually to the West Indies) offered only partial mitigation of a death sentence, since the harsh conditions of Caribbean slavery ensured a far higher mortality rate than existed in Virginia. Some of those condemned to transportation still sought to escape. They clearly did not regard transportation as merciful.

Various events likely prompted Virginia to further revise its slave laws in 1860. One was no doubt the Fugitive Slave Act of 1850, which established federal protection and remedies for slave owners—and which had the unintended effect of increasing traffic on the Underground Railroad so that a growing number of people took part in providing safe houses, guides, and routes for escaped slaves. The Kansas-Nebraska Act of 1854 attempted, and failed, to settle the growing sectional dispute between North and South over the issue of slavery. Some states would have liked to have seen a federal slave code, but sectional divisions made agreement on such a code extremely unlikely. In 1857 the U.S. Supreme Court issued its landmark decision in *Dred Scott v. Sandford*, holding that neither a state nor the federal government had the authority to ban slavery in the Territories. In 1858, Abraham Lincoln, in challenging Stephen A. Douglas for his seat as senator from Illinois, gave his famous "House Divided" speech in which he said that the nation could not exist half slave and half free. Then, in 1859, the abolitionist John Brown led an abortive raid on the federal arsenal at Harpers Ferry, Virginia, further inflaming passions over the slavery issue. By 1860, when Virginia amended its code, it was clear that the nation was on a course that would lead to civil war.

Time Line

1775	■ At one of the Virginia Conventions, held after the House of Burgesses was dissolved by the royal governor, Lord Dunmore, delegates accuse Lord Dunmore of arming slaves against "the good people of this colony."
1800	■ Gabriel and twenty-five other enslaved men in and near Richmond are hanged for conspiring to rebel.
1802	■ Ten men are executed and four transported amid an insurrection plot.
1816	■ Five men are hanged and another six transported when George Boxley's Spotsylvania County plot is discovered.
1819	■ *The Revised Code of the Laws of Virginia, 1819* includes An Act, Reducing into One the Several Acts Concerning Slaves, Free Negroes and Mulattos, authorizing the suppression of slave rebels.
1831	■ Nat Turner's Rebellion results in sixty white deaths and the hanging of twenty-three slaves.
1833	■ Laws concerning slave rebellion are restated in the *Supplement to the Revised Code of Laws of Virginia:—Being a Collection of All the Acts of the General Assembly … Passed Since the Year 1819*.
1849	■ The *Code of Virginia* includes revised laws concerning insurrectionary slaves.
1859	■ **October 16** John Brown launches his raid on the federal arsenal at Harpers Ferry, Virginia.
1860	■ The *Code of Virginia, Second Edition, Including Legislation to the Year 1860* codifies previous legislation.

About the Author

Hundreds of Virginia leaders debated and legislators wrote the law of slavery for over two centuries—from the 1660s until 1860. (While no enslaved people wrote laws, white lawmakers' actions and legislation were frequently responses to slaves' actions.) George Wythe Munford (1802–1882), secretary of the Commonwealth of Virginia, led the writers who created the 1860 *Code of Virginia*. Munford had graduated from the College of William and Mary and worked as a clerk of the Virginia House of Delegates, secretary of the Virginia Convention of 1829, and secretary of the Commonwealth of Virginia until 1865. A staunch Democrat, he was most proud of compiling the *Code of Virginia* of 1860. The publication revised many parts of the 1849 *Code of Virginia*. House of Delegates members, such as John M. Patton, Conway Robinson, and Robert G. Scott, also contributed, and the Virginia General Assembly members voted in favor of the revisions. Ten thousand copies of the 1860 *Code of Virginia* were published and distributed to legislators and libraries. (About two hundred copies are now in major libraries.) Many, perhaps all, of the 1860 legislators were proslavery; they adamantly and sometimes bitterly opposed Abraham Lincoln's 1860 presidential candidacy and later his election, and they eventually supported Virginia's secession from the United States and the creation of the Confederate States of America.

Explanation and Analysis of the Document

The provisions added to the *Code of Virginia* in 1860 touched on a number of issues. One was the disposition of slaves who were under a sentence of death. A second was the establishment of courts, jails, and other legal apparatus for dealing with slaves. A third called for the breaking up of assemblies of African Americans, which were a source of fear among white Virginians in the climate of the 1850s. A key set of provisions dealt specifically with the issue of runaway slaves. The Virginia legislature also included provisions having to do with the residence of freed blacks in the commonwealth, writings and other activities urging slaves to rebel or escape, and aiding runaway slaves.

♦ Title 10

Chapter XVII The "Executive Functions" law empowered Virginia's governor to transport slaves convicted of insurrection or other major crimes out of Virginia and the United States. There had to be a conscious decision to transport some enslaved convicts rather than execute them. The code also specified that the governor could contract for the sale of slaves under a death sentence and provides details as to how that was to be done. Another provision gave the governor the power to imprison for a term of years any slave under sentence of death who would have been entitled to his or her freedom at some point in the future. Any such slave, though, was required to leave the state at the end of the prison term.

♦ Title 11

Chapter XXII The militia could be, and often was, called up to suppress slave rebellions. A properly led militia could capture alleged criminals and protect them from mob violence so they could be tried in a court. This provision states that every able-bodied white male between the ages of eighteen and forty-five and resident in the state is subject to military duty.

♦ Title 16

Chapter L This provision required each town and county to maintain a courthouse, jail, whipping posts, and stocks—that is, timber frames in which the hands and feet of a prisoner could be locked so that he could be exhibited publicly. The required racial separation in jails certainly was meant to maintain white people's intrinsic social superiority and to enforce African American social inferiority. But black and white inmate interaction in jail could also lead to slave revolts or other problems. While interracial conspiracies were improbable in jails, given the separation of the prisoners, lawmakers still tried to prevent any chance of conspiracy.

♦ Title 28

Chapter XCVIII The purpose of this provision was to impede the free movement of slaves and to prevent any assemblies of slaves that might be called to foment rebellion. The provision authorized militia commanders to establish patrols to visit "negro quarters and other places suspected of having therein unlawful assemblies."

♦ Title 30

Chapter CV The body of laws concerning fugitive slaves indicates the state's concern about people who had escaped and could not be captured. From the 1820s until the 1860s Virginia legislators passed and revised law after law about fugitives. Some new laws took into account the interstate activity of slaves who had disappeared and abolitionists who had sometimes helped them. The most famous Virginia case was Henry "Box" Brown's successful escape. He shipped himself out of Richmond in a box addressed to an abolitionist in Philadelphia, Pennsylvania. Virginia authorities condemned this and any other alleged violation of Virginia or U.S. laws (specifically the Fugitive Slave Act of 1793 and the Fugitive Slave Act of 1850, which penalized the escapee and anyone who assisted the escapee). While most escapees from slavery were not involved in any rebellion, their successful escapes began to undermine human bondage in Virginia. Such men and women were sometimes suspected of conspiring with other people to rebel.

Accordingly, Chapter CV of Title 30 deals with the capture of runaway slaves, who were to be taken before a justice. The justice then was to make provisions for the safekeeping of the slave. Anyone who captured a runaway slave was entitled to a reward. Captured slaves were to be returned to their owners, and whenever a slave was captured, the jailor was required to distribute an advertisement so that the owner could reclaim the slave. If no

Illustration of African Americans escaping from slavery (LIbrary of Congress)

one claimed the slave, the county was authorized to sell the person.

Chapter CVII Emancipated people often left Virginia to build a new life. But some risked re-enslavement to collaborate with rebellious black people in Virginia. That is one reason why Virginia lawmakers decreed that emancipated slaves must move elsewhere. Of course, nothing prevented freedpeople from moving to a nearby free state such as Pennsylvania or Ohio, where they could help to plan rebellion with Virginian conspirators. The new provisions of the Virginia code mandated that an emancipated slave could remain in the commonwealth after a year only with permission. The provision then established the procedures to be followed in obtaining that permission, which could be revoked for any cause. Meanwhile, any free African American in the commonwealth had to be registered—clearly a means by which Virginia would be able to keep tabs on emancipated slaves in the event of any unrest or rebellion.

♦ Title 54

Chapter CXC This provision of the code, defining treason and the punishment for treason, and further indicating that advising or conspiring with slaves to "make insurrection" was an act of treason, had a long history. In late 1775, Lord Dunmore, Virginia's royal governor, officially proclaimed freedom as a reward for enslaved people who would bear arms for the king and help Dunmore suppress the American Revolutionaries. That threat having ended, there were later scattered instances of white men who attempted to foment slave rebellion, but they mostly failed. Virginia courts sentenced to death at least two alleged insurrectionists, one in 1775 and the other in 1777. By the 1800s, Virginia lawmakers reacted to the growing number of northern (and southern) abolitionists who challenged human bondage. In early 1816 George Boxley, a white Virginian who lived near Fredericksburg in Spotsylvania County, plotted with several enslaved men. Five enslaved men were tried and executed in connection with this conspiracy, and another six suspects were transported to unknown locations. (Boxley himself, one of very few recorded white conspirators, lived in Indiana until his death in 1865 despite bounty agents' attempts to capture him.) Virginia's government invoked the same law to prosecute John Brown and other conspirators after the raid on Harpers Ferry in 1859. The law passed in the late 1790s, which appeared in every edition of the Virginia code, made very clear the Virginia legislature's position concerning white people who conspired with slave rebels. Responding to President Lincoln's Emancipation Proclamation, Governor John Letcher threatened to prosecute Union troops for allegedly violating the Virginia law.

Chapter CXCII In response to such activities as the Underground Railroad and other efforts to free slaves, the

Essential Quotes

"Every such jail shall be well secured, and sufficient for the convenient accommodation of those who may be confined therein, so that convicts and slaves not convicts, may be in apartments separate from each other and from the other prisoners."

(Title 16)

"The commander of each regiment of the militia, may, when necessary, appoint one or more patrols … to patrol and visit … all negro quarters and other places suspected of having therein unlawful assemblies, or such slaves as may stroll from one plantation to another without permission."

(Title 28)

"No negro, emancipated since the first day of May eighteen hundred and six, or hereafter,… shall, after being twenty-one years of age, remain in this state more than one year without lawful permission."

(Title 30)

"If a free person advise or conspire with a slave to rebel or make insurrection, or with any person, to induce a slave to rebel or make insurrection, he shall be punished with death."

(Title 54)

"If a free person, by speaking or writing, maintain that owners have not right of property in their slaves, he shall be confined in jail not more than one year and fined not exceeding five hundred dollars. He may be arrested, and carried before a justice, by any white person."

(Title 54)

Virginia legislature made it against the law for any free person to help a slave escape. Doing so was punishable by a stiff fine and a term in jail. This portion of the code extended as well to commanders of ships at sea who might take on board a runaway slave. Anyone who provided a runaway with money, passes, clothes, provisions, and so on would likewise be guilty of a crime punishable by imprisonment. Further, anyone who kept a ferry or bridge and allowed a slave to escape by that means would also be subject to imprisonment. To white authorities, twenty slaves were property, and twenty acres and a mule were also property. It was not just property that was at stake in this law. An escaped slave could be a future rebel, especially if such a person left Virginia and associated with abolitionists. White people who helped slaves to escape were legally thieves of human beings.

Chapter CXCVIII The law regarding seditious speech made free people's mere spoken and written antislavery opinions grounds for incarceration and a fine, but only if such opinion was meant to incite slaves to rebel. The lawmakers obviously intended to protect free Virginians from insurrec-

tion. The free-speech controversy inflamed the slavery controversy in the United States between the 1820s and 1865. But Old Dominion lawmakers held to their belief that antislavery speech, publications, and even mail could lead to insurrection and therefore must be censored. Thus, it was against the law to oppose the "right of property" in slaves in speech and writing and to write any materials that incited slave insurrection. Postmasters were required to inform the authorities of any antislavery materials being sent through the mail and to burn such materials. The code made "assemblage of negroes for the purpose of religious worship" against the law if the service was led by an African American. It was also against the law to assemble blacks for the purpose of teaching them to read and write. The law established stiff penalties for any white person who violated these provisions.

These provisions, too, had a long history. White authorities feared the outcome if enslaved people learned how to read—even to read the Bible. Shortly after Gabriel's conspiracy of 1800, the Virginia legislature passed a law to control slaves' gatherings of any kind. Such gatherings had always raised suspicion of rebelliousness, but in some whites' perception Gabriel and his confederates had imbibed dangerous opinions about spiritual equality with whites. What was more, Gabriel could read and write. "Look at the result," some concluded. Soon after the 1800 and 1802 Virginia conspiracies, lawmakers focused expressly on any assembly of black people, even for religious reasons. They were aware that some conspirators in 1800 had discussed rebellion directly after attending a "preachment." Religious motivation figured in the 1802 conspiracy as well. After Nat Turner's Rebellion in 1831, more laws were passed to control religious assemblies. But it should not be assumed that no one taught enslaved black people to read and write. Some slave owners taught their own human property to read the Bible and even to write. Ministers found a way to do the same. Some enslaved people even taught themselves.

Chapter CC The law required rigorous punishment of any slave convicted of conspiring to rebel. Note that Title 54 does not explicitly mention actual rebellion. There was no need. Any slave convicted of conspiracy would have been implicitly judged by a court to have rebelled. The point of conspiring to rebel was to rebel, but this law ensured that convicted slaves could be executed even if their conspiracy was blocked. The later clauses of Title 54 yoke punishments of free blacks to punishments of slaves. But the confusing conditional statements relate to alleged crimes other than rebellion. Thus, a black could be punished by whipping for such offenses as using "provoking language or menacing gestures to a white person," furnishing a slave with a pass or similar document without authority, keeping or carrying firearms, rioting, assembling unlawfully, or making a seditious speech.

Audience

The audience for the 1860 *Code of Virginia Code*, like any legal code, consisted of judges, attorneys, law enforcement authorities, and anyone who might be a slave owner or involved with the capture of escaped slaves. Beyond the legal community were the people of Virginia. The news of frequent slave conspiracies created a public audience that wanted assurance that the laws would enable authorities to suppress an insurrectionary spirit among the enslaved. Many other people took the opportunity to read at least part of the slave code. Among them could be some free and enslaved African Americans, despite attempts to prevent them from learning how to read.

Impact

The Virginia oyer and terminer justices who tried allegedly felonious enslaved people were required to decide on the guilt or innocence of slaves. That almost all oyer and terminer judges were slave owners does not necessarily mean that they would be either too hard or too soft on slaves tried for crimes. While not all Virginia court records have survived, data from accessible trial records make it possible to estimate how rigorous slave trial judges were when they sat on slave rebellion trials.

It is possible to estimate the number of enslaved people who were hanged in Virginia for insurrection and conspiracy from 1706 to 1785. Between 1706 and 1800, all people convicted of conspiracy and insurrection were supposed to be executed. However, some judges or slave owners found private ways to "show mercy." Many trial records have been lost, but those that survive (1706–1785) contain records of twenty-eight insurrection trials. Twenty-five of the accused, or 89 percent, were convicted. From 1785 to 1834, the period of the largest number of detected rebellious conspiracies, of the 243 people accused of conspiracy to rebel, 142 (nearly 60 percent) were convicted—a percentage markedly lower than resulted from the trials in the 1706–1785 period. Because transportation became a legal "act of mercy" in early 1801, those thereafter convicted of conspiracy and insurrection experienced diverse fates. Seventy-six were hanged; thirteen were pardoned; forty-six were transported; four were given corporal punishment. The numbers indicate that judges had more sentencing leeway from 1801 to 1865.The Civil War and especially the Emancipation Proclamation of 1863 gained new opponents for 1860 Virginia Slave Code. Many who had trod carefully concerning slavery now saw hundreds, and ultimately thousands, of enslaved people ignoring the slave codes wherever the Union soldiers prevailed. This dire turn of events undoubtedly stiffened slaveholders' resolve. Even after April 1865 and the constitutional ratification of the final emancipation—the Thirteenth Amendment—notorious "black laws" were passed by white legislators seeking to maintain control of now free African Americans.

See also Virginia's Act XII: Negro Women's Children to Serve according to the Condition of the Mother (1662); Virginia's Act III: Baptism Does Not Exempt Slaves from Bondage (1667); Lord Dunmore's Proclamation (1775); Thomas Jefferson's *Notes on the State of Virginia* (1784); Fugitive Slave Act of 1793; *The Confessions of Nat Turner* (1831); Fugitive Slave Act of 1850; *Narrative of the Life of Henry Box Brown, Written by Himself* (1854); Emancipation Proclamation (1863); Thirteenth Amendment to the U.S. Constitution (1865).

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—Philip J. Schwarz

Questions for Further Study

1. In 1860 slavery had existed in Virginia for almost two centuries, and a body of law pertaining to slavery already existed. What circumstances prompted the commonwealth's legislators to pass yet further slavery laws?

2. Virginia's legislators, along with legislators throughout the South, were particularly concerned about two things: the ability of slaves to read and write and religious assemblies led by African Americans. Why were they so concerned about these specific matters?

3. Read this document in conjunction with Osborne P. Anderson's *A Voice from Harper's Ferry*. What impact do you think John Brown's 1859 raid on Harpers Ferry had on the thinking of Virginia's legislators in 1860?

4. Think of the Fugitive Slave Act of 1850 and the Virginia Slave Code as "bookends" for what some historians have called the decade of crisis. How did these two documents, taken together, define the issues that would divide the nation during the Civil War?

5. Slavery is often mistakenly thought of as a U.S. institution, but until the nineteenth century numerous other European powers participated in the slave trade and maintained slavery in their colonies. Why do you think slavery persisted in the United States for a half century or more after it had ended in many other places?

Document Text

Virginia Slave Code

Title 10 …

♦ **Chapter XVII** …

§18 In the case of a slave under sentence of death, the governor may without any petition or assent by him, or on his behalf, order a commutation of the punishment.… The governor may direct that such slave be sold to be transported beyond the limits of the *United States*, and never allowed to return into this state … or the slave may be directed to undergo such other punishment, neither cruel nor unusual, in lieu of that to which he was sentenced, as the governor may deem proper.

§19 Where slaves who are under sentence of death are to be sold, the governor may either contract for the sale therof, or appoint an agent to sell the same.

§20 Upon every such sale of any slave, the purchaser before delivery to him of the slave shall pay into the treasury, the price agreed to be paid, and shall enter into bond with one or more sufficient sureties, in the penalty of one thousand dollars, payable to the commonwealth of *Virginia*, conditioned that the slave shall within three months be transported beyond the limits of the *United States*, and shall never afterwards return into this state.

§21 In the case of a person under sentence of death, who is a slave only for a term of years, or for the life of another, and after the expiration of such term or life estate would be entitled to freedom, if the case be one in which had the person been a slave for his own life, the governor would have directed him to be sold to be transported beyond the *United States*, he shall instead of giving such direction, order that he be imprisoned in the penitentiary for a term not less than five nor more than ten years, and that after the expiration of such term of imprisonment he depart out of this state.…

Title 11 …

♦ **Chapter XXII** …

§1 Every able bodied white male citizen between the ages of eighteen and forty-five, resident within this state, and not exempt from serving in the militia by the laws of the *United States* or of this state, shall be subject to military duty.…

Title 16 …

♦ **Chapter L** …

§1 There shall be provided by the court of every county and by the council of each town wherein there is a corporation court, a courthouse and jail, pillory, whipping post and stocks.…

§2 Every such jail shall be well secured, and sufficient for the convenient accommodation of those who may be confined therein, so that convicts and slaves not convicts, may be in apartments separate from each other and from the other prisoners.… The jail shall be kept in good repair.…

Title 28 …

♦ **Chapter XCVIII** …

§1 The commander of each regiment of the militia, may, when necessary, appoint one or more patrols, consisting of an officer, either commissioned or noncommissioned, and so many privates as he may think requisite, to patrol and visit, within the bounds of such regiment, as often as he shall require, all negro quarters and other places suspected of having therein unlawful assemblies, or such slaves as may stroll from one plantation to another without permission.…

§9 Such patrols shall take any persons found in an unlawful assembly, or any slaves found strolling as aforesaid, before some justice near the place of capture, to be dealt with according to law; and said patrols, when in search of fire arms or other weapons, under warrant from a justice, may force open the doors of free negroes, or of slaves in the absence of their masters, if access be denied.…

Title 30 …

♦ **Chapter CV** …

§1 Every slave arrested as a runaway, shall be taken before a justice, and if there be reasonable cause to suspect that such slave is a runaway, the justice shall give a certificate thereof ….

§2 The justice giving the certificate … shall command the person applying for the same, forthwith to deliver the slave for safe keeping … to the jailor of his county or corporation.…

§4 Every person who may arrest a runaway slave, and deliver him to the owner, or his agent, or to some jailor at his jail, with the certificate of a justice … shall be entitled to demand of such owner a reward.…

§7 The court of the county or corporation in which a runaway slave may be confined … may order such slave to be delivered to the owner or his agent upon payment to the jailor of all lawful charges incident upon his arrest.…

§9 When a runaway slave is committed to jail, the jailor shall forthwith set up an advertisement, describing the slave and his apparel, at the door of the courthouse of his county or corporation. If no owner claim him within one month, the jailor shall cause like advertisement to be published for six weeks in some newspaper in the city of *Richmond*.… He shall also endeavor to ascertain the owner's name and address.…

§10 If such runaway be not claimed by the owner within four months after the advertisement aforesaid is ended, the county or corporation … shall order its officer to sell the slave.…

♦ **Chapter CVII** …

§1 No negro, emancipated since the first day of May eighteen hundred and six, or hereafter,… shall, after being twenty-one years of age, remain in this state more than one year without lawful permission.

§2 Any such negro may be permitted by the court of any county or corporation to remain in this state, and reside in such county or corporation only, but the order granting the permission shall be void, unless it shew that all the acting justices were summoned, and a majority of them present and voting on the question,… that notice of the application for such permission was posted at the courthouse door for at least two months immediately preceding,… and that the applicant produced satisfactory proof of his being of good character, sober, peaceable, orderly and industrious. Such permission shall not be granted to any person who, having removed from this state, shall have returned into it. Nor shall any such permission, granted to a female negro, be deemed a permission to the issue of such female, whether born before or after it was granted.…

§3 The court granting such permission may, for any cause which seems to it sufficient, revoke the same.…

§6 Every free negro shall, every five years, be registered and numbered in a book to be kept by the clerk of the court of the county or corporation where such free negro resides; which register shall specify his name, age, colour and stature, with any apparent mark or scar … , by what instrument he was emancipated, and when and where it was recorded; or that he was born free, and in what country or place.…

Title 54 …

♦ **Chapter CXC** …

§1 Treason shall consist only in levying war against the state, or adhering to its enemies, giving them aid and comfort, or establishing without authority of the legislature any government within its limits, separate from the existing government … and such treason … shall be punished with death.…

§4 If a free person advise or conspire with a slave to rebel or make insurrection, or with any person, to induce a slave to rebel or make insurrection, he shall be punished with death, whether such rebellion or insurrection be made or not.…

♦ **Chapter CXCII** …

§24 Any free person who shall carry or cause to be carried out of any county or corporation any slave, without the consent of his owner, or of the guardian or committee of the owner, with intent to defraud or deprive the owner of such slave, shall be prosecuted therefor, in such county or corporation, and confined in the penitentiary not less than two nor more than ten years, and shall, moreover … forfeit to the owner double the value of the slave, and pay him all reasonable expenses incurred by him in regaining or attempting to regain such slave.

§25 Any master of a vessel having a slave on board, and going with him beyond the limits of any county, without the consent aforesaid, and any free person travelling by land, who shall aid any slave to escape out of any county or corporation, shall be considered as carrying off such slave.…

§26 If the master or skipper of any vessel knowingly receive on board any runaway slave, and permit him to remain on board without proper effort to apprehend him, he shall be confined in the penitentiary not less than two nor more than five years; and if such slave be on board such vessel after leaving port, the master or skipper shall be presumed to have knowingly received him.

§27 If a free person advise any slave to abscond from his master, or aid such slave to abscond, by procuring for or delivering a pass … or furnishing him

Document Text

money, clothes, provisions, or other facility, he shall be confined in the penitentiary not less than two nor more than five years.

§28 If any owner or keeper of a ferry or bridge across a water course separating this from another state, knowingly permit a slave to pass at such ferry or bridge without the consent of his master, he shall pay to the party injured twenty-five dollars, and all damages occasioned thereby; and if the slave … escape, such owner or keeper shall moreover be confined in the penitentiary not less than one nor more than five years.…

♦ **Chapter CXCVIII** …

§22 If a free person, by speaking or writing, maintain that owners have not right of property in their slaves, he shall be confined in jail not more than one year and fined not exceeding five hundred dollars. He may be arrested, and carried before a justice, by any white person.

§23 If a free person write, print, or cause to be written or printed, any book or other writing with intent to advise or incite negroes in this state to rebel or make insurrection, or inculcating resistance to the right of property of masters in their slaves, or if he shall, with intent to aid the purpose of any such book or writing, knowingly circulate the same, he shall be confined in the penitentiary not less than one nor more than five years.

§24 If a postmaster, or deputy postmaster, know that any such book or other writing has been received at his office in the mail, he shall give notice thereof to some justice, who shall enquire into the circumstances and have such book or writing burned in his presence; if it appear to him that the person to whom it was directed subscribed therefor, knowing its character, or agreed to receive it for circulation to aid the purposes of abolitionists, the justice shall commit such person to jail. If any postmaster, or deputy postmaster, violate this section, he shall be fined not exceeding two hundred dollars.

§25 Any judge or justice, before whom any person may be brought for the offence mentioned in the previous section, shall cause him to enter into a recognizance, with sufficient surety, to appear before the circuit court having jurisdiction of the offence, at the next term thereof, and, in default of such recognizance, shall commit him to jail.…

§31 Every assemblage of negroes for the purpose of religious worship, when such worship is conducted by a negro, and every assemblage of negroes for the purpose of instruction in reading or writing, or in the night time for any purpose, shall be an unlawful assembly. Any justice may issue his warrant to any officer or other person, requiring him to enter any place where such assemblage may be, and seize any negro therein; and he, or any other justice, may order such negro to be punished with stripes.

§32 If a white person assemble with negroes for the purpose of instructing them to read or write, or if he associate with them in an unlawful assembly, he shall be confined in jail not exceeding six months and fined not exceeding one hundred dollars; and any justice may require him to enter into a recognizance,

Glossary

balls	bullets
commonwealth	the official name of four U.S. states: Virginia, Massachusetts, Pennsylvania, and Kentucky
pillory	a framework with holes for the head and feet, used to expose criminals to public humiliation
recognizances	recorded obligations entered before a court to appear in court at a particular time or pay a penalty
Richmond	the capital city of Virginia
shew	an antique spelling of “show”
stocks	a framework on which a criminal was subjected to public humiliation
stripes	whipping
sureties	persons who promise to pay a sum of money in the event that another person fails to fulfill an obligation

Document Text

with sufficient security, to appear before the circuit, county or corporation court, of the county or corporation where the offence was committed, at its next term, to answer therefor, and in the mean time to keep the peace and be of good behaviour.…

♦ **Chapter CC** …

§4 If a slave plot or conspire to rebel or make insurrection, or commit an offense for the commission of which a free negro, at the time of committing the same, is punishable with death or by confinement in the penitentiary for not less than three years, he shall be punished with death. But unless it be an offence for which a free white person … might have been punished with death, such slave … may, at the discretion of the court, be punished by sale or transportation beyond the limits of the *United States*.…

§8 A negro shall be punished with stripes:

First, If he use provoking language or menacing gestures to a white person:

Secondly, If he furnish a slave, without the consent of his master or manager, any pass, permit or token of his being from home with authority:

Thirdly, If he keep or carry fire arms, sword or other weapon, or balls or ammunition; besides forfeiting to the state, any such articles in his possession:

Fourthly, If he be guilty of being in a riot, rout, unlawful assembly, or making seditious speeches.

A spring house on Cooling Springs Farm in Adamstown, Maryland, used to shelter runaway slaves on the Underground Railroad (AP/Wide World Photos)

Harriet Jacobs's *Incidents in the Life of a Slave Girl*

1861

"I was, in fact, a slave in New York, as subject to slave laws as I had been in a Slave State."

Overview

Harriet Jacobs's *Incidents in the Life of a Slave Girl: Written by Herself* (1861) is a personal narrative published as the author was approaching fifty years of age on the cusp of the Civil War. Jacobs was born into slavery in North Carolina, but she managed to escape and gain her freedom as well as the freedom of her two children. While the book is autobiographical, it changes the names of the participants, with Jacobs writing under the pseudonym Linda Brent. Her narrative details her life as a young slave girl, focusing on the unrelenting sexual advances she endured from her master. She surveys the time that she spent as a fugitive, including seven years hiding in her grandmother's attic. In detailing her time spent in the North while she was still a fugitive, she emphasizes her efforts to keep her children, who were born into slavery, out of the hands of slave catchers. Chapter XL of Jacobs's book, "The Fugitive Slave Law," details the effect that the 1850 law had on her, her family, and the black community in New York City.

The book originally began appearing in serial form in the *New York Tribune*, a newspaper run by the abolitionist Horace Greeley. Many of the incidents of sexual abuse, however, as well as Jacobs's out-of-wedlock motherhood, were regarded as too shocking for newspaper readers, so Greeley suspended publication before the narrative was completed. It was eventually published in book form in Boston. The narrative went on to find a wide audience, particularly in England, and ranks with Harriet Beecher Stowe's novel *Uncle Tom's Cabin* (1852) as one of the most moving accounts of the conditions of slavery published prior to the Civil War. The book is classed within the slave narrative genre and as such has earned a place beside other influential slave narratives, including the one published by the famed abolitionist and orator Frederick Douglass, *Narrative of the Life of Frederick Douglass, an American Slave* (1845).

Context

Jacobs's narrative was published in 1861, the year that the sectional conflict dividing the United States erupted into war. For decades the nation had been grappling with the slavery issue. In 1820, when Jacobs was yet a young girl, Congress had tried to appease both sides in the slavery debate through the Missouri Compromise, which created a dividing line between the free northern states and the southern slaveholding states. The compromise, though, proved to be only a temporary solution. After the United States acquired new territories as a result of the Mexican-American War of 1846–1848, the nation stretched from coast to coast, raising anew questions about the status of slavery in the new territories.

The events of the 1850s, when Jacobs gained her freedom and began writing her narrative, thrust the nation toward civil war. A key event was the passage of the Compromise of 1850, a package of legislation that included a new Fugitive Slave Act, designed to strengthen the Fugitive Slave Act of 1793. The earlier act had laid the responsibility for capturing fugitive slaves on the state from which they escaped. The new law was highly controversial because it required federal authorities in the northern states, as well as citizens, to help southern slave catchers in returning runaway slaves to their owners. In many northern states the response to the Fugitive Slave Act was the enactment of personal liberty laws designed to increase the legal rights of accused fugitives and prevent the kidnapping of free blacks. The U.S. Supreme Court, however, overturned these laws, arguing that federal law took precedence over state laws. Meanwhile, abolitionist societies had sprung up in the North. While some of them were created and run by African Americans, many were the work of whites, particularly Quakers, who had long had a strong religious aversion to slavery. The abolitionist movement shared many of the goals of the incipient women's rights and suffrage movement, so some women, such as Jacobs's friend Amy Post, played key roles in the opposition to slavery and deliberately flouted the law by hiding escaped slaves and giving them aid. The Underground Railroad, a secretive network of meeting points, safe houses, and escape routes, conducted runaway slaves north and, in many instances, to Canada; Philadelphia, Jacobs's destination after leaving North Carolina, was one of the main "depots." By some estimates, as many as a hundred thousand slaves had escaped via this network by 1850; thenceforth, the Fugitive Slave Act made

Time Line

1813

■ **February 11**
Harriet Ann Jacobs is born in Edenton, North Carolina.

1825

■ Jacobs is willed to the niece of her mistress, coming under the control of Dr. James Norcom, who harassed her with sexual advances for a decade.

1835

■ Jacobs escapes from slavery to hide out in her grandmother's attic.

1842

■ Jacobs escapes to Philadelphia.

1845

■ *Narrative of the Life of Frederick Douglass* is published in Boston.

1850

■ **September 18**
Congress passes the Fugitive Slave Act as part of the Compromise of 1850, requiring federal authorities in the North to assist southern slave catchers in returning runaway slaves to their owners.

1852

■ Harriet Beecher Stowe publishes *Uncle Tom's Cabin*.

1853

■ Solomon Northup, a free black who was kidnapped into bondage, publishes his narrative, *Twelve Years a Slave*; around this time, Jacobs begins writing her own narrative.

1854

■ **May 30**
President Franklin Pierce signs into law the Kansas-Nebraska Act, allowing for popular sovereignty to determine whether new states would permit slavery.

1861

■ Jacobs's *Incidents in the Life of a Slave Girl: Written by Herself* is published in Boston; the Civil War begins on April 12 with the Confederacy's bombardment of Fort Sumter in South Carolina.

1897

■ **March 7**
Jacobs dies in Cambridge, Massachusetts.

the work of the Underground Railroad more crucial—and more productive.

In 1854, shortly after Jacobs is presumed to have begun composing her narrative, the Kansas-Nebraska Act was passed to repeal the Missouri Compromise. The new act, the work of the Illinois senator Stephen A. Douglas, was an attempt to deal with slavery in the new states being carved out of the Louisiana Purchase. In essence, the act held that the question of slavery in those states would be settled by popular vote, but the law proved disastrous, leading to extraordinary bloodshed as proslavery and antislavery settlers clashed. Horace Greeley, the *New York Tribune* editor and initial publisher of portions of Jacobs's book, coined the term "Bleeding Kansas" as politically opposed gangs attacked each other in the mid-1850s. One of the most notorious acts of violence was the sacking of Lawrence, Kansas, by proslavery forces in May 1856. In retaliation, John Brown—best known for his later raid on the federal arsenal at Harpers Ferry, Virginia, in 1859—led a band of abolitionists that murdered a group of proslavery settlers in Kansas in what came to be called the Pottawatomie Massacre. Adding insult to injury was the Supreme Court's decision in *Dred Scott v. Sandford* (1857), which held that presently or formerly enslaved African Americans, as well as their descendants, were not citizens of the United States and thus not entitled to the protection of federal law.

During this period, many people mounted their own campaigns against slavery. Prominent among them was Frederick Douglass, who became one of the nation's most powerful abolitionists and orators as he railed against the evils of slavery. After spending some twenty years as a slave, Douglass escaped, and seven years later he published an autobiography, *Narrative of the Life of Frederick Douglass* (1845). He also created an antislavery newspaper called the *North Star*, which would evolve into a succession of newspapers bearing Douglass's name. Fanning the flames of opposition to the Fugitive Slave Act was Harriet Beecher Stowe's 1852 novel *Uncle Tom's Cabin*, a graphic depiction of slavery that evoked sympathy and outrage throughout the North. Stowe's depiction of Tom's enslaved life under his cruel white overseer, Simon Legree, mobilized abolitionists and others who had perhaps until then given little thought to the issue. Joining these writers was Solomon Northup, a free man who was captured and forced into slavery and who in 1853 published *Twelve Years a Slave*, an account of his time in bondage. During these years numerous other slave narratives were published, among them *The Life of John Thompson, a Fugitive Slave* (1856); *The Kidnapped and the Ransomed: Being the Personal Recollections of Peter Still and his Wife "Vina," after Forty Years of Slavery* (1856), authored by Kate E. R. Pickard; and *Running a Thousand Miles for Freedom; or, The Escape of William and Ellen Craft from Slavery* (1860). Thus, by the time Jacobs published *Incidents in the Life of a Slave Girl* in 1861, a vibrant market for these kinds of books had already been established.

About the Author

Harriet Ann Jacobs was born into slavery in Edenton, North Carolina, in 1813. Her father was a carpenter named Elijah Knox, a mulatto who was probably the son of a white farmer, Henry Jacobs, and a slave named Athena Knox; her mother was Delilah Horniblow. Harriet had a brother, John S. Jacobs. After her mother's death in about 1819, Harriet Jacobs lived with her mother's mistress, Margaret Horniblow, where she learned to read and write and became an accomplished seamstress. Margaret Horniblow died in 1825, apparently leaving Harriet, now twelve years old, to her five-year-old niece (although there are questions about the legitimacy of the codicil to the will that made this bequest, which Horniblow did not sign). The result was that the niece's father, Dr. James Norcom, became in effect Jacobs's master—and her tormentor for nearly a decade, alternatively threatening and cajoling her in making advances; he never did resort to using force. Jacobs, in an effort to escape his unwanted attentions, paired herself with a white lawyer, Samuel Sawyer, and the two had two children, Joseph and Louisa. Norcom yet threatened to force the children to work on a plantation as slaves if Jacobs did not submit to him. Determined not to let this happen, Jacobs escaped in 1835, to spend seven years hiding out in the attic of her grandmother, Molly Horniblow, a free black who operated a bakery out of her home. Norcom, as Jacobs had predicted, no longer had any use for the children, so he sold them to Sawyer, who granted them their freedom and then arranged for Jacobs and the children to flee to the North.

In 1842 Jacobs was able to escape to Philadelphia, where members of the Vigilant Committee of Philadelphia, an antislavery group, took her in. In 1845 the group helped her get to New York, where she found work as a nursemaid in the home of a prominent writer, Nathaniel Parker Willis, and his wife, Mary. After Mary died, Jacobs remained with Willis and even traveled with him to England. Upon her return to the United States she left Willis's employment and went first to Boston to be with her children and then to Rochester, New York, to be with her brother, John, who had opened a local antislavery reading room and was an abolitionist lecturer. There she became friends with Amy Post, a Quaker and staunch abolitionist who had recently attended the women's rights convention in Seneca Falls, New York. Jacobs joined the American Anti-Slavery Society, raising money for the reading room by giving lectures.

When the Fugitive Slave Act was passed in 1850, Jacobs and her brother began to fear for their safety, for Norcom had been unrelenting in his efforts to find her. John decided to join the California gold rush, principally because California was not enforcing the act. By this time, Jacobs was back in New York City, where she was informed that the husband of her legal owner had checked into a hotel. Fearing that she would be kidnapped, she returned to the Willis family. In 1852 the new Mrs. Willis purchased Jacobs's freedom for $300. Jacobs was grateful, but at the same time she expressed her dismay at having to gain her freedom by being "purchased." She wrote that she felt she had been deprived of a victory in gaining her freedom this way.

***Horace Greeley, editor of the* New York Tribune**
(Library of Congress)

Sometime around 1852 or 1853, Post suggested that Jacobs write her life story. Jacobs favored the idea, and over the next several years she wrote while living at the Willis home, named Idlewild, in Cornwall, New York. She completed the manuscript in 1858 but was initially unable to find a publisher. One publisher agreed to publish the book only if the well-known writer Lydia Maria Child would pen an introduction for it. Child agreed, but before the book could be published, the firm went out of business. Finally, the book was published privately in 1861. During the Civil War, Jacobs used her newfound celebrity to raise funds to help southern blacks who had fled the Confederacy. After a stay in Savannah, Georgia, she returned north in 1866, to spend her final decades with her daughter in Cambridge, Massachusetts. She died, having survived into her mid-eighties, on March 7, 1897.

Explanation and Analysis of the Document

Chapter XL in *Incidents in the Life of a Slave Girl* is titled "The Fugitive Slave Law" and is the book's penultimate chapter. Earlier chapters detail Jacobs's life from her

Essential Quotes

"But while fashionables were listening to the thrilling voice of Jenny Lind in Metropolitan Hall, the thrilling voices of poor hunted colored people went up, in an agony of supplication, to the Lord, from Zion's church. Many families, who had lived in the city for twenty years, fled from it now."

(Paragraph 3)

"What a disgrace to a city calling itself free, that inhabitants, guiltless of offence, and seeking to perform their duties conscientiously, should be condemned to live in such incessant fear, and have nowhere to turn for protection!"

(Paragraph 4)

"When a man has his wages stolen from him, year after year, and the laws sanction and enforce the theft, how can he be expected to have more regard to honesty than has the man who robs him?"

(Paragraph 9)

"I was, in fact, a slave in New York, as subject to slave laws as I had been in a Slave State. Strange incongruity in a State called free!"

(Paragraph 10)

"He remonstrated with her for harboring a fugitive slave … and asked her if she was aware of the penalty. She replied, 'I am very well aware of it. It is imprisonment and one thousand dollars fine. Shame on my country that it is *so! I am ready to incur the penalty. I will go to the state's prison, rather than have any poor victim torn from* my *house, to be carried back to slavery.'"*

(Paragraph 13)

girlhood in North Carolina through her flight to her grandmother's home, her escape to Philadelphia, her time with the Willis family, her freedom, and other events. Throughout the narration the names of the characters are changed, such that she herself is "Linda Brent," her brother is "William Brent," her children are "Benjamin" (or "Benny") and "Ellen," Dr. Norcom is named "Dr. Flint," Samuel Sawyer is "Mr. Sands," Nathaniel Parker Willis is "Mr. Bruce," and Willis's second wife, who bought Jacobs's freedom, is "Cornelia Bruce."

By the first paragraph of Chapter XL, the narration has reached the time when William Brent decides to head to California to take part in the gold rush and agrees that Ben-

jamin, Linda Brent's son, will go with him. Left alone, the narrator decides to return to New York and to the Bruce family, where she was previously employed. Mr. Bruce has taken a new wife, Cornelia, whom the narrator describes as "aristocratic" but also as heartily opposed to slavery and resistant to any of the "sophistry" used by southerners to defend it. In the third paragraph, the narrator makes reference to an event of "disastrous import to the colored people"—the passage of the Fugitive Slave Act of 1850. She refers to a slave by the name of Hamlin who was hunted down by the "bloodhounds" of the North and South in New York. In describing the impact of the law on New Yorkers, she refers to the "short and simple annals of the poor." This is a line originally from Thomas Gray's famous poem "Elegy Written in a Country Churchyard" (1751) and later used by Abraham Lincoln in 1859 to describe his childhood. The paragraph also makes reference to Jenny Lind, a Swedish opera singer known in America as the "Swedish Nightingale." The narrator makes the point that while "fashionables" were listening to opera, "the thrilling voices of poor hunted colored people went up … from Zion's church," a reference to the city's African Methodist Episcopal Zion Church. Because of the new law, many blacks who had found homes in the city had little choice but to flee, perhaps to Canada; many wives and husbands discovered that their spouses were fugitive slaves and liable to capture. Making matters worse was the fact that children born to a slave mother were themselves legally slaves, so fathers faced the prospect of losing not only their wives but also their children to slave catchers.

In paragraph 4 the narrator refers to the discussions she and her brother had before he left for California, pointing out his anger at the new law. The narrator then goes on to describe how she and others had to go about the city through back streets and byways, living in constant fear of being taken by slave catchers. Vigilance committees were formed to keep tabs on the activities of slave catchers, and New York's blacks kept their eyes on newspapers that reported the arrival of southerners at the city's hotels. The phrases "running to and fro" and "knowledge should be increased" are from the book of Daniel in the King James Bible.

In paragraphs 5–9, the narrator tells the story of a slave named Luke whom she had known as a child. Luke had been owned by a particularly cruel master who depended on Luke for his care but beat him constantly—or called on the town constable to do so for him. After the master died, Luke hid some of the man's money in the pocket of the pants in which he would be buried. At the time of the burial, Luke asked for the pants, in this way getting funds that enabled him to flee to New York with the goal of reaching Canada—where he would have joined an estimated twenty thousand New York African Americans who fled to Canada after the law was passed. The narrator encounters Luke in New York and learns of his plans. Luke refers to "speculators," men who purchased the rights to runaway slaves so as to catch them and then sell them to the highest bidder. The narrator concludes this portion of the account by noting that Luke's tale offered an example of how the slave system corrupted morals: "When a man has his wages stolen from him, year after year, and the laws sanction and enforce the theft, how can he be expected to have more regard to honesty than has the man who robs him?"

With paragraph 10, the narrator returns to her own experiences, again stressing how anxious she was that she could be caught, especially with the approach of summer. She reflects on the irony that she was in a "free" state but still felt like a slave. Her anxiety was well advised, for she learned that Dr. Flint was on the hunt for her and had learned from informants about her mode of dress. In point of fact, the real-life Norcom placed newspaper ads in which he offered a reward of $100 for information about her. The ads stressed that "being a good seamstress, she has been accustomed to dress well, has a variety of very fine clothes, made in the prevailing fashion, and will probably appear, if abroad, tricked out in gay and fashionable finery." When she informed Mrs. Bruce of the danger she was in, Mrs. Bruce offered to allow the narrator to carry her daughter about so that if the narrator were caught, the authorities would have to return the Bruce child to her mother. In this way Mrs. Bruce could learn of the capture and take action to help. In paragraph 13 the narrator notes that Mrs. Bruce had a proslavery relative who questioned her decision to harbor a fugitive slave. When he asked her whether she knew the penalty for doing so, she acknowledged that she did but expressed her willingness to go to jail "rather than have any poor victim torn from *my* house, to be carried back to slavery." The narrator concludes the account by noting that she went to the safety of Massachusetts to avoid capture. The Massachusetts senator referred to by the narrator was probably Robert Rantoul, Jr., an outspoken opponent of the Fugitive Slave Act who provided a legal defense for Thomas Sims, the first purported slave captured under the new act in Massachusetts.

Audience

The most pertinent audience for *Incidents in the Life of a Slave Girl* consisted of those Americans who still needed convincing that the slave system had to be eradicated. Shortly after the book's publication, Jacobs and Lydia Maria Child began writing letters to newspaper editors, bookstore owners, and anyone else they could think of who would advertise and promote the book. Jacobs's brother John, now living in London, published a condensed version of the book under the title *A True Tale of Slavery*, leaving out the sexual elements to make it more palatable to English readers. The book achieved some popularity with its British audience and fueled more intense opposition to slavery in England.

In particular, Jacobs and Child saw middle-class Christian white women as a primary audience for the book, hoping that the sexual harassment Jacobs endured would motivate Christian women to take up the cudgel against slavery after feeling its corrupting moral influence. In this regard, a passage from Child's introduction provides insight into the writer's intention:

> I am well aware that many will accuse me of indecorum for presenting these pages to the public; for the experiences of this intelligent and much-injured woman belong to a class which some call delicate subjects, and others indelicate. This peculiar phase of Slavery has generally been kept veiled; but the public ought to be made acquainted with its monstrous features, and I willingly take the responsibility of presenting them with the veil withdrawn. I do this for the sake of my sisters in bondage, who are suffering wrongs so foul, that our ears are too delicate to listen to them. I do it with the hope of arousing conscientious and reflecting women at the North to a sense of their duty in the exertion of moral influence on the question of Slavery, on all possible occasions.

Incidents in the Life of a Slave Girl found a new audience in the twentieth century and beyond as feminists and literary critics began to discover the literary merit of slave narratives and thus directed attention to documents giving voice to the disenfranchised rather than works by prominent New England authors. During the Great Depression, the Works Projects Administration, one of the federal agencies created as part of Franklin Roosevelt's New Deal, put unemployed researchers and writers to work in the Federal Writers' Project. One of the project's major undertakings entailed writers' interviewing surviving African Americans who had been slaves prior to the passage of the Thirteenth Amendment, which abolished slavery, and documenting their stories. From 1936 to 1938 the project's writers recorded the stories of more than twenty-three hundred former slaves, to be presented in a series of volumes, with each volume focusing on the narratives of former slaves in particular states. Jacobs's North Carolina was featured in the project's 1939 volume *These Are Our Lives*. In the twenty-first century, Americans have learned more about Jacobs through a successful Broadway play by Lydia Diamond titled *Harriet Jacobs*.

Impact

Jacobs confessed in letters to her friend Post that she felt some reticence about committing her life story to paper, largely because it would deal with the sexual exploitation of slaves and because she would have to make known her own status as an unwed mother. It was for these reasons that she created the fictional persona Linda Brent, who narrates the story. The book differed from other slave narratives of the era in its focus on two major themes regarding the female narrator's life, as that of a "fallen woman" and as that of a heroic woman who keeps her children from falling prey to chattel slavery. Notably, the book accordingly uses two different styles: When Jacobs is discussing her efforts on behalf of her children, she writes in a direct, pointed style. When the subject turns to sexual exploitation and her own sexual history, the style becomes more indirect and elevated, similar to the style of much popular fiction from the time. The fact that Jacobs's narrative was written by a woman was alone a distinguishing factor. The slave narratives of writers such as Frederick Douglass and Solomon Northup focus on the largely solitary efforts of a heroic man. Jacobs, on the other hand, embedded her narrative in more of a social context that includes family relationships and friendships both within and outside the black community.

Some readers found the book too unbelievable to be true and accused the author of exaggerating and fictionalizing for sensational effect. Some thought that the book had to have been written by a white woman, and some scholars continue to suggest that Child had more of hand in shaping and even writing the book than she admitted. Jacobs, though, tried to counter these reactions by insisting on its veracity. In an appendix, Post bore witness to the book's truth. So, too, did an African American Bostonian named George W. Lowther, who after the Civil War would be elected to the Massachusetts House of Representatives and who wrote of the book,

> However it may be regarded by the incredulous, I know that it is full of living truths. I have been well acquainted with the author from my boyhood. The circumstances recounted in her history are perfectly familiar to me. I knew of her treatment from her master; of the imprisonment of her children; of their sale and redemption; of her seven years' concealment; and of her subsequent escape to the North.

See also Fugitive Slave Act of 1793; First Editorial of the *North Star*(1847); Fugitive Slave Act of 1850; *Dred Scott v. Sandford*(1857); *Twelve Years a Slave: Narrative of Solomon Northup* (1853); Thirteenth Amendment to the U.S. Constitution (1865).

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—Michael J. O'Neal

Questions for Further Study

1. What impact did the Mexican-American War have on the issue of slavery in the decade before the Civil War?

2. Most slave narratives published during this era were written by men. How do you think Jacobs's narrative might differ from those because of her experiences as a woman?

3. By the time Jacobs was born, the Fugitive Slave Act of 1793 was already on the books. What made the Fugitive Slave Act of 1850 more frightening for her and her children?

4. What was "Bleeding Kansas"? What part did it play in the sectional divide that led to the Civil War?

5. Compare this document with *Twelve Years a Slave: Narrative of Solomon Northup*. What similar experiences did the authors have? How were their experiences different?

Document Text

Harriet Jacobs's *Incidents in the Life of a Slave Girl*

My brother, being disappointed in his project, concluded to go to California; and it was agreed that Benjamin should go with him. Ellen liked her school, and was a great favorite there. They did not know her history, and she did not tell it, because she had no desire to make capital out of their sympathy. But when it was accidentally discovered that her mother was a fugitive slave, every method was used to increase her advantages and diminish her expenses.

I was alone again. It was necessary for me to be earning money, and I preferred that it should be among those who knew me. On my return from Rochester, I called at the house of Mr. Bruce, to see Mary, the darling little babe that had thawed my heart, when it was freezing into a cheerless distrust of all my fellow-beings. She was growing a tall girl now, but I loved her always. Mr. Bruce had married again, and it was proposed that I should become nurse to a new infant. I had but one hesitation, and that was my feeling of insecurity in New York, now greatly increased by the passage of the Fugitive Slave Law. However, I resolved to try the experiment. I was again fortunate in my employer. The new Mrs. Bruce was an American, brought up under aristocratic influences and still living in the midst of them; but if she had any prejudice against color, I was never made aware of it; and as for the system of slavery, she had a most hearty dislike of it. No sophistry of Southerners could blind her to its enormity. She was a person of excellent principles and a noble heart. To me, from that hour to the present, she has been a true and sympathizing friend. Blessings be with her and hers!

About the time that I reentered the Bruce family, an event occurred of disastrous import to the colored people. The slave Hamlin, the first fugitive that came under the new law, was given up by the bloodhounds of the north to the bloodhounds of the south. It was the beginning of a reign of terror to the colored population. The great city rushed on in its whirl of excitement, taking no note of the "short and simple annals of the poor." But while fashionables were listening to the thrilling voice of Jenny Lind in Metropolitan Hall, the thrilling voices of poor hunted colored people went up, in an agony of supplication, to the Lord, from Zion's church. Many families, who had lived in the city for twenty years, fled from it now. Many a poor washerwoman, who, by hard labor, had made herself a comfortable home, was obliged to sacrifice her furniture, bid a hurried farewell to friends, and seek her fortune among strangers in Canada. Many a wife discovered a secret she had never known before—that her husband was a fugitive, and must leave her to insure his own safety. Worse still, many a husband discovered that his wife had fled from slavery years ago, and as "the child follows the condition of its mother," the children of his love were liable to be seized and carried into slavery. Every where, in those humble homes, there was consternation and anguish. But what cared the legislators of the "dominant race" for the blood they were crushing out of trampled hearts?

When my brother William spent his last evening with me, before he went to California, we talked nearly all the time of the distress brought on our oppressed people by the passage of this iniquitous law; and never had I seen him manifest such bitterness of spirit, such stern hostility to our oppressors. He was himself free from the operation of the law; for he did not run from any Slaveholding State, being brought into the Free States by his master. But I was subject to it; and so were hundreds of intelligent and industrious people all around us. I seldom ventured into the streets; and when it was necessary to do an errand for Mrs. Bruce, or any of the family, I went as much as possible through back streets and by-ways. What a disgrace to a city calling itself free, that inhabitants, guiltless of offence, and seeking to perform their duties conscientiously, should be condemned to live in such incessant fear, and have nowhere to turn for protection! This state of things, of course, gave rise to many impromptu vigilance committees. Every colored person, and every friend of their persecuted race, kept their eyes wide open. Every evening I examined the newspapers carefully, to see what Southerners had put up at the hotels. I did this for my own sake, thinking my young mistress and her husband might be among the list; I wished also to give information to others, if necessary; for if many were "running to and fro," I resolved that "knowledge should be increased."

This brings up one of my Southern reminiscences, which I will here briefly relate. I was somewhat ac-

quainted with a slave named Luke, who belonged to a wealthy man in our vicinity. His master died, leaving a son and daughter heirs to his large fortune. In the division of the slaves, Luke was included in the son's portion. This young man became a prey to the vices growing out of the "patriarchal institution," and when he went to the north, to complete his education, he carried his vices with him. He was brought home, deprived of the use of his limbs, by excessive dissipation. Luke was appointed to wait upon his bed-ridden master, whose despotic habits were greatly increased by exasperation at his own helplessness. He kept a cowhide beside him, and, for the most trivial occurrence, he would order his attendant to bare his back, and kneel beside the couch, while he whipped him till his strength was exhausted. Some days he was not allowed to wear any thing but his shirt, in order to be in readiness to be flogged. A day seldom passed without his receiving more or less blows. If the slightest resistance was offered, the town constable was sent for to execute the punishment, and Luke learned from experience how much more the constable's strong arm was to be dreaded than the comparatively feeble one of his master. The arm of his tyrant grew weak, and was finally palsied; and then the constable's services were in constant requisition. The fact that he was entirely dependent on Luke's care, and was obliged to be tended like an infant, instead of inspiring any gratitude or compassion towards his poor slave, seemed only to increase his irritability and cruelty. As he lay there on his bed, a mere disgraced wreck of manhood, he took into his head the strangest freaks of despotism; and if Luke hesitated to submit to his orders, the constable was immediately sent for. Some of these freaks were of a nature too filthy to be repeated. When I fled from the house of bondage, I left poor Luke still chained to the bedside of this cruel and disgusting wretch.

One day, when I had been requested to do an errand for Mrs. Bruce, I was hurrying through back streets, as usual, when I saw a young man approaching, whose face was familiar to me. As he came nearer, I recognized Luke. I always rejoiced to see or hear of any one who had escaped from the black pit; but, remembering this poor fellow's extreme hardships, I was peculiarly glad to see him on Northern soil, though I no longer called it *free* soil. I well remembered what a desolate feeling it was to be alone among strangers, and I went up to him and greeted him cordially. At first, he did not know me; but when I mentioned my name, he remembered all about me. I told him of the Fugitive Slave Law, and asked him if he did not know that New York was a city of kidnappers.

He replied, "De risk ain't so bad for me, as 'tis fur you. 'Cause I runned away from de speculator, and you runned away from de massa. Dem speculators vont spen dar money to come here fur a runaway, if dey ain't sartin sure to put dar hans right on him. An I tell you I's tuk good car 'bout dat. I had too hard times down dar, to let 'em ketch dis nigger."

He then told me of the advice he had received, and the plans he had laid. I asked if he had money enough to take him to Canada. "'Pend upon it, I hab," he replied. "I tuk car fur dat. I'd bin workin all my days fur dem cussed whites, an got no pay but kicks and cuffs. So I tought dis nigger had a right to money nuff to bring him to de Free States. Massa Henry he lib till ebery body vish him dead; an ven he did die, I knowed de debbil would hab him, an vouldn't vant him to bring his money 'long too. So I tuk some of his bills, and put 'em in de pocket of his ole trousers. An ven he was buried, dis nigger ask fur dem ole trousers, an dey gub 'em to me." With a low, chuckling laugh, he added, "You see I didn't *steal* it; dey *gub* it to me. I tell you, I had mighty hard time to keep de speculator from findin it; but he didn't git it."

This is a fair specimen of how the moral sense is educated by slavery. When a man has his wages stolen from him, year after year, and the laws sanction and enforce the theft, how can he be expected to have more regard to honesty than has the man who robs him? I have become somewhat enlightened, but I confess that I agree with poor, ignorant, much-abused Luke, in thinking he had a *right* to that money, as a portion of his unpaid wages. He went to Canada forthwith, and I have not since heard from him.

All that winter I lived in a state of anxiety. When I took the children out to breathe the air, I closely observed the countenances of all I met. I dreaded the approach of summer, when snakes and slaveholders make their appearance. I was, in fact, a slave in New York, as subject to slave laws as I had been in a Slave State. Strange incongruity in a State called free!

Spring returned, and I received warning from the south that Dr. Flint knew of my return to my old place, and was making preparations to have me caught. I learned afterwards that my dress, and that of Mrs. Bruce's children, had been described to him by some of the Northern tools, which slaveholders employ for their base purposes, and then indulge in sneers at their cupidity and mean servility.

I immediately informed Mrs. Bruce of my danger, and she took prompt measures for my safety. My place

Document Text

as nurse could not be supplied immediately, and this generous, sympathizing lady proposed that I should carry her baby away. It was a comfort to me to have the child with me; for the heart is reluctant to be torn away from every object it loves. But how few mothers would have consented to have one of their own babes become a fugitive, for the sake of a poor, hunted nurse, on whom the legislators of the country had let loose the bloodhounds! When I spoke of the sacrifice she was making, in depriving herself of her dear baby, she replied, "It is better for you to have baby with you, Linda; for if they get on your track, they will be obliged to bring the child to me; and then, if there is a possibility of saving you, you shall be saved."

This lady had a very wealthy relative, a benevolent gentleman in many respects, but aristocratic and pro-slavery. He remonstrated with her for harboring a fugitive slave; told her she was violating the laws of her country; and asked her if she was aware of the penalty. She replied, "I am very well aware of it. It is imprisonment and one thousand dollars fine. Shame on my country that it *is* so! I am ready to incur the penalty. I will go to the state's prison, rather than have any poor victim torn from *my* house, to be carried back to slavery."

The noble heart! The brave heart! The tears are in my eyes while I write of her. May the God of the helpless reward her for her sympathy with my persecuted people!

I was sent into New England, where I was sheltered by the wife of a senator, whom I shall always hold in grateful remembrance. This honorable gentleman would not have voted for the Fugitive Slave Law, as did the senator in "Uncle Tom's Cabin;" on the contrary, he was strongly opposed to it; but he was enough under its influence to be afraid of having me remain in his house many hours. So I was sent into the country, where I remained a month with the baby. When it was supposed that Dr. Flint's emissaries had lost track of me, and given up the pursuit for the present, I returned to New York.

Glossary

Benjamin	the fictional name Jacobs gives to her son, Joseph
"the child follows the condition of its mother"	a reference to the fact that under the law, the children of a slave mother were automatically born as slaves
Dr. Flint	the fictional name Jacobs gives to her master and tormentor, Dr. James Norcom
Fugitive Slave Law	the Fugitive Slave Act of 1850
Jenny Lind	a famous Swedish opera singer
Linda	Linda Brent, the persona Jacobs adopts in her narrative
Mr. Bruce	the fictional name Jacobs gives to Nathanial Parker Willis, the New Yorker who took her in
"running to and fro" … "knowledge should be increased"	quotations from the book of Daniel in the King James Bible
"short and simple annals of the poor"	a line originally from Thomas Gray's 1751 poem "Elegy Written in a Country Churchyard," later used by Abraham Lincoln to describe his childhood
speculator	a person who purchased the rights to runaway slaves so as to catch them and then sell them to the highest bidder
Uncle Tom's Cabin	the widely read antislavery novel by Harriet Beecher Stowe
wife of a Senator	probably a reference to Robert Rantoul, Jr., an outspoken opponent of the Fugitive Slave Act
William	the fictional name Jacobs gives her brother John

John Brown (Library of Congress)

Osborne P. Anderson: *A Voice from Harper's Ferry*

1861

"We visited the plantations and acquainted the slaves with our purpose to effect their liberation."

Overview

In 1861 Osborne Anderson published *A Voice from Harper's Ferry: A Narrative of Events at Harper's Ferry; With Incidents Prior and Subsequent to Its Capture by Captain Brown and His Men* to present his eyewitness account of events during and revolving around John Brown's raid on the federal arsenal at Harpers Ferry, Virginia (now West Virginia), of October 16–18, 1859. After the capture and execution of the other raiders, Anderson was the only one left alive who had been present in Harpers Ferry during the raid; because he believed that southern accounts were biased, he felt compelled to give an account of the event from the raiders' perspective. The book's publication, accomplished by the author with the aid of antislavery Bostonians, was announced in William Lloyd Garrison's newspaper *The Liberator* on January 11, 1861, and in Frederick Douglass's *Monthly* in the February 1861 issue. The book became an important source for historians and biographers of the renowned abolitionist Brown.

Context

Despite the fact that he was born free in the northern United States, Osborne Anderson, an African American, lived in a world in which he was considered a nonperson. The movement to abolish slavery was very much alive, but it had primarily succeeded in creating a hostile relationship between northern and southern states. The Compromise of 1850, which included the new Fugitive Slave Act of 1850, decreeing that those who helped fugitive slaves would be prosecuted and ordering northerners to aid in the capture and return of fugitive slaves to their masters, only served to deepen that hostile relationship. Subsequently, Harriet Beecher Stowe's antislavery novel *Uncle Tom's Cabin*, published in 1852, fanned the flames of northern hatred for slavery and encouraged northerners to flout the Fugitive Slave Act by aiding fugitive slaves. While Stowe was attempting to persuade southerners to eschew slavery based on an appeal to emotion and religious beliefs, she succeeded only in making many southerners feel personally angry. The Kansas-Nebraska Act of 1854 prolonged the debate over slavery by allowing the residents of the two new territories to decide for themselves via the ballot box whether they would enter the union as slave states or free states.

John Brown was a white man who had always been opposed to slavery, but in November 1837, following the murder of Elijah P. Lovejoy, editor of an antislavery newspaper in Alton, Ohio, Brown publicly declared his personal war on slavery and committed himself to its destruction. He had come to believe that the only way to end slavery was through the use of violence. Thus, in 1855, Brown joined with five of his sons in an attempt to help bring the Kansas Territory into the Union as a free state. With antislavery and proslavery factions battling for control of the land and of the vote, "Bleeding Kansas" became a microcosm of the future Civil War; in the end, Kansas emerged as a free state (incorporated on January 29, 1861). By then, Brown had made himself a legend and a wanted man primarily because of his actions following the sack of Lawrence, Kansas, by proslavery factions on May 21, 1856. To avenge the murders of five Lawrence residents, Brown ordered and carried out the murder of five proslavery men who lived along the banks of the Pottawatomie Creek. This incident came to be known as the Pottawatomie Massacre.

Rendered a fugitive, Brown became a hero to white and black abolitionists alike. Fleeing to the East, he was welcomed and sheltered, and he gained financial backers, including the "Secret Six"—a group of wealthy, white abolitionists who approved of his plans to use violence to end slavery. Also known as the "Committee of Six," the group included Thomas Wentworth Higginson, minister and author; Samuel Gridley Howe, physician, social reformer, and philanthropist; Theodore Parker, Unitarian minister and social reformer; Franklin Sanborn, journalist, educator, and biographer of John Brown (1885); Gerrit Smith, philanthropist and politician; and George Luther Stearns, a wealthy industrialist. Brown's original plan involved rescuing slaves from the slave states a few at a time, but it eventually escalated into plans for a slave insurrection. In order to follow through on either plan, he felt that he needed the help of free blacks; thus, he attempted to gain the support

Time Line

1800

■ **May 9**
John Brown is born in Torrington, Connecticut.

1830

■ **July 27**
Osborne Anderson is born in West Fallowfield, Pennsylvania.

1850

■ **September 18**
As part of the Compromise of 1850, the Fugitive Slave Act of 1850 is passed, by which northerners are forbidden to help fugitive slaves escape and ordered to aid in their return to their owners.

1854

■ **May 30**
Through the Kansas-Nebraska Act, residents of the two new territories are allowed to vote on whether their territory will enter the Union as a slave state or a free state; five of Brown's sons subsequently move to Kansas to help ensure that it enters as a free state.

1856

■ **May**
Following the sack of Lawrence, Kansas, by proslavery forces, Brown orders the murder of five proslavery settlers at Pottawatomie Creek; Brown becomes a wanted man and leaves Kansas in September.

1857

■ Brown travels throughout New England recruiting financial backers for his planned raid, including the Secret Six; he orders one thousand pikes in Connecticut for the purpose of arming slaves.

1858

■ **April**
Anderson meets Brown during the latter's first visit to Chatham, Canada West, in preparation for the Chatham Convention.

■ **May 8–10**
Brown, Anderson, Martin Delany, and other abolitionists attend the Chatham Convention.

of prominent black abolitionists such as Frederick Douglass, Harriet Tubman, and Martin Delany.

Brown's attempts to recruit black assistance led to his planning a conference at Chatham, in Canada West (now Ontario, Canada), where he recruited Osborne Anderson. Brown paid his first visit to Chatham in April 1858 in preparation for the Chatham Convention of May 8–10, 1858. While in town, Brown stayed with members of the Shadd family, which was also sheltering Anderson; they offered Brown the use of their printing press to record and spread his ideas. His goal was to recruit black Canadian abolitionists to take part in his planned slave insurrection in the South. Thirty-four blacks from the local area attended the convention; Brown brought twelve of his followers—eleven white and one black. Delany organized the convention and served as chairman; Anderson served as secretary. Brown used the convention to lay out his "Provisional Constitution and Ordinances for the People of the United States," with the purpose of establishing his credibility as a careful planner and highlighting his differences from other leaders of slave insurrections, such as Nat Turner.

Although Brown gained the support of black Canadian abolitionists at the convention, he was unwilling to reveal many specific details about his plans. But by the summer of 1859, his plans were in place, and John Brown, Jr., returned to Chatham in August 1859 to issue a call to arms among those who had attended the convention. Unfortunately for Brown, over a year had gone by, and support for his plans had dwindled. Mary Ann Shadd, however, felt that someone needed to represent the Chatham contingent, and Anderson volunteered. Thus, he became one of only two Canadians to take part in the raid (the other being Stewart Taylor).

Brown led the raid of the arsenal at Harpers Ferry, Virginia, on October 16, 1859. He then had only twenty-one followers, including five blacks and sixteen whites. He led eighteen of them into Harpers Ferry, and they quickly captured two bridges, the arsenal, the rifle factory, and the engine house. But by noon on October 17, militia groups arrived from nearby locales and attacked Brown's men who were holding the Baltimore and Ohio Railroad bridge. Thus, Brown and his men were cut off from their major escape route. After an attack on the engine house and on Brown's men at the rifle factory, it seemed clear that all was lost. The local militia was later joined by Colonel Robert E. Lee and ninety U.S. marines. On the morning of October 18, Brown was asked to surrender; following his refusal, Lee's marines attacked the engine house, capturing Brown and those of his men who were still alive. Anderson and Albert Hazlett were the only two men to escape from Harpers Ferry itself (as the other five accomplices who escaped were not in Harpers Ferry). Anderson and Hazlett made their way back toward Chambersburg, Pennsylvania, but separated before they reached their goal. Anderson made it to Chambersburg and from there proceeded to York, to Philadelphia, and thence to Canada. Hazlett, on the other hand, was captured near Newville, Pennsylvania, and returned to Virginia, where he was tried, convicted, and hanged. As for Brown, he was captured on October 18; convicted of mur-

der, treason, and inciting a slave insurrection on November 2 at the Charles Town courthouse; and hanged on December 2, to be buried on his farm in North Elba, New York.

Anderson was thus the only one of Brown's men to witness the events at Harpers Ferry and live to tell about them. With the assistance of Shadd, Anderson then wrote *A Voice from Harper's Ferry*, published in Boston in 1861. Subsequent to Brown's raid, the South, believing itself more and more threatened by northern abolitionists, began to arm; eighteen months later, the Civil War began.

About the Author

Osborne Perry Anderson was an abolitionist, author, and political activist and one of five black raiders who followed John Brown in his attack on the arsenal at Harpers Ferry in 1859. He was born free in West Fallowfield, Pennsylvania. His father, Vincent Anderson, moved the family to West Goshen (near West Chester) around 1850. There Anderson met the Shadds, a family of black abolitionists. In the early 1850s he followed them to Chatham, Canada West, one of several Canadian communities in which free blacks and fugitive slaves from the United States could find a haven. Blacks could be full citizens in Canada, and it is estimated that forty to fifty thousand African Americans had moved there by 1850. Anderson lived with the Shadd family and became a printer's apprentice at the *Provincial Freeman*, a newspaper founded by Mary Ann Shadd, the first black woman an editor on the continent. Thus, Anderson was in Chatham when Brown planned and held his convention there.

Unlike many other recruits, Anderson paid his own way to the rally point of Chambersburg, Pennsylvania, arriving on September 16, 1859. There, he stayed with a local black barber named Henry Watson, and on September 24 he walked (by night) from Chambersburg to meet Brown near the Kennedy Farm in Maryland, a place that Brown had rented to be used as a staging area for the raid. The raid on the federal arsenal at Harpers Ferry, Virginia, began on October 16, 1859, and ended two days later. Anderson, being the only one of Brown's men to witness the raid and live to tell the story, proceeded to write *A Voice from Harper's Ferry*, which was edited by Shadd, his mentor, and published in 1861. Along with an estimated fifty thousand other Canadians, Anderson went south to the United States when the Civil War began. While some historians believe that he served in the army, there is no record of such service; he did, however, work as a recruiter for the Union army's U.S. Colored Troops.

Following the war, Anderson resided in the United States, where he had trouble supporting himself. He revisited Harpers Ferry a year before his death, pointing out strategic scenes to Richard Hinton, who would author *John Brown and His Men: With Some Account of the Roads They Traveled to Reach Harper's Ferry* (1894). In 1872, Anderson died penniless in Washington, D.C., and was buried in a pauper's grave. Because of his abolitionist activities, Anderson is claimed by Canada as a national hero.

Time Line

1859

- **October 16** The raid at Harpers Ferry begins, ending in Brown's defeat and capture two days later.
- **December 2** Convicted of murder, treason, and inciting a slave insurrection, Brown is hanged.

1861

- **January** Anderson publishes *A Voice from Harper's Ferry.*
- **April 12** Fort Sumter, in Charleston, South Carolina, is fired upon by Confederate forces, marking the beginning of the Civil War.

1863

- **January 1** Abraham Lincoln's Emancipation Proclamation abolishes slavery in the southern slave states.

1865

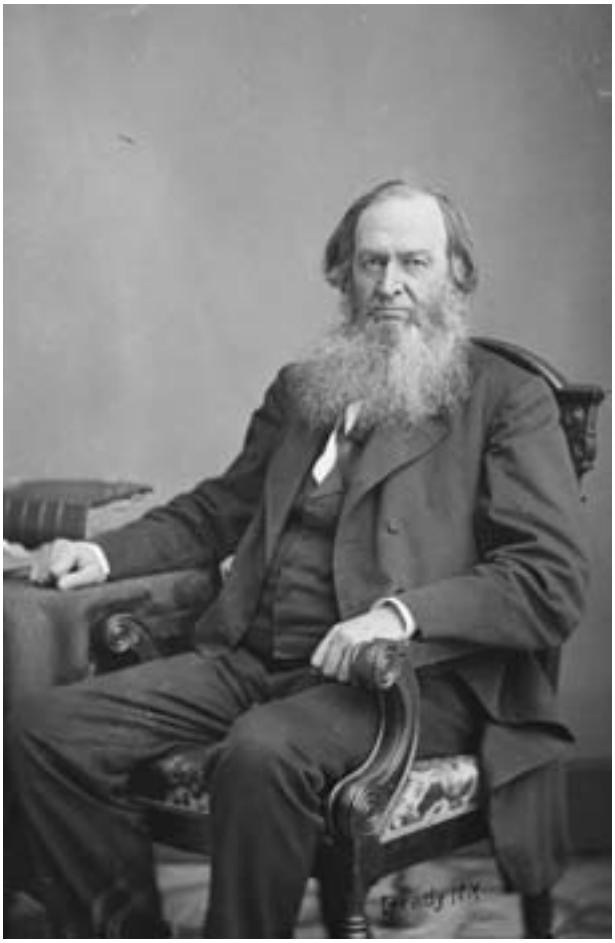
- **December 18** The Thirteenth Amendment to the U.S. Constitution abolishes slavery in the United States.

1872

- **December 13** Anderson dies in Washington, D.C.

Explanation and Analysis of the Document

In *A Voice from Harper's Ferry* (in which the author, as have others, added an apostrophe to the town's name), Anderson narrates his participation in Brown's raid on Harpers Ferry of October 1859, including events leading up to the raid and his escape afterward. Anderson journeyed to Chambersburg, Pennsylvania, in September 1859 and from there to the Kennedy Farm in Maryland, the final staging area for the raid. He gives details of life at the Kennedy Farm and the final council meeting on October 16, when Brown gave eleven specific orders to the raiders regarding their duties during the raid. He next describes the raid itself, including the capture of prisoners, the engine house, the armory, the two bridges, and the rifle factory. The arming of slaves occurred on October 17, as did the attack on Brown's men by federal troops. After describing Brown's capture, Anderson relates his escape with Albert Hazlett, Hazlett's capture, and the fate of the other five raiders who escaped. Like Hazlett, John Cook escaped but was captured and returned to Virginia for trial. Thus, only five of Brown's men survived the raid. Anderson's final chapter details the



Gerrit Smith, one of the Secret Six (Library of Congress)

responses of slaves during the raid and their participation in and support of the raid. The book ends with a series of poems praising Brown.

♦ Preface

Because he was an eyewitness of the events of October 16 and 17, 1859, during the raid on Harpers Ferry, Anderson feels compelled to give an account of those events. He establishes his credibility by arguing that no one can question the fact that he was one of Brown's raiders; after all, he points out that he is a wanted man. He also notes that only two raiders escaped from Harpers Ferry—he himself and Hazlett. But since Hazlett was later captured in Pennsylvania, returned to Virginia, and hanged, Anderson is the only one left alive who can give a true account of what happened from the point of view of the raiders. In fact, five other raiders escaped, but they were not in Harpers Ferry itself. Owen Brown, F. J. Merriam, and Barclay Coppic had remained at the Kennedy Farm in Maryland to guard the arms stored there; Cook and Charles P. Tidd had been in Harpers Ferry early on October 16 but were ordered by Brown to go to the Kennedy Farm to aid in moving arms closer to Harpers Ferry.

♦ Chapter X

In Chapter X, Anderson begins with the entry of the raiders into the town of Harpers Ferry and shows how easily Brown and eighteen of his men captured the two bridges into and out of town, the engine house, the arsenal, and the rifle factory. (Three of the twenty-one raiders meanwhile remained at the Kennedy Farm to guard the weapons.) Three watchmen were taken prisoner along with several townspeople who were walking about. Anderson announces proudly, "These places were all taken, and the prisoners secured, without the snap of a gun, or any violence whatever."

Anderson is intent on showing the fear and cowardice of some of the southerners who were taken prisoner. For example, the watchman at the bridge "asked them to spare his life." The watchman guarding the engine-house yard at Harpers Ferry refused to open the gate but "commenced to cry," and when the raiders took Colonel Lewis Washington prisoner, he begged for his life and "cried heartily when he found he must submit." Colonel Washington was also "taken aback" when told to present to Anderson "the famous sword formerly presented by Frederic [the Great] to his illustrious kinsman, George Washington"; Frederick the Great, the king of Prussia, was an admirer of Washington and reportedly had sent the sword to him in 1780. When John Allstadt, another plantation owner, was taken prisoner, "he went into as great a fever of excitement as Washington had done." Evidently, awareness of previous slave insurrections convinced these men that they were doomed. Nat Turner's 1831 rebellion, for example, was still fresh in the memory of Virginia's slave owners, since it had occurred in Southampton County, Virginia, and had resulted in the deaths of some fifty-five white people. Perhaps because he understood this fear and wished to show the difference between Brown's insurrection and previous ones, Anderson makes a point of telling his readers that each prisoner was assured by his captors that he would not be harmed.

In this chapter, Anderson also discusses encounters with local blacks who were asked to "circulate the news," with the result that "many colored men gathered to the scene of action." He also reports the first death: Ironically, a free black who worked as a baggage handler, Heyward Shepherd (referred to as "Haywood"), was shot by the raiders at the bridge—before he could be identified as black—because he refused an order to halt.

♦ Chapter XI

Anderson records the spread of terror and fear among the residents of Harpers Ferry and among the prisoners. More prisoners were taken, and Brown ordered Tidd, Cook, and William Leeman, along with fourteen armed slaves, to begin moving the secured arms from the Kennedy Farm to a schoolhouse near the ferry. Brown also ordered Anderson to begin passing out pikes, from Brown's wagon, to the slaves from the Washington and Allstadt plantations as well as to other blacks who had arrived on the scene.

As in Chapter X, Anderson dwells on the cowardice of white southerners: "The cowardly Virginians submitted like sheep, without resistance, … until the marines came

U.S. Marines storming the engine house at Harpers Ferry (Library of Congress)

down." He also introduces a new topic—Brown's desire to make arrangements about the prisoners, which causes some delay, though, as Anderson points out, it was "no part of the original plan." According to Anderson, "This tardiness … was eventually the cause of our defeat."

♦ Chapter XII

Anderson, who was stationed in the arsenal—his being in that location saved his life—reports on the initial triumph of Brown's men over the armed troops who arrived to put down the insurrection. Brown ordered his men out into the street, and they fired upon the troops, scattering them. Anderson declares that "they seemed not to realize, at first, that we would fire upon them," and he notes their hasty retreat to the bridge, where they awaited reinforcements. He mentions the death of Dangerfield Newby, shot by a man hiding in a store. The "cowardly murderer" was quickly brought down by Shields Green.

During a lull in the fighting, Brown's prisoners requested breakfast, and he obliged by ordering food from the Wager House, a nearby hotel. Anderson attempts to set the record straight regarding the legend that Brown ordered food for his men in the heat of the conflict; rather, Anderson asserts that the Wager House offered food to Brown and his men, but he suspected the food might have been poisoned and refused it. Similarly, Anderson spends a good deal of time in this chapter further attempting to set the record straight about the myth of southern chivalry and the alleged bravery of white plantation owners. He points to the fact that the white lower classes and marines fought the raiders, while slave owners held back. He also points to the shootings of Watson Brown and A. D. Stevens, who were wounded while carrying flags of truce.

♦ Chapter XIII

In this chapter, Anderson again discusses the lack of honor that he witnessed among the raiders' opponents, especially in regard to the flags of truce and "the brutal treatment of Captain Brown and his men in the charge by the marines on the engine house." Although Brown was not captured until early Tuesday morning, October 18, when a contingent of marines commanded by Robert E. Lee stormed the engine house, while apparently Anderson and Hazlett escaped late on Monday, October 17, Anderson writes that he "saw the charge upon the engine house with the ladder" leading to "Brown's capture," which he describes in some detail. Anderson pays lofty tribute to Green, one of the black raiders who was captured by the marines: "Wiser and better men no doubt there were, but a braver man never lived than Shields Green."

♦ Chapter XIV

It is clear that Anderson feels that he either has been or may be accused of cowardice for having left Harpers Ferry; thus, he attempts to explain why he and Hazlett did not remain. Since

Essential Quotes

"Monday, the 17th of October… Gray dawn and yet brighter daylight revealed great confusion, and as the sun arose, the panic spread like wildfire. Men, women, and children could be seen leaving their homes in every direction; some seeking refuge among residents, and in quarters further away, others climbing up the hillsides, and hurrying off in various directions, evidently impelled by a sudden fear, which was plainly visible in their countenances or in their movements."

(Chapter XI)

"Hardly the skin of a slaveholder could be scratched in open fight; the cowards kept out of the way until danger was passed, sending the poor whites into the pitfalls, while they were reserved for the bragging, and to do the safe but cowardly judicial murdering afterwards."

(Chapter XII)

"On the Sunday evening of the outbreak, we visited the plantations and acquainted the slaves with our purpose to effect their liberation, the greatest enthusiasm was manifested by them—joy and hilarity beamed from every countenance. One old mother, white-haired from age and borne down with the labors of many years in bond, when told of the work in hand, replied: 'God bless you! God bless you!'"

(Chapter XIX)

"John Brown did not only capture and hold Harper's Ferry for twenty hours, but he held the whole South. He captured President Buchanan and his Cabinet, convulsed the whole country, killed Governor Wise, and dug the mine and laid the train which will eventually dissolve the union between Freedom and Slavery."

(Chapter XIX)

out of the six men originally stationed at the arsenal, he and Hazlett were the only ones left and felt that they could do nothing, they decided to escape while they still could, in order to fight another day. As they escaped, they captured a prisoner who told them that seventy "citizens" had been killed. Again, Anderson is trying to counter subsequent southern claims—in this instance, that Brown's raiders had killed only twenty southerners.

After their prisoner begged for his life and assured them that he would not inform on them, Hazlett and Anderson let him go—but having second thoughts, they soon concealed themselves. Sure enough, troops pursued them, but the two raiders fought them off, killing a few, and the troops returned to Harpers Ferry. Once more, Anderson records the lack of honor among southerners and the cowardice of the enemy.

♦ **Chapter XV**

Anderson admired the wisdom and courage of John Kagi, Brown's second in command, and although he does not openly criticize Brown here, Anderson notes that Kagi foresaw the danger that they were in and urged Brown early on to leave Harpers Ferry, to no avail. As the man was a participant in the assault on Kagi's position, Anderson learns from the prisoner taken by himself and Hazlett the details of Kagi's death. Anderson describes the courage of Kagi, John Copeland, Sherrard Lewis Leary, "and three colored men from the neighborhood," who defended the rifle factory against "as many as five hundred" men in all.

♦ **Chapter XIX**

In conventional rhetorical fashion, Anderson saves the most controversial subject for last: the actions of local slaves during the Harpers Ferry raid. In order to counter the claims of southerners "that the slaves were cowardly," he gives numerous examples to prove that they were not. They indeed supported the raid, and Brown told him that he was "agreeably disappointed in the behavior of the slaves; for he did not expect one out of ten to be willing to fight." Anderson projects, based on the examples he gives, "that hundreds of slaves were ready, and would have joined in the work, had Captain Brown's sympathies not been aroused in favor of the families of his prisoners." Again, there is a note of criticism in his appraisal of Brown's actions as commander.

Audience

Anderson's target audience consisted of both whites and blacks. He particularly wanted to show white southerners, as well as northerners, that the southerners whom Brown's party encountered at Harpers Ferry were cowards. But Anderson's most immediate audience was black. On January 1, 1861, for example, a meeting of black citizens was held at the Twelfth Street Baptist Church in Boston to promote Anderson's book. Excerpts from the book were read aloud, and a collection was taken up for Anderson, who was still a wanted man and in dire financial straits. The book, which sold for fifteen cents, was available for purchase at the Anti-Slavery Office in Boston. The book later became and remains an excellent source for biographers of Brown and historians writing about the raid on Harpers Ferry.

Questions for Further Study

1. Based on what you know about John Brown and his raid on Harpers Ferry, do you believe that he was a hero, a crazed fanatic, or perhaps a bit of both? Would your opinion change or remain the same if you knew that Virginia governor Henry Wise, a staunch southerner, personally interviewed Brown and found him to be sane and eloquent?

2. What impact did Brown's raid and the attendant publicity surrounding the event have on the course of the nation toward civil war?

3. Compare Brown's raid with the rebellion led by Nat Turner early in the century, as recounted in *The Confessions of Nat Turner* (1831). Do you see any similarities between the events and their impact? How were they different?

4. Try to imagine yourself living in 1850s Virginia. Do you think you would have advocated violence to end the slave system? Why or why not?

5. In the modern era, some groups resort to violent acts because they believe such acts serve a higher purpose. An example would be "eco-terrorists" who destroy logging equipment or laboratories where animal experimentation takes place. Do you think that the motives behind and effectiveness of these contemporary actions are similar to or different from those of John Brown?

Impact

Brown's raid has often been referred to as the "catalyst of the Civil War" because it widened the breach between the North and South. In the North, the philosopher and essayist Ralph Waldo Emerson and the naturalist and writer Henry David Thoreau spoke out in Brown's defense, justifying his violent acts, labeling him a hero, and comparing him to Christ because he had sacrificed his life for the slaves. Even northerners, who disapproved of Brown's violent means, believed that his end—the destruction of slavery—was ultimately good. Indeed, on the day of Brown's execution, northern church bells tolled for the martyred hero. While Brown's belief that violence was required to destroy slavery had not yet gained universal approval among northerners, his actions and his much-quoted antislavery testimony during the trial had given them food for thought; thus, his ideas began gaining support.

In the South, of course, Brown's actions were universally condemned, but, more important, southerners lived in fear of similar future attacks. Before Brown's raid, slave owners had focused on the threats posed by northern abolitionists who had established the Underground Railroad to aid runaway slaves and on their attempts to keep new states from being admitted to the Union as slave states. After Brown's raid, slave owners feared abolitionists who would arm their slaves and lead them in slave insurrections. Such fears led many southerners to support South Carolina's Governor William Henry Gist when, in November 1859, he called for what he believed was the only possible solution to the threat posed by Brown's raid: secession from the Union and the establishment of a confederacy of southern states.

Anderson's book seems to have had minimal impact on any general audience in its own day, and indeed it almost disappeared. But it has become a popular source among historians of today who focus on black studies and the abolitionist movement, particularly those seeking to establish proof of participation by local blacks in the raid on Harpers Ferry.

See also *The Confessions of Nat Turner* (1831); Fugitive Slave Act of 1850; Emancipation Proclamation (1863); Thirteenth Amendment to the U.S. Constitution (1865).

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—Peggy A. Russo

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Osborne P. Anderson: *A Voice from Harper's Ferry*

Preface

My sole purpose in publishing the following Narrative is to save from oblivion the facts connected with one of the most important movements of this age, with reference to the overthrow of American slavery. My own personal experience in it, under the orders of Capt. Brown, on the 16th and 17th of October, 1859, as the only man alive who was at Harper's Ferry during the entire time the unsuccessful groping after these facts, by individuals, impossible to be obtained, except from an actor in the scene and the conviction that the cause of impartial liberty requires this duty at my hands alone have been the motives for writing and circulating the little book herewith presented.

I will not under such circumstances, insult nor burden the intelligent with excuses for defects in composition, nor for the attempt to give the facts. A plain unadorned, truthful story is wanted, and that by one who knows what he says, who is known to have been at the great encounter, and to have labored in shaping the same. My identity as a member of Capt. Brown's company cannot be questioned, successfully, by any who are bent upon suppressing the truth; neither will it be by any in Canada or the United States familiar with John Brown and his plans, as those know his men personally, or by reputation, who enjoyed his confidence sufficiently to know thoroughly his plans.

The readers of this narrative will therefore keep steadily in view this main point that they are perusing a story of events which have happened under the eye of the great Captain, or are incidental thereto, and not a compendium of the "plans" of Capt. Brown; for as his plans were not consummated, and as their fulfilment is committed to the future, no one to whom they are known will recklessly expose all of them to the public gaze. Much has been given as true that never happened; much has been omitted that should have been made known; many things have been left unsaid, because, up to within a short time, but two could say them; one of them has been offered up, a sacrifice to the Moloch, Slavery; being that other one, I propose to perform the duty, trusting to that portion of the public who love the right for an appreciation of my endeavor. O.P.A.…

Chapter X. The Capture of Harper's Ferry—Col. A. D. Stevens and Party Sally Out To the Plantations—What We Saw, Heard, Did, Etc.

As John H. Kagi and A. D. Stevens entered the bridge, as ordered in the fifth charge, the watchman, being at the other end, came toward them with a lantern in his hand. When up to them, they told him he was their prisoner, and detained him a few minutes, when he asked them to spare his life. They replied, they did not intend to harm him; the object was to free the slaves, and he would have to submit to them for a time, in order that the purpose might be carried out.

Captain Brown now entered the bridge in his wagon, followed by the rest of us, until we reached that part where Kagi and Stevens held their prisoner, when he ordered Watson Brown and Stewart Taylor to take the positions assigned them in order sixth, and the rest of us to proceed to the engine house. We started for the engine house, taking the prisoner along with us. When we neared the gates of the engine-house yard, we found them locked, and the watchman on the inside. He was told to open the gates, but refused, and commenced to cry. The men were then ordered by Captain Brown to open the gates forcibly, which was done, and the watchman taken prisoner. The two prisoners were left in the custody of Jerry Anderson and Adolphus Thompson, and A. D. Stevens arranged the men to take possession of the Armory and rifle factory. About this time, there was apparently much excitement. People were passing back and forth in the town, and before we could do much, we had to take several prisoners. After the prisoners were secured, we passed to the opposite side of the street and took the Armory, and Albert Hazlett and Edwin Coppic were ordered to hold it for the time being.

The capture of the rifle factory was the next work to be done. When we went there, we told the watchman who was outside of the building our business, and asked him to go along with us, as we had come to take possession of the town, and make use of the Armory in carrying out our object. He obeyed the command without hesitation. John H. Kagi and John Copeland were placed in the Armory, and the prisoners taken to the engine house. Following the capture

of the Armory, Oliver Brown and William Thompson were ordered to take possession of the bridge leading out of town, across the Shenandoah river, which they immediately did. These places were all taken, and the prisoners secured, without the snap of a gun, or any violence whatever.

The town being taken, Brown, Stevens, and the men who had no post in charge, returned to the engine house, where council was held, after which Captain Stevens, Tidd, Cook, Shields Green, Leary and myself went to the country. On the road, we met some colored men, to whom we made known our purpose, when they immediately agreed to join us. They said they had been long waiting for an opportunity of the kind. Stevens then asked them to go around among the colored people and circulate the news, when each started off in a different direction. The result was that many colored men gathered to the scene of action. The first prisoner taken by us was Colonel Lewis Washington. When we neared his house, Capt. Stevens placed Leary and Shields Green to guard the approaches to the house, the one at the side, the other in front. We then knocked, but no one answering, although females were looking from upper windows, we entered the building and commenced a search for the proprietor. Col. Washington opened his room door, and begged us not to kill him. Capt. Stevens replied, "You are our prisoner," when he stood as if speechless or petrified. Stevens further told him to get ready to go to the Ferry; that he had come to abolish slavery, not to take life but in self-defence, but that he must go along. The Colonel replied: "You can have my slaves, if you will let me remain." "No," said the Captain, "you must go along too; so get ready." After saying this, Stevens left the house for a time, and with Green, Leary and Tidd proceeded to the "Quarters," giving the prisoner in charge of Cook and myself. The male slaves were gathered together in a short time, when horses were tackled to the Colonel's two-horse carriage and four-horse wagon, and both vehicles brought to the front of the house.

During this time, Washington was walking the floor, apparently much excited. When the Captain came in, he went to the sideboard, took out his whiskey, and offered us something to drink, but he was refused. His fire-arms were next demanded, when he brought forth one double-barreled gun, one small rifle, two horse-pistols and a sword. Nothing else was asked of him. The Colonel cried heartily when he found he must submit, and appeared taken aback when, on delivering up the famous sword formerly presented by Frederic to his illustrious kinsman, George Washington, Capt. Stevens told me to step forward and take it. Washington was secured and placed in his wagon, the women of the family making great outcries, when the party drove forward to Mr. John Allstadt's. After making known our business to him, he went into as great a fever of excitement as Washington had done. We could have his slaves, also, if we would only leave him. This, of course, was contrary to our plans and instructions. He hesitated, puttered around, fumbled and meditated for a long time. At last, seeing no alternative, he got ready, when the slaves were gathered up from about the quarters by their own consent, and all placed in Washington's big wagon and returned to the Ferry.

One old colored lady, at whose house we stopped, a little way from the town, had a good time over the message we took her. This liberating the slaves was the very thing she had longed for, prayed for, and dreamed about, time and again; and her heart was full of rejoicing over the fulfilment of a prophecy which had been her faith for long years. While we were absent from the Ferry, the train of cars for Baltimore arrived, and was detained. A colored man named Haywood, employed upon it, went from the Wager House up to the entrance to the bridge, where the train stood, to assist with the baggage. He was ordered to stop by the sentinels stationed at the bridge, which he refused to do, but turned to go in an opposite direction, when he was fired upon, and received a mortal wound. Had he stood when ordered, he would not have been harmed. No one knew at the time whether he was white or colored, but his movements were such as to justify the sentinels in shooting him, as he would not stop when commanded. The first firing happened at that time, and the only firing, until after daylight on Monday morning.

Chapter XI. The Events of Monday, Oct. 17—Arming The Slaves—Terror. In the Slaveholding Camp—Important Losses to Our Party—The Fate of Kagi—Prisoners Accumulate—Workmen at the Kennedy Farm, Etc.

Monday, the 17th of October, was a time of stirring and exciting events. In consequence of the movements of the night before, we were prepared for commotion and tumult, but certainly not for more than we beheld around us. Gray dawn and yet brighter daylight revealed great confusion, and as the sun arose, the panic spread like wildfire. Men, women and children could be seen leaving their homes in ev-

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ery direction; some seeking refuge among residents, and in quarters further away, others climbing up the hillsides, and hurrying off in various directions, evidently impelled by a sudden fear which was plainly visible in their countenances or in their movements.

Capt. Brown was all activity, though I could not help thinking that at times he appeared somewhat puzzled. He ordered Sherrard Lewis Leary, and four slaves, and a free man belonging in the neighborhood, to join John Henry Kagi and John Copeland at the rifle factory, which they immediately did. Kagi, and all except Copeland, were subsequently killed, but not before having communicated with Capt. Brown, as will be set forth further along.

As fast as the workmen came to the building or persons appeared in the street near the engine house, they were taken prisoners, and directly after sunrise, the detained train was permitted to start for the eastward. After the departure of the train, quietness prevailed for a short time; a number of prisoners were already in the engine house, and of the many colored men living in the neighborhood, who had assembled in the town, a number were armed for the work.

Capt. Brown ordered Capts. Charles P. Tidd, Wm. H. Leeman, John E. Cook, and some fourteen slaves, to take Washington's four-horse wagon, and to join the company under Capt. Owen Brown, consisting of F. J. Merriam and Barclay Coppic, who had been left at the Farm the night previous, to guard the place and the arms. The company, thus reinforced, proceeded, under Owen Brown, to move the arms and goods from the Farm down to the school-house in the mountains, three-fourths of a mile from the Ferry.

Capt. Brown next ordered me to take the pikes out of the wagon in which he rode to the Ferry, and to place them in the hands of the colored men who had come with us from the plantations, and others who had come forward without having had communication with any of our party. It was out of the circumstances connected with the fulfilment of this order, that the false charge against "Anderson" as leader, or "ringleader," of the negroes, grew.

The spectators, about this time, became apparently wild with fright and excitement. The number of prisoners was magnified to hundreds, and the judgment-day could not have presented more terrors, in its awful and certain prospective punishment to the justly condemned for the wicked deeds of a life-time, the chief of which would no doubt be slaveholding, than did Capt. Brown's operations.

The prisoners were also terror-stricken. Some wanted to go home to see their families, as if for the last time. The privilege was granted them, under escort, and they were brought back again. Edwin Coppic, one of the sentinels at the Armory gate, was fired at by one of the citizens, but the ball did not reach him, when one of the insurgents close by put up his rifle, and made the enemy bite the dust.

Among the arms taken from Col. Washington was one double-barrel gun. This weapon was loaded by Leeman with buckshot, and placed in the hands of an elderly slave man, early in the morning. After the cowardly charge upon Coppic, this old man was ordered by Capt. Stevens to arrest a citizen. The old man ordered him to halt, which he refused to do, when instantly the terrible load was discharged into him, and he fell, and expired without a struggle.

After these incidents, time passed away till the arrival of the United States troops, without any further attack upon us. The cowardly Virginians submitted like sheep, without resistance, from that time until the marines came down. Meanwhile, Capt. Brown, who was considering a proposition for release from his prisoners, passed back and forth from the Armory to the bridge, speaking words of comfort and encouragement to his men. "Hold on a little longer, boys," said he, "until I get matters arranged with the prisoners." This tardiness on the part of our brave leader was sensibly felt to be an omen of evil by some us, and was eventually the cause of our defeat. It was no part of the original plan to hold on to the Ferry, or to parley with prisoners; but by so doing, time was afforded to carry the news of its capture to several points, and forces were thrown into the place, which surrounded us.

At eleven o'clock, Capt. Brown dispatched William Thompson from the Ferry up to Kennedy Farm with the news that we had peaceful possession of the town, and with directions to the men to continue on moving the things. He went; but before he could get back, troops had begun to pour in and the general encounter commenced.

Chapter XII. Reception to the Troops—They Retreat to the Bridge—A Prisoner—Death of Dangerfield Newby—William Thompson—The Mountains Alive—Flag of Truce—The Engine House Taken.

It was about twelve o'clock in the day when we were first attacked by the troops. Prior to that, Capt. Brown, in anticipation of further trouble, had girded to his side the famous sword taken from Col. Lewis Washington the night before, and with that memora-

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ble weapon, he commanded his men against General Washington's own State.

When the Captain received the news that the troops had entered the bridge from the Maryland side, he, with some of his men, went into the street, and sent a message to the Arsenal for us to come forth also. We hastened to the street as ordered, when he said "The troops are on the bridge, coming into town; we will give them a warm reception." He then walked around amongst us, giving us words of encouragement, in this wise:—"Men! be cool! Don't waste your powder and shot! Take aim, and make every shot count!" "The troops will look for us to retreat on their first appearance; be careful to shoot first." Our men were well supplied with firearms, but Capt. Brown had no rifle at that time; his only weapon was the sword before mentioned.

The troops soon came out of the bridge, and up the street facing us, we occupying an irregular position. When they got within sixty or seventy yards, Capt. Brown said, "Let go upon them!" which we did, when several of them fell. Again and again the dose was repeated.

There was now consternation among the troops. From marching in solid martial columns, they became scattered. Some hastened to seize upon and bear up the wounded and dying,—several lay dead upon the ground. They seemed not to realize, at first, that we would fire upon them, but evidently expected we would be driven out by them without firing. Capt. Brown seemed fully to understand the matter, and hence, very properly and in our defence, undertook to forestall their movements. The consequence of their unexpected reception was, after leaving several of their dead on the field, they beat a confused retreat into the bridge, and there stayed under cover until reinforcements came to the Ferry.

On the retreat of the troops, we were ordered back to our former post. While going, Dangerfield Newby, one of our colored men, was shot through the head by a person who took aim at him from a brick store window, on the opposite side of the street, and who was there for the purpose of firing upon us. Newby was a brave fellow. He was one of my comrades at the Arsenal. He fell at my side, and his death was promptly avenged by Shields Green, the Zouave of the band, who afterwards met his fate calmly on the gallows, with John Copeland. Newby was shot twice; at the first fire, he fell on his side and returned it; as he lay, a second shot was fired, and the ball entered his head. Green raised his rifle in an instant, and brought down the cowardly murderer, before the latter could get his gun back through the sash.

There was comparative quiet for a time, except that the citizens seemed to be wild with terror. Men, women and children forsook the place in great haste, climbing up hillsides and scaling the mountains. The latter seemed to be alive with white fugitives, fleeing from their doomed city. During this time, Wm. Thompson, who was returning from his errand to the Kennedy Farm, was surrounded on the bridge by the railroad men, who next came up, taken a prisoner to the Wager House, tied hand and foot, and, at a late hour of the afternoon, cruelly murdered by being riddled with balls and thrown headlong on the rocks.

Late in the morning, some of his prisoners told Capt. Brown that they would like to have breakfast, when he sent word forthwith to the Wager House to that effect, and they were supplied. He did not order breakfast for himself and men, as was currently but falsely stated at the time, as he suspected foul play; on the contrary, when solicited to have breakfast so provided for him, he refused. Between two and three o'clock in the afternoon. armed men could be seen coming from every direction; soldiers were marching and counter-marching; and on the mountains. a host of blood-thirsty ruffians swarmed, waiting for their opportunity to pounce upon the little band. The fighting commenced in earnest after the arrival of fresh troops. Volley upon volley was discharged, and the echoes from the hills, the shrieks of the townspeople, and the groans of their wounded and dying, all of which filled the air, were truly frightful. The Virginians may well conceal their losses, and Southern chivalry may hide its brazen head, for their boasted bravery was well tested that day, and in no way to their advantage. It is remarkable, that except that one fool-hardy colored man was reported buried, no other funeral is mentioned, although the Mayor and other citizens are known to have fallen. Had they reported the true number, their disgrace would have been more apparent; so they wisely (?) concluded to be silent.

The fight at Harper's Ferry also disproved the current idea that slaveholders will lay down their lives for their property. Col. Washington, the representative of the old hero, stood "blubbering like a great calf at supposed danger"; while the laboring white classes and non-slaveholders, with the marines (mostly gentlemen from "furrin" parts), were the men who faced the bullets of John Brown and his men. Hardly the skin of a slaveholder could be scratched in open fight; the cowards kept out of the way until danger was passed, sending the poor whites into the pitfalls, while they were reserved for the bragging, and to do the safe but cowardly judicial murdering afterwards.

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As strangers poured in, the enemy took positions round about, so as to prevent any escape, within shooting distance of the engine house and Arsenal. Capt. Brown, seeing their manouevres, said: "We will hold on to our three positions, if they are unwilling to come to terms, and die like men."

All this time, the fight was progressing; no powder and ball were wasted. We shot from under cover, and took deadly aim. For an hour before the flag of truce was sent out, the firing was uninterrupted, and one and another of the enemy were constantly dropping to the earth.

One of the Captain's plans was to keep up communication between his three points. In carrying out this idea, Jerry Anderson went to the rifle factory, to see Kagi and his men. Kagi, fearing that we would be overpowered by numbers if the Captain delayed leaving, sent word by Anderson to advise him to leave the town at once. This word Anderson communicated to the Captain, and told us also at the Arsenal. The message sent back to Kagi was, to hold out for a few minutes longer, when we would all evacuate the place. Those few minutes proved disastrous, for then it was that the troops before spoken of came pouring in, increased by crowds of men from the surrounding country. After an hour's hard fighting, and when the enemy were blocking up the avenues of escape, Capt. Brown sent out his son Watson with a flag of truce, but no respect was paid to it; he was fired upon, and wounded severely. He returned to the engine house, and fought bravely after that for fully an hour and a half, when he received a mortal wound, which he struggled under until the next day. The contemptible and savage manner in which the flag of truce had been received, induced severe measures in our defence, in the hour and a half before the next one was sent out. The effect of our work was, that the troops ceased to fire at the buildings, as we clearly had the advantage of position.

Capt. A. D. Stevens was next sent out with a flag, with what success I will presently show. Meantime, Jeremiah Anderson, who had brought the message from Kagi previously, was sent by Capt. Brown with another message to John Henrie, but before he got far on the street he was fired upon and wounded. He returned at once to the engine house, where he survived but a short time. The ball, it was found, had entered the right side in such manner that death necessarily ensued speedily.

Capt. Stevens was fired upon several times while carrying his flag of truce, and received severe wounds, as I was informed that day, not being myself in a position to see him after. He was captured, and taken to the Wager House, where he was kept until the close of the struggle in the evening, when he was placed with the rest of our party who had been captured.

After the capture of Stevens, desperate fighting was done by both sides. The marines forced their way inside the engine-house yard, and commanded Capt. Brown to surrender, which he refused to do, but said in reply, that he was willing to fight them, if they would allow him first to withdraw his men to the second lock on the Maryland side. As might be expected, the cowardly hordes refused to entertain such a proposition, but continued their assault, to cut off communication between our several parties. The men at the Kennedy Farm having received such a favorable message in the early part of the day, through Thompson, were ignorant of the disastrous state of affairs later in the day. Could they have known the truth, and come down in time, the result would have been very different; we should not have been captured that day. A handful of determined men, as they were, by taking a position on the Maryland side, when the troops made their attack and retreated to the bridge for shelter, would have placed the enemy between two fires. Thompson's news prevented them from hurrying down, as they otherwise would have done, and thus deprived us of able assistance from Owen Brown, a host in himself, and Tidd, Merriam and Coppic, the brave fellows composing that band.

The climax of murderous assaults on that memorable day was the final capture of the engine house, with the old Captain and his handful of associates. This outrageous burlesque upon civilized warfare must have a special chapter to itself, as it concentrates more of Southern littleness and cowardice than is often believed to be true.

Chapter XIII. The Capture of Captain John Brown at the Engine House.

One great difference between savages and civilized nations is the improved mode of warfare adopted by the latter. Flags of truce are always entitled to consideration, and an attacking party would make a wide departure from military usage, were they not to give opportunity for the besieged to capitulate, or to surrender at discretion. Looking at the Harper's Ferry combat in the light of civilized usage, even where one side might be regarded as insurrectionary, the brutal treatment of Captain Brown and his men in the charge by the marines on the engine house is deserv-

ing of severest condemnation, and is one of those blood-thirsty occurrences, dark enough in depravity to disgrace a century.

Captain Hazlett and myself being in the Arsenal opposite, saw the charge upon the engine house with the ladder, which resulted in opening the doors to the marines, and finally in Brown's capture. The old hero and his men were hacked and wounded with indecent rage, and at last brought out of the house and laid prostrate upon the ground, mangled and bleeding as they were. A formal surrender was required of Captain Brown, which he refused, knowing how little favor he would receive, if unarmed, at the hands of that infuriated mob. All of our party who went from the Farm, save the Captain, Shields Green, Edwin Coppic and Watson Brown (who had received a mortal wound some time before), the men at the Farm, and Hazlett and I, were either dead or captured before this time; the particulars of whose fate we learned still later in the day, as I shall presently show. Of the four prisoners taken at the engine house, Shields Green, the most inexorable of all our party, a very Turco in his hatred against the stealers of men, was under Captain Hazlett, and consequently of our little band at the Arsenal; but when we were ordered by Captain Brown to return to our positions, after having driven the troops into the bridge, he mistook the order, and went to the engine house instead of with his own party. Had he remained with us, he might have eluded the vigilant Virginians. As it was, he was doomed, as is well known, and became a free-will offering for freedom, with his comrade, John Copeland. Wiser and better men no doubt there were, but a braver man never lived than Shields Green.

Chapter XIV. Setting for the Reasons Why O.P. Anderson and A. Hazlett Escaped from the Arsenal, Instead of Remaining, When They Had Nothing to Do—Took a Prisoner, and What Resulted to Them, And to this Narrative, Therefrom—Pursuit, When Somebody Got Killed, And Other Bodies Wounded.

Of the men assigned a position in the arsenal by Captain Brown, four were either slain or captured; and Hazlett and myself, the only ones remaining, never left our position until we saw, with feelings of intense sadness, that we could be of no further avail to our commander, he being a prisoner in the hands of the Virginians. We therefore, upon consultation, concluded it was better to retreat while it was possible, as our work for the day was clearly finished, and gain a position where in the future we could work with better success, than to recklessly invite capture and brutality at the hands of our enemies. The charge of deserting our brave old leader and of fleeing from danger has been circulated to our detriment, but I have the consolation of knowing that, reckless as were the half-civilized hordes against whom we contended the entire day, and much as they might wish to disparage his men, they would never have thus charged us. They know better. John Brown's men at Harper's Ferry were and are a unit in their devotion to John Brown and the cause he espoused. To have deserted him would have been to belie every manly characteristic for which Albert Hazlett, at least, was known by the party to be distinguished, at the same time that it would have endangered the future safety of such deserter or deserters. John Brown gave orders; those orders must be obeyed, so long as Captain Brown was in a position to enforce them; once unable to command, from death, being a prisoner, or otherwise, the command devolved upon John Henry Kagi. Before Captain Brown was made prisoner, Captain Kagi had ceased to live, though had he been living, all communication between our post and him had been long cut off. We could not aid Captain Brown by remaining. We might, by joining the men at the Farm, devise plans for his succor; or our experience might become available on some future occasion.

The charge of running away from danger could only find form in the mind of some one unwilling to encounter the difficulties of a Harper's Ferry campaign, as no one acquainted with the out-of-door and in-door encounters of that day will charge anyone with wishing to escape danger, merely. It is well enough for men out of danger, and who could not be induced to run the risk of a scratching, to talk flippantly about cowardice, and to sit in judgment upon the men who went with John Brown and who did not fall into the hands of the Virginians; but to have been there, fought there, and to understand what did transpire there, are quite different. As Capt. Brown had all the prisoners with him, the whole force of the enemy was concentrated there, for a time, after the capture of the rifle factory. Having captured our commander, we knew that it was but little two of us could do against so many, and that our turn to be taken must come; so Hazlett and I went out at the back part of the building, climbed up the wall, and went upon the railway. Behind us, in the Arsenal were thousands of dollars, we knew full well but that wealth had no charms for us, and we hastened to communicate with

the men sent to the Kennedy Farm. We traveled up the Shenandoah along the railroad, and overtook one of the citizens. He was armed, and had been in the fight in the afternoon. We took him prisoner, in order to facilitate our escape. He submitted without resistance, and quietly gave up his gun. From him we learned substantially of the final struggle at the rifle factory, where the noble Kagi commanded. The number of citizens killed was, according to his opinion, much larger than either Hazlett or I had supposed, although we knew there were a great many killed and wounded together. He said there must be at least seventy killed, besides wounded. Hazlett had said there must be fifty, taking into account the defence of the three strong positions. I do not know positively, but would not put the figure below thirty killed, seeing many fall as I did, and knowing the "dead aim" principle upon which we defended ourselves. One of the Southern published accounts, it will be remembered, said twenty citizens were killed, another said fifteen. At last it got narrowed down to five, which was simply absurd, after so long an engagement. We had forty rounds apiece when we went to the Ferry, and when Hazlett and I left, we had not more than twenty rounds between us. The rest of the party were as free with their ammunition as we were, if not more so. We had further evidence that the number of dead was larger than published, from the many that we saw lying dead around.

When we had gone as far as the foot of the mountains, our prisoner begged us not to take his life, but to let him go at liberty. He said we might keep his gun; he would not inform on us. Feeling compassion for him, and trusting to his honor, we suffered him to go, when he went directly into town, and finding every thing there in the hands of our enemies, he informed on us, and we were pursued. After he had left us, we crawled or climbed up among the rocks in the mountains, some hundred yards or more from the spot where we left him, and hid ourselves, as we feared treachery, on second thought. A few minutes before dark, the troops came in search of us. They came to the foot of the mountains, marched and counter-marched, but never attempted to search the mountains; we supposed from their movements that they feared a host of armed enemies in concealment. Their air was so defiant, and their errand so distasteful to us, that we concluded to apply a little ammunition to their case, and having a few cartridges on hand, we poured from our excellent position in the rocky wilds, some well-directed shots. It was not so dark but that we could see one bite the dust now and then, when others would run to aid them instantly, particularly the wounded. Some lay where they fell, undisturbed, which satisfied us that they were dead. The troops returned our fire, but it was random shooting, as we were concealed from their sight by the rocks and bushes. Interchanging of shots continued for some minutes, with much spirit, when it became quite dark, and they went down into the town. After their return to the Ferry, we could hear the drum beating for a long time; an indication of their triumph, we supposed. Hazlett and I remained in our position three hours, before we dared venture down.

Chapter XV. The Encounter at the Rifle Factory.

As stated in a previous chapter, the command of the rifle factory was given to Captain Kagi. Under him were John Copeland, Sherrard Lewis Leary, and three colored men from the neighborhood. At an early hour, Kagi saw from his position the danger in remaining, with our small company, until assistance could come to the inhabitants. Hence his suggestion to Captain Brown, through Jeremiah Anderson, to leave. His position, being more isolated than the others, was the first to invite an organized attack with success; the Virginians first investing the factory with their hordes, before the final success at the engine house. From the prisoner taken by us who had participated in the assault upon Kagi's position, we received the sad details of the slaughter of our brave companions. Seven different times during the day they were fired upon, while they occupied the interior part of the building, the insurgents defending themselves with great courage, killing and wounding with fatal precision. At last, overwhelming numbers, as many as five hundred, our informant told us, blocked up the front of the building, battered the doors down, and forced their way into the interior. The insurgents were then forced to retreat the back way, fighting, however, all the time. They were pursued, when they took to the river, and it being so shallow, they waded out to a rock, mid-way, and there made a stand being completely hemmed in, front and rear. Some four or five hundred shots, said our prisoner, were fired at them before they were conquered. They would not surrender into the hands of the enemy, but kept on fighting until every one was killed, except John Copeland. Seeing he could do no more, and that all his associates were murdered, he suffered himself to be captured. The party at the rifle factory fought desperately till the last, from their perch on

the rock. Slave and free, black and white, carried out the special injunction of the brave old Captain, to make sure work of it. The unfortunate targets for so many bullets from the enemy, some of them received two or three balls. There fell poor Kagi, the friend and adviser of Captain Brown in his most trying positions, and the cleverest man in the party; and there also fell Sherrard Lewis Leary, generous-hearted and companionable as he was, and in that and other difficult positions, brave to desperation. There fought John Copeland, who met his fate like a man. But they were all "honorable men," noble, noble fellows, who fought and died for the most holy principles. John Copeland was taken to the guard-house, where the other prisoners afterwards were, and thence to Charlestown jail. His subsequent mockery of a trial, sentence and execution, with his companion Shields Green, on the 16th of December—are they not part of the dark deeds of this era, which will assign their perpetrators to infamy, and cause after generations to blush at the remembrance? …

Chapter XIX. The Behavior of the Slaves—Captain Brown's Opinion.

Of the various contradictory reports made by slaveholders and their satellites about the time of the Harper's Ferry conflict, none were more untruthful than those relating to the slaves. There was seemingly a studied attempt to enforce the belief that the slaves were cowardly, and that they were really more in favor of Virginia masters and slavery, than of their freedom. As a party who had an intimate knowledge of the conduct of the colored men engaged, I am prepared to make an emphatic denial of the gross imputation against them, They were charged especially with being unreliable, with deserting Captain Brown at the first opportunity, and going back to their masters; and with being so indifferent to the work of their salvation from the yoke, as to have to be forced into service by the Captain, contrary to their will.

On the Sunday evening of the outbreak, we visited the plantations and acquainted the slaves with our purpose to effect their liberation, the greatest enthusiasm was manifested by them—joy and hilarity beamed from every countenance, One old mother, white-haired from age and borne down with the labors of many years in bond, when told of the work in hand, replied: "God bless you! God bless you!" She then kissed the party at her house, and requested all to kneel, which we did, and she offered prayer to God for His blessing on the enterprise, and our success. At the slaves' quarters, there was apparently a general jubilee, and they stepped forward manfully, without impressing or coaxing. In one case, only, was there any hesitation. A dark-complexioned free-born man refused to take up arms. He showed the only want of confidence in the movement, and far less courage than any slave consulted about the plan. In fact, so far as I could learn, the free blacks in the South are much less reliable than the slaves, and infinitely more fearful. In Washington City, a party of free colored persons offered their services to the Mayor, to aid in suppressing our movement. Of the slaves who followed us to the Ferry, some were sent to help remove stores, and the others were drawn up in a circle around the engine-house, at one time, where they were, by Captain Brown's order, furnished by me with pikes, mostly, and acted as a guard to the prisoners to prevent their escape, which they did.

As in the war of the American Revolution, the first blood shed was a black man's, Crispus Attuck's, so at Harper's Ferry, the first blood shed by our party, after the arrival of the United States troops, was that of a slave. In the beginning of the encounter, and before the troops had fairly emerged from the bridge, a slave was shot. I saw him fall. Phil, the slave who died in prison, with fear, as it was reported, was wounded at the Ferry, and died from the effects of it. Of the men shot on the rocks, when Kagi's party were compelled to take to the river, some were slaves, and they suffered death before they would desert their companions, and their bodies fell into the waves beneath. Captain Brown, who was surprised and pleased by the promptitude with which they volunteered, and with their manly bearing at the scene of violence, remarked to me, on that Monday morning, that he was agreeably disappointed in the behavior of the slaves; for he did not expect one out of ten to be willing to fight. The truth of the Harper's Ferry "raid," as it has been called, in regard to the part taken by the slaves, and the aid given by colored men generally, demonstrates clearly: First, that the conduct of the slaves is a strong guarantee of the weakness of the institution, should a favorable opportunity occur; and, secondly, that the colored people, as a body, were well represented by numbers, both in the fight, and in the number who suffered martyrdom afterward.

The first report of the number of "insurrectionists" killed was seventeen, which showed that several slaves were killed; for there were only ten of the men that belonged to the Kennedy Farm who lost their lives at the Ferry, namely: John Henri Kagi, Jerry Anderson, Wat-

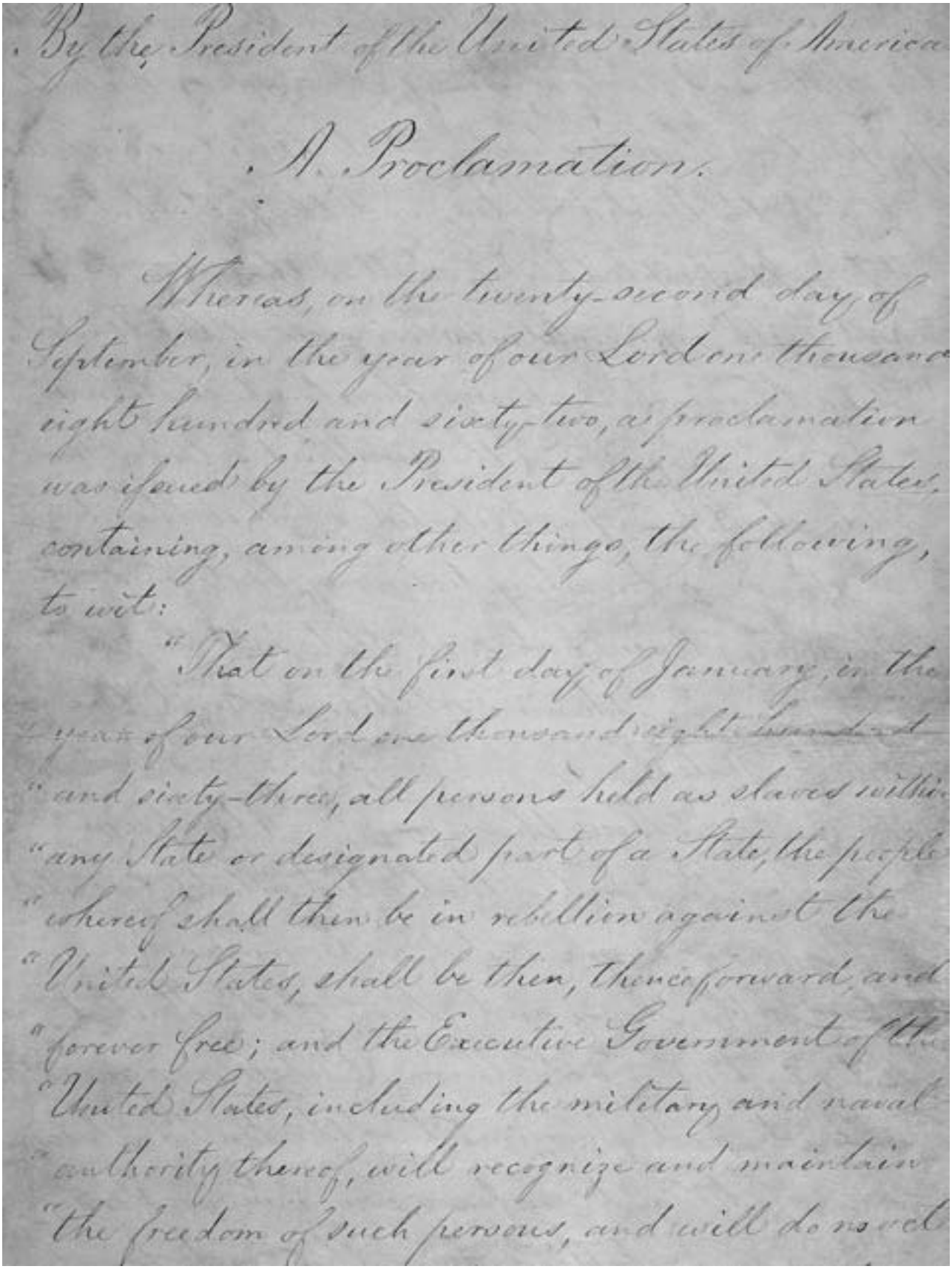
Document Text

son Brown, Oliver Brown, Stewart Taylor, Adolphus Thompson, William Thompson, William J. Leeman, all eight whites, and Dangerfield Newby and Sherrard Lewis Leary, both colored. The rest reported dead, according to their own showing, were colored. Captain Brown had but seventeen with him, belonging to the Farm, and when all was over, there were four besides himself taken to Charlestown, prisoners, viz: A. D. Stevens, Edwin Coppic, white; John A. Copeland and Shields Green, colored. It is plain to be seen from this, that there was a proper percentage of colored men killed at the Ferry, and executed at Charlestown. Of those that escaped from the fangs of the human bloodhounds of slavery, there were four whites, and one colored man, myself being the sole colored man of those at the Farm.

That hundreds of slaves were ready, and would have joined in the work, had Captain Brown's sympathies not been aroused in favor of the families of his prisoners, and that a very different result would have been seen, in consequence, there is no question. There was abundant opportunity for him and the party to leave a place ill which they held entire sway and possession, before the arrival of the troops. And so cowardly were the slaveholders, proper, that from Colonel Lewis Washington, the descendant of the Father of his Country, General George Washington, they were easily taken prisoners. They had not pluck enough to fight, or to use the well-loaded arms in their possession, but were concerned rather in keeping a whole skin by parleying, or in spilling cowardly tears, to excite pity, as did Colonel Washington, and in that way escape merited punishment. No, the conduct of the slaves was beyond all praise; and could our brave old Captain have steeled his heart against the entreaties of his captives, or shut up the fountain of his sympathies against their families—could he, for the moment, have forgotten them, in the selfish thought of his own friends and kindred, or, by adhering to the original plan, have left the place, and thus looked forward to the prospective freedom of the slave—hundreds ready and waiting would have been armed before twenty-four hours had elapsed. As it was, even the noble old man's mistakes were productive of great good, the fact of which the future historian will record, without the embarrassment attending its present narration. John Brown did not only capture and hold Harper's Ferry for twenty hours, but he held the whole South. He captured President Buchanan and his Cabinet, convulsed the whole country, killed Governor Wise, and dug the mine and laid the train which will eventually dissolve the union between Freedom and Slavery. The rebound reveals the truth. So let it be!

Glossary

Crispus Attuck	Crispus Attucks, an African American killed in the Boston Massacre of 1770 and sometimes regarded as the first casualty of American Revolution
engine house	a structure where train engines are housed and repaired
furrin	dialect pronunciation of "foreign"
Governor Wise	Henry Wise of Virginia, who personally interviewed John Brown after his arrest and, with some reluctance, ordered his execution
Kennedy Farm	a Maryland farm Brown rented as a staging area for the raid
Moloch	an ancient god associated with costly sacrifices, often by fire
parleying	talking, from the French *parler* meaning "to talk" or "to speak"
pitfalls	in combat, concealed holes in the ground, dug with the purpose of impeding or injuring attacking troops
President Buchanan	James Buchanan, the fifteenth U.S. president
Wager House	a hotel in Harpers Ferry
Zouave	originally, a North African soldier who served with the French army but by the time of the Civil War any soldier who adopted the colorful uniform and elaborate drill maneuvers of the Zouaves



By the President of the United States of America

A Proclamation.

Whereas, on the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty-two, a proclamation was issued by the President of the United States, containing, among other things, the following, to wit:

"That on the first day of January, in the year of our Lord one thousand eight hundred and sixty-three, all persons held as slaves within any State or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free; and the Executive Government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons, and will do no act

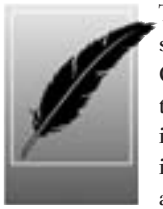
Emancipation Proclamation (National Archives and Records Administration)

Emancipation Proclamation

1863

"Upon this act, ... I invoke the considerate judgment of mankind, and the gracious favor of Almighty God."

Overview



The Emancipation Proclamation freed all slaves in the states that constituted the Confederacy. The document emphasizes that this action was a "war measure," taken, in part, to protect the slaves who were being offered refuge in Union forts, garrisons, and vessels. The proclamation was also offered as a moral statement, as an "act of justice" in accordance with the U.S. Constitution, and as a "military necessity." That President Abraham Lincoln was addressing not merely his countrymen and the rebels but the world and his maker as well is clear from the document's parting statement: "I invoke the considerate judgment of mankind, and the gracious favor of Almighty God."

Context

Lincoln issued the Emancipation Proclamation on September 22, 1862, freeing forever those slaves in the Confederate states. (The proclamation would take effect on January 1, 1863.) At that time the Civil War, begun in the spring of 1861, had yet to turn decisively in the North's favor, although Lincoln was beginning to envisage victory at long last after the Union army's success in the Battle of Antietam. He had been elected to office pledging to keep the Union together, and when the South seceded, his main task became that of reuniting his nation. Although he was opposed to slavery and its extension into new states and territories, Lincoln never advocated complete, let alone immediate, abolition of what was known as the "peculiar institution." During the early stages of the war, he successfully kept border slave states like Maryland and Missouri in the Union by not issuing statements that might have driven them toward the Confederacy. Even with this proclamation, slaves in the border states within the Union remained the property of their owners.

Pressure on Lincoln to issue this proclamation had been building for some time. He had not been opposed to emancipation in principle once the war was in progress, but he thought the timing of such an act would be crucial; it would have to come at a time when it would foster respect and inspire his troops. Lincoln had rescinded an earlier proclamation of emancipation issued by John Frémont, one of the Union's commanders, in Missouri. Lincoln viewed Frémont's proclamation not only as premature but also as insubordinate, since it was the commander in chief's duty to make such a declaration. Moreover, Lincoln wanted to issue a very carefully worded document that would limit the scope of emancipation. Indeed, fervent abolitionists criticized Lincoln for not going so far as to liberate all slaves.

Lincoln's aim, however, was to cause disruption behind Confederate lines. He hoped that his proclamation would inspire slaves to desert their masters and join the Union cause. He also hoped that the dramatic act would prevent England and France from recognizing the legitimacy of the Confederacy and supporting rebel forces. While the Emancipation Proclamation was primarily a political and diplomatic document as well as a military measure, it nevertheless acquired enormous symbolic meaning because, for the first time, it made slavery itself one of the primary issues of the war. The ideological precedent this document set led to the enlistment of some two hundred thousand soldiers and sailors in the Union army and navy.

About the Author

Abraham Lincoln, born on February 12, 1809, in a one-room log cabin in southeastern Kentucky, grew up in a frontier environment. He had little formal education but was a prodigious reader, favoring the Bible, Shakespeare, and biographies. As a young man he studied law. At age twenty-three he ran unsuccessfully for a seat in the Illinois General Assembly, to which state his family had moved when he was nine. He served briefly in the Black Hawk War before being elected to the state legislature in 1834. Admitted to the bar in 1837, Lincoln proved to be a successful attorney, admired for his ability to argue on his feet in court cases.

In 1842 Lincoln married Mary Todd, daughter of a prominent southern family. The couple had four children, but only one, Robert, survived into adulthood. Quarrelsome but proud of her husband, Mary supported Lincoln's political ambitions. He was elected for one term in the

Time Line

1860

- **November 6**
  Abraham Lincoln is elected president.
- **December 20**
  South Carolina becomes the first southern state to secede following the election of Lincoln as president.

1861

- **March 4**
  Lincoln is inaugurated as president.
- **April 13**
  Fort Sumter, in South Carolina, surrenders to Confederate forces, beginning the Civil War.
- **April 17**
  Virginia secedes from the Union.
- **May 16–June 8**
  Arkansas, North Carolina, and Tennessee secede.
- **August 6**
  Congress approves the first Confiscation Act, declaring Confederate slaves seized by the Union army to be free.
- **August 30**
  John C. Frémont, then commander of the Western Department, stationed in Missouri, proclaims the slaves in that state "forever free." Lincoln promptly rescinds Frémont's proclamation.

1862

- **July 17**
  Congress approves the second Confiscation Act, declaring slaves taking refuge behind Union lines to be free.
- **September 17**
  The Union is victorious at Antietam.
- **September 22**
  Lincoln issues the Emancipation Proclamation, to take effect in one hundred days.

U.S. House of Representatives and made a notable speech opposing the Mexican-American War; the speech proved unpopular, however, and he did not run for reelection. Indeed, Lincoln's political career then seemed over not only because of his own politics but also because he had linked his future with that of the Whig Party, which steadily lost ground to the Democrats in the 1850s.

Lincoln's political prospects actually rose in 1854 when a new party, the Republicans, took control of the Illinois legislature. Lincoln was the Republican candidate for senator in the famous 1858 election, when he debated Stephen Douglas, the incumbent Democratic senator and a politician with a national profile and the ambition to be president. Although Lincoln's outstanding performance in the debates drew national attention, his party lost the statewide election, and Douglas retained his seat as senator.

During those debates, Lincoln enunciated his position on the sensitive issue of slavery. Douglas attempted to portray Lincoln as supporting equality for blacks and whites, knowing full well that the electorate would reject such a position. Douglas himself advocated "popular sovereignty"—that is, allowing each state to vote on whether to accept or reject slavery. Lincoln objected, making no attempt to hide his rejection of slavery but promising not to oppose the institution where it already existed. Lincoln did emphasize that he opposed "Slave Power"—that is, the political position of those states intent on spreading slavery to the territories in the West—as he wanted to contain the peculiar institution within its current southern borders.

Even though Lincoln's position on slavery was not radical, the southern states made clear that they would not remain in the Union should he be elected president. This threat of secession notwithstanding, Lincoln was genuinely surprised when the South made good on its warning; his objective then was to prosecute a war that would preserve the Union. In fact, Lincoln wished to prioritize the Union even if that meant retaining slavery in the South, although he also intended to consider abolition or partial emancipation if those actions would have the effect of reuniting the country. Lincoln's role as a symbol of northern dominance that secessionists could not abide culminated in his assassination in April 1865 by the southern sympathizer John Wilkes Booth.

Explanation and Analysis of the Document

In the summer of 1862, Lincoln concluded that freeing the slaves was essential if the Union was to emerge victorious from the war. Up until then, Lincoln had opposed the national government's interference with the present institution of slavery. He had only reluctantly signed into law the two Confiscation Acts, the first (1861) freeing Confederate slaves seized by the Union army and the second (1862) freeing slaves who had taken refuge behind Union lines. He was concerned about the seizure of property without due legal process, but he decided that the acts were temporary measures taken in time of war, and the Supreme Court declared the acts constitutional.

Radical Republicans like William Graham Sumner had been urging the president to free the slaves—an act he could then take because the Union was at war with the Confederacy. In addition to Frémont's proclamation freeing the slaves, General David Hunter, in command of the Military Department of the South, proclaimed that "slavery and martial law in a free country are altogether incompatible" and declared that slaves in Florida, Georgia, and South Carolina were "forever free." Lincoln voided both decrees, asserting that only he, as commander in chief, could order such sweeping action; he did also note that he saw no constitutional reason why he could not issue an emancipation proclamation.

As early as July 1862, Lincoln began to draft the wording of just such an emancipation edict. He proceeded cautiously, uncertain whether the restrained document he proposed to his cabinet would have the desired effect of bolstering the Union's fortunes in the war. One early draft offered compensation to Confederate states if they would cease their rebellion. But subsequent drafts deleted such conciliatory language and focused specifically on the fate of slaves in the rebellious states.

The final version of the Emancipation Proclamation reads like a legal document drafted by Lincoln the lawyer. It is a carefully couched, formal piece of writing devoid of most of the president's gift for somber yet inspiring rhetoric. Because Lincoln was taking a momentous step in American history, he was extraordinarily mindful of setting limits upon what would be denoted by the word *emancipation*, which means, of course, "setting free or the condition of being free." The primary thrust of Lincoln's decree was that he was liberating only those slaves in the areas engaged in rebellion; he was setting them free from their southern masters.

The first paragraph of the document provides the date and the authority under which the proclamation is being made. The formal language harks back to the earliest proclamations in history—the kind that were announced in the Roman Forum, although the phrase "in the year of our Lord" emphasizes that this historic declaration is rooted in the Christian era. The effort to be absolutely precise and measured is one of the hallmarks of this edict.

The next paragraph states the main purpose of the document, which is to announce that on January 1, 1863, all slaves in the rebellious areas "shall be, then, thenceforward, and forever free." The wording is essential, because late in the Civil War certain slave states were considering liberating slaves who would agree to fight for the Confederacy. With Lincoln's proclamation, however, freedom was not contingent; southern slaves needed to do nothing in particular in order to gain their freedom. In other words, whatever else might have been stated in the document, it extended an unequivocal grant of freedom to a certain segment of slaves. Moreover, this grant of freedom was not merely a matter of words, as the proclamation specifies that the U.S. government, including its military organizations, would be obligated not only to recognize but also to "maintain" that freedom. Thus, Lincoln set the precedent for the federal government's being responsible for the security of the freed men and women. He also added the proviso that the "military and naval" authorities would do nothing to "repress" the efforts of former slaves to secure their "actual freedom." Commanders in the battlefield, engaged in occupying enemy territory, would be prohibited from taking any actions that would make it harder for "such persons" to escape bondage. In being used as a term referring to slaves and former slaves, the word *persons* accorded a measure of respect for a group that had been fully repressed, to the extent that each slave was counted as three-fifths of a person in the U.S. Constitution. Still, Lincoln stopped short of ordering the armed forces to actively secure the freedom of "such persons." In many cases, Union commanders had already deliberately assisted and even proclaimed the liberation of slaves, but the president held back from making such actions an explicit war aim.

In the midst of the war, Lincoln could not be sure which states or groups of states might be in rebellion as of January 1, 1863. That is why in the third paragraph he stipulates that the executive (Lincoln himself) would proclaim on a certain date which areas remained in rebellion. Thus, Lincoln left open the possibility that states in rebellion as of September 22, 1862, might return to the Union before January 1, 1863. Provided that a majority of the qualified voters in such states elected representatives to Congress and that no "strong countervailing testimony" indicated that the states had not fully determined to rejoin the Union, the executive would no longer consider them in rebellion. The implications of this statement are striking: In effect, Lincoln suggested that southern slave states might return to the Union and keep their slaves. The likelihood at that point of a Confederate state returning to the Union was remote, but in the 100 days leading up to January 1, 1863, the fortunes of war might have brought

Time Line

1863

- **January 1**
  The Emancipation Proclamation takes effect.
- **July 1–3**
  The Battle of Gettysburg is fought, and Robert E. Lee's invasion of the North fails.

1865

- **April 9**
  Lee surrenders to Ulysses S. Grant, and the Civil War is ended.
- **April 14**
  John Wilkes Booth shoots Lincoln; the president dies the following day.
- **December 18**
  The Thirteenth Amendment abolishes slavery.

Abraham Lincoln (Library of Congress)

some surprises. Indeed, Lincoln was leaving open a way for the rebellious states to return to the Union without sacrificing what they considered their property—that is, the slaves. Passages like this one constitute one reason why the Emancipation Proclamation disappointed some abolitionists and was attacked by others.

The fourth paragraph, like the first, states Lincoln's formal authority as commander in chief to issue the Emancipation Proclamation. He emphasizes that his declaration is a "fit and necessary war measure" and that it was undertaken only because of the exigencies of an "armed rebellion." Lincoln knew full well that the North would have offered little support for the unequivocal, absolute, and immediate liberation of all slaves, and he did not want his efforts to win the arduous, costly, and tragic war to be conflated with the agitations of abolitionists. An announcement of the complete abolition of slavery everywhere in the North and South alike would have signaled a drastic change in Lincoln's objectives in fighting the war—and might have caused border states with slaves to secede from the Union.

Paragraph 5 names the states in rebellion but also specifies "excepted parts" of those states (like the parishes in Louisiana) that were under Union control. In those parts no longer considered in rebellion, the proclamation would have no effect; they would be left "precisely as if this proclamation were not issued." The sixth paragraph reiterates in legal language that the slaves in the states and parts of states named in the fifth paragraph were now liberated "for the purpose aforesaid" (that is, as a war measure), and the freedom of "said persons" was to be recognized and maintained by military and naval authorities.

Lincoln addresses the former slaves in the seventh paragraph, enjoining them not to take up violence, except for their own protection, and to work "faithfully for reasonable wages." This curious statement was the result of discussions about what would happen to the masses of people who would suddenly be freed. How would they defend themselves? How would they find employment and be paid for it? Before the Civil War, considerable public argument took place over how slave labor depressed the wages of free men, and Lincoln's statement here seems to allude to that concern. The newly freed slaves, in other words, were to make sure not to be exploited, such as by working for unreasonably low wages offered by employers seeking to take advantage of a cheap—and impoverished—new labor pool.

Lincoln broke new ground in paragraph 8, stipulating that former slaves could become part of the war effort, though only in a supportive capacity at garrisons, in forts, aboard ships, and so on. In other words, conspicuously absent from this declaration is an invitation to former slaves to enlist in the army and navy as combatants. Doubts existed that slaves could make effective frontline soldiers, particularly that they would stand up to enemy fire. Lincoln had also needed to consider the fact that northern troops might object to serving beside former slaves. Regardless of the aims of the war, the idea of equality between whites and African Americans was not one that the majority of whites entertained. Even Lincoln himself, at this point, was not prepared to acknowledge such equality, let alone put it into practice by integrating former slaves into the armed forces. Nevertheless, this paragraph represents a step forward in Lincoln's thinking, as he envisioned an enlarged role for the freed slaves. In fact, they would eventually be recruited to fight on the front lines of the war.

Although Lincoln repeats in paragraph 10 that the proclamation is an act of "military necessity," that phrase is encircled by his assertion that it is an "act of justice" and that he invokes the "considerate judgment of mankind, and the gracious favor of Almighty God." In cloaking the largely political and military action in moral and even religious terms—and however painstakingly he dressed the document up as a legal one forged for limited purposes in a time of war—Lincoln made his proclamation a symbolic statement. Acts of justice, in other words, are far more than matters of "military necessity," and Lincoln was looking not only to the opinions of his fellow Americans but also to the "considerate" (that is, mindful or thoughtful) judgment of humankind as well as to the blessing of his creator. This note of humility—of subjecting himself to the verdict of history, so to speak, and to God's approval—was Lincoln's way of transforming his deed into an act of universal significance.

Lincoln ends the proclamation by noting that he has had the seal of the United States affixed to the document and

An engraving copied from an 1864 painting, done at the White House, titled
The First Reading of the Emancipation Proclamation before the Cabinet (Library of Congress)

by again specifying the date and the fact that it represents the eighty-seventh year of the country's independence. In this way, Lincoln reaffirmed his faith in the Union without explicitly saying so.

Secretary of State William H. Seward, at one time Lincoln's rival for the presidency, witnessed the document. Seward was sympathetic to the abolitionists but became a trusted and shrewd adviser to the president. Although he worried that the proclamation might cause deep divisions in the North and a slave rebellion in the South that would complicate the war effort, he backed Lincoln's strategy, and most of Lincoln's cabinet did so as well. The appearance of Seward's name on the proclamation surely communicated a message to those who wanted the complete abolition of slavery; in witnessing the document, Seward was implying that this measure was as much as could be expected at that point in the war.

Given its limited scope, the Emancipation Proclamation certainly could not have been the last word on the abolition of slavery. Lincoln understood as much, but as a politician and war leader he believed that the document was as bold a declaration as he could then make. He undoubtedly realized that pressures to accomplish more, such as to more fully involve the former slaves in the war—even to grant them citizenship—had to be withstood; further issues would have to be confronted in the near future. Lincoln believed that for the present, a temporizing message was as much as he and the nation could countenance. Although critics might have deemed the proclamation indecisive or evasive, Lincoln saw it as a way to come to terms with the current state of public opinion, to gain time, and to advance the state of public consciousness about a controversial issue.

Audience

Although Lincoln's intended audience actually was not blacks or former slaves, he was acutely conscious of the profound significance of the Emancipation Proclamation for the people who would be freed from bondage. Shortly after signing the document, he gave it to an associate to read to a group of blacks assembled on Pennsylvania Avenue near the White House. As they listened to the words, they shouted, clapped, and sang in a robust demonstration of their approval.

Lincoln's proclamation was aimed primarily at northern soldiers and voters who would see in the edict a strengthening of their moral authority and at the southern nonslave populace as well as governments abroad that might hesitate to declare support for a Confederacy that remained dedicated to "Slave Power." After all, the British nation had abolished slavery, and although members of

Essential Quotes

"That on the first day of January, in the year of our Lord one thousand eight hundred and sixty-three, all persons held as slaves within any State or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free."

(Paragraph 2)

"And I hereby enjoin upon the people so declared to be free to abstain from all violence, unless in necessary self-defence; and I recommend to them that, in all cases when allowed, they labor faithfully for reasonable wages."

(Paragraph 7)

"And upon this act, sincerely believed to be an act of justice, warranted by the Constitution, upon military necessity, I invoke the considerate judgment of mankind, and the gracious favor of Almighty God."

(Paragraph 10)

the British government might have held a certain sympathy for the traditional, quasi-aristocratic South, Lincoln's "act of justice" would make it difficult for them to take sides against the Union.

Impact

The first wave of response to the Emancipation Proclamation varied by population but was generally favorable, drawing positive comments from such observers as the prominent abolitionist leader William Lloyd Garrison, the former slave and abolitionist leader Frederick Douglass, and the writer Ralph Waldo Emerson. Lincoln's political party, the Republicans, likewise welcomed the proclamation. Democrats, on the other hand, denounced Lincoln's decree as unconstitutional and later nominated General George McClellan to oppose Lincoln in the 1864 presidential election. McClellan vowed not to fight a war to free slaves. Southerners, meanwhile, charged Lincoln with fomenting a slave revolt. Abroad, the response was mixed, with some British newspapers hailing Lincoln's humanitarian action and others supporting the South and criticizing the proclamation. Regardless of such criticism, the British government delayed consideration of a proposal to recognize the Confederacy, which meant that Lincoln had gained his objective of buying time with the proclamation.

A second wave of response to the document turned quite negative. In November 1862 northern voters returned Democratic majorities in several states that had voted for Lincoln in 1860, although Lincoln's party still held a slim majority in Congress. In the words of the historian Thomas Keneally, Lincoln's critics pointed out that all he had done was "liberate the slaves his armies had not so far encountered. He realized that this could leave the proclamation open to mockery, and some abolitionists at one end of the scale and many Democratic newspapers and orators at the other end obliged him."

While many historians emphasize that northern public opinion was against making the abolition of slavery a war issue, the biographer Richard Carwardine notes that the proclamation had a profound impact on Union soldiers. Many felt their moral conviction strengthened by the decree; they indeed believed that they were fighting for a just cause. The historian Doris Kearns Goodwin notes that the proclamation "superseded legislation on slavery and property rights that had guided policy in eleven states for nearly three-quarters of a century. Three and a half million blacks

who had lived enslaved for generations were promised freedom." Although Lincoln worried over the immediate reactions to the proclamation, he had his eye on posterity, noting that his place in history would likely be secured by the Emancipation Proclamation. He considered the decree the crowning achievement of his administration.

See also War Department General Order 143 (1863).

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Questions for Further Study

1. While drafting the Emancipation Proclamation, Lincoln replied to an editorial in the *New York Tribune* attacking him for paying too much deference to border states with slaves and arguing that he should act on emancipation. Lincoln responded by noting that his highest priority was to save the Union, not to free the slaves. He went on to say that if he could save the Union by freeing some slaves or by freeing all of them, he would do so. What do Lincoln's sentiments reveal about his state of mind and his political calculations, considering that he was trying to stay true to his principles as well as to take into account northern attitudes toward blacks?

2. Some critics have described the Emancipation Proclamation as lacking the emotion and vigor of some of Lincoln's other writings and speeches. Allen Guelzo, however, explains why Lincoln did not publish a more comprehensive or inspiring document: A proclamation with broader scope—say, freeing all slaves in the North and South alike—would have been challenged by the Supreme Court, which was still headed by Chief Justice Roger Taney, a former slaveholder. Research Taney's infamous opinion in the case *Dred Scott v. Sandford* (1857); then consider the political and moral issues that Lincoln had to confront and why he ultimately decided to offer the proclamation as a war measure.

3. Compare and contrast Lincoln's response to the decision in *Dred Scott v. Sandford* (1857) with his decision to issue the Emancipation Proclamation.

4. Compare and contrast Lincoln's position on slavery in his First and Second Inaugural Addresses.

■ Web Sites

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—Carl Rollyson

Document Text

Emancipation Proclamation

By the President of the United States of America:

A Proclamation.

Whereas, on the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty-two, a proclamation was issued by the President of the United States, containing, among other things, the following, to wit:

"That on the first day of January, in the year of our Lord one thousand eight hundred and sixty-three, all persons held as slaves within any State or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free; and the Executive Government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons, and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom.

"That the Executive will, on the first day of January aforesaid, by proclamation, designate the States and parts of States, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any State, or the people thereof, shall on that day be, in good faith, represented in the Congress of the United States by members chosen thereto at elections wherein a majority of the qualified voters of such State shall have participated, shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such State, and the people thereof, are not then in rebellion against the United States."

Now, therefore I, Abraham Lincoln, President of the United States, by virtue of the power in me vested as Commander-in-Chief, of the Army and Navy of the United States in time of actual armed rebellion against the authority and government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and in accordance with my purpose so to do publicly proclaimed for the full period of one hundred days, from the day first above mentioned, order and designate as the States and parts of States wherein the people thereof respectively, are this day in rebellion against the United States, the following, to wit:

Arkansas, Texas, Louisiana, (except the Parishes of St. Bernard, Plaquemines, Jefferson, St. John, St. Charles, St. James Ascension, Assumption, Terrebonne, Lafourche, St. Mary, St. Martin, and Orleans, including the City of New Orleans) Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, and Virginia, (except the forty-eight counties designated as West Virginia, and also the counties of Berkley, Accomac, Northampton, Elizabeth City, York, Princess Ann, and Norfolk, including the cities of Norfolk and Portsmouth), and which excepted parts, are for the present, left precisely as if this proclamation were not issued.

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

And I hereby enjoin upon the people so declared to be free to abstain from all violence, unless in necessary self-defence; and I recommend to them that, in all cases when allowed, they labor faithfully for reasonable wages.

And I further declare and make known, that such persons of suitable condition, will be received into the armed service of the United States to garrison

Glossary

emancipation	the act of freeing, the act of setting free from certain restrictions, or the condition of being free
proclamation	a formal government announcement

Document Text

forts, positions, stations, and other places, and to man vessels of all sorts in said service.

And upon this act, sincerely believed to be an act of justice, warranted by the Constitution, upon military necessity, I invoke the considerate judgment of mankind, and the gracious favor of Almighty God.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this first day of January, in the year of our Lord one thousand eight hundred and sixty three, and of the Independence of the United States of America the eighty-seventh.

By the President: ABRAHAM LINCOLN

WILLIAM H. SEWARD, Secretary of State.

Two soldiers of the Twenty-third New York Infantry—one black and one white—sit in front of a tent during the Civil War. (Library of Congress)

Frederick Douglass: "Men of Color, To Arms!"

1863

"The iron gate of our prison stands half open. One gallant rush from the North will fling it wide open."

Overview

Frederick Douglass, a prominent African American who had escaped from bondage and became an outspoken abolitionist, delivered his speech "Men of Color, To Arms!" before a crowd in his hometown of Rochester, New York, in 1863. In this speech Douglass encourages free blacks in the North to see the Civil War as the means of ending the system of human bondage that was still thriving in the American South. These African Americans continued to encounter discrimination, as they were denied citizenship and were often consigned to low-paying menial labor, but in Douglass's eyes, blacks could overcome such prejudice by performing heroically on the battlefield. His Rochester speech has since been considered one of the clearest appeals for the enlistment of African Americans in the Union army, and it serves as an excellent example of Douglass's talent for oratory and his position as the leading black intellectual of his day.

Context

African Americans had been a vital part of the American armed forces long before the Civil War. Black soldiers fought in the American Revolution and defended New Orleans in 1815, but a federal law passed in 1792 prohibited them from serving in state militias or the regular army. When the Civil War broke out in 1861, public opinion in the United States was generally not in favor of using African American troops. Some critics feared that blacks lacked the courage necessary for combat, while others resented any action that would raise blacks' position in the racial hierarchy and challenge white supremacy. Likewise, some African Americans in the North were skeptical that black enlistment would truly lead to more equality for blacks within the military or among civilian society more generally.

Some white and black abolitionists, however, understood that African Americans could provide an essential contribution to the northern war effort. Former slaves and other free blacks in the North swelled with the same patriotism that encouraged white men to join the military; these men also felt a special burden to aid their brothers who still languished under the cruel slave system. Abolitionists believed that black troops would disprove negative criticisms and help African Americans become further integrated into northern society. Likewise, slaves in the South, who began flocking to Union lines in staggering numbers after the attack on Fort Sumter, South Carolina, in April 1861, presented Union commanders with a dilemma: Since the Confederacy had no qualms about using slave laborers to aid its military actions, why should the Union refuse to use black soldiers to bolster its own war effort? Union general Benjamin Butler was the first to use these refugees—whom he called "contrabands"—to build defensive trenches, serve as camp cooks, and perform other menial labor at Fortress Monroe, the coastal Union bastion near Hampton, Virginia. These escaped slaves were pursued by their owners, but after the passage of the First Confiscation Act on August 6, 1861, army commanders were not obligated to return slave owners' property. Other leading military officials, like Secretary of War Simon Cameron, spoke publicly about the benefits of black enlistment. General John C. Frémont, commander of the Department of the West based in Saint Louis, Missouri, went a step further and issued a proclamation on August 30, 1861, declaring that the slaves of any Missourian who was disloyal would be freed. His proclamation received support from many northerners, but it complicated President Abraham Lincoln's efforts to bring southern states back into the fold.

Lincoln's attitude toward black troops would change over the course of the Civil War, but at the beginning of the conflict his greatest concern was to keep the border slaveholding states (Missouri, Kentucky, Maryland, and Delaware) in the Union, and to demonstrate to the Confederacy that reunion was still a viable possibility. He illustrated his intentions by making clear that emancipation was not a war aim of the Lincoln administration (thus tacitly promising slaveholders that their human property was safe). Early in 1861 he directed Union officials to send slaves who hid behind army lines back to their owners, an action that emphasized Lincoln's ultimate plan to preserve the Union. However, when Union forces increasingly found themselves on the defensive,

Time Line

1861

- **April 12**
  Confederate forces fire on Fort Sumter in South Carolina, officially beginning the Civil War.
- **August 6**
  Congress passes the First Confiscation Act, authorizing Union forces to seize any property (including slaves) from defeated Confederates.

1862

- **July 17**
  Congress passes the Second Confiscation Act, mandating the surrender and freedom of slaves in the service of the Confederate government.
- **September 22**
  President Abraham Lincoln and his advisers release the preliminary draft of the Emancipation Proclamation, which gives the Confederate states until January 1, 1863, to surrender.
- **September 27**
  The Louisiana Native Guards is the first African American regiment (with whites as senior officers) to be officially mustered into the Union Army.

1863

- **January 1**
  The Emancipation Proclamation goes into effect, freeing all slaves living in the states still in rebellion (that is, the Confederacy).
- **February**
  Frederick Douglass begins to recruit for the Fifty-fourth Massachusetts. Two of his sons, Lewis Douglass and Charles Douglass, enlist in the regiment.
- **March 2**
  Douglass delivers his speech "Men of Color, To Arms!" before a crowd in Rochester, New York.
- **July 17–18**
  Black troops fight in two of their most significant battles of the war: The First Kansas Colored Volunteer Infantry repels a Confederate force near Honey Springs, Indian Territory (Oklahoma), and the 54th Massachusetts assaults Fort Wagner, South Carolina.

Lincoln began to alter his stance on black recruitment and supported the passage of the First Confiscation Act, which he signed on August 6, 1861. Heavy casualties contributed to this change of heart. He also worked closely with his advisers to create a preliminary draft of the Emancipation Proclamation, which was released in September 1862, shortly after the Union victory at Antietam; this signaled his shift toward making slavery's abolition an official goal of the administration.

With Lincoln's strategy changing, and public opinion in the North moving increasingly toward support of black enlistment, Congress passed the Second Confiscation Act on July 17, 1862. This act mandated that all slaves who belonged to Confederate masters would be free and that any black person who was employed by the Union forces was also free. The first black unit to be officially mustered into the army was the Louisiana Native Guards, initially brought into service by Benjamin Butler in his General Order No. 63, published on August 22, 1862. Meanwhile, General James Lane, an ardent abolitionist (and U.S. senator) in the new state of Kansas, began the recruitment of black troops to protect Kansas citizens from Confederate guerrillas clustered along the Kansas-Missouri border. His actions were technically not sanctioned by Lincoln or the army's leading generals, but after the issuance of the Emancipation Proclamation in 1863, the only remaining barrier to the use of black troops disintegrated. The Emancipation Proclamation declared that all slaves living in a state in rebellion were free. This made the Civil War a war of emancipation as well as a war to reunite the Union, since advancing Union armies stood to gain support from the newly freed slaves in conquered territory. Lane's troops were the first black regiment to encounter Confederates on the battlefield at a skirmish in Bates County, Missouri; these troops were officially mustered into the service in 1863 as the First Kansas Colored and Second Kansas Colored.

The governor of Massachusetts, John A. Andrew, also sought permission to raise two regiments of black troops. The War Department authorized this recruitment, and Andrews solicited Frederick Douglass, the former slave and noted abolitionist, to assist in locating free black men willing to fight for the cause of freedom. Douglass began recruiting for the Fifty-fourth Massachusetts Regiment of the United States Colored Troops in February 1863. The Bureau of Colored Troops, the government body assigned to administer the recruitment and organization of these units, was created by the War Department on May 1, 1863.

About the Author

Frederick Douglass was a prominent abolitionist and outspoken advocate for black equality, who had himself been born into slavery on a Maryland plantation sometime in February 1818, under the name Frederick Augustus Washington Bailey. His mother was enslaved, and his father was an unknown white man, who at one point Douglass

believed may have been his mother's owner. As a child he was separated from his mother, living instead with various other relatives. At age eight he moved to Baltimore to work for a carpenter named Hugh Auld, and it was in Baltimore that he first learned to read and encountered abolitionist newspapers that would inspire him to make an escape.

After enduring harsh whippings and other mistreatment at the hands of white overseers and slave owners—including an infamous encounter with a cruel slave breaker named Edward Covey—the twenty-year-old Douglass finally made his escape on September 3, 1838. He fled by steamboat and then by train to New York City, and from there he settled in Massachusetts to begin his new life as a free man, taking the new name "Frederick Douglass." While he was in Massachusetts, he cultivated a friendship with his fellow abolitionist William Lloyd Garrison, who published an influential and controversial newspaper called *The Liberator*, the same paper that had first inspired him to seek freedom in the North. With Garrison's encouragement, in 1841 Douglass delivered his first public lecture in Nantucket, to a packed crowd that had assembled for the annual convention of the Massachusetts Anti-Slavery Society.

His experience at that abolitionist meeting set him on a course that would make him a leading national advocate of emancipation; he began a widespread lecture tour that made him a prominent voice in the movement thanks to his personal experiences as a slave. The attendant publicity (both negative and positive), however, made Douglass fearful that his former owner might capture him, so in 1845 he moved to Britain, where he spent two years making connections with British supporters of black equality; he returned to the United States in 1847, after English abolitionists purchased his freedom. After settling in Rochester, New York, he established a series of abolitionist newspapers, including *The North Star* (1847–1851), *Frederick Douglass' Paper* (1851–1860), and *Douglass' Monthly* (1858–1863). When full-scale civil war broke out in 1861, Douglass eagerly suggested that free blacks be allowed to fight and help free their enslaved brethren who lived in the South. He assisted with the recruitment of the Fifty-fourth Massachusetts, encouraging two of his sons—Lewis and Charles—to join the regiment. During the war Douglass consulted with the Lincoln administration and was a constant advocate for black equality. He continued to proclaim his support of black troops until the war's end in 1865, at which point he could easily have been described as the most famous African American of his time. He worked for full racial equality until his death in Washington, D.C., on February 20, 1895.

Douglass authored several books, including three versions of his autobiography, in addition to numerous editorials and newspaper articles in many of the leading abolitionist papers like *The Liberator*, the *Anti-Slavery Advocate*, and other publications. The best known of these works was his first autobiography, the *Narrative of the Life of Frederick Douglass, an American Slave*, published in 1845. This narrative is still considered one of the most moving accounts of slave life in the American South.

Time Line

1863

■ **August 10**
Douglass visits President Lincoln at the White House to plead for equal treatment of black soldiers.

1864

■ **April 12**
Confederate general Nathan Bedford Forrest massacres approximately three hundred Union soldiers, including African Americans, near Fort Pillow, Tennessee.

1865

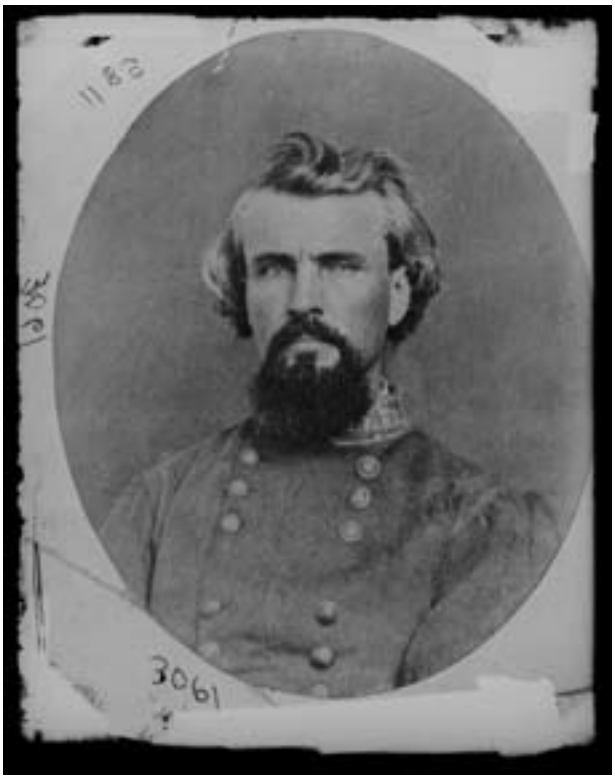
■ **April 9**
Union general Ulysses S. Grant and Confederate general Robert E. Lee meet at Appomattox Court House, where Lee surrenders. The Civil War comes to an end.

■ **December 6**
The Thirteenth Amendment, which abolishes slavery, is ratified.

Explanation and Analysis of the Document

In the opening lines of his speech, Douglass grounds his arguments in his prophetic belief that this war will bring about great advances in the struggle for racial equality. After establishing that black troops would eventually be used, regardless of the northern public's criticisms, Douglass turns to an examination of how the ongoing Civil War is not merely a war over states' rights; it is a war to determine whether or not slavery would be part of the American legal, political, economic, and social system. Here he advances his first main point: The only logical response to southerners' perpetuation of slavery is to enlist black troops in the war effort; anyone should have been able to see that "the arm of the slave was the best defense against the arm of the slaveholder."

Douglass had been a vocal proponent of black enlistment throughout the war, but it was not until 1863 that the Emancipation Proclamation created a path that could fulfill his dreams. Influencing the government's position on this matter had been a slow (even tedious) process, but in the next section of his speech he encourages the audience not to revisit the history of black enlistment. The war effort could not be delayed any longer: "Action! Action! not criticism, is the plain duty of this hour. Words are now useful only as they stimulate to blows." Although Douglass had always advocated the use of violence to free slaves, the ongoing war had convinced him that this was the perfect time for northern blacks—whether they had been born free or slave—to accept this challenge.



General Nathan Bedford Forrest (Library of Congress)

Next, Douglass addresses the black critics of black enlistment, methodically dismantling the fallacies behind their reluctance to fight. He even calls these critics "weak and cowardly men.… They tell you this is the 'white man's war'; and you will be 'no better off after than before the war.'" Some black northerners' resistance to enlistment, according to Douglass, stemmed from their fear that white officers would carelessly place them on the front lines to be sacrificed "on the first opportunity." As Douglass and his audience were aware, even northerners who supported the war effort and believed that slavery was an immoral system did not necessarily support full racial equality, and this prejudiced attitude could engender resentment among the ranks of white officers who commanded black regiments. Douglass did not want such negativity to discourage black men who were willing to perform their civic duty on the battlefield, since "liberty won by white men would lose half its luster." Instead of giving credence to these objections leveled by "cowards," he encouraged black men to prove their bravery by enlisting. Lest anyone suspect that he had not given this matter due consideration, Douglass reassured the audience that "the counsel I give comes of close observation of the great struggle now in progress, and of the deep conviction that this is your hour and mine."

The previous points all serve as an introduction to the heart of Douglass's argument: that after much thought he is confident enough in his convictions to use plain language and "call and counsel you to arms." He links blacks' involvement in the military directly to the furtherance of black rights in the United States, declaring, "I urge you to fly to arms, and smite with death the power that would bury the government and your liberty in the same hopeless grave." The destiny of African Americans is here tied directly to the continuation of the Union.

Who will lead this fight? In paragraph 2 he presents the practical implications of this call to arms and announces how Massachusetts is poised to take the lead in black enlistment. Massachusetts harbors only a small population of free blacks, but Douglass encourages those in Rochester to "go quickly and help fill up the first colored regiment from the North." Douglass had been in contact with the governor of Massachusetts, John A. Andrews, in addition to other key political and military figures in the days and weeks leading up to this speech. He reassures the audience that he is an authorized spokesperson who knows the details of the enlistment process and that any black men who enlisted would be accorded the same wages and treatment as white soldiers. Although he does not state whether the officers would be white or African American, he promises that these leaders would treat all their recruits equally and without discrimination.

The closing section of Douglass's speech includes the most powerfully inspiring rhetoric of the entire presentation, and it is also the richest in terms of historical references. Douglass suggests an analogy to the audience, observing that the slave system in the South is a prison and that those African Americans who are already free now have the responsibility to save their brethren who still labor in bondage. He calls to mind some of the great black revolutionaries in American history as a reminder that this current conflict is only an extension of a battle that had been raging in the hearts of African Americans for centuries. First he names Denmark Vesey, a former slave in Charleston, South Carolina, who planned a rebellion against slaveholders in 1822; before Vesey and his compatriots could implement their plan, word got out to the local white community and a full-scale panic erupted in the countryside. Vesey was executed in 1822. Douglass then references Nathaniel (Nat) Turner, a Virginia slave who launched a full-scale rebellion in 1831 that ended with the deaths of at least fifty-five whites and most members of the rebellion (including Turner himself). Last, he recalls that two former slaves—Shields Green and John Anthony Copeland—had participated in John Brown's raid on the federal arsenal at Harpers Ferry, Virginia, in October 1859. Green had spent some time in Rochester, the site of Douglass's speech, prior to his involvement with Brown, so his name would have been familiar to the audience. Both Green and Copeland were executed in Charles Town, Virginia (now West Virginia), on December 16, 1859, for their involvement in the raid. These men had paved the way for black involvement in the military. According to Douglass this was the perfect opportunity for northern blacks to combat slavery and "win for ourselves the gratitude of our country, and the best blessings of our posterity through all time."

Essential Quotes

"A war undertaken and brazenly carried on for the perpetual enslavement of colored men, calls logically and loudly for colored men to help suppress it."

"Action! Action! not criticism, is the plain duty of this hour. Words are now useful only as they stimulate to blows. The office of speech now is only to point out when, where, and how to strike to the best advantage. There is no time to delay."

"The iron gate of our prison stands half open. One gallant rush from the North will fling it wide open, while four millions of our brothers and sisters shall march out into liberty. The chance is now given you to end in a day the bondage of centuries, and to rise in one bound from social degradation to the place of common equality with all other varieties of men"

"This is our golden opportunity. Let us accept it, and forever wipe out the dark reproaches unsparingly hurled against us by our enemies. Let us win for ourselves the gratitude of our country, and the best blessings of our posterity through all time."

Audience

Douglass delivered this speech in Rochester, New York, but in broader terms, by titling his speech "Men of Color, To Arms!" Douglass was speaking to the entire free black population of the North. He knew this message would be printed and would function as a rallying cry to encourage blacks' involvement in the Union effort; additionally, his speech reinforced the convictions of the many northern blacks who had been vocalizing their desires to enlist, pressing against Lincoln's unsupportive policies since the beginning of the conflict in 1861. In addition, Douglass fully understood that white critics of black enlistment would read his speech, and as a result, they might become more comfortable with the concept of black soldiers. His fervent call for blacks to fight for the Union cause was, in effect, distributed to a national audience.

Impact

After the publication of this speech in *Douglass' Monthly*, the great abolitionist's beliefs about blacks' fitness for military duty and their opportunity to bring about the freedom of their people were disseminated not only to his readership but also, through republication in other northern newspapers, to a wider audience. Thanks to this speech, the American public was exposed to Douglass's impassioned rhetoric in favor of emancipation and the use of black troops, and as the war progressed, more northerners came to agree with his position. Douglass had himself been disenchanted with Lincoln's policies, but in this speech he made clear to the black public that their involvement in the military effort would reinforce the importance of equal treatment of all individuals, regardless of race. Douglass's established place as a leading voice for racial equality guaranteed that his

speeches and publications would generate conversation and debate among both northerners and southerners. For modern readers of this transcript, Douglass's position illustrates how freed blacks and abolitionists were an integral part of the effort to recruit black troops. Historians today acknowledge that Douglass's "To Arms" describes in vivid language how African American soldiers could aid in the Union's triumph and, more important, prove their right to equality and their readiness to become full citizens of American society.

Despite (or perhaps because of) the North's hesitance to arm former slaves and other free blacks, African American regiments thoroughly proved their mettle on the battlefield. Perhaps the most famous episode of blacks in combat was the Fifty-fourth Massachusetts's assault on Fort Wagner, near Charleston, South Carolina, in July 1863, which has been memorialized by Augustus Saint-Gaudens's sculpture in the Boston Common (1897) and by the movie *Glory* (1989). The commander of the Fifty-fourth, Robert Gould Shaw, was killed, and 271 of his men were killed, wounded, or taken prisoner. From a military perspective the engagement failed, but after that night the Fifty-fourth became a symbol of how African American regiments could perform with valor and determination in the face of fierce opposition. William H. Carney, who had distinguished himself at Fort Wagner, was the first African American to earn the highest military decoration, the Medal of Honor. Just one day earlier, in Indian Territory, the First Kansas Colored had beaten off a far larger force of Texas Confederates at the Battle of Honey Springs. By 1863, thanks to the Fifty-fourth Massachusetts and other black regiments, African Americans' place in the military was generally accepted both by the Lincoln administration and many members of the northern public.

Black troops did, however, continue to encounter racism and discrimination from government officials, military officers, and the general public. Lingering concerns regarding blacks' ability to serve, combined with continued discrimination from whites, required that black regiments be commanded only by white officers. Key leaders in the administration maintained that since most black soldiers were inexperienced, it made sense to have white officers, who could effectively teach new recruits how to drill and how to perform in battle. These arguments did little to assuage the apprehension of black recruits who feared that such a policy could foster widespread discrimination, but as the tide of public opinion turned in favor of black regiments, the army adjusted its policy and granted some officers' commissions to surgeons. By some estimations, there were around one hundred black officers who received commissions during the Civil War.

In addition to fighting prejudice at home in the North, black troops faced even greater challenges on the battlefield. Confederate officers resented the Union's use of black troops and often mistreated blacks who were captured or who surrendered. In Missouri, James Williams, commander of the 1st Kansas Colored, found that some members of his scouting party had been captured by Confederate guerrillas; although Williams attempted to arrange for a prisoner exchange, the guerrillas refused and executed one of the black prisoners. Williams reciprocated by executing one of the captured Confederate soldiers, showing that racial recrimination would not be tolerated. Situations such as this were not uncommon in other black regiments. On April 12, 1864, a force of about 2,500 Confederates under the command of Nathan Bedford Forrest assaulted Fort Pillow, in Tennessee. There were some six hundred Union men garrisoned at the fort, about half of them former slaves. Forrest's men violated the terms of the flag of truce and overran the fort, brutally massacring most of the black men within. (Over 60 percent of the blacks were killed.) After this cruelty, a rallying cry among other black troops was "Remember Fort Pillow!"

Black soldiers received less pay than white troops, even though the first black regiments to formally enlist (which included the First South Carolina and the Fifty-fourth and Fifty-fifth Massachusetts) had all been promised equal pay by the War Department. Black soldiers received $10 per month, with $3 of that taken for their clothing allowance; meanwhile, white soldiers received $13 per month, plus $3.50 for clothes. It was not until June 15, 1864, that Congress finally passed legislation ensuring that black soldiers would receive equal pay. A problem arose, however, over the matter of retroactive wages. The adjutant general's office maintained that only men who were legally free after April 19, 1861, would receive back pay, which excluded some recruits and consequently damaged the black regiments' morale. Finally—after much protest on the part of black soldiers, white officers, and recruiters—legislation passed on March 3, 1865, guaranteed that retroactive equal pay would be given to all African American regiments that had been promised equal treatment by the military. Although this had been a years-long struggle, by war's end black troops were on a more equal footing with their white comrades, illustrating how revolutionary the Civil War period was in terms of altering the racial hierarchy present in the North.

By war's end, approximately 178,892 black soldiers had served in the Union army, making up a little more than 12 percent of the armed forces. Of that number, more than one-third died either as the result of injuries sustained in battle or of disease. When the hostilities ceased in 1865, most black regiments were mustered out of active service. Some of these troops stayed on with the army and went to military outposts in the West, gaining the nickname "Buffalo Soldiers." African Americans throughout both the North and the South were officially emancipated with the Thirteenth Amendment, which was ratified on December 6, 1865. Less than five years later, black men won the right to vote with the passage of the Fifteenth Amendment. Since that time, blacks have served honorably in every major military conflict in American history.

See also *The Confessions of Nat Turner* (1831); First editorial of the *North Star* (1847); Emancipation Proclamation (1863); War Department General Order 143 (1863); Thomas Morris Chester's Civil War Dispatches (1864) Thirteenth Amendment to the U.S. Constitution (1865); Fifteenth Amendment to the U.S. Constitution (1870).

Further Reading

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■ Web Sites

"The Fight for Equal Rights: Black Soldiers in the Civil War." National Archives "Teaching with Documents" Web site.
http://www.archives.gov/education/lessons/blacks-civil-war/.

"Frederick Douglass National Historic Site, Virtual Museum Exhibit." National Park Service Web site.
http://www.nps.gov/history/museum/exhibits/douglass/.

—Kristen K. Epps

Questions for Further Study

1. Explain how President Abraham Lincoln's views regarding the enlistment of black troops during the Civil War changed. Why do you think he altered his views?

2. Compare this document with Thomas Morris Chester's Civil War Dispatches (1864). How did the actions of black troops that Chester wrote about help to realize the views that Douglass expressed?

3. Douglass expressed great optimism about the Civil War and what he believed its impact would be on racial issues and the position of African Americans. Do you believe that after the Civil War he felt vindicated or disappointed?

4. In the twentieth century, numerous black writers urged African Americans to resist the military draft and refuse to fight in the nation's wars, particularly World War I, World War II, and the Vietnam War. Yet Douglass urged African Americans to take up arms. Why do you think attitudes changed from the nineteenth to the twentieth centuries?

5. Read this entry in conjunction with War Department General Order 143 (1863). What do you think Douglass's reaction to this order was? Why?

Document Text

Frederick Douglass: "Men of Color, To Arms!"

When first the rebel cannon shattered the walls of Sumter and drove away its starving garrison, I predicted that the war then and there inaugurated would not be fought out entirely by white men. Every month's experience during these dreary years has confirmed that opinion. A war undertaken and brazenly carried on for the perpetual enslavement of colored men, calls logically and loudly for colored men to help suppress it. Only a moderate share of sagacity was needed to see that the arm of the slave was the best defense against the arm of the slaveholder. Hence with every reverse to the national arms, with every exulting shout of victory raised by the slaveholding rebels, I have implored the imperiled nation to unchain against her foes, her powerful black hand. Slowly and reluctantly that appeal is beginning to be heeded. Stop not now to complain that it was not heeded sooner. It may or it may not have been best that it should not. This is not the time to discuss that question. Leave it to the future. When the war is over, the country is saved, peace is established, and the black man's rights are secured, as they will be, history with an impartial hand will dispose of that and sundry other questions. Action! Action! not criticism, is the plain duty of this hour. Words are now useful only as they stimulate to blows. The office of speech now is only to point out when, where, and how to strike to the best advantage. There is no time to delay. The tide is at its flood that leads on to fortune. From East to West, from North to South, the sky is written all over, "Now or never." Liberty won by white men would lose half its luster. "Who would be free themselves must strike the blow." "Better even die free, than to live slaves." This is the sentiment of every brave colored man amongst us. There are weak and cowardly men in all nations. We have them amongst us. They tell you this is the "white man's war"; and you will be "no better off after than before the war"; that the getting of you into the army is to "sacrifice you on the first opportunity." Believe them not; cowards themselves, they do not wish to have their cowardice shamed by your brave example. Leave them to their timidity, or to whatever motive may hold them back. I have not thought lightly of the words I am now addressing you. The counsel I give comes of close observation of the great struggle now in progress, and of the deep conviction that this is your hour and mine. In good earnest then, and after the best deliberation, I now for the first time during this war feel at liberty to call and counsel you to arms. By every consideration which binds you to your enslaved fellow—countrymen, and the peace and welfare of your country; by every aspiration which you cherish for the freedom and equality of yourselves and your children; by all the ties of blood and identity which make us one with the brave black men now fighting our battles in Louisiana and in South Carolina, I urge you to fly to arms, and smite with death the power that would bury the government and your liberty in the same hopeless grave. I wish I could tell you that the State of New York calls you to this high honor. For the moment her constituted authorities are silent on the subject. They will speak by and by, and doubtless on the right side; but we are not compelled to wait for her. We can get at the throat of treason and slavery through the State of Massachusetts. She was the first in the War of Independence; first to break the chains of her slaves; first to make the black man equal before the law; first to admit colored children to her common schools, and she was first to answer with her blood the alarm cry of the nation, when its capital was menaced by rebels. You know her patriotic governor, and you know Charles Sumner. I need not add more.

Massachusetts now welcomes you to arms as soldiers. She has but a small colored population from which to recruit. She has full leave of the general government to send one regiment to the war, and she has undertaken to do it. Go quickly and help fill up the first colored regiment from the North. I am authorized to assure you that you will receive the same wages, the same rations, and the same equipments, the same protection, the same treatment, and the same bounty, secured to the white soldiers. You will be led by able and skillful officers, men who will take especial pride in your efficiency and success. They will be quick to accord to you all the honor you shall merit by your valor, and see that your rights and feelings are respected by other soldiers. I have assured myself on these points, and can speak with authority. More than twenty years of unswerving devotion to our common cause may give me some humble claim to be trusted at this

Document Text

momentous crisis. I will not argue. To do so implies hesitation and doubt, and you do not hesitate. You do not doubt. The day dawns; the morning star is bright upon the horizon! The iron gate of our prison stands half open. One gallant rush from the North will fling it wide open, while four millions of our brothers and sisters shall march out into liberty. The chance is now given you to end in a day the bondage of centuries, and to rise in one bound from social degradation to the place of common equality with all other varieties of men. Remember Denmark Vesey of Charleston; remember Nathaniel Turner of Southampton; remember Shields Green and Copeland, who followed noble John Brown, and fell as glorious martyrs for the cause of the slave. Remember that in a contest with oppression, the Almighty has no attribute which can take sides with oppressors. The case is before you. This is our golden opportunity. Let us accept it, and forever wipe out the dark reproaches unsparingly hurled against us by our enemies. Let us win for ourselves the gratitude of our country, and the best blessings of our posterity through all time. The nucleus of this first regiment is now in camp at Readville, a short distance from Boston. I will under take to forward to Boston all persons adjudged fit to be mustered into the regiment, who shall apply to me at any time within the next two weeks.

Glossary

Charles Sumner	a U.S. senator from Massachusetts and a leader of the abolition movement
Denmark Vesey	the leader of a planned slave revolt in South Carolina in 1822
John Brown	the white abolitionist who led an unsuccessful raid on the U.S. arsenal at Harpers Ferry, Virginia, in 1859
Nathaniel Turner	commonly called Nat Turner, the leader of a slave revolt in Virginia in 1831
patriotic governor	Governor John A. Andrew of Massachusetts, who backed the recruitment of black troops
Sumter	Fort Sumter in South Carolina, the site of the first hostilities of the Civil War

GENERAL ORDERS, } WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
No. 143. } *Washington, May* 22, 1863.

I..A Bureau is established in the Adjutant General's Office for the record of all matters relating to the organization of Colored Troops. An officer will be assigned to the charge of the Bureau, with such number of clerks as may be designated by the Adjutant General.

II..Three or more field officers will be detailed as Inspectors to supervise the organization of colored troops at such points as may be indicated by the War Department in the Northern and Western States.

III..Boards will be convened at such posts as may be decided upon by the War Department to examine applicants for commissions to command colored troops, who, on application to the Adjutant General, may receive authority to present themselves to the board for examination.

IV..No persons shall be allowed to recruit for colored troops except specially authorized by the War Department; and no such authority will be given to persons who have not been examined and passed by a board; nor will such authority be given any one person to raise more than one regiment.

V..The reports of Boards will specify the grade of commission for which each candidate is fit, and authority to recruit will be given in accordance. Commissions will be issued from the Adjutant General's Office when the prescribed number of men is ready for muster into service.

VI..Colored troops may be accepted by companies, to be afterwards consolidated in battalions and regiments by the Adjutant General. The regiments will be numbered *seriatim*, in the order in which they are raised, the numbers to be determined by the Adjutant General. They will be designated: "—— Regiment of U. S. Colored Troops."

VII..Recruiting stations and depôts will be established by the Adjutant General as circumstances shall require, and officers will be detailed to muster and inspect the troops.

War Department General Order 143 (National Archives and Records Administration)

War Department General Order 143

1863

"No persons shall be allowed to recruit for colored troops except specially authorized by the War Department."

Overview

The U.S. War Department issued General Order 143 on May 22, 1863, to organize and provide uniform recruitment and governance of black troops. The order established the Bureau of U.S. Colored Troops, and after that date most existing and all newly recruited African American units were incorporated and administered with the bureau's supervision.

One of the biggest controversies during the American Civil War revolved around the role that African Americans should play in the Union war effort. From the onset of the conflict, African Americans such as Frederick Douglass and other abolitionists urged President Abraham Lincoln to make ending slavery a war aim. African Americans also demanded a more active role in fighting the war. President Lincoln was hesitant to include black troops for several reasons. Racial prejudice was deep-seated in the northern states, and many, including Lincoln, feared that white soldiers would not fight side by side with African Americans. Many northerners held that African Americans were incapable of making good soldiers because they believed that blacks were too servile or cowardly.

Even before the Emancipation Proclamation brought slavery to the forefront of the conflict, blacks strove for inclusion in the ranks of the U.S. military despite the attitudes of northern whites. Both free blacks in the northern states and newly freed slaves in the southern areas under Union control were eager to contribute. Some Union generals began raising black units in occupied areas of the South in 1862, but recruitment began in earnest after formal announcement of the Emancipation Proclamation on January 1, 1863. The first black units were organized as volunteer units of the states. General Order 143 formalized these efforts.

Context

In April 1861, a mere few days after the Civil War had begun when the Confederates fired on Fort Sumter in the harbor at Charleston, South Carolina, a group of African Americans in Cleveland, Ohio, gathered to pledge their support for the Union cause. As they put it, "As colored citizens of Cleveland, desiring to prove our loyalty to the Government, [we] feel that we should adopt measures to put ourselves in a position to defend the government of which we claim protection." They continued: "That to-day, as in the times of '76, and the days of 1812, we are ready to go forth and do battle in the common cause of the country." Although African Americans had taken up arms during the American Revolution and during the War of 1812, federal law had prohibited the enlistment of blacks in state militias and the U.S. Army since 1792. At the beginning of the Civil War there were no black soldiers in the regular army, and most white northerners hoped to keep it that way.

African Americans recognized at the war's outset that this conflict had the potential to rid the United States of slavery, and they were eager to push for their inclusion in the fight. Abraham Lincoln's administration and the mainstream press were careful to declare that the war was about restoring the Union and emphatically denied that the issue of slavery had any role in the conflict. Northern public opinion, at least early in the war, was not prepared to consider challenging the racial balance that placed African Americans at the bottom of the social ladder. Prominent blacks and abolitionists, however, began pushing for the enlistment of black troops almost immediately, and many realized the implications of those fears. Perhaps Frederick Douglass most clearly outlined the fear of white northerners with regard to black military participation. In August 1861 he editorialized in his newspaper, *Douglass' Monthly*, "Once let the black man get upon his person the brass letters, U.S., let him get an eagle on his button, and a musket on his shoulder and bullets in his pocket, and there is no power on earth which can deny that he has earned the right to citizenship in the United States." Lincoln recognized that military service for blacks would indeed place African Americans in a position to demand the rights of citizenship, including suffrage. He also feared that the presence of black soldiers would discourage white enlistments. Another concern was maintaining the loyalty of the border states, including Maryland, Kentucky, Missouri, and Delaware. Although these were slave states, they had not joined the Confederacy, and the president wanted them to remain part of the Union.

Time Line

1861

- **April 12**
  The Civil War begins following the firing on Fort Sumter at Charleston, South Carolina.
- **May**
  General Benjamin F. Butler declares escaped slaves to be the property of the Union and puts them to work behind Union lines.
- **August 6**
  Congress passes the first Confiscation Act authorizing the seizure of property, including slaves, used to aid the Confederate war effort.

1862

- **July 17**
  Congress passes the second Confiscation Act, authorizing federal courts to free the slaves of those fighting against the Union, and the Militia Act, authorizing President Abraham Lincoln to enroll African American troops in the Union army.
- **September 27**
  The First Louisiana Native Guards becomes the first black unit to be recognized by the War Department.

1863

- **January 1**
  The Emancipation Proclamation takes effect, declaring an end to slavery in the Confederate states under rebellion.
- **January**
  The First Kansas Volunteer Colored Infantry is mustered into service as the first regiment of African American troops raised in a northern state.
- **January**
  Governor John A. Andrew of Massachusetts is granted permission to raise an African American regiment, the Fifty-fourth Massachusetts Infantry.
- **May 22**
  The War Department issues General Order 143, creating the U.S. Colored Troops.

Despite these concerns, pressures to allow black military enlistment mounted from several directions. From early in the war the Confederate army employed free black and slave labor to perform much of the manual work required for the military. Eventually, the Confederate army requisitioned slaves from their masters in much the same way it appropriated food or other necessary supplies. Throughout the war African Americans not only raised much of the food that fed the Confederate troops but also built many of the fortifications and entrenchments that protected troops in the field. The Union general Benjamin F. Butler, in command of troops at Fortress Monroe in Virginia, was one of the earliest advocates of using African Americans in the Union cause. In May 1861 he declared escaped slaves who had labored on behalf of the Confederate war effort as "contraband of war" and refused to return them to their masters. Reasoning that returning the slaves to their masters would benefit the enemy, Butler put them to work behind Union lines. Although the policy was controversial, Lincoln allowed Butler's action to stand. Before the summer of 1861 ended, Congress would pass legislation to more clearly define how the Union army should treat the large numbers of slaves who sought freedom behind Union lines.

Realizing the importance of slave labor to the Confederacy, in August 1861 Congress passed the frst Confiscation Act, permitting the seizure of any property, including slaves, used to aid the Confederate war effort. This provided legitimacy to Butler's ad hoc contraband policy, and over the duration of the war some two hundred thousand "contrabands" worked for the Union army. Although the act sidestepped the issue of emancipation, it did introduce the concept of manumission into federal policy. The same month, General John C. Frémont was bolder in declaring free the slaves of Confederates in Missouri. As commander in charge of the Department of the West in St. Louis, Frémont's emancipation declaration was a part of a larger plan to bring Missouri under closer control of the Union.

Alarmed that the action might lead Missouri and the other border states to join the Confederacy, Lincoln quickly rescinded the order and eventually removed Frémont from his post. Lincoln's action angered abolitionists such as the radical Parker Pillsbury, who condemned the president's act as "cowardly submission to southern and border slave state dictation." Some prominent northern politicians, including Massachusetts governor John A. Andrew and Kansas senator James H. Lane, urged Lincoln to arm African Americans. Along with the generals John W. Phelps and David Hunter, they argued that blacks were eager to fight for the nation. Although Lincoln was not prepared to support a radical emancipation policy in 1861, by midyear 1862, at the urging of these men, he was beginning to see the value of including African Americans in the military. It was also becoming clear that emancipation would necessarily result if African Americans were allowed to enlist in the U.S. Army.

In July 1862 Congress passed two bills that tied emancipation to military enlistment. The second Confiscation Act authorized northern courts to free the slaves of those "en-

gaged in rebellion" and authorized Lincoln to employ "as many persons of African descent as he may deem necessary and proper for the suppression of this rebellion, and for this purpose he may organize and use them in such manner as he may judge best for the public welfare." The Militia Act granted freedom to slaves who worked for the U.S. Army and gave Lincoln the authority to "to receive into the service of the United States, for the purpose of constructing intrenchments, or performing camp service, or any other labor, or any military or naval service which they may be found competent, persons of African descent." While Lincoln and many northerners remained skeptical about arming African Americans, Congress had clearly paved the way for the enlistment of blacks with these two acts. During the summer of 1862 Lincoln also began secretly drafting a proclamation that would emancipate slaves in the Confederate states that had not fallen under Union control.

The public would not learn of the Emancipation Proclamation until September 1862, when it was announced following the Union victory at the Battle of Antietam. Not knowing Lincoln's plan, some northerners attacked his failure to fully execute the emancipation clause of the second Confiscation Act. Douglass proclaimed in an editorial, "The signs of the times indicate that the people will have to take this war into their own hands and dispense with the services of all who by their incompetency give aid and comfort to the destroyers of the country." Horace Greeley, editor of the *New York Tribune*, complained that Lincoln was too worried about the border states and urged him to enforce the new acts. In the summer and fall of 1862, as Lincoln cautiously danced around the full implementation of the second Confiscation Act, more radical military leaders in the field took it to heart.

The first African Americans to take up arms for the Union cause during the Civil War did so in the South. Empowered by the second Confiscation Act and the Militia Act, commanders in the field were willing and sometimes eager to begin enlisting black units. One of the first to do so was General Butler, who by mid-1862 commanded occupation forces in Louisiana. As his earlier contraband policy might suggest, Butler had no problem employing African Americans to fill a shortfall in the number of Union soldiers available to defend New Orleans. On September 27 he mustered into service the First Louisiana Native Guards. Although blacks had been placed in defensive roles in several small units, this was the first sanctioned regiment of African American soldiers in the Union army. Pleased with the result, Butler organized two additional regiments, the Second and Third Louisiana Native Guards, by November 1862. Other early African American regiments were raised in South Carolina, including the First South Carolina Volunteer Infantry (African Descent), commanded by the abolitionist Thomas Wentworth Higginson. In Kansas, before he had official authorization, Senator James H. Lane began recruiting for the First Kansas Volunteer Colored Infantry, which became the first black regiment recruited in the northern states. All African American units were headed by white commissioned officers, although eventually black soldiers could aspire to the rank of corporal or sergeant, and more than a hundred gained commissioned ranks. By the end of 1862 between three thousand and four thousand black men were serving in five regiments. When first recognized by the War Department, the soldiers in black regiments received $10 monthly pay, $3 less than their white counterparts.

Time Line

1864
- **June**
  Congress grants equal pay to soldiers in the U.S. Colored Troops.

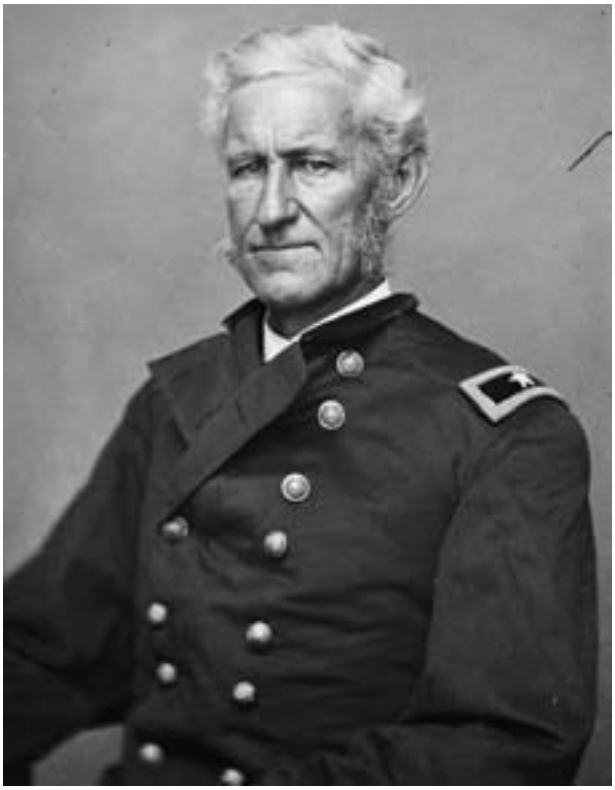
1865
- The Civil War ends in April, and in December the Thirteenth Amendment to the Constitution abolishes slavery in the United States.

1866
- **July 28**
  Congress authorizes two permanent African American regiments, the Ninth and Tenth United States Cavalry, who would gain renown as the Buffalo Soldiers.

Following the issuance of the final Emancipation Proclamation on January 1, 1863, black enlistment became a major priority and a central part of Lincoln's emancipation program. That month Massachusetts governor John A. Andrew was authorized to raise the Fifty-fourth Massachusetts Infantry, and prominent New England abolitionists rushed to help recruit. Secretary of War Edwin Stanton also authorized Rhode Island and Connecticut to begin recruiting black regiments. Black abolitionists, including Frederick Douglass, Martin R. Delany, Henry McNeal Turner, and John Mercer Langston, recruited broadly across the northern and midwestern states. In March 1863 the army's adjutant general, Lorenzo Thomas, was ordered to the South to head an enlistment drive.

Thomas's southern travels took him to the Mississippi Valley, where he was charged not only with recruiting African American troops but also with finding qualified officers to lead the newly forming regiments. The enlistment drive was successful, as Thomas found many freedmen eager to serve. Thomas's 1863 recruiting resulted in raising twenty black regiments but also pointed to the need for a more ordered system of recruitment and organization to govern the new troops. Issued on May 22, 1863, General Order 143 provided the mechanism for organizing all black regiments under the newly created Bureau of Colored Troops.

Assistant Adjutant General Charles W. Foster was appointed to lead the bureau, and he primarily supervised black enlistment and recruitment in both the North and South for the remainder of the war. Following the creation



Lorenzo Thomas (Library of Congress)

of the United States Colored Troops, African American regiments with state names, with only a few exceptions, were renamed and designated units of the U.S. Colored Troops. Exceptions were made for a few regiments from Connecticut, Massachusetts, and Louisiana. The significance of renaming the First Kansas Colored Volunteer Infantry as the Seventy-ninth U.S. Colored Infantry or the First Louisiana Native Guards the Seventy-third U.S. Colored Infantry was that instead of being mustered into a state unit, the black soldiers became agents of the U.S. Army. In June 1864, a year after the creation of the Bureau of Colored Troops, Congress granted equal pay to African American soldiers. The Bureau of Colored Troops offered a professional, organized, and well-ordered chain of command and bureaucratic structure that enabled African Americans to gain a permanent place in the military and to stand and fight for the freedom guaranteed by the U.S. government.

About the Author

General Order 143 was a directive issued by the War Department and as such does not have an author of record. However, the army's adjutant general, Lorenzo Thomas, most likely had a hand in authoring the order. In March 1863 Secretary of War Edwin Stanton ordered Thomas to the Mississippi Valley to recruit and muster regiments of African American troops.

Lorenzo Thomas was born in New Castle, Delaware, in 1804. An 1823 graduate of the U.S. Military Academy at West Point, Thomas was a career army officer who was appointed adjutant general of the army in the early months of the Civil War. In this post he was the person primarily responsible for recruitment and staffing of the army. It was under his watch that large-scale recruitment of black troops began. He was not known as an abolitionist or Radical Republican, who were critical of Lincoln's slowness in freeing the slaves and supporting their legal equality. Instead, as a moderate he was able to convince many of the necessity of enlisting African Americans in the army. Although Thomas did not favor black officers for the new regiments, he was a firm believer that the African American troops should not be relegated to general labor but rather should be given combat assignments. It was during his recruitment drive through Kentucky, Arkansas, Louisiana, Mississippi, and Tennessee in 1863 that Thomas came to realize that a new organizational system was required, resulting in General Order 143 creating the U.S. Colored Troops.

Following the Civil War, Thomas remained in the adjutant general's post, although his relationship with Secretary Stanton was somewhat tenuous and the secretary reportedly doubted Thomas's loyalty. Perhaps Stanton's concern had some foundation. In 1868, President Andrew Johnson briefly appointed Thomas interim secretary of war to replace Stanton. It was this action that led Congress to declare Johnson in violation of the Tenure of Office Act, resulting in his impeachment. During the impeachment proceedings both Thomas and Stanton claimed to be the secretary of war. After successfully avoiding conviction, Johnson failed to appoint Thomas permanently to the post. Thomas retired from the army with the rank of major general in February 1869. He died in 1875.

Explanation and Analysis of the Document

General Order 143 is divided into nine sections. Section I establishes a separate bureau within the War Department to administer and organize African American regiments, officially called Colored Troops. The order provides for an administrative officer and a number of supporting clerks to be appointed by the adjutant general. Section II authorizes the appointment of three or more inspectors to oversee the organization of regiments within the U.S. Colored Troops. These inspectors could be sent anywhere within the northern states under the authorization of the War Department.

Section III attends to the recruitment of white commissioned officers to command units within the Colored Troops. The order authorizes an examining board or boards to evaluate and select among applicants for commissioned posts in command of the newly raised regiments. Section IV restricts recruitment agents to those individuals authorized by the War Department. Recruiters were required to pass the evaluation of a specially created board, and each was permitted to raise only one regiment of Colored Troops.

Members of the 107th U.S. Colored Infantry, shown with musical instruments (Library of Congress)

Sections V and VI link an officer's rank to the number of troops he is authorized to recruit. Once the prescribed number of men was recruited, the adjutant general would grant the appropriate officer's commission. Recruitment could be into companies of about one hundred soldiers, which would then be incorporated into regiments that included up to ten companies. Instead of having regiments that bore a number tied to their locus of recruitment, such as the Fifty-fourth Massachusetts, regiments of the U.S. Colored Troops would be numbered separately in the order in which they were raised. The first unit organized under General Order 143 would be the First U.S. Colored Troops, the next the Second U.S. Colored Troops, and so forth. Section VII authorizes the establishment of recruiting depots and stations and provides for officers to oversee the inspection and mustering of the Colored Troops regiments.

Section VIII concerns the recruitment of noncommissioned officers, generally sergeants and corporals, from within the ranks of the African American members of each regiment. While the commanding commissioned officers of the Colored Troops were drawn from the white army population, African Americans could advance to noncommissioned officer status. An important distinction was made on the basis of responsibility. Commissioned officers enjoyed the responsibility of ultimate command of the regiment, but noncommissioned officers exercised more limited control over men within the unit. Noncommissioned officers were selected based on merit, and those who showed an aptitude for leading could be promoted, as from corporal to sergeant. Each company generally included four sergeants and four corporals, so opportunities to advance to officer status were not common. The final section of the order establishes procedures for directing correspondence and inquiries regarding the Colored Troops. It directs that applications for officer appointments be made directly to the chief of the Bureau of Colored Troops.

Audience

General Order 143 is a military directive whose immediate audience was the Union army. It was especially aimed at those responsible for the administration and recruitment of African American troops. Those recruiting black enlistments outside the auspices of the army were another potential audience of the order. Ultimately, General Order

Essential Quotes

"A Bureau is established in the Adjutant General's Office for the record of all matters relating to the organization of Colored Troops."

(Section I)

"No persons shall be allowed to recruit for colored troops except specially authorized by the War Department."

(Section IV)

"The non-commissioned officers of colored troops may be selected and appointed from the best men of their number in the usual mode of appointing non-commissioned officers."

(Section VIII)

143 was aimed at the nation, as it laid the foundation for organizing and administering the participation of African American soldiers in the Union war effort. Beyond establishing procedures and an administrative structure, the order indicated clearly that African Americans would have a stake in American society.

Impact

By the end of the Civil War in April 1865, the Union army had recruited 178,975 African American soldiers into its ranks. Black troops made up 133 infantry regiments, 4 independent companies, 7 cavalry regiments, 12 heavy artillery regiments, and 10 companies of light infantry. Most of the black Union soldiers were former slaves, although a significant number were drawn from the ranks of the northern free black community. African Americans made up nearly 10 percent of all Union troops serving in the war.

The creation of the Bureau of Colored Troops had implications beyond the Civil War. In establishing a military bureau and administrative structure, General Order 143 set the precedent for permanent inclusion of African Americans in the military. By October 1865 the regiments of the U.S. Colored Troops began demobilizing, but this was not the end to black military participation. On July 28, 1866, Congress authorized the creation of two African American regiments for the regular army. The Ninth and Tenth U.S. Cavalry later gained recognition as the Buffalo Soldiers as they performed important service in the American West in the late 1800s. Although blacks would never again be denied entrance to the military, the U.S. Colored Troops also established the segregation of African Americans into separate units led by white commissioned officers. The U.S. military remained segregated through World War II. Racial separation in the military ended in July 1948 when President Harry S. Truman signed Executive Order 9981 ending segregation in the armed forces.

See also Emancipation Proclamation (1863); Frederick Douglass: "Men of Color, To Arms!" (1863).

Further Reading

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—L. Diane Barnes

Questions for Further Study

1. Explore how War Department General Order 143 fit into the struggle of African Americans to gain full citizenship and civil rights in the United States. What rights, if any, do you believe African Americans gained from serving in the U.S. Army during the Civil War?

2. General Order 143 was issued several months after the Emancipation Proclamation. Explore the connection between these two documents. How did freeing slaves in the Confederate areas under rebellion tie to the recruitment of African American troops for the Union army?

3. African American troops complained about getting less pay than white soldiers until Congress granted pay equity in June 1864. What arguments were used to justify paying African Americans less? What arguments were used to support equal pay? Can you think of examples in today's society when certain groups or classes of people receive unequal compensation for equal work?

Document Text

War Department General Order 143

May 22, 1863

I—A Bureau is established in the Adjutant General's Office for the record of all matters relating to the organization of Colored Troops. An officer will be assigned to the charge of the Bureau, with such number of clerks as may be designated by the Adjutant General.

II—Three or more field officers will be detailed as Inspectors to supervise the organization of colored troops at such points as may be indicated by the War Department in the Northern and Western States.

III—Boards will be convened at such posts as may be decided upon by the War Department to examine applicants for commissions to command colored troops, who, on Application to the Adjutant General, may receive authority to present themselves to the board for examination.

IV—No persons shall be allowed to recruit for colored troops except specially authorized by the War Department; and no such authority will be given to persons who have not been examined and passed by a board; nor will such authority be given any one person to raise more than one regiment.

V—The reports of Boards will specify the grade of commission for which each candidate is fit, and authority to recruit will be given in accordance. Commissions will be issued from the Adjutant General's Office when the prescribed number of men is ready for muster into service.

VI—Colored troops may be accepted by companies, to be afterward consolidated in battalions and regiments by the Adjutant General. The regiments will be numbered seriatim, in the order in which they are raised, the numbers to be determined by the Adjutant General. They will be designated: "—Regiment of U. S. Colored Troops."

VII—Recruiting stations and depots will be established by the Adjutant General as circumstances shall require, and officers will be detailed to muster and inspect the troops.

VIII—The non-commissioned officers of colored troops may be selected and appointed from the best men of their number in the usual mode of appointing non-commissioned officers. Meritorious commissioned officers will be entitled to promotion to higher rank if they prove themselves equal to it.

IX—All personal applications for appointments in colored regiments, or for information concerning them, must be made to the Chief of the Bureau; all written communications should be addressed to the Chief of the Bureau, to the care of the Adjutant General,

BY ORDER OF THE SECRETARY OF WAR:

E. D. TOWNSEND, Assistant Adjutant General.

Glossary

adjutant general	the chief administrative officer of a military unit or army
regiment	unit of military organization including up to ten companies

The storming of Fort Wagner by the Fifty-fourth Massachusetts (Library of Congress)

Thomas Morris Chester's Civil War Dispatches

1864

"The colored troops fully sustained the most exalted opinion which their ardent friends could possibly entertain."

Overview

Thomas Morris Chester pursued a number of careers, including teaching, law, and journalism. As the first and only African American journalist to cover the Civil War for a major daily American newspaper—the *Philadelphia Press*—he filed dispatches about the progress of the war. In them, including the two from August 1864 reproduced here, he emphasized the exploits of "colored troops," that is, African American soldiers who fought during the later stages of the Civil War. As such, his reports became important documents in the ongoing debate about the place of African Americans in American society, whether they should be allowed to defend the nation's interests as members of the military, and what their future would be after the war. Chester's dispatches from Virginia, specifically from near Richmond, the Confederate capital, and Petersburg, a vital city to its south, give the modern reader a ground's-eye view of the progress of the war and the part that African American troops played in it.

Context

In January 1865, General Robert E. Lee, the commander of the Confederacy's Army of Northern Virginia, contacted the administration of President Jefferson Davis to request that the troop-starved Confederacy recruit African Americans. He wrote:

> Such an interest we can give our negroes by giving immediate freedom to all who enlist, and freedom at the end of the war to the families of those who discharge their duties faithfully (whether they survive or not), together with the privilege of residing at the South. To this might be added a bounty for faithful service.

Some black regiments were, in fact, mustered, but none ever fought in the war, though some individual blacks took up arms and fought where they could on behalf of the Confederacy.

In the North, however, a different decision was made. The question of whether African Americans, who had been allowed to fight against the British in the Revolutionary War, would be allowed to serve in the Union cause was raised early on. African Americans had offered to serve at least from the time of the Confederacy's attack at Fort Sumter in 1861—the start of the war—but it was not until January 1863, after President Abraham Lincoln issued the Emancipation Proclamation, that Secretary of War Edwin Stanton acceded to Massachusetts governor John Andrew's fervent requests and authorized the creation of an African American volunteer regiment.

The result was the formation of the Fifty-fourth Massachusetts Volunteer Infantry under the leadership of Colonel Robert Gould Shaw, a white officer. So many men volunteered for the black regiment that officials were able to make physical requirements more stringent, creating a regiment that was as fit and able-bodied as any in the Union army, if not more so. Additionally, the large number of volunteers led to the creation of a sister regiment, the Fifty-fifth Massachusetts Volunteer Infantry. Chester, a native of Harrisburg, Pennsylvania, spearheaded recruitment efforts in the Harrisburg area and by June 1863 was able to enlist 135 African American volunteers in the Fifty-fifth.

Harrisburg was under threat of imminent attack, with Confederate forces camped just outside, on the western bank of the Susquehanna River. At the same time, many African Americans displaced by the war were flooding into the city, which previously had been known as a refuge and a stop on the Underground Railroad. Many of them served as laborers to build the city's defenses along the river. Meanwhile, a number of African American volunteers from Philadelphia were rejected by the governor of Pennsylvania and the general in charge of the city's defense, Darius Crouch. In response, Secretary of War Stanton informed Crouch that he should accept volunteers without regard to their race. Two companies of African American recruits were formed from Harrisburg and Philadelphia, one of which was led by Chester, who had been a captain. However, neither company saw action, as the battle for Harrisburg did not take place. Instead, the Confederate troops abandoned their position in order to join the campaign that led to the Battle of Gettysburg in July. Ultimately, the Fifty-fourth

Time Line

1834

■ **May 11**
Thomas Morris Chester is born in Harrisburg, Pennsylvania.

1850

■ **September 18**
The federal Fugitive Slave Act is passed.

1853

■ Chester briefly teaches high school in Monrovia, Liberia (the first of several visits to the new nation).

1858

■ **November**
Chester returns to Liberia and starts an independent newspaper, the *Star of Liberia*.

1861

■ **March 4**
Abraham Lincoln is inaugurated as U.S. president.

■ **April 12**
Confederate forces attack Fort Sumter, South Carolina, starting the Civil War.

1862

■ **September 22**
Abraham Lincoln issues the preliminary Emancipation Proclamation.

1863

■ **January**
Secretary of War Edwin Stanton agrees to allow Massachusetts governor John Andrew to form an African American volunteer military unit, the Fifty-fourth Massachusetts Regiment.

■ **June**
Chester recruits 135 African American volunteers to join the Fifty-fourth's sister regiment, the Fifty-fifth Massachusetts Volunteer Infantry.

■ **June**
Two companies of African American recruits, one commanded by Chester, are formed in Harrisburg and Philadelphia.

■ **July 18**
The Fifty-fourth Massachusetts spearheads an unsuccessful assault on Fort Wagner in South Carolina.

Massachusetts would go on to spearhead an assault on Fort Wagner, outside Charleston, South Carolina, on July 18, 1863, its major engagement in the war.

From the Confederate point of view, news from the battlefronts was relentlessly dispiriting during the summer of 1864. Because the war was going so badly, and because many people in the South were coming to regard Jefferson Davis as a tyrant for suspending the writ of habeas corpus (giving authorities the power to make arrests and hold people without charge), the governor of Georgia had pulled his state's troops from the field, and the state threatened to secede from the Confederacy. The Confederate Army of Tennessee was in full retreat. Union troops had a Fourth of July picnic for African Americans on the grounds of Davis's home in Mississippi. In August, Union warships blockaded Mobile Bay off the coast of Alabama, cutting off the last port open to the South. Great Britain, which had remained officially neutral during the war but continued to buy southern cotton and supply the South with ships, severed relations with the South and seized the ships being built for the Confederacy in British shipyards. That month, too, the Union general William Tecumseh Sherman completed his famous "march to the sea" across Georgia, cutting the Confederacy in half, laying waste everything in his path, and capturing Atlanta. Meanwhile, the Confederate army had at most one hundred twenty-five thousand weary, starving troops in the field. The rate of desertion was high, as many soldiers simply threw down their weapons and set off for home. Starved for troops, the Confederacy employed "dog-catchers" in the cities to press into service boys as young as fourteen and men as old as sixty (many of them wounded veterans walking with crutches).

By the summer of 1864, the strategy of the northern generals was to wear down the Confederacy by circling in on Richmond, which lay on the James River just a hundred miles south-southwest of Washington, D.C. The Army of the James, led by General Benjamin Butler, was to move on Richmond from the south and east; the Army of the Potomac, led by General George Meade, was to approach from the north. In what was called the Overland Campaign, a series of bloody engagements took place in Virginia, but they all resulted in a stalemate. From May 8 to May 21, 1864, the battle at Spotsylvania Court House claimed a total of thirty thousand casualties on both sides, almost a fifth of the combatants. The Battle of Cold Harbor, from May 31 to June 12, claimed nearly thirteen thousand Union casualties.

These and other frontal assaults on the capital failed to dislodge the Confederate defenses, so General Ulysses S. Grant, the Union commander, decided on a different tack: to ignore Richmond and focus on Petersburg, a vital railroad hub to the south through which food, supplies, and war matériel passed. The siege of Petersburg, which lasted some 290 days until the spring of 1865, was intended to choke the Confederacy into submission. To resist this siege, the Confederacy, using troops and slave labor, constructed multiple defensive trenches in concentric rings around both cities. One of the major battles of the siege was the Battle of the Crater on July 30. The Union, seeking to break

the defensive line around Petersburg, had tunneled underneath and packed the tunnel with four tons of explosives. When the powder blew, a huge crater was formed, into which Union forces stormed; after several hours of fighting, the Union had lost some four thousand troops, compared with just fifteen hundred Confederates. Again, the battle was a stalemate.

In August attention shifted to the area around the James River. Beginning on August 13, Union troops moved into an area called Deep Bottom in an effort to draw Confederate troops away from Petersburg. Over the next week, during the Second Battle of Deep Bottom (a first having been fought in June), the armies skirmished, once again with no clear victor. Union losses were heavy, with many troops dying of heatstroke. Union troops remained bottled up, and many military historians blame the bungling and hesitancy of General Butler for the failure to break through. The battle did succeed, though, in stretching Lee's forces. These and other assaults weakened the Confederate army in much the same way that repeated battering breaks down a door. Thomas Chester was on hand with the Army of the James to witness events around Petersburg and Richmond. He filed a story on August 18 from the Headquarters of the Tenth Corps and then filed a story on August 22 from the Headquarters of the Second Brigade, Third Division of the Eighteenth Army Corps.

About the Author

Thomas Morris Chester (also known as T. Morris Chester) was born in Harrisburg, Pennsylvania, on May 11, 1834. His mother was a former slave; his father was a restaurateur whose establishment was a center of African American social and political activity and the sole location in the area where William Lloyd Garrison's abolitionist newspaper, *The Liberator*, could be bought. Although little is known of Chester's early life, it is clear that early on he was determined to become a lawyer and that he placed a high value on education. At age sixteen he began studies at the Allegheny Institute outside Pittsburgh. These were particularly difficult times for African Americans in the North, particularly escaped slaves, as 1850 marked the passage of the federal Fugitive Slave Act. Under this law, which was designed to appease the South, slave owners or their agents were authorized to capture their escaped slaves and return them to bondage in the South. The threat of this practice (as well as occasional kidnapping of free blacks) decimated the Pittsburgh area's African American population as many blacks fled to locales farther north.

In 1853, Harrisburg's African Americans were engaged in the debate over whether emigration was the best course. Chester was a noteworthy participant in debates about whether freed slaves should remain in the United States or immigrate to the African state of Liberia, founded in part by the American Colonization Society (or, more formally, the Society for the Colonization of Free People of Color of America) in 1821–1822 as a haven for freed slaves. Chester argued in favor of emigration and finally announced his intention to move to Africa. During the 1850s he traveled on three occasions to Liberia, where he taught and, in 1858, founded the newspaper the *Star of Liberia*. By 1859 he was back in central Pennsylvania promoting emigration. After yet another trip to Liberia (1860–1863), he returned to the United States, which was in chaos amid the Civil War. He helped muster troops for the war effort, but he became disenchanted with the federal government's unwillingness to give equal status to African American recruits, so in 1863 he left the United States for Great Britain, where he lectured on abolition and in support of the Union cause in Britain.

Frustrated with his inability to raise enough money to fund his legal education, Chester returned to Pennsylvania in 1864, where his life took another turn. John Russell Young, the editor of the *Philadelphia Press*, hired Chester

Time Line

1864

- **August 14** Chester is hired by the *Philadelphia Press* and begins his coverage of the war in Virginia.
- **August 18** Chester files the dispatch "Ten Miles from Richmond."
- **August 22** Chester files the dispatch "Before Petersburg."

1865

- **April 9** Confederate general Robert E. Lee surrenders to Union general Ulysses S. Grant at Appomattox Court House, Virginia, ending the Civil War.

1870

- **April** Chester becomes the first African American to be called to the English bar.

1873

- Chester becomes the first African American to be admitted to the Louisiana bar.

1884

- Chester assumes the presidency of the Wilmington, Wrightsville, and Onslow Railroad.

1892

- **September 30** Chester dies in Harrisburg.

Confederate entrenchments near Spotsylvania Court House, showing felled trees placed in trenches (L brary of Congress)

to cover the war as what would today be called an embedded reporter with the Army of the James, led by General Benjamin Butler. He ended his reporting career at the beginning of Reconstruction and returned to Harrisburg, but soon he returned to England, where he studied law and, in 1870, became the first African American to be called to the English bar. That year he returned to the United States, eventually settling in Louisiana, where he took part in local politics and, in 1873, became the first African American to be admitted to the Louisiana bar. He was also made a brigadier general in the Louisiana State Militia, and in 1878 he was appointed as U.S. commissioner for New Orleans. In 1884 his life took an odd turn when he assumed the presidency of the Wilmington, Wrightsville, and Onslow Railroad, a North Carolina company owned by African Americans. In 1892 he returned to his mother's home in Harrisburg, where he died on September 30.

Explanation and A nalysis of the D ocument

Chester began reporting on the operations of the Army of the James and Potomac on August 14, 1864. At that time the opposing armies were entrenched around Richmond and Petersburg. Chester sent dispatches through the fall of Richmond and the early occupation and Reconstruction of the South, with the last dispatch dated June 12, 1865. Reproduced here are two of his early dispatches.

♦ "Headquarters 10th Army Corps Ten Miles from Richmond, August 18, 1864"

Chester begins his dispatch by noting a Union victory. He carefully praises both African American and white troops: "The troops, white and black, covered themselves with undying fame. Their conduct could not have been surpassed." Chester consistently praises the African American troops but is careful to avoid doing so at the expense of white troops, although white officers who treated African American troops as less than equals were not spared his opprobrium. Then, in the second paragraph, he outlines for readers the progression of events. He makes reference to David Bell Birney, the commander of the Tenth Army Corps and a prominent Union general who had taken part in several major battles, including Gettysburg, Chancellorsville, and the Second Battle of Bull Run. Perhaps exercising a bit of wishful thinking, he states, "A few more exhibitions of loyalty and bravery, as evinced during the past few days in this Corps, will soon eradicate the last vestige of prejudice and oppression from the grand Army of the Potomac." He goes on to describe the events surrounding the Battle of Deep Bottom, again extolling the bravery of the African American troops in their assault on Confederate rifle pits in a kind of trench warfare that presaged the massive slaughter of World War I. Many of the Confederate defensive works were highly ingenious. One tactic was to fell trees and place them whole in trenches with their branches pointing toward the direction from which Union troops would assault; the branches, then, would impede troop movement. The result was a large number of skirmishes and hand-to-hand fighting, with Union troops making progress and being pushed back. Chester then describes the actual combat episode, noting that there were between fifty and sixty African American troops killed and wounded. In fact, more than one-third of all African American troops would die in the war, a number approaching sixty thousand.

In the same paragraph, Chester makes reference to General William Birney, the older brother of David Birney. The brothers were the sons of abolitionists, and William played a major role in the recruitment of African Americans. He recruited seven regiments of black soldiers and was appointed to the position of superintendent of enlistment for black troops. Two of these regiments were the Seventh United States Colored Troops and the Ninth United States Colored Troops, both of which had seen action before being transferred to the Tenth Corps.

Chester then describes a cease-fire ("flag of truce") called to allow both sides to gather their dead. He noted that there was evidence that the Union dead had been searched and their valuables taken, commenting that "this act of ineffable meanness has nerved the hearts and strengthened the arms of the defenders of the Union, who will sweep from existence these enemies of God and civilization." In point of fact, Union troops would also seize booty from fallen Confederate troops, though typically the Confederate dead had little of value on them. For their part, the Confederates were often able to find U.S. currency, which was much more valuable than the greatly eroded Confederate money; throughout the South, black market transactions were almost always conducted with U.S. rather than Confederate currency. Chester concludes his dispatch with the ironic note that some Confederates in retreat had been forced to leave behind slave manacles, "which illustrate their character and humanity."

Union seaborne expedition landing on the Atlantic Coast near Deep Bottom, Virginia (Library of Congress)

♦ "Headquarters 2d Brigade, 3d Division, 18th Army Corps; Before Petersburg, August 22, 1864"

In the second dispatch, Chester describes an attack outside Petersburg. The goal of Union troops during the summer and fall of 1864 was to sever all of the town's connecting railroad lines. These rail lines, including the Weldon railroad, were vital to Lee's forces and the city of Richmond, some thirty miles to the north. They were the Confederate capital's only link with the Deep South, providing foodstuffs, supplies, and troops. Union forces engaged in numerous battles and skirmishes in their efforts to seize these rail lines, often tearing up tracks to prevent trains from entering the city. Their efforts were aided by many local Union sympathizers, who took part in nighttime sabotage of tracks, locomotives, and water tanks. Some southern train operators would even lose paperwork to delay troop movements and otherwise undermine the Confederate war effort. The battle that Chester describes took place in the wake of the Union's seizure of the Weldon railroad.

In the section titled "The Negro Troops before Petersburg," Chester notes that there were "many regiments of colored troops." In fact, there were fifteen such regiments in the Eighteenth Corps and a total of twenty-five black regiments in the Army of the James. During the Civil War, a regiment typically consisted of ten companies of soldiers, or a total of a thousand to fifteen hundred men (and occasion-

Essential Quotes

"Another battle has been fought, and a decided advantage has been gained. The troops, white and black, covered themselves with undying fame. Their conduct could not have been surpassed. The colored troops fully sustained the most exalted opinion which their ardent friends could possibly entertain."

("Ten Miles from Richmond")

"There was neither wavering nor straggling; but presenting a fearless front to the enemy, their conduct elicited especial remark, and excited admiration. A few more exhibitions of loyalty and bravery, as evinced during the past few days in this Corps, will soon eradicate the last vestige of prejudice and oppression from the grand Army of the Potomac."

("Ten Miles from Richmond")

"The colored troops were the last to retire, which they did with unwavering firmness and in obedience to orders; not, however, before they gave three cheers, which evinced their dauntless spirit."

("Ten Miles from Richmond")

"The hearts of the colored soldiers in this vicinity have been gladdened by the good news from the extreme left of the Army of the Potomac. Yesterday, about the time the church bells were inviting the inhabitants of your city to renew the assurances of their Christianity, the loud report of cannon announced that once more the defenders of the Union had met its enemies in mortal combat."

("Before Petersburg")

"What Gen. Birney has done others may accomplish, if they do not regard it as humiliating to treat a negro patriot as a man, who offers himself a willing sacrifice upon his country's altar."

("Before Petersburg")

"There is not a day but what some brave black defender of the Union is made to bite the dust by a rebel sharpshooter or picket, but his place is immediately and cheerfully filled by another."

("Before Petersburg")

ally women who had disguised themselves as young men so that they could enlist). Chester goes on to praise General William Birney, who commanded African American troops from Maryland. Reinforcing one of the themes of his dispatches, Chester states,

> The secret of Gen. Birney's success is, that he treats his men as any other gallant officer would regard the defenders of the Union.… What Gen. Birney has done others may accomplish, if they do not regard it as humiliating to treat a negro patriot as a man, who offers himself a willing sacrifice upon his country's altar.

Finally, Chester alludes to the Confederate treatment of captured African American soldiers. He states that "between the negroes and the enemy it is war to the death." Captured African Americans were naturally returned to slavery; at the very least they were treated worse than white prisoners, and in some cases they were reportedly killed as they attempted to surrender. Although Jefferson Davis had issued a decree that captured African Americans were to be returned to their masters, it was widely believed among black troops that they and their white officers were to be put to death. Rumors abounded that entire black regiments had been slaughtered. In response, Lincoln threatened to retaliate, and the issue of the treatment of captured black soldiers contributed to the suspension of prisoner exchanges between North and South in the spring of 1864—a strategic move on the North's part to deplete Confederate forces. Despite the danger not just from combat but from capture, tens of thousands of African Americans volunteered to fight for the Union.

Audience

Chester wrote primarily for the *Philadelphia Press*. The newspaper is perhaps best known for first publishing in serial form Stephen Crane's classic novel *The Red Badge of Courage* a year before its 1895 publication in book form. It is notable that Chester was published in this white-owned newspaper in a city where the news media generally offered little news concerning African Americans. Morris's target audiences were manifold: free African Americans of the city, white Philadelphians, military leaders, and even the president. His dispatches sought to promote not only the increased use of African American troops but also their equal treatment in such issues as pay and promotion to officers' ranks.

Impact

There was a slow but steady shift in the viewpoint of the military hierarchy and the Lincoln administration regarding the use of African American troops. At first, blacks were relegated to such roles as digging trenches and defensive earthworks. Then they were armed and eventually allowed to fight. Chester's dispatches highlighted the bravery and successes of the African American troops and must have helped convince a skeptical white public and administration that armed former slaves fighting for the Union cause posed no threat, other than to the Confederacy. By the end of the war some one hundred eighty-six thousand African Americans had served in the Union cause, fully 12 percent of the total of the Union's land forces—though it must be acknowledged that many were forced to "volunteer" at the point of a bayonet, for there was a bounty of $100 for every soldier an officer "recruited." The troops were segregated. The officers who commanded them were largely whites (only a hundred African Americans were commissioned as officers), and for the most part the African American soldiers received reduced pay compared to that of their white counterparts; oddly, African Americans who joined the Confederate army were given equal pay and equal rations. Nevertheless, Chester's dispatches from the Virginia front served as a constant reminder that African Americans were willing and able to participate in a war that would secure their freedom.

After the war, African American soldiers continued to provide meritorious service as the "Buffalo Soldiers," the name given to two cavalry regiments and two infantry regiments that took part in the Indian wars, built roads and forts in the West, escorted the mail, served as park rangers, and fought in the Spanish-American War. In all, the Buffalo Soldiers earned twenty-three Congressional Medals of Honor during the Indian wars. Black soldiers and sailors continued to be segregated through World War I and World War II until 1948, when President Harry S. Truman issued Executive Order 9981 desegregating the military.

See also Fugitive Slave Act of 1850; Frederick Douglass: "Men of Color, To Arms!" (1863); Emancipation Proclamation (1863); Executive Order 9981 (1948).

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—Keith E. Sealing

Questions for Further Study

1. What was the overall military strategy of the North in the final months of the Civil War? How did northern generals execute this strategy? How successful was it?

2. Imagine that you are at a gathering at which someone asserts that blacks should have fought in the Civil War, since the war was fought in large part to end slavery. How would you set the person straight? Be specific.

3. Some readers of Chester's dispatches might regard them as a form of "cheerleading." Although he criticized commanders who treated black troops poorly, overall his dispatches are filled with praise for both black and white troops. Do you believe he was perhaps exaggerating? If so, how would you justify that?

4. Chester was a proponent of the immigration of blacks to Africa and left the United States on several occasions. Yet he always returned. Why do you think he remained drawn to the United States?

5. Compare this document to Frederick Douglass's "Men of Color, To Arms!" Taken together, what picture of African Americans during the Civil War do the documents produce?

Document Text

Thomas Morris Chester's Civil War Dispatches

Headquarters 10th Army Corps; Ten Miles from Richmond, August 18, 1864

Another step has been taken toward the rebel capital. Another warning has again disturbed the heavily-burdened consciences of the arch conspirators. Lieut. Gen. Grant is rapidly negotiating peace "on this line," and is daily despatching messengers towards Richmond, and into Petersburg, whose powerful reasonings even Jeff Davis will not be able to resist much longer.

Another battle has been fought, and a decided advantage has been gained. The troops, white and black, covered themselves with undying fame. Their conduct could not have been surpassed. The colored troops fully sustained the most exalted opinion which their ardent friends could possibly entertain. Major General Birney, commanding the 10th Army Corps remarked yesterday, without, however, wishing to do any injustice to the whites, that his colored soldiers had done handsomely. There was neither wavering nor straggling; but presenting a fearless front to the enemy, their conduct elicited especial remark, and excited admiration. A few more exhibitions of loyalty and bravery, as evinced during the past few days in this Corps, will soon eradicate the last vestige of prejudice and oppression from the grand Army of the Potomac. The circumstances which gave the colored troops, in conjunction with the others, the opportunity of a passage into public favor, are as follows: On the night of the 13th inst., in accordance with the masterly strategy of General Grant, a part of the 10th Corps crossed the James river at Deep Bottom, and on the 14th moved out on the Darbytown road, and, as a necessary precaution, indulged in skirmishing during the day. About 4 P.M., Brigadier General Wm. Birney commanding a division, sent seven companies of the 7th U. S. C. T., supported by a part of the 9th Regiment U. S. C. T., to retake a line of rifle pits on our left, which had been captured by Brigadier General Terry in the morning, and afterwards abandoned voluntarily by a mistake and reoccupied by the enemy. They sent up a shout of confidence, and, under the inspiration of their beloved commander, General Wm. Birney, the colored troops charged through a corn field and drove the rebels out of the rifle-pits. The enemy poured a heavy fire upon them, but was obliged to yield to their bravery. He was driven out, and we occupied them as a part of our defences. In this assault our loss was between fifty and sixty killed and wounded.

That night our forces moved from Deep Bottom, and took the position which they now occupy. It is an onward to Richmond movement, and thus far is regarded as a success. As speculations always tend to acquaint the enemy with our movements, I will add nothing more than the cheering prospect which now animated this grand army. The crowning act of the Commander-in-Chief may be the reduction of Richmond and Petersburg at the same time.

On the 16th, General Terry was directed to attack the line of the enemy's works on our left, and to drive him from his position. Brigadier General Birney was ordered to hold his division as a support to Brigadier General Terry. General Terry advanced, and drove the enemy out of the first line of rifle-pits, and then stormed the strong line of breastworks, suffering severe loss, but driving the enemy from his position. The rebs rallied, however, in overpowering numbers, to force General Terry to retreat in confusion. Finding himself gradually driven back by a greatly superior force his men acquitting themselves grandly amid a galling fire, Brigadier General Birney moved forward to his support, and with his troops, which consisted of the 2d and 3d Brigades of the 10th Corps, and the 9th U.S. colored troops, he advanced to the enemy's breastworks. The rebels then appeared in great numbers, advancing upon Gens. Birney's and Terry's forces, and a brisk fire was opened and continued on both sides. The enemy in attempting to take the breast works were repeatedly driven back with severe loss. The rebels finally succeeded, however, by moving their troops to our left; a portion of the breast works which had extended beyond our lines, and had not been carried by our forces. By this manoeuvre, they were enabled to pour a galling fire upon our flank and rear, and under which the men on the left were obliged to withdraw, not because they were whipped, but that the position was, under the circumstances, untenable.

General William Birney, after having twice filled the gaps caused by the giving way on the left, was unable to do so again without exposing his lines at

other and more vital points. He gave the order to fall back to the first line of rifle-pits, which were captured from the enemy, which was accomplished in good order and without any confusion. The colored troops were the last to retire, which they did with unwavering firmness and in obedience to orders; not, however, before they gave three cheers, which evinced their dauntless spirit.

During this fighting the 3d Brigade, 21 Division, 10th A. C, lost one hundred and forty-eight men and officers, killed, wounded, and missing.

Colonel F. A. Osborn, 21th Massachusetts, was slightly wounded; Major Walroth, 115th New York, wounded in the side; Captain F. W. Parker, 4th N. H., wounded in the face. These officers were wounded while each was temporary commander of the 3d Brigade.

The 4th Regiment N. H. Volunteers lost three killed, thirty-two wounded, and fourteen missing. The killed are Corp. David W. Knox, Joseph Appleyard, and First Sergt. Edmund T. McNell.

The 115th N. Y. Volunteers lost four killed: Sergt. Frank M. Conner, Co. D.; Corp. Abort C. Meisgrove, Corp. J. H. Haynes, and First Sergt. F. W. Francisco; forty wounded, and fifteen missing.

The whole loss in this brigade is thirteen killed, ninety-one wounded, and forty-four missing, making a total of one hundred and forty-eight

♦ Trophies

The 10th Army Corps has captured during this flanking campaign four 8-inch siege guns, six colors, and over five hundred prisoners.

♦ Flag of Truce

Major General Birney requested, yesterday, a cessation of hostilities to allow him to recover his wounded and bury his dead, which were near the enemy's breastworks. It was conceded, and the time was fixed from four to six o'clock P.M. Major J. C. Briscoe and Captain Sweet, aide-de-camp to Major General Birney, and Lieut. Pancoast, ambulance officer, carried the flag of truce. It was received by Captain Rand, aide to General Ewell. Major Briscoe delivered the body of the rebel Gen. Chambliss, killed and remaining within our lines. The Major received our dead. During the existence of the flag of truce the rebel officers manifested no inclination to communicate with our officers. Their countenances wore an aspect of anxiety, not unmingled with chagrin and disappointment. The interchanging was of that formal nature which convinced the Union officers that the enemy was not in the enjoyment of good spirits, or were indulging in pleasing prospects.

♦ Stripping the Union Dead

As the hour approached for the cessation of hostilities, I mounted and advanced to the outer line of our works, to witness the bearing in of our honored dead. Two rows of men, several deep, extending far into the dense forest, formed a passage through which their comrades were now borne on stretchers. As each fallen hero was carried along this passage of brave men, even the solemnity of the scene could not restrain the indignation of the soldiers, as they witnessed the Union dead returned to them stripped of their shoes, coats, pants, and, in some instances, of their shirts. Those who were returned in their pants gave unmistakable evidence of having their pockets rifled—the pockets of which were turned inside out. The mutterings of the men were deep, and their feelings emphatically expressed on witnessing the respected dead dishonored. This act of ineffable meanness has nerved the hearts and strengthened the arms of the defenders of the Union, who will sweep from existence these enemies of God and civilization.

♦ The Enemy Repulsed

Last evening, just after the flag of truce returned, the enemy advanced in line of battle, and made a vigorous effort to turn our left flank, but were forced to retire. Later in the evening an effort was made to drive in our skirmishers, but without success. The firing was so severe for a few minutes that it much resembled the opening of a grand battle.

♦ Slave Manacles

The hurried manner in which the worshippers of the patriarchal institution were obliged to leave these parts for Richmond, compelled them to leave behind several articles which illustrate their character and their humanity. I am, through their haste, able to add to some one's collection two pair of manacles for the wrists, and one iron collar for the neck, which is fastened with a padlock, to which are several links of a chain to be attached, if necessary, to a similar necklace on an individual, by which means quite a number of men and women could be yoked together, single file, for any desirable length.

Headquarters 2d Brigade, 3d Division, 18th Army Corps; Before Petersburg, August 22, 1864

The hearts of the colored soldiers in this vicinity have been gladdened by the good news from the extreme left of the Army of the Potomac. Yesterday, about the time the church bells were inviting the inhabitants of your city to renew the assurances of their

Document Text

Christianity, the loud report of cannon announced that once more the defenders of the Union had met its enemies in mortal combat.

♦ The Enemy Moving to the Left

As soon as the attack began, the enemy, plainly visible to the vigilant black troops in our front, began to hurry off troops to support the attempt which he had undertaken on our left. This information was, no doubt, duly attended to by the authorities.

♦ The Attack

The Weldon railroad having been severed, the enemy, finding an important advantage was gained by the commander-in-chief, sought, by a desperate assault, to drive him from his position, and permit, as heretofore, uninterrupted supplies to reach his army in and around Richmond and Petersburg. The enemy, by a well-conceived piece of strategy, manoeuvered to advance on our flank and rear. Insomuch they had gained an advantage, but the 5th Corps, under the immediate supervision of General Warren, fought with an unwavering firmness that withstood the several assaults of the enemy, and drove him into his jungle to mourn over his disaster—not, however, before three stand of colors and six hundred prisoners were captured.

Another attempt was made last night with renewed vigor, to force our army from its gained position, and in order that the enemy might obtain possession of the important rail communication which he lost. He was repulsed with severer loss than in the morning. Several stand of colors and one brigade were captured.

The rebels during Sunday morning and night fought desperately and furiously, and were only checked by the stubborn resistance which they encountered. General Grant, without weakening any part of his lines, has sent forward sufficient reinforcements to hold his position, and advance when he deems it necessary. A division of negro troops has also been given a position where the enemy will have an opportunity of testing their mettle, should he attempt again to recapture the Weldon railroad. Our losses in the engagements of yesterday were comparatively small, as later dates will corroborate.

♦ The Negro Troops before Petersburg

In General Butler's army there are many regiments of colored troops, who, thus far, have inspired confidence in their officers by the discipline and bearing which they have evinced under the incessant fire of the enemy, along the lines, and the handsome manner in which they have borne themselves whenever opportunity placed them in front of the rebels. It would not be extravagant to predict that they will yet accomplish more brilliant achievements. Their success will depend much on the character of the officers in immediate command. If the men are attached to them for their kindness and consideration on their behalf there is no doubt but what they will follow wherever their superiors may lead. So long as they are commanded by such accomplished gentlemen as Col. A. G. Draper, 36th U.S. Colored Troops, Lieut. Colonel Pratt, of the same regiment, and many other excellent officers whom I will credit when I shall speak of the regiments separately, there is not the least doubt but what they will fully meet public expectation.

In this connection it may not be inappropriate to speak, for the guidance of others, of the enthusiastic admiration of the colored troops under Gen. Wm. Birney for that gallant officer. They are all from Maryland, and were taken from the plantations of their former owners by the General, whom they regard as their deliverer. The General has implicit confidence in their fighting qualities. The highest praise that can be bestowed upon them is, that he prefers them rather than white troops. This is not a mental preference, for he has had the opportunity of electing, and chose to command colored soldiers. The secret of Gen. Birney's success is, that he treats his men as any other gallant officer would regard the defenders of the Union.

There are other colored troops from Maryland, obtained in the same way, but under a different class of officers, in the Army of the Potomac. I trust they will do all that is expected of them, but fear that the kind of men who command them has tended to demoralize rather than to inspire them. What Gen. Birney has done others may accomplish, if they do not regard it as humiliating to treat a negro patriot as a man, who offers himself a willing sacrifice upon his country's altar.

Those before Petersburg have the good fortune to be commanded by good men—though there are some black sheep among them—who are laboring to bring this branch of the service to the highest state of perfection. The kindness of the officers is reflected in the unflinching mettle of the men in the trying positions where duty calls them. There is not a day but what some brave black defender of the Union is made to bite the dust by a rebel sharpshooter or picket, but his place is immediately and cheerfully filled by another under the inspiring glance of such commanders as Colonels Wright, Pratt, and Acting

Document Text

Brigadier General A. G. Draper. They are ever on the alert to catch a glimpse of a rebel, to whom they send their compliments by means of a leaden messenger. Between the negroes and the enemy it is war to the death. The colored troops have cheerfully accepted the conditions of the Confederate Government, that between them no quarter is to be shown. Those here have not the least idea of living after they fall into the hands of the enemy, and the rebels act very much as if they entertained similar sentiments with reference to the blacks. Even deserters fear to come into our lines where colored troops may be stationed. Not unfrequently have they asked if there are any black troops near, and if there were the rebs have entreated that they should not be permitted to harm them. Such has been the effect of Jeff Davis' proclamation for the wholesale massacre of our colored troops, and such will it continue to be until the rebels shall treat all the defenders of the Union as prescribed by the rules of civilized warfare.

The military situation never was more encouraging. The Army of the Potomac during the past few days has successfully performed several strategic movements, which surprised the enemy and gave to us many important advantages. The successful "onward to Richmond," the severing of the Weldon railroad, by means of which the enemy has received all his supplies from the South, and the threatening demonstrations against Petersburg, each one of which is a grand campaign in itself, can be regard-

Glossary

Army of the Potomac	the Union force led by General George Meade, referring to the Potomac River
breastwork	any temporary fortification, such as walls or mounds of dirt, that is approximately breast high
Brigadier General Terry	Alfred Howe Terry, who later would assume command of the Tenth Corps when General David Birney died
Brigadier General Wm. Birney	William Birney, General David Birney's older brother and a commander of black troops
colors	the flag(s) carried by a military unit into battle
Deep Bottom	a colloquial name for an area in Virginia surrounded by a horseshoe bend in the James River
General Butler's army	the Army of the James, referring to the James River, commanded by General Benjamin Butler
General Warren	Gouverneur Kemble Warren, a former teacher of mathematics who had a reputation for bringing analytic calculation to his military command and who had played a key role in the Battle of Gettysburg
inst.	an abbreviation of "instant," meaning "this month"
Jeff Davis	Jefferson Davis, the president of the Confederate States of America
Lieut. Gen. Grant	Ulysses S. Grant, the commander of Union forces
Major General Birney	David Bell Birney, the commander of the Tenth Army Corps
Petersburg	a vital railroad hub to the south of Richmond, Virginia
rebel capital	Richmond, Virginia, the capital of the Confederacy during the Civil War
rebs	a common abbreviation of "rebel" applied to Confederates
U.S.C.T.	United States Colored Troops

Document Text

ed as nothing less than the successful accomplishment of a masterly mind. When or where next the commander-in-chief will suddenly appear is a matter which, under the circumstances, should be left to the development of his strategy. Advancing on several points at the same time will effectually checkmate the enemy. One of his principal means of maintaining his position in different parts of the country has been the celerity with which he has been able to move great bodies of troops to places which our army was about to attack. Everything betokens success. The army is in the best of spirits. The colored soldiers are not only ready, but are anxious to meet the rebels.

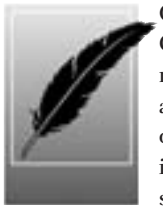
William Tecumseh Sherman (Library of Congress)

William T. Sherman's Special Field Order No. 15

1865

"Each family shall have a plot of not more than (40) forty acres of tillable ground."

Overview



On January 16, 1865, three months before General Robert E. Lee's surrender at Appomattox Court House, Virginia, Major General William Tecumseh Sherman, commander of the Military Division of the Mississippi in Savannah, Georgia, issued his controversial Special Field Order No. 15. The field order was inspired principally by the Union general's determination to rid his army of the large number of escaped, destitute, and homeless slaves who accompanied his army's flanks as it marched across Georgia during his famous raid to the sea of the autumn of 1864. Sherman's order set aside "the islands from Charleston, south, the abandoned rice fields along the rivers for thirty miles back from the sea, and the country bordering the St. Johns River, Florida," for the exclusive settlement of slave refugees. Sherman instructed Brigadier General Rufus Saxton to make available to each head of a black family forty acres of land and to "furnish … subject to the approval of the President of the United States, a possessory title." The army was also to supply the freedpeople with farm animals.

Context

Southern slavery deteriorated as an institution during the Civil War as Union troops enveloped the Confederacy, forever changing the South's economic and social landscape. Because of a lack of consistent reporting and conflicting or nonexistent sources, historians cannot compute accurately the number of African Americans set in motion by the federal invasion and occupation, but they know that by early 1865 as few as five hundred thousand and as many as a million fugitive slaves and free black refugees sought the protection of Union troops and resided within Union lines. Contemporaries termed these people "contrabands" or "freedmen." They participated in large numbers in federally sponsored activities in occupied territory, toiling as soldiers, laborers, residents of contraband camps, and urban workers, and on farms and plantations under federal supervision. Based on the approximation of one million displaced persons, refugees are estimated to have numbered 13,000 on the Eastern Shore of Virginia; 70,000 throughout Virginia's Tidewater region; 17,300 in North Carolina; 25,000 in South Carolina; 106,000 in Louisiana; and 770,000 in the Mississippi Valley.

In the late fall of 1864, as General Sherman and his 62,000-man force marched southeastward from Atlanta to Savannah, the number of black refugees accompanying his army multiplied quickly. According to the historian Willie Lee Rose, "Behind his army followed an ever-increasing throng of liberated Negroes, seeking freedom and security somewhere beyond the confines of the home plantation, perhaps on the coastal islands, waiting quietly in the declining autumn sunlight." Sherman discouraged the refugees, especially the old, young, and sick, from following his army, believing that caring for the indigent would slow his progress, prove deleterious to his soldiers' morale, and compromise his soldiers' effectiveness as a fighting force.

In correspondence dated January 11, 1865, the general lectured Secretary of the Treasury Salmon P. Chase, who had chided Sherman for treating the freedpeople "as a set of pariahs, almost without rights." Responding to this charge, Sherman explained that as he approached Savannah, his force was encumbered by "the crowds of helpless negros that flock after our armies." He complained that "at least 20,000 negros" were "clogging my roads, and eating up our subsistence." Sherman professed that he was unbiased toward blacks, asserting that he would treat white and black refugees equally in the case of their posing "a military weakness."

No racial egalitarian, Sherman defined the role of the army as being to suppress the slaveholders' rebellion and treason, not to emancipate slaves or to provide humanitarian relief to freedpeople. While he was not opposed to the freeing of the South's slaves per se, Sherman nonetheless objected to what he considered the inordinate influence of political abolitionism and abolitionists on President Abraham Lincoln and his administration. Sherman also was among the most vocal of military men to oppose the employment of African Americans as armed soldiers. He reasoned that once black men served as soldiers they would demand full equality, a condition that Sherman considered a threat to white supremacy. At best he favored using black soldiers as "surplus" troops, in labor battalions. Like many

Time Line

1863

- **January 1**
  President Abraham Lincoln issues the final Emancipation Proclamation, declaring free all slaves in territory remaining in a state of rebellion.

1864

- **December 21**
  After marching his army across Georgia, General William T. Sherman captures Savannah, Georgia, for the Union.

1865

- **January 16**
  Sherman issues Special Field Order No. 15, on the resettlement of freedpeople.
- **March 3**
  Congress establishes the Bureau of Refugees, Freedmen, and Abandoned Lands, known as the Freedmen's Bureau.
- **April 9**
  General Robert E. Lee surrenders the Confederacy's major army at Appomattox Court House, Virginia, to General Ulysses S. Grant.
- **April 14**
  John Wilkes Booth shoots President Lincoln, who dies the next day.
- **April 15**
  Vice President Andrew Johnson becomes president.
- **September 12**
  As ordered by President Johnson, the Freedmen's Bureau commissioner General Oliver O. Howard issues a circular retracting land contracts to blacks and restoring land to pardoned insurgents.

1866

- **June 21**
  Congress passes the Southern Homestead Act, making public land available for sale at low prices.
- **July 16**
  Congress passes the second Freedmen's Bureau Act over President Johnson's veto, ensuring continued land availability.

whites of his day, the general perceived the freedmen and women as inferiors and as "problems," as distractions who impeded his work and complicated his military objectives. Whenever possible, Sherman put tools, not weapons, in the hands of black men. He preferred having them work as baggage handlers, ditch diggers, fatigue laborers, fortification builders, lumbermen, servants, and stevedores—not as soldiers. Sherman employed black women as cooks, laundresses, nurses, and servants.

Although Sherman and his men shunned the role of "liberators," the freedpeople of Georgia and South Carolina nonetheless considered the Yankees an army of liberation. They crowded the Union lines for protection from their Confederate masters and relief from fatigue, hunger, sickness, winter cold, and rain. In January the general boasted to Treasury Secretary Chase that far from viewing him as a devil, the freedmen and women "regard me as a second Moses or Aaron. I treat them as free, and have as much trouble to protect them against the avaricious recruiting agents of New England States as against their former masters."

Through March almost one hundred new black refugees would reach the coast each day, adding ten thousand freedpeople to an already swollen and impoverished African American population requiring clothing, food, medicine, shelter, and firewood. Northern observers, largely abolitionists and missionaries, reported numerous cases of Sherman's white soldiers abusing, cheating, and robbing the vulnerable freedpeople, whom they considered ignorant "niggers." "Sherman and his men," reported Arthur Sumner, a teacher-turned-plantation superintendent, "are impatient of darkies, and annoyed to see them so pampered, petted, and spoiled, as they have been here."

On January 11, 1865, responding to reports of the refugees' destitution and the mistreatment of freedpeople by Sherman's troops, Secretary of War Edwin M. Stanton arrived in Savannah to assess the situation for himself. Brusque, businesslike, and unawed by, if not resentful of, powerful military officers like Sherman, Stanton underscored the sovereignty of civilian authority over the army. The two men had tangled previously over Sherman's opposition to the arming of blacks as soldiers. Upon arriving in Savannah, Stanton insisted on interviewing an array of black leaders to gain a clear sense of the social conditions and status of the coastal freedpeople, to assess Sherman's humanitarian efforts on behalf of the freedpeople in his charge, and to gauge the degree to which Sherman protected the blacks' rights. To accomplish this, the secretary of war spoke with African American clergymen, plantation foremen, barbers, pilots, and sailors to gain their perspectives on the conditions of the thousands of refugees who crowded coastal South Carolina and Georgia.

The black leaders shared their concerns candidly with Stanton, informing him that they preferred settling in black communities apart from whites. Sherman later recalled that the freedpeople claimed to favor living in black settlements, "for there is a prejudice against us in the South that it will take years to get over." The secretary of war also polled the blacks regarding their attitude to-

Sketch of contrabands accompanying the line of Sherman's march through Georgia, from Frank Leslie's Illustrated Newspaper of March 1865 (Library of Congress)

ward Sherman, specifically whether or not the general had manifested "an almost *criminal* dislike" of people of color and had cruelly undermined their efforts to accompany his army's trek across Georgia.

For his part, Sherman dismissed Stanton as an errand boy of the Lincoln administration, at best a political hack. Writing to his wife on January 15, a day before issuing his Special Field Order No. 15, the general remarked, "Stanton has been here and is cured of that Negro nonsense which arises not from a love of the negro but a desire to dodge Service." Sherman opposed arming blacks, he wrote, because he wanted "soldiers made of the best bone & muscle in the land and wont attempt military feats with doubtful materials." Sherman continued: "I have said that Slavery is dead and the Negro free and want him treated as free & not hunted & badgered to make a soldier of when his family is left back on the plantation. I am right & wont Change."

In his *Memoirs* Sherman remarked,

> It certainly was a strange fact that the great War Secretary should have catechized negroes concerning the character of a general who had commanded a hundred thousand men in battle, had captured cities, conducted sixty-five thousand men successfully across four hundred miles of hostile territory, and had just brought tens of thousand of freedmen to a place of security.

No doubt to Stanton's great surprise and utter disappointment, the black leaders praised Sherman's work with the freedpeople, stating their "inexpressible gratitude" for his efforts on their behalf. Soon after, on January 16, Sherman issued, with Stanton's imprimatur, Special Field Order No. 15.

About the Author

William Tecumseh Sherman was born on February 8, 1820, in Lancaster, Ohio. He graduated from the U.S. Military Academy at West Point, in New York, in 1840. After serving in Florida and South Carolina, Sherman left the military to tour the southern states, gaining especially rich knowledge of the geography of the Mississippi Valley and Georgia. After rejoining the army, Sherman served during the Mexican-American War and in the Pacific Division before resigning again to work as a banker, as a lawyer, and in real estate. In 1859 Sherman assumed the superintendency of the Louisiana State Seminary of Learning and Military Academy.

Following the Confederacy's attack on Fort Sumter in April 1861, Sherman once again returned to the army, rising by May 1862 from colonel to major general of volunteers and serving at the First Battle of Bull Run, in the defense of Kentucky, and at the Battle of Shiloh, in Tennessee. Sherman next commanded the defenses of Memphis

Essential Quotes

"The three parties named will subdivide the land, under the supervision of the Inspector, among themselves … so that each family shall have a plot of not more than (40) forty acres of tillable ground, … with not more than 800 feet water front, in the possession of which land the military authorities will afford them protection, until … they can protect themselves, or until Congress shall regulate their title."

(Clause III)

"In order to carry out this system of settlement, a general officer will be detailed as Inspector of Settlements and Plantations, whose duty it shall be to visit the settlements, to regulate their police and general management, and who will furnish personally to each head of a family, subject to the approval of the President of the United States, a possessory title in writing, giving as near as possible the description of boundaries."

(Clause V)

and fought at Chickasaw Bayou, Arkansas Post, and Vicksburg before assuming leadership of the Army of the Tennessee in October 1863 and then overall command of western troops in March 1864. From March 1864 to June 1865 Sherman led the Military Division of the Mississippi and orchestrated the attack from lower Tennessee into Georgia that culminated in the fall of Atlanta on September 2. This victory occasioned Sherman's promotion to major general in the regular army.

After resting his troops for ten weeks, Sherman dispatched part of his force under Major General George H. Thomas to engage Confederate forces in Tennessee. On November 15, Sherman oversaw a march southeast across Georgia by two columns of infantry and cavalry that covered 250 miles in twenty-six days. With the army traversing central Georgia in a forty- to sixty-mile-wide front, Sherman's men left a swath of destruction in their wake, disrupting communications, destroying government buildings, laying waste crops, and desolating railroads and agricultural equipment. Unquestionably his use of "hard" war—employing the selective destruction of military and civilian targets and psychological warfare in his Georgia and later Carolinas campaigns—helped break the Confederates' will to fight. Sherman's famous "March to the Sea" ended on December 21, when he and his troops entered Savannah. This campaign left white Georgians angry and stunned, while black Georgians stood emancipated and hungry for the fruits of freedom.

Following the war Sherman remained in the army and openly sympathized with the fate of white southerners, not blacks; he opposed the granting of civil and political rights to freedpeople. Sherman commanded the Military Division of the Mississippi, provided military support for the construction of the transcontinental railroad, and participated in the campaigns waged against American Indians. In 1866 Sherman was promoted to lieutenant general and placed in temporary command of the U.S. Army. Following Ulysses S. Grant's assuming the presidency in 1869, Sherman was promoted to full general and appointed commanding general of the army. He retired in 1884 and died on February 14, 1891. Historians continue to debate Sherman's contributions to "total" or "modern" warfare and rely upon his frank, two-volume *Memoirs of General William T. Sherman* (1875) as an important primary source.

Although he was an Ohio native, Sherman shared the conservative, antiblack, proslavery views of many of his southern friends and comrades in the army, holding contempt multilaterally for African Americans, abolitionists, and southern disunionists. According to the historian Louis Gerteis, the general "despised blacks and secessionists equally" and "scornfully dismissed Northern humanitarian concerns with the freedmen's welfare." Seemingly unabashed, he publicly opposed the Emancipation Proclamation, the recruitment of African American soldiers, and what Sherman considered the granting of special privileges to people of color. The Reverend Henry M. Turner, a free

black man from South Carolina who served as chaplain in the U.S. Colored Troops and later as a state congressman in Georgia, dubbed a commander who shared what he termed the general's "ignoble prejudice" to be nothing more than a "*Shermanized* officer."

Sherman expressed his antipathy toward blacks in general and escaped bondsmen in particular early in the war in his personal correspondence. In July 1862, while commanding in Memphis, Tennessee, he complained to his wife of being bombarded by loyal masters who sought military assistance in tracking down their escaped slaves. "As to freeing the negros," Sherman continued,

> I don't think the time is come yet—when Negros are liberated either they or their masters must perish. They cannot exist together except in their present relation, and to expect negros to change from Slaves to masters without one of those horrible convulsions which at times Startle the world is absurd.

A year later Sherman explained to his brother that blacks proved unreliable as servants and he opposed their recruitment as armed soldiers. "I wont trust niggers to fight yet," he said, "but dont object to the Government taking them from the Enemy, & making such use of them as experience may suggest."

Writing in September 1864, Sherman summarized his attitude toward the granting of civil rights to African Americans: "I like niggers *well enough* as niggers, but when fools & idiots try & make niggers better than ourselves, I have an opinion." When asked rhetorically whether blacks might not stop Confederate bullets as well as whites, the general retorted: "Yes, and a sand bag is better; but can a negro do our skirmishing and picket duty? … Can they improvise roads, bridges, sorties, flank movements, etc. like the white man? I say no." Shortly after the war, in May 1865, Sherman found himself embroiled in a controversy over the surrender terms he had offered Confederate troops in North Carolina; the general wrote his wife, "Stanton wants to kill me because I do not favor his scheme of declaring the Negroes of the South, now free, to be loyal voters, whereby politicians may manufacture just so much pliable electioneering material."

Explanation and Analysis of the Document

Despite Sherman's antipathy toward blacks and their rights, his Special Field Order No. 15 represented an overarching, positive, and radical step toward settling the freedpeople on abandoned plantation lands. Ironically, as Gerteis explains, "the most thoroughgoing program for blacks" along coastal South Carolina and Georgia "came not from Radicals or self-proclaimed friends of the freedmen, but from … Sherman, a battlefield general with an ill-concealed distaste for blacks and for those laboring among them." The scholar Paul Cimbala explains that Sherman, "no philanthropist or reformer, was primarily concerned with pursuing Confederates into South Carolina. He needed to rid his army of the thousands of slaves who had marched along in its train." A third historian, John Syrett, maintains that although Sherman issued the field orders, "Stanton and Saxton were doubtless chiefly responsible for their content." Regardless, the order incorporated a multitiered solution to solving what Sherman judged a "Negro problem" resulting from emancipation.

From Sherman's perspective, the resettlement of the freedpeople on abandoned plantations offered several advantages. First, so doing would free his army from what he considered the logistical annoyance posed by the thousands of black refugees burdening his troops and crowding along the southeastern Atlantic coast. Second, allowing the freedpeople to occupy abandoned plantations would shift the cost of supporting the newly free men and women from the federal government to their former masters. Third, settling the freedpeople on coastal land would render them (and U.S. forces) less vulnerable to attacks by Confederate cavalry and guerrillas. Finally, a positive, fostering program for the freedpeople would serve to assuage Sherman's critics on the race question. While Sherman was no doubt influenced by pressure from Chase, Stanton, and black leaders to accommodate the freedpeople, his special order stemmed largely from his determination to liberate himself from dealing with the freedpeople, which he considered a military necessity. Accordingly, in the order of January 16, Sherman opens by declaring in clause I that the Sea Island region, extending from Charleston, South Carolina, south to the Saint Johns River in northern Florida, and the coastal lands thirty miles inland along rivers were to be reserved solely for African American settlers. Thousands of acres of additional abandoned land would thus be available to black refugees.

Clause II reserved exclusively for people of color the Sea Islands between Charleston and Jacksonville as well as other settlements carved out in the newly established reservation. Sherman's order also specified that blacks would manage their own affairs in their communities, subject only to the army and the U.S. Congress. This clause underscored the blacks' freedom and stated that the freedmen could not be coerced into military units without specific orders from the president or congress. Nevertheless, Sherman's field order stated that young freedmen were to be encouraged to enlist in units of the U.S. Colored Troops and receive bounties upon enlistment.

In clause III, Sherman articulated the process by which freedmen could settle and establish agricultural operations. In order to do so, "three respectable negroes, heads of families" would petition government officials for a license and then subdivide the land in plots no larger than forty acres of tillable ground and, if bounding water, no more than eight hundred feet of waterfront. Precedent for the forty-acre limitation stemmed from President Lincoln's directive of December 31, 1863, to South Carolina's Direct Tax Commission. The military would protect the freedmen, if necessary, until they could protect themselves and until Congress would legitimize their land titles. The military also would

make ships available to the freedmen to assist them in supplying themselves and selling their crops.

Clause IV stated that families of men serving in the U.S. Colored Troops, aboard gunboats, or engaged in commercial fishing or as pilots could settle on plots in the Sherman reservation. According to the fifth clause of the special field order, the blacks were to receive temporary "possessory" title to the abandoned land until the government could uphold their permanent ownership of the land. Clause VI appointed General Saxton to oversee the blacks' settlement of what became known as the Sherman Reserve.

Audience

Sherman's field order held foremost significance to the freedpeople along the coast who hoped that freedom would translate into land ownership and more than the right to labor for others. Like the freed black men and women, Radical Republicans, former abolitionists, and sympathetic military commanders interpreted the general's field order, followed by the land provisions of the 1865 Freedmen's Bureau Act and the 1866 Southern Homestead Act, as confiscating the rich estates of former rebels and redistributing them to their former slaves. The *New York Tribune*, however, a supporter of emancipation, opposed Sherman's edict based on the fact that it segregated blacks from whites. Southern whites uniformly condemned Sherman's order and sought to reclaim their property through legal means. In the years since Sherman issued Special Field Order No. 15, black activists from W. E. B. Du Bois to contemporary reparationists have identified the order as a promise of "forty acres and a mule"—their rallying cry for compensation for their ancestors' centuries of bondage and institutionalized degradation.

Impact

Despite the assertion in Sherman's Special Field Order No. 15 that freedpeople would be granted "possessory" titles to land, the land provision in the March 1865 Freedmen's Bureau Act made clear that the freedpeople could occupy and rent—but not receive as reparation—up to forty acres of abandoned and occupied land for three years. The refugees could purchase the land based on whatever titles could be provided. In June 1865, General Saxton reported that approximately forty thousand blacks had settled on about 485,000 acres of land. The Freedmen's Bureau then controlled approximately 858,000 acres of land—only roughly 1 percent of the land in the Confederacy.

Sherman's linguistic vagueness encouraged contemporary blacks and their white friends to believe that the government would ultimately grant the freedpeople the land they occupied. But two essential factors—the ambiguity of Sherman's reference to "possessory" titles and President Andrew Johnson's insistence in September 1865 that confiscated land in the Sherman Reserve (except that sold under a court decree) be restored to pardoned former Confederates—undercut all but the symbolic meaning of Sherman's order. Indeed, not surprisingly, Sherman's murky language left contemporary white southerners hopeful of reclaiming their land, through legal action if necessary. In 1866 the process of restoring land to white claimants began, as the freedpeople proved unsuccessful in providing valid "possessory titles" in line with the wording of Sherman's order. On January 31, 1866, the Freedmen's Bureau held only about 464,000 acres of land; by February 1866, bureau officials had already restored 393,000 acres to whites who had received presidential pardons and had successfully proved prior ownership.

Thus, few of the freedpeople who claimed farms in the Sherman Reserve were ultimately allowed to retain their land. Upon General Saxton fell the burden of informing the freedpeople that they would have to surrender the land they occupied. According to the general, by reneging on its promise to distribute land to the freedpeople, the government was violating a solemn pledge. He observed that the former slaves' "love of the soil and desire to own farms amounts to a passion—it appears to be the dearest hope of their lives." For his part, in February 1866 Sherman informed the president,

> I knew of course we could not convey title to land and merely provided 'possessory titles' to be good so long as war and our Military Power lasted. I merely aimed to make provision for the negroes who were absolutely dependent on us, leaving the value of their possessions to be determined by after events or legislation.

In his postwar memoirs Sherman recalled that

> the military authorities at that day … had a perfect right to grant the possession of any vacant land to which they could extend military protection, but we did not undertake to give a fee-simple title; and all that was designed by these special field orders was to make temporary provisions for the freedmen and their families during the rest of the war, or until Congress should take action in the premises.

Sherman added that Stanton approved his field order before he announced it. As W. E. B. Du Bois lamented in 1935, Sherman thus had literally given the freedpeople on the Sherman Reserve "only possessory titles, and in the end, the government broke its implied promise and drove them off the land."

Two later pieces of Reconstruction-era legislation continued the "implied promise" of government land grants and complicated understanding of Sherman's field order for generations. First, the Southern Homestead Act of June 1866 set aside public land in Alabama, Arkansas, Florida, Louisiana, and Mississippi for purchase by freedpeople for a five-dollar fee. The available land, however, was generally of inferior quality, and freedmen lacked sufficient capital to purchase implements and to farm the land properly. When Congress repealed the act in 1876, blacks had cultivated

only several thousand acres, mostly in Florida. Second, the July 1866 Freedmen's Bureau Act essentially authorized the government to lease, though not grant outright, twenty-acre lots on government-controlled lands with a six-year option to buy the land. Only some fourteen hundred persons took advantage of this option. By August 1868 the Freedmen's Bureau controlled less than 140,000 acres of land. At best, then, the federal government's Reconstruction-era land policy amounted to an opportunity for former slaves to lease family farms with the later option to buy the property.

In the end, for all of the controversy Sherman's field order generated, it resulted in frightfully little land distributed to freedpeople. In November 1867, General Oliver O. Howard reported that 1,980 heads of families in Beaufort, South Carolina, had paid the government $31,000 for 19,040 acres. Many blacks who settled on their forty acres refused to surrender their claims to the white landowners and ultimately were removed forcibly by the Freedmen's Bureau and the army. Others squatted on marginal land, determined to scratch out a living on unimproved soil. Most black refugees on the Sherman Reserve surrendered their claims and moved elsewhere to work on shares or as tenants on land owned by whites. Writing in 1893, a former missionary to the freedpeople, Elizabeth Hyde Botume, recalled that the freed slaves "regarded the return of the former owners as an inauguration of the old slavery times, with the worst consequences."

Ever since Reconstruction, misreadings and distortions of Sherman's Special Field Order No. 15 by historians and polemicists have fueled demands for reparations by African Americans and their white allies. Repeatedly and erroneously, reparationists have cited Sherman's order as the origin of the U.S. government's alleged promise of "forty acres and a mule." In fact, Sherman's order was never intended to award land to the freedpeople. At best it was the general's short-term strategy to alleviate what he considered the military problem of dealing with the burden of thousands of freedpeople in his army's midst.

Confusion over the awarding of "land for the freedmen" continues today. Proponents of reparations maintain that the government reneged on its wartime pledge to compensate the former slaves for their centuries of bondage with land and animals. Many persons still believe that the so-called promise of "forty acres and a mule" justifies African Americans' appeals for a broad range of compensation—from cash payments to tax credits—for the descendants of America's four million black slaves. They point to Sherman's Special Field Order No. 15 and "forty acres and a mule" as symbols of the government's broken promises and the freed slaves' shattered dreams.

See also Emancipation Proclamation (1863).

Questions for Further Study

1. Describe Sherman's attitude toward African Americans. Was he simply a racist, a liberator, or something between the two? To what extent do you believe his attitude might have been similar to that of many northerners?

2. Sherman opposed the employment of black troops. Compare this document with Thomas Morris Chester's Civil War Dispatches and the events surrounding it. Do you believe that Sherman might have been convinced by Chester's reports?

3. In your opinion, did Sherman's order represent genuine progress or just a symbolic victory for African Americans in the wake of the Civil War?

4. Some northern abolitionists criticized Sherman's order because it created segregated black communities. Others, however, saw it as a form of reparations for slavery. Which do you believe is the more defensible position?

5. Throughout history, invading armies have attracted large numbers of camp followers, including prostitutes, destitute people, curious onlookers, and those who hoped to earn money or subsistence by performing services for the armies. What made the problem of camp followers of Sherman's army unique?

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—John David Smith

Document Text

William T. Sherman's Special Field Order No. 15

I. The islands from Charleston, south, the abandoned rice fields along the rivers for thirty miles back from the sea, and the country bordering the St. Johns River, Florida, are reserved and set apart for the settlement of the negroes now made free by the acts of war and the proclamation of the President of the United States.

II. At Beaufort, Hilton Head, Savannah, Fernandina, St. Augustine and Jacksonville, the blacks may remain in their chosen or accustomed vocations—but on the islands, and in the settlements hereafter to be established, no white person whatever, unless military officers and soldiers detailed for duty, will be permitted to reside; and the sole and exclusive management of affairs will be left to the freed people themselves, subject only to the United States military authority and the acts of Congress. By the laws of war, and orders of the President of the United States, the negro is free and must be dealt with as such. He cannot be subjected to conscription or forced military service, save by the written orders of the highest military authority of the Department, under such regulations as the President or Congress may prescribe. Domestic servants, blacksmiths, carpenters and other mechanics, will be free to select their own work and residence, but the young and able-bodied negroes must be encouraged to enlist as soldiers in the service of the United States, to contribute their share towards maintaining their own freedom, and securing their rights as citizens of the United States.

Negroes so enlisted will be organized into companies, battalions and regiments, under the orders of the United States military authorities, and will be paid, fed and clothed according to law. The bounties paid on enlistment may, with the consent of the recruit, go to assist his family and settlement in procuring agricultural implements, seed, tools, boots, clothing, and other articles necessary for their livelihood.

III. Whenever three respectable negroes, heads of families, shall desire to settle on land, and shall have selected for that purpose an island or a locality clearly defined, within the limits above designated, the Inspector of Settlements and Plantations will himself, or by such subordinate officer as he may appoint, give them a license to settle such island or district, and afford them such assistance as he can to enable them to establish a peaceable agricultural settlement. The three parties named will subdivide the land, under the supervision of the Inspector, among themselves and such others as may choose to settle near them, so that each family shall have a plot of not more than (40) forty acres of tillable ground, and when it borders on some water channel, with not more than 800 feet water front, in the possession of which land the military authorities will afford them protection, until such time as they can protect themselves, or until Congress shall regulate their title. The Quartermaster may, on the requisition of the Inspector of Settlements and Plantations, place at the disposal of the Inspector, one or more of the captured steamers, to ply between the settlements and one or more of the commercial points heretofore named in orders, to afford the settlers the opportunity to supply their necessary wants, and to sell the products of their land and labor.

IV. Whenever a negro has enlisted in the military service of the United States, he may locate his family in any one of the settlements at pleasure, and acquire a homestead, and all other rights and privileges of a settler, as though present in person. In like manner, negroes may settle their families and engage on board the gunboats, or in fishing, or in the navigation of the inland waters, without losing any claim to land or other advantages derived from this system. But no one, unless an actual settler as above defined, or unless absent on Government service, will be entitled to claim any right to land or property in any settlement by virtue of these orders.

V. In order to carry out this system of settlement, a general officer will be detailed as Inspector of Settlements and Plantations, whose duty it shall be to visit the settlements, to regulate their police and general management, and who will furnish personally to each head of a family, subject to the approval of the President of the United States, a possessory title in writing, giving as near as possible the description of boundaries; and who shall adjust all claims or conflicts that may arise under the same, subject to the like approval, treating such titles altogether as possessory. The same general officer will also be charged with the enlistment and organization of the negro recruits, and protecting their interests while absent

Document Text

from their settlements; and will be governed by the rules and regulations prescribed by the War Department for such purposes.

VI. Brigadier General R. SAXTON is hereby appointed Inspector of Settlements and Plantations, and will at once enter on the performance of his duties. No change is intended or desired in the settlement now on Beaufort [Port Royal] Island, nor will any rights to property heretofore acquired be affected thereby.

By Order of Major General W. T. Sherman

Black Code of Mississippi

1865

"Every freedman, free negro and mulatto shall ... have a lawful home or employment, and shall have written evidence thereof."

Overview

In 1865 the Mississippi state legislature passed a series of related laws known as the Black Code. These laws, written within months of the conclusion of the Civil War and styled after the state's antebellum slave code, represented the first effort by white Mississippians to define what freedom and citizenship would mean to recently freed slaves and others of African descent. As the Black Code reveals, the initial legal definition that whites offered suggests that they intended the condition of freedom for blacks to differ little from enslavement.

The Mississippi Black Code was the most extreme example of similar codes that sought to nullify the freedom of former slaves and to define their citizenship as virtual enslavement. The laws consequently offer an example of the attitudes of whites toward freedpeople and other people of African descent; they also testify to the persistence of those attitudes across time. Finally, the Black Code is significant because its existence proved to the U.S. Congress that southern states needed a more thoroughgoing reconstruction than that called for by President Andrew Johnson. A year after the passage of the Black Code, Congress assumed authority over Reconstruction in the southern states.

Context

In April 1865, after four years of fighting and deprivation, the Civil War ended. The cessation of fighting, however, did not firmly settle the end of their social system in white southerners' minds. The lack of commitment to black freedom in Washington, D.C., and among white southerners meant that former slaves could not easily acquire citizenship. By the conclusion of 1865, Mississippi, abetted by the U.S. president, offered firm evidence that white southerners, while reluctantly granting the abolition of slavery, refused to grant African Americans equality before the law.

An assassin took the life of President Abraham Lincoln within days of the war's end. Lincoln's generous plan for ensuring the return of the southern states to the Union fell into the hands of his successor, Andrew Johnson. The new president, a native of east Tennessee, significantly modified Lincoln's plan for Reconstruction by adding provisions intended to punish the elite planters of the South, whom he blamed for the secession crisis and the Civil War. In addition to depriving wealthy southerners and certain former Confederates of the right to citizenship, Johnson insisted that before southern states reenter the Union they repeal their secession ordinances and ratify the Thirteenth Amendment to the U.S. Constitution, which ended slavery.

Johnson's plan for Reconstruction, however, was ultimately undemanding. Even though he wished to punish certain Confederate officials and officers as well as wealthy planters, he refused to require that southern states embrace liberal notions of African American citizenship. In an August 1865 letter to Mississippi's provisional governor, William Sharkey, Johnson encouraged him to lead the state constitutional convention, which was meeting at the time, to grant the right to vote only to individuals who could read and write and to owners of property valued at a minimum of $250. Since few, if any, former slaves or African Americans living in Mississippi owned taxable property (real estate) of any sort and few could read and write, Johnson's vision of voting rights in the post-Emancipation era did not include extension of suffrage to more than a handful of blacks. Regarding suffrage, the 1865 constitutional convention chose to replicate the Constitution of 1832; it limited the right to vote to white males over the age of twenty-one.

Two other matters that the president demanded be addressed, the secession ordinance and the abolition of slavery, occupied the 1865 convention delegates. After much wrangling, the delegates declared the ordinance of session "null, and of no binding force." Convention delegates rejected other language that accomplished the same task, lest signers of the 1861 ordinance find themselves subject to prosecution as traitors. Delegates debated vigorously even the abolition of slavery. Foolishly hoping that the federal government might offer former slave owners compensation for the loss of their human property, the convention eventually declared that the state ended the institution of slavery not voluntarily but under duress. Albert T. Morgan, a white northerner who went south during Reconstruction, rightly argued that through such language the delegates intended

Time Line

1860

- **December 20**
  South Carolina secedes from the Union.

1861

- **January 9**
  Mississippi secedes from the Union.
- **April 12**
  The first shots of the Civil War are fired at Fort Sumter in the harbor at Charleston, South Carolina.

1865

- **April 9**
  Robert E. Lee surrenders the bulk of the Confederate army at Appomattox Court House, Virginia, effectively ending the Civil War.
- **April 15**
  President Abraham Lincoln dies after being shot the previous day, and Andrew Johnson becomes president.
- **November 25**
  The Mississippi legislature passes the Black Code.

1867

- **March 26**
  General E. O. C. Ord arrives in Mississippi as military governor, signaling the start of congressional Reconstruction in the state.

1875

- **November 10**
  The election of the Democrat John Marshal Stone signals the end of the Reconstruction in Mississippi and the beginning of a slow but certain retreat from the recognition of the fullness of African American citizenship.

that their heirs know that "slavery had not been destroyed." Former slaves viewed the 1865 constitution in a similar manner. A group of former bondsmen meeting at Vicksburg predicted that soon the state of Mississippi would try to enslave blacks again or force them from the state.

At the conclusion of the constitutional convention, delegates filed a report with the newly elected state legislature. The report called for the body to withhold from former slaves "some unbridled privileges for the present." According to the report, "the wayward and vicious, idle and dishonest, the lawless and reckless, the wicked and improvident, the vagabond and meddler must be smarted, governed, reformed and guided by higher instincts, minds and morals higher and holier than theirs." Benjamin Grubb Humphreys, who was elected governor after the convention, embraced the convention report when he told the first postwar legislature: "The purity and progress of both races require that caste must be maintained." Perhaps not surprisingly, the first Mississippi legislature to convene after the Civil War embraced the Black Code.

About the Author

A number of legislators contributed to the authorship of the Mississippi Black Code. While Governor Benjamin Grubb Humphreys probably did not write a word of the laws, he was singularly responsible for pushing the bill through the legislature. Debate over the code consumed an inordinate amount of time in the first postwar session of the legislature. The law was finally approved only when Humphreys offered a compromise between legislators, some of whom wanted to appease Republicans in Washington and thereby to avoid a more stringent Reconstruction process, and some of whom wished to ignore the demands of the federal government and the significance of the Confederacy's military defeat.

Humphreys (1808–1882) was a native of Claiborne County, Mississippi, and a brigadier general in the Confederate army. Before the war, he attended the U.S. Military Academy at West Point, though his participation in a rowdy demonstration, which led to a riot, caused him to be expelled. After his dismissal, he returned to Mississippi, where he became a cotton planter and politician in Sunflower County, the heart of the Mississippi Delta. In 1865 white Mississippians elected him governor, and in 1867 they reelected him. By that time, congressional Reconstruction had begun, and he resigned his office in 1868 soon after being sworn in, rather than operate under the supervision of a military governor. For almost ten years he worked for an insurance company in Jackson, Mississippi, before retiring back to his Sunflower County home.

Explanation and Analysis of the Document

The document consists of three parts: "An Act to Confer Civil Rights on Freedmen, and for Other Purposes"; "An Act to Regulate the Relation of Master and Apprentice, as Relates to Freedmen, Free Negroes, and Mulattoes"; and "An Act to Amend the Vagrant Laws of the State."

♦ "An Act to Confer Civil Rights on Freedmen, and for Other Purposes"

In this first section of the Black Code, African Americans were granted the right to buy and sell property other than real estate. By denying blacks the ability to own real property, the legislature attempted to ensure that they would remain dependent laborers. Indeed, Section 1 of the

law permits blacks to rent property in cities and towns only if local government expressly allows them to do so. In this way, the legislature was trying to keep blacks in the country, close to agricultural labor, the only labor whites assumed that blacks could perform.

Further attempts to control the labor of blacks appear in Sections 5 through 9. In those sections, African Americans were required to have a legally validated address and employment at the start of each new year, typically the same time that labor contracts were signed. Although blacks received certain protections in the execution of contracts, they were not permitted to break their contracts without "good cause." Doing so would result in prosecution in the courts. The sections of the law addressing those who breached contracts resemble the sections of the separate act that regulated relations between masters and apprentices. By subjecting individuals who broke their contracts to treatment and punishment similar to those meted out to runaway apprentices, the legislature evinced its belief that African Americans could not be trusted to perform their labor.

The act also regulated the social rights of African Americans. While slaves never had the legal right to marry, the Black Code recognized that they could marry as long as they married someone of their own race. The code also allowed former slaves who lived with someone in a spousal relationship to record their relationship as married in the county records. To further clarify who classified as black and was thus prohibited from marrying a white person, the law defined a mulatto as someone with a single "negro" great-grandparent.

Section 4 of the law states that former slaves and others of African descent could testify in civil cases against other African Americans. In criminal proceedings, they could testify against a white person accused of committing a crime against a black person. The restriction on blacks' testimony in the court reflects restrictions that appear in the antebellum slave code.

♦ "An Act to Regulate the Relation of Master and Apprentice, as Relates to Freedmen, Free Negroes, and Mulattoes"

This section of the Mississippi Black Code may be the best known, as it provides ample evidence that lawmakers were reluctant to wholly abolish slavery. The first section of the law required that officers of county courts twice annually file a report listing the names of African Americans under the age of eighteen who were orphans or whose parents could not provide proper care for them. According to the law, juveniles listed on the report would then be apprenticed to a "competent and suitable person." Not only would the treatment provided to orphaned or neglected African Americans differ from the treatment provided to white orphans but former owners of orphaned or poorly cared-for children would also be the preference when the court searched for a suitable master for the child. Apprenticed children would be subject to "moderate" corporal punishment and protected from cruel or inhumane treatment.

Governor Benjamin Grubb Humphreys was responsible for pushing the Black Code through the Mississippi legislature. (Library of Congress)

Gender determined the term of an orphaned or neglected child's indenture. Males would be apprentices until they reached the age of twenty-one; females could achieve release from their indenture upon their eighteenth birthdays. Further, the law allowed the "recapture" of apprentices who fled before their term of service ended, and it permitted punishment of apprentices who refused to return to their masters. Apprentices could, however, challenge their masters' rights to retain them against their will. If a county court judged the apprentice to have good cause for desiring an end to his or her indenture, the court could release the apprentice and fine the master up to $100. Any fine collected would be used for the benefit of the apprentice.

This section of the law also prohibited any white person from helping an apprentice escape his or her master or from enticing an apprentice to accept employment. Individuals convicted of violating the law would be subject to punishment.

♦ "An Act to Amend the Vagrant Laws of the State"

This section of the law defined a broad swath of behavior, including juggling, gambling, and the habitual drinking of alcoholic beverages, as indicative of vagrancy. The law also classified individuals (regardless of color)

Essential Quotes

"Every freedman, free negro and mulatto shall, on the second Monday of January, one thousand eight hundred and sixty-six, and annually thereafter, have a lawful home or employment, and shall have written evidence thereof."

(Section 5, An Act to Confer Civil Rights on Freedmen, and for Other Purposes)

"All rouges and vagabonds, idle and dissipated persons, beggars, jugglers, or persons practicing unlawful games or plays, runaways, common drunkards, common night-walkers, pilferers, lewd, wanton, or lascivious persons, in speech or behavior, common railers and brawlers, persons who neglect their calling or employment, misspend what they earn, or do not provide for the support of themselves or their families, or dependents, and all other idle and disorderly persons, including all who neglect all lawful business, habitually misspend their time by frequenting houses of ill-fame, gaming-houses, or tippling shops, shall be deemed and considered vagrants."

(Section 1, An Act to Amend the Vagrant Laws of the State)

who did not work, misspent their money, or did not properly care for themselves or their dependents as vagrants. Prostitutes and gambling house operators, as well as all manner of citizens who obtained their income from illegal or immoral acts, are here classified by the law as vagrants. Individuals who were convicted of vagrancy were to be fined up to $100 and could be sentenced to jail for up to ten days.

African Americans were subject to additional penalties for vagrancy, as were whites who commonly associated with African Americans. Section 2 of the amendment clearly echoes Mississippi's antebellum slave code. Specifically, the section prohibited unemployed blacks from free assembly and white males from assembling with African Americans or from having sexual relations with black women. Blacks convicted of vagrancy under Section 2 of the amendment would be subject to a $50 fine and ten days in jail; white men would be subject to a $200 fine and six months in jail. If convicted, African Americans who could not pay their fines were to be hired out by the county sheriff to labor until their fine was paid. If a black vagrant was too old or infirm to be hired out, then the sheriff could treat the vagrant as a pauper. According to the law, African Americans eighteen to sixty-five years old were required to pay a $1 poll tax to fund the "Freedman's Pauper Fund" in each county. (White paupers were cared for through other means of taxation, not a special pauper's tax.) Refusal or inability to pay the tax caused an African American to be classified as a vagrant and to be hired out to anyone who was willing to pay the tax for the vagrant.

Audience

Public laws are written, in part, to shape behavior. Consequently, the audience to whom the Mississippi Black Code was addressed included all of Mississippi's residents and visitors. However, few Mississippians, including lawyers, law enforcement officials, and judges, would have read the actual text of the law.

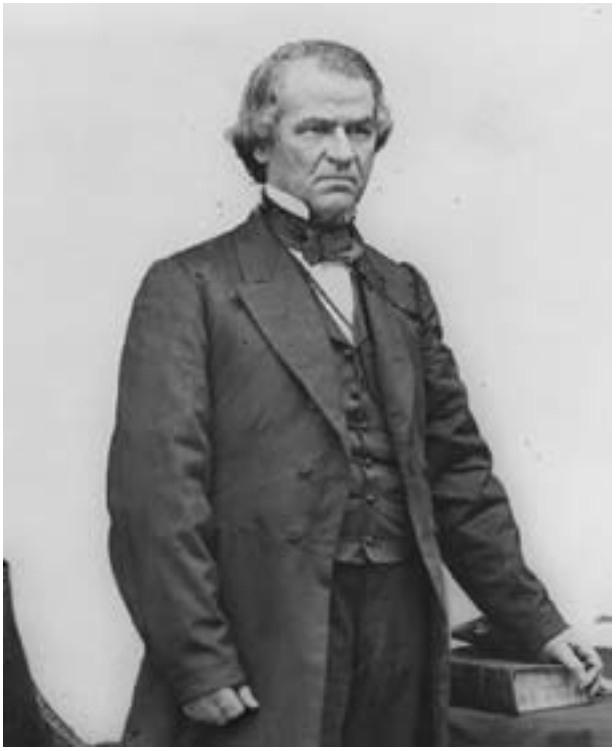
Impact

Passage of the Black Code immediately provoked two reactions in the nation. In the South other state legislators emulated the Mississippi Black Code, yet in the North the laws alerted Republicans in Congress to the fact that white southerners would not voluntarily embrace black liberty. While testifying before Congress in 1865, Colonel Samuel Thomas, an official with the Bureau of Refugees, Freedmen, and Abandoned Lands, noted the persistence of such attitudes:

> The whites esteem the blacks their property by natural right, and however much they may admit that the individual relations of masters and slaves have been destroyed by the war and the President's emancipation proclamation, they still have an ingrained feeling that the blacks at large belong to the whites at large, and whenever opportunity serves they treat the colored people just as their profit, caprice or passion may dictate.

Taken together with President Andrew Johnson's alleged violation of laws and his disdain for Republican measures directed toward ensuring the liberty of former slaves, Congress exerted its authority in 1866 and took over the reins of Reconstruction. With a military governor placed in charge of Reconstruction in Mississippi, the state convened a new constitutional convention, a body elected in the first biracial, statewide election. The constitution that eventually emerged granted the full measure of citizenship to African Americans and thereby removed the Mississippi Black Code from the law books. Despite the code's brief life span, its impact reverberated broadly and throughout the course of Reconstruction.

See also Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870).



Andrew Johnson (Library of Congress)

Further Reading

■ Books

Bond, Bradley G. *Political Culture in the Nineteenth-Century South: Mississippi, 1830–1900*. Baton Rouge: Louisiana State University Press, 1995.

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Journal of the Proceedings and Debates in the Constitutional Convention of the State of Mississippi, August, 1865. Ann Arbor: University of Michigan Library, 2005.

Morgan, A. T. *Yazoo; or, On the Picket Line of Freedom in the South: A Personal Narrative*. 1884. Reprint. New York: Russell and Russell, 1968.

Wharton, Vernon Lane. *Negro in Mississippi, 1865–1890*. Chapel Hill: University of North Carolina Press, 1947.

Questions for Further Study

1. Compare the Mississippi Black Code with the state's antebellum slave code.

2. How did the Mississippi Black Code differ from the Louisiana Black Code? How might those differences be explained?

3. Describe the restrictions placed upon African Americans by the Mississippi Black Code and by formal laws and ordinances enforced during the epoch of Jim Crow.

■ Web Sites

"African American Voices." Digital History Web site.
http://www.digitalhistory.uh.edu/black_voices/voices_display.cfm?id=82.

"Louisiana Black Codes." About.com "African-American History" Web site.
http://afroamhistory.about.com/library/bllouisiana_blackcodes.htm.

"Race, Racism, and the Law." University of Dayton School of Law Web site.
http://academic.udayton.edu/race/02rights/jcrow02.htm.

"Reconstruction in Mississippi, 1865–1876." Mississippi History Now Web site.
http://teacherexchange.mde.k12.ms.us/MHNLP/reconstructionlp.htm.

—Bradley G. Bond

Document Text

Black Code of Mississippi

An Act to Confer Civil Rights on Freedmen, and for Other Purposes

♦ **Section 1.**

All freedmen, free negroes and mulattoes may sue and be sued, implead and be impleaded, in all the courts of law and equity of this State, and may acquire personal property, and chooses in action, by descent or purchase, and may dispose of the same in the same manner and to the same extent that white persons may: Provided, That the provisions of this section shall not be so construed as to allow any freedman, free negro or mulatto to rent or lease any lands or tenements except in incorporated cities or towns, in which places the corporate authorities shall control the same.

♦ **Section 2.**

All freedmen, free negroes and mulattoes may intermarry with each other, in the same manner and under the same regulations that are provided by law for white persons: Provided, that the clerk of probate shall keep separate records of the same.

♦ **Section 3.**

All freedmen, free negroes or mullatoes who do now and have herebefore lived and cohabited together as husband and wife shall be taken and held in law as legally married, and the issue shall be taken and held as legitimate for all purposes; and it shall not be lawful for any freedman, free negro or mulatto to intermarry with any white person; nor for any person to intermarry with any freedman, free negro or mulatto; and any person who shall so intermarry shall be deemed guilty of felony, and on conviction thereof shall be confined in the State penitentiary for life; and those shall be deemed freedmen, free negroes and mulattoes who are of pure negro blood, and those descended from a negro to the third generation, inclusive, though one ancestor in each generation may have been a white person.

♦ **Section 4.**

In addition to cases in which freedmen, free negroes and mulattoes are now by law competent witnesses, freedmen, free negroes or mulattoes shall be competent in civil cases, when a party or parties to the suit, either plaintiff or plaintiffs, defendant or defendants; also in cases where freedmen, free negroes and mulattoes is or are either plaintiff or plaintiffs, defendant or defendants. They shall also be competent witnesses in all criminal prosecutions where the crime charged is alleged to have been committed by a white person upon or against the person or property of a freedman, free negro or mulatto: Provided, that in all cases said witnesses shall be examined in open court, on the stand; except, however, they may be examined before the grand jury, and shall in all cases be subject to the rules and tests of the common law as to competency and credibility.

♦ **Section 5.**

Every freedman, free negro and mulatto shall, on the second Monday of January, one thousand eight hundred and sixty-six, and annually thereafter, have a lawful home or employment, and shall have written evidence thereof as follows, to wit: if living in any incorporated city, town, or village, a license from that mayor thereof; and if living outside of an incorporated city, town, or village, from the member of the board of police of his beat, authorizing him or her to do irregular and job work; or a written contract, as provided in Section 6 in this act; which license may be revoked for cause at any time by the authority granting the same.

♦ **Section 6.**

All contracts for labor made with freedmen, free negroes and mulattoes for a longer period than one month shall be in writing, and a duplicate, attested and read to said freedman, free negro or mulatto by a beat, city or county officer, or two disinterested white persons of the county in which the labor is to performed, of which each party shall have one: and said contracts shall be taken and held as entire contracts, and if the laborer shall quit the service of the employer before the expiration of his term of service, without good cause, he shall forfeit his wages for that year up to the time of quitting.

♦ **Section 7.**

Every civil officer shall, and every person may, arrest and carry back to his or her legal employer any

freedman, free negro, or mulatto who shall have quit the service of his or her employer before the expiration of his or her term of service without good cause; and said officer and person shall be entitled to receive for arresting and carrying back every deserting employee aforesaid the sum of five dollars, and ten cents per mile from the place of arrest to the place of delivery; and the same shall be paid by the employer, and held as a set off for so much against the wages of said deserting employee: Provided, that said arrested party, after being so returned, may appeal to the justice of the peace or member of the board of police of the county, who, on notice to the alleged employer, shall try summarily whether said appellant is legally employed by the alleged employer, and has good cause to quit said employer. Either party shall have the right of appeal to the county court, pending which the alleged deserter shall be remanded to the alleged employer or otherwise disposed of, as shall be right and just; and the decision of the county court shall be final.

♦ **Section 8.**

Upon affidavit made by the employer of any freedman, free negro or mulatto, or other credible person, before any justice of the peace or member of the board of police, that any freedman, free negro or mulatto legally employed by said employer has illegally deserted said employment, such justice of the peace or member of the board of police issue his warrant or warrants, returnable before himself or other such officer, to any sheriff, constable or special deputy, commanding him to arrest said deserter, and return him or her to said employer, and the like proceedings shall be had as provided in the preceding section; and it shall be lawful for any officer to whom such warrant shall be directed to execute said warrant in any county in this State; and that said warrant may be transmitted without endorsement to any like officer of another county, to be executed and returned as aforesaid; and the said employer shall pay the costs of said warrants and arrest and return, which shall be set off for so much against the wages of said deserter.

♦ **Section 9.**

If any person shall persuade or attempt to persuade, entice, or cause any freedman, free negro or mulatto to desert from the legal employment of any person before the expiration of his or her term of service, or shall knowingly employ any such deserting freedman, free negro or mulatto, or shall knowingly give or sell to any such deserting freedman, free negro or mulatto, any food, raiment, or other thing, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars and not more than two hundred dollars and costs; and if the said fine and costs shall not be immediately paid, the court shall sentence said convict to not exceeding two months imprisonment in the county jail, and he or she shall moreover be liable to the party injured in damages: Provided, if any person shall, or shall attempt to, persuade, entice, or cause any freedman, free negro or mulatto to desert from any legal employment of any person, with the view to employ said freedman, free negro or mulatto without the limits of this State, such costs; and if said fine and costs shall not be immediately paid, the court shall sentence said convict to not exceeding six months imprisonment in the county jail.

♦ **Section 10.**

It shall be lawful for any freedman, free negro, or mulatto, to charge any white person, freedman, free negro or mulatto by affidavit, with any criminal offense against his or her person or property, and upon such affidavit the proper process shall be issued and executed as if said affidavit was made by a white person, and it shall be lawful for any freedman, free negro, or mulatto, in any action, suit or controversy pending, or about to be instituted in any court of law equity in this State, to make all needful and lawful affidavits as shall be necessary for the institution, prosecution or defense of such suit or controversy.

♦ **Section 11.**

The penal laws of this state, in all cases not otherwise specially provided for, shall apply and extend to all freedman, free negroes and mulattoes.…

An Act to Regulate the Relation of Master and Apprentice, as Relates to Freedmen, Free Negroes, and Mulattoes

♦ **Section 1.**

It shall be the duty of all sheriffs, justices of the peace, and other civil officers of the several counties in this State, to report to the probate courts of their respective counties semiannually, at the January and July terms of said courts, all freedmen, free negroes, and mulattoes, under the age of eighteen,

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in their respective counties, beats, or districts, who are orphans, or whose parent or parents have not the means or who refuse to provide for and support said minors; and thereupon it shall be the duty of said probate court to order the clerk of said court to apprentice said minors to some competent and suitable person on such terms as the court may direct, having a particular care to the interest of said minor: Provided, that the former owner of said minors shall have the preference when, in the opinion of the court, he or she shall be a suitable person for that purpose.

♦ **Section 2.**

The said court shall be fully satisfied that the person or persons to whom said minor shall be apprenticed shall be a suitable person to have the charge and care of said minor, and fully to protect the interest of said minor. The said court shall require the said master or mistress to execute bond and security, payable to the State of Mississippi, conditioned that he or she shall furnish said minor with sufficient food and clothing; to treat said minor humanely; furnish medical attention in case of sickness; teach, or cause to be taught, him or her to read and write, if under fifteen years old, and will conform to any law that may be hereafter passed for the regulation of the duties and relation of master and apprentice: Provided, that said apprentice shall be bound by indenture, in case of males, until they are twenty-one years old, and in case of females until they are eighteen years old.

♦ **Section 3.**

In the management and control of said apprentices, said master or mistress shall have the power to inflict such moderate corporeal chastisement as a father or guardian is allowed to infliction on his or her child or ward at common law: Provided, that in no case shall cruel or inhuman punishment be inflicted.

♦ **Section 4.**

If any apprentice shall leave the employment of his or her master or mistress, without his or her consent, said master or mistress may pursue and recapture said apprentice, and bring him or her before any justice of the peace of the county, whose duty it shall be to remand said apprentice to the service of his or her master or mistress; and in the event of a refusal on the part of said apprentice so to return, then said justice shall commit said apprentice to the jail of said county, on failure to give bond, to the next term of the county court; and it shall be the duty of said court at the first term thereafter to investigate said case, and if the court shall be of opinion that said apprentice left the employment of his or her master or mistress without good cause, to order him or her to be punished, as provided for the punishment of hired freedmen, as may be from time to time provided for by law for desertion, until he or she shall agree to return to the service of his or her master or mistress: Provided, that the court may grant continuances as in other cases: And provided further, that if the court shall believe that said apprentice had good cause to quit his said master or mistress, the court shall discharge said apprentice from said indenture, and also enter a judgment against the master or mistress for not more than one hundred dollars, from the use and benefit of said apprentice, to be collected on execution as in other cases.

♦ **Section 5.**

If any person entice away any apprentice from his or her master or mistress, or shall knowingly employ an apprentice, or furnish him or her food or clothing without the written consent of his or her master or mistress, or shall sell or give said apprentice spirits without such consent, said person so offending shall be guilty of a misdemeanor, and shall, upon conviction there of before the county court, be punished as provided for the punishment of person enticing from their employer hired freedmen, free negroes or mulattoes.

♦ **Section 6.**

It shall be the duty of all civil officers of their respective counties to report any minors within their respective counties to said probate court who are subject to be apprenticed under the provisions of this act, from time to time as the facts may come to their knowledge, and it shall be the duty of said court from time to time as said minors shall be reported to them, or otherwise come to their knowledge, to apprentice said minors as hereinbefore provided.…

♦ **Section 9.**

It shall be lawful for any freedman, free negro, or mulatto, having a minor child or children to apprentice the said minor child or children, as provided for by this act.

♦ **Section 10.**

In all cases where the age of the freedman, free negro, or mulatto cannot be ascertained by record testimony, the judge of the county court shall fix the age.…

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An Act to Amend the Vagrant Laws of the State

♦ **Section 1.**

All rogues and vagabonds, idle and dissipated persons, beggars, jugglers, or persons practicing unlawful games or plays, runaways, common drunkards, common night-walkers, pilferers, lewd, wanton, or lascivious persons, in speech or behavior, common railers and brawlers, persons who neglect their calling or employment, misspend what they earn, or do not provide for the support of themselves or their families, or dependents, and all other idle and disorderly persons, including all who neglect all lawful business, habitually misspend their time by frequenting houses of ill-fame, gaming-houses, or tippling shops, shall be deemed and considered vagrants, under the provisions of this act, and upon conviction thereof shall be fined not exceeding one hundred dollars, with all accruing costs, and be imprisoned, at the discretion of the court, not exceeding ten days.

♦ **Section 2.**

All freedmen, free negroes and mulattoes in this State, over the age of eighteen years, found on the second Monday in January, 1866, or thereafter, with no lawful employment or business, or found unlawfully assembling themselves together, either in the day or night time, and all white persons assembling themselves with freedmen, free negroes or mulattoes, or usually associating with freedmen, free negroes or mulattoes, on terms of equality, or living in adultery or fornication with a freed woman, freed negro or mulatto, shall be deemed vagrants, and on conviction thereof shall be fined in a sum not exceeding, in the case of a freedman, free negro or mulatto, fifty dollars, and a white man two hundred dollars, and imprisonment at the discretion of the court, the free negro not exceeding ten days, and the white man not exceeding six months.

♦ **Section 3.**

All justices of the peace, mayors, and aldermen of incorporated towns, counties, and cities of the several counties in this State shall have jurisdiction to try all questions of vagrancy in their respective towns, counties, and cities, and it is hereby made their duty, whenever they shall ascertain that any person or persons in their respective towns, and counties and cities are violating any of the provisions of this act, to have said party or parties arrested, and brought before them, and immediately investigate said charge, and, on conviction, punish said party or parties, as provided for herein. And it is hereby made the duty of all sheriffs, constables, town constables, and all such like officers, and city marshals, to report to some officer having jurisdiction all violations of any of the provisions of this act, and in case any officer shall fail or neglect any duty herein it shall be the duty of the county court to fine said officer, upon conviction, not exceeding one hundred dollars, to be paid into the county treasury for county purposes.

♦ **Section 4.**

Keepers of gaming houses, houses of prostitution, prostitutes, public or private, and all persons who derive their chief support in the employments that militate against good morals, or against law, shall be deemed and held to be vagrants.

♦ **Section 5.**

All fines and forfeitures collected by the provisions of this act shall be paid into the county treasury of general county purposes, and in case of any freedman, free negro or mulatto shall fail for five days after the imposition of any or forfeiture upon him or her for violation of any of the provisions of this act to pay the same, that it shall be, and is hereby, made the duty of the sheriff of the proper county to hire out said freedman, free negro or mulatto, to any person who will, for the shortest period of service, pay said fine and forfeiture and all costs: Provided, a preference shall be given to the employer, if there be one, in which case the employer shall be entitled to deduct and retain the amount so paid from the wages of such freedman, free negro or mulatto, then due or to become due; and in case freedman, free negro or mulatto cannot hire out, he or she may be dealt with as a pauper.

♦ **Section 6.**

The same duties and liabilities existing among white persons of this State shall attach to freedmen, free negroes or mulattoes, to support their indigent families and all colored paupers; and that in order to secure a support for such indigent freedmen, free negroes, or mulattoes, it shall be lawful, and is hereby made the duty of the county police of each county in this State, to levy a poll or capitation tax on each and every freedman, free negro, or mulatto, between the ages of eighteen and sixty years, not to exceed the sum of one dollar annually to each person so taxed, which tax, when collected, shall be paid into the county treasurer's hands, and constitute a fund to

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be called the Freedman's Pauper Fund, which shall be applied by the commissioners of the poor for the maintenance of the poor of the freedmen, free negroes and mulattoes of this State, under such regulations as may be established by the boards of county police in the respective counties of this State.

♦ **Section 7.**

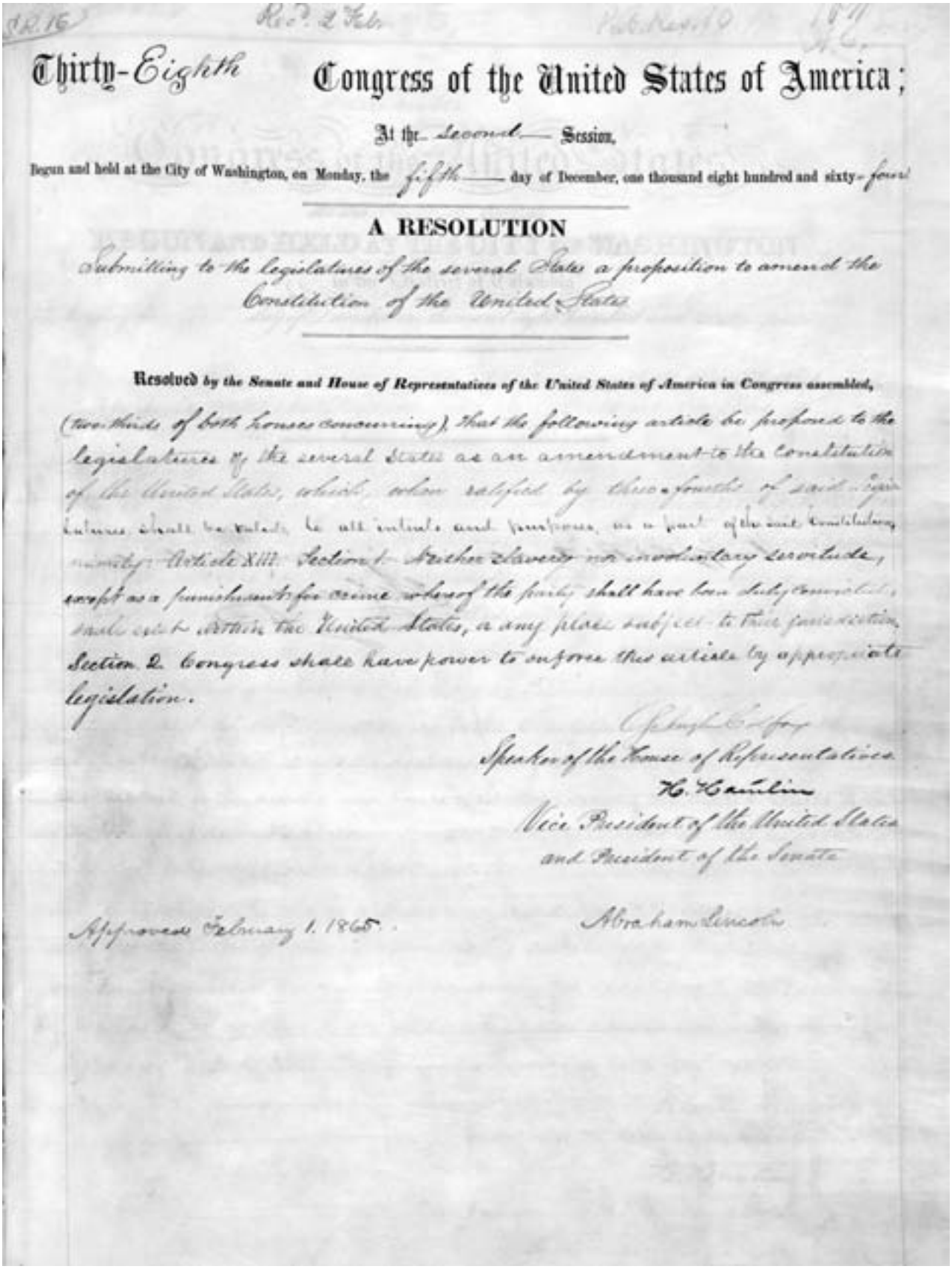
If any freedman, free negro, or mulatto shall fail or refuse to pay any tax levied according to the provisions of the sixth section of this act, it shall be *prima facie* evidence of vagrancy, and it shall be the duty of the sheriff to arrest such freedman, free negro, or mulatto, or such person refusing or neglecting to pay such tax, and proceed at once to hire for the shortest time such delinquent taxpayer to any one who will pay the said tax, with accruing costs, giving preference to the employer, if there be one.

♦ **Section 8.**

Any person feeling himself or herself aggrieved by judgment of any justice of the peace, mayor, or alderman in cases arising under this act, may within five days appeal to the next term of the county court of the proper county, upon giving bond and security in a sum not less than twenty-five dollars nor more than one hundred and fifty dollars, conditioned to appear and prosecute said appeal, and abide by the judgment of the county court; and said appeal shall be tried *de novo* in the county court, and the decision of the said court shall be final.

Glossary

freedmen	former slaves who had been emancipated at the conclusion of the Civil War
free negroes	blacks who had been emancipated by their owners, or the children of parents emancipated prior to the start of the Civil War
mulatto	a general term used to refer to people of mixed race, though it specifically refers to anyone who had at least one great-grandparent who was black
pauper	a term used mainly before the twentieth century to refer to a poor or indigent person
tippling shops	businesses that sold liquor by either the glass or the bottle



Thirty-Eighth Congress of the United States of America;

At the Second Session,

Begun and held at the City of Washington, on Monday, the fifth day of December, one thousand eight hundred and sixty-four

A RESOLUTION

Submitting to the legislatures of the several States a proposition to amend the Constitution of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

(two-thirds of both Houses concurring) that the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures shall be valid to all intents and purposes, as a part of the said Constitution, namely: Article XIII. Section 1. Neither Slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Section 2. Congress shall have power to enforce this article by appropriate legislation.

Schuyler Colfax
Speaker of the House of Representatives

H. Hamlin
Vice President of the United States
and President of the Senate

Approved February 1. 1865.

Abraham Lincoln

The Thirteenth Amendment (National Archives and Records Administration)

Thirteenth Amendment to the U.S. Constitution

1865

"Neither slavery nor involuntary servitude ... shall exist within the United States."

Overview

The Thirteenth Amendment to the U.S. Constitution legally ended slavery in the United States. It was passed by Congress and ratified by the required three-fourths of the states in 1865. President Abraham Lincoln had issued the Emancipation Proclamation in 1862, declaring slaves in areas in rebellion against the government to be freed by executive decree. Afterward, Lincoln and many of his fellow Republicans had believed that more permanent legislation in the form of a constitutional amendment prohibiting slavery would be needed to ensure that the Emancipation Proclamation could not be subsequently ruled either unconstitutional or a temporary war measure. The Thirteenth Amendment was the first constitutional amendment to be adopted in more than sixty years, and it initiated a series of subsequent amendments, including the Fourteenth and Fifteenth Amendments, with which it is often associated. Those two Reconstruction-era amendments guaranteed citizenship and voting rights to African Americans and, along with the Thirteenth Amendment, represented a crucial step in the broadening of the American legal definitions and conceptions of freedom and equality.

Context

Early in the Civil War, the North was divided on the issue of emancipation. The Republican Party and its leader, President Lincoln, opposed the expansion of slavery into the western territories but generally conceded that the Constitution protected the "peculiar institution" in the states where it already existed. A vocal minority of abolitionists within the party called for immediate emancipation, although they differed even among themselves about whether this desirable outcome could best be achieved by executive, legislative, or judicial action. The Democratic Party generally opposed emancipation, although as the war wore on many of its members grudgingly came to accept that the measure in some form might be necessary—to win the conflict, to remove the underlying cause and prevent its recurrence, and to punish the recalcitrant southern slave owners for their continued, and immensely destructive, defiance.

During the "secession winter" of 1860–1861, before the outbreak of the war, Lincoln and other Republicans announced their support for a proposed amendment that would have guaranteed that the federal government could never abolish slavery in the southern states; Lincoln and his fellow Republicans were even willing to make this amendment unamendable in the future. Confederate leaders, convinced that secession and an independent southern nation would prove to be the best means of protecting slavery, scorned this offer. (Ironically for them, the true Thirteenth Amendment, which went into effect at the end of the war, took a form much less favorable to slave owners.) In July 1861 Congress passed, with overwhelming support, the Crittenden-Johnson Resolution, stating that the northern war aims would include the restoration of the Union but not the emancipation of southern slaves.

In the same cautious spirit, Lincoln resisted overt action against slavery in 1861 and for much of 1862. Concerned with maintaining support for the Union in the conflict-ridden border slave states (Maryland, Kentucky, Missouri, and tiny Delaware), the president overruled early emancipation declarations by General David Hunter in South Carolina and General John C. Frémont in Missouri. Lincoln encouraged the leaders of border states to adopt policies of voluntary, compensated emancipation, but without success. General Benjamin F. Butler adopted an effective expedient in May 1861 when he began refusing to return runaway slaves to their masters, characterizing them essentially as spoils of war. By thus treating slaves as property, he avoided the controversy associated with an announced policy of emancipation; while this did not entirely satisfy abolitionists, it was accepted by most northerners as a useful and clever compromise. The influx over Union lines of large numbers of African Americans fleeing slavery and seeking refuge put considerable additional pressure on government leaders to come up with a solution to this colossal problem, with huge moral and practical implications for the future of the nation's existence. Legislators were eventually bombarded with petitions and letters from constituents demanding action to end slavery. Congress essentially af-

Time Line

1857

■ **March 6**
In the *Dred Scott v. Sandford* decision, the Supreme Court rules that Congress has no authority to prohibit slavery in the western territories.

1860

■ **December 20**
South Carolina becomes the first southern state to secede following the election of the northern Republican Abraham Lincoln as president.

1861

■ **April 12**
The Confederate firing on Fort Sumter begins the American Civil War.

■ **March 2**
Congress passes a proposed amendment, which is never ratified, barring Congress from interfering with slavery in states where the institution exists.

1862

■ **April 16**
Slavery is abolished in the District of Columbia.

■ **September 22**
President Abraham Lincoln issues the Emancipation Proclamation.

1863

■ **January 1**
The Emancipation Proclamation goes into effect.

1865

■ **January 31**
Congress proposes the Thirteenth Amendment to the states.

■ **April 9**
The Confederate general Robert E. Lee surrenders to the Union general Ulysses S. Grant, effectively ending the Civil War.

■ **December 18**
Secretary of State William H. Seward issues proclamation announcing that the Thirteenth Amendment has been ratified by the necessary three-quarters of the states.

1995

■ **March 6**
Mississippi ratifies the Thirteenth Amendment, 130 years after initially rejecting it.

firmed Butler's policy with the passage of the first Confiscation Act in August 1861, authorizing representatives of the federal government to confiscate the slaves of disloyal citizens used in support of the rebellion.

The emancipation question was inseparable from the problem of precisely how to reconstruct southern state governments and oversee their restoration to the Union after the war. Ensuring that these states would be free of slavery seemed essential to many (though not all) northerners, but how to accomplish that aim was less obvious. Congress began to take more aggressive steps against slavery in 1862, while radicals like the Massachusetts senator Charles Sumner both publicly and privately maintained pressure on President Lincoln to use his war powers as commander in chief to do likewise. The second Confiscation Act, of July 1862, provided for the forfeiture of slaves as well as other property belonging to those supporting the Confederacy. The lack of effective enforcement mechanisms, along with doubts held by Lincoln and others regarding the act's constitutionality, made the act somewhat irrelevant, but it did represent another tentative step toward a federal emancipation policy.

The most famous but not the final blow against American slavery was struck on September 22, 1862, when President Lincoln, shortly following the Union victory at the Battle of Antietam, issued his famous Emancipation Proclamation, freeing all the slaves in areas of the South not occupied by federal troops as of the coming January 1. As this proclamation did not apply to the border slave states that had not seceded—and might ultimately have been regarded by the courts as a temporary war measure only—Lincoln and many of his fellow Republicans recognized that further action would be needed to end slavery and remove the root cause of the conflict between the North and the South. Although many Americans were reluctant to alter the text of the Constitution, which had not been amended for over sixty years and was widely regarded as permanent and sacred, an emancipation amendment seemed to offer the best and most definitive solution to this troublesome issue. As early as 1839 the staunch slavery opponent John Quincy Adams had introduced such a constitutional amendment to bring about abolition; although his proposal had made no headway at the time, the idea had been percolating among his successors in the political antislavery movement.

In December 1863 competing antislavery amendments were introduced in the House of Representatives by the Republican congressmen James M. Ashley of Ohio and James F. Wilson of Iowa. Both men introduced their bills in the context of ongoing debate over how to reconstruct the southern states and bring them back into the Union. They advocated a constitutional amendment barring slavery as a means to ensure republican government in those states. Wilson's proposed amendment included an enforcement clause, empowering Congress to pass legislation to ensure compliance. In this session, however, the House passed neither an emancipation amendment nor any of the envisioned supplemental legislation intended to protect civil rights.

Charles Sumner initially took the lead in pushing for an abolition amendment in the Senate. He hoped not just to end slavery but also to ensure full legal and practical equality for African Americans. Even many fellow members of the Republican Party hesitated to push so far, worrying that the party's fragile wartime coalition of different ideological factions, as bolstered by an important bloc of Democrats who supported the war effort, might be damaged by overly radical legislation. On February 8, 1864, Sumner introduced a constitutional amendment outlawing slavery, hoping that it would be referred to a committee that he chaired on issues related to slavery and freedmen. Following standard legislative practice, however, the amendment was instead referred to the Judiciary Committee, chaired by Lyman Trumbull of Illinois. Trumbull, a less radical Republican than Sumner, oversaw the crafting of a document with less explicit guarantees that former slaves would be granted full citizenship rights and protections.

Sumner's arrogant, humorless personality made it difficult for him to win colleagues over to his more radically egalitarian vision of the proposed amendment. Trumbull, meanwhile, insisted during debate that the more neutral language in his committee's version (much of it borrowed from the well-known Northwest Ordinance) would fully accomplish the same object of ensuring equality for all regardless of race. This claim was likely disingenuous, however. Trumbull and other Senate Republicans were hoping to avoid charges of favoring excessive and revolutionary social and political upheaval on the order of the French Revolution. One senator even expressed the fear that Sumner's amendment's promise that all individuals would be equal before the law could be applied to women, a measure that did not have widespread political support, at least among the men who held a monopoly on voting rights at the time.

The proposed antislavery amendment provoked extensive congressional debate, intended more to inspire supporters back in home districts who would later read published accounts of the speeches than to convince the fellow members, who rarely listened to colleagues' speeches in any event. As 1864 was an election year, the amendment was a particularly potent political issue, and with Lincoln's approval it became part of the Republican Party's campaign platform. The amendment passed the Senate on April 6, 1864, by a vote of 38 to 4; after a fierce struggle and considerable lobbying at the president's behest, it passed the House of Representatives on January 31, 1865, by a vote of 119 to 56, with enough Democrats joining with the Republican majority to ensure the measure's victory. Lincoln enthusiastically indicated his pleasure at this outcome by signing the amendment when it was presented to him, although he was not legally required to do so for it to go into effect.

One of the most difficult issues facing the supporters of the Thirteenth Amendment was that of ratification. Constitutional amendments needed to be ratified by three-quarters of the states in order to take effect. Would the seceded states be counted toward this total? Most Republicans, following the lead of Lincoln, argued that secession was illegal and that the states had not technically left the Union. This presented a dilemma, as some southern states would then have to vote for the abolition amendment in order for it to go into effect. Charles Sumner proposed leaving the Confederate states out of the ratification calculations, but Trumbull and other Republicans successfully opposed this plan, as some worried that the amendment might seem to lack legitimacy if the southern states were not included in the ratification process. In one of his final speeches, only a few days before his assassination, Lincoln indicated that he agreed that all of the states must be allowed the opportunity to ratify the amendment. His successor, Andrew Johnson, implored conventions in the southern states to meet and voluntarily ratify the amendment, and, indeed, enough states ratified the amendment for it to become law. Ominously, however, several of the ratification conventions in the former Confederate states warned that they did not accept the legitimacy of the clause giving Congress the right to pass supplemental legislation ensuring civil rights for

Congressman James Mitchell Ashley (Library of Congress)

African Americans. This significant distinction, generally overlooked by the administration and congressional leaders at the time, suggested that many southern whites were determined to prevent the establishment of equality for African Americans, despite the Thirteenth Amendment's promise of freedom.

About the Author

The Thirteenth Amendment had no single author. Some of its key congressional creators and supporters were James M. Ashley, James F. Wilson, Lyman Trumbull, and Charles Sumner.

James M. Ashley was born in Pennsylvania in 1824. The mostly self-educated young man moved west to Ohio in 1848, where he became the editor of a Democratic newspaper and a close political ally of the antislavery leader and future Supreme Court chief justice Salmon P. Chase. Ashley was first elected to Congress in 1858, representing the Republican Party. During the Civil War, he played a leading role in winning support for the emancipation of slaves in the District of Columbia before helping push for the Thirteenth Amendment. He would also favor a punitive Reconstruction policy, including confiscating the property of supporters of the Confederacy and taking away their political rights, which sometimes put him at odds with President Lincoln, who favored a more moderate and generous policy aimed at facilitating reconciliation and reunion. Ashley worked closely with Lincoln, however, in winning support among wavering members of both parties in order to ensure congressional passage of the Thirteenth Amendment. Following the war, Ashley was one of the leaders in the movement to impeach President Andrew Johnson for obstructing Reconstruction, and he aired wild accusations that Johnson had been complicit in Lincoln's murder. He later served as territorial governor of Montana and as a railroad president. He died in 1896.

James F. Wilson, born in Ohio in 1828, was a Republican congressman from Iowa during the Civil War. He had moved to Iowa and begun practicing law and involving himself in politics in the early 1850s, and in 1856 he participated in the convention that revised the state's constitution. Wilson was first elected to Congress in 1861 when his district's former representative, Samuel R. Curtis, resigned to accept an appointment as a general in the Union Army. Once in the Republican-controlled House of Representatives, Wilson was appointed chairman of the Judiciary Committee despite the seniority of other party members on the committee, a compliment to Wilson's legal knowledge, ability, and work ethic. Like Ashley, he also helped win support for ending slavery in the District of Columbia. Following the Civil War, he served in both the Senate and the House of Representatives and as director of the Union Pacific Railroad. Wilson once reputedly turned down an offer of the prestigious position of secretary of state by President Ulysses S. Grant, possibly a wise move given the scandals and misfortune that tarnished the Grant cabinet. Wilson died in 1895, having occupied a prominent place in the Iowa and national Republican leadership for forty years.

Lyman Trumbull of Illinois, a Democrat turned Republican and one of the party's most forceful and respected national leaders during the Civil War era, was born in 1813. He was first elected to the Senate in 1855, triumphing over his rival, Abraham Lincoln, in one of the most bitter setbacks in the career of "Honest Abe." Although Lincoln and Trumbull had an uneasy personal relationship following this contest—and Mary Todd Lincoln afterward refused to speak to Trumbull's wife, Julia, her former friend—the two men put aside their differences to champion Republican policies, including the Thirteenth Amendment, during the Civil War. Feisty and bespectacled, Trumbull broke with Radical Republicans over Reconstruction and voted against the impeachment of Andrew Johnson in 1868. Thereafter, he variously supported the short-lived Liberal Republican movement, returned to the Democratic fold, and even advocated the Populist Party (defending the Socialist labor leader Eugene V. Debs at a trial for the appeal of his conviction for violating a federal antistrike injunction). Trumbull died in 1896.

Charles Sumner first took his seat as a senator from Massachusetts in 1851 at the age of forty, representing first the Free-Soil Party and subsequently the Republican Party. He gained fame for his scholarly oratory and zealous abolitionism as well as for suffering a savage beating from a stout cane wielded by the proslavery South Carolina congressman Preston Brooks on the floor of the Senate in 1856. This famous incident led Sumner to become, in the eyes of many northerners, a heroic symbol of freedom of speech and opponent of southern proslavery barbarism. Sumner did not return to take his Senate seat for several years, though his physical injuries healed relatively quickly. He exercised particular clout in foreign affairs issues owing to his knowledge and wide circle of acquaintances abroad, and he both chaired the Senate Foreign Affairs Committee and served as an adviser to Lincoln on international issues, often much to the annoyance of his long-time political rival Secretary of State William H. Seward. Sumner was one of the Thirteenth Amendment's first and most consistent advocates, and he remained committed to civil rights causes—often finding himself at odds with his fellow Republicans—until his death in 1874.

Explanation and Analysis of the Document

The Thirteenth Amendment announces that slavery will no longer be legally permitted in the United States or its territories, with the significant exception that "involuntary servitude" may be imposed on those who have been convicted of crimes. This loophole, to which Charles Sumner strongly objected, permitted those serving jail terms, often African Americans convicted on petty or false charges, to be used as a source of cheap, brutally coerced labor in many southern states well into the twentieth century. The amendment does not specify what the legal status of the former

Essential Quotes

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

(Section 1)

"Congress shall have the power to enforce this article by appropriate legislation."

(Section 2)

"In passing this amendment we do not confer upon the negro the right to vote. We give him no right except his freedom, and leave the rest to the states."

(Republican Senator John Henderson, *Congressional Globe*, April 6, 1864, p. 1438)

"But this amendment is a king's cure-all for all the evils. It winds the whole thing up. He [Lincoln] would repeat that it was the fitting, if not the indispensable, adjunct to the consummation of the great game we are playing."

(Nicolay, p. 475)

slaves would be or if they would be fully entitled to the rights of American citizens. The document also includes an enforcement clause, giving Congress the power to pass laws to enforce emancipation. Unfortunately, lack of political will and Supreme Court decisions leaving most issues of interpretation and enforcement to the states undermined the impact of this clause.

Audience

The Thirteenth Amendment was designed to appeal to northern Republicans and Democrats alike in order to keep both groups behind the war effort; partly for that reason, the authors avoided addressing controversial issues of enforcement, citizenship, and voting rights for the former slaves, which later amendments would address. As the amendment had to be ratified by some southern states as well, its shapers had further incentive to keep its language and provisions as uncontroversial as possible. Moreover, the uncertain question of how it would be read and interpreted by the courts, then and in the future, loomed large.

President Lincoln, like other northern leaders during the Civil War, was also acutely conscious that steps to end slavery in America would be lauded and appreciated by another very meaningful audience: posterity. "We of this Congress and this administration will be remembered in spite of ourselves," he had assured legislators in his annual message to Congress of December 1, 1862. "In giving *freedom* to the *slave*, we *assure* freedom to the *free*—honorable alike in what we give, and what we preserve.… The way is plain, peaceful, generous, just—a way which, if followed, the world will forever applaud, and God must forever bless." Indeed, the Thirteenth Amendment, like the Emancipation Proclamation, continues to garner laurels for those associated with it, as Lincoln hoped and expected it would.

Impact

The Thirteenth Amendment was widely hailed upon its passage and ratification for effectively ending slavery and bringing the United States into closer proximity to its ideals of freedom and democracy. The decree left open, how-

ever, the questions of whether former slaves would possess the full rights of citizenship and of what precisely those rights were. Lincoln's successor, Andrew Johnson, felt that no further federal civil rights legislation was necessary. On the other hand, congressional Republicans, who were displeased with the slow pace of change in the postwar southern states—and with those states' implementation of racist black codes in attempts to create slavery-like status for African Americans—increasingly used the enforcement clause of the Thirteenth Amendment to justify further action to ensure that slavery would be fully abolished. Among the first legislative efforts along these lines were the Freedmen's Bureau Acts, passed in 1865 and 1866, and the Civil Rights Act, passed in 1866—all aimed at ensuring that the former Confederate states did not violate the rights of African Americans. Johnson vetoed the two 1866 bills, breaking decisively with his former Republican allies on Reconstruction and civil rights, but Congress overrode both vetoes. The Civil Rights Act represented an attempt by Republicans to define just what the freedom they had offered the former slaves in the Thirteenth Amendment would look like. The Civil Rights Act defined all native-born Americans as citizens of the United States, negating the Supreme Court's suggestion in the 1857 *Dred Scott* case that African Americans could not lay claim to citizenship rights. These rights, as envisioned in the Civil Rights Act, did not necessarily include voting rights.

Subsequent constitutional amendments would go further to define the legal rights of African Americans. Ratified in 1868, the Fourteenth Amendment specified that, as citizens, African Americans were entitled to due process and the equal protection of the law; ratified in 1870, the Fifteenth Amendment outlawed the use of race to disqualify citizens from voting. Together, the Thirteenth Amendment and its two successors were truly revolutionary, laying the foundation for a more egalitarian and democratic nation. Widespread resistance to implementing these amendments among white southerners—and their continued use of force, intimidation, and other extralegal methods of denying civil rights to African Americans—ultimately led to the collapse of the Reconstruction state governments in the South by 1877. Afterward came the gradual restoration of white supremacy in the form of a new system of discriminatory segregation. This Jim Crow era lasted for the better part of a century, with the promise of the Thirteenth Amendment left unfulfilled, until the civil rights movement of the 1950s and 1960s.

Indeed, for decades after its passage, as segregation was brutally imposed on African Americans, the Thirteenth Amendment was rarely cited by the courts. Generally, in the late nineteenth century the Supreme Court defined the freedom offered by the Thirteenth Amendment very narrowly and was reluctant to concede to the federal government sufficient power to enforce it. In 1872 the Court ruled in *Blyew v. United States* that states could refuse to allow African Americans to deliver trial testimony. The 1873 Slaughter-House Cases ruling gave states virtually free rein in defining what the rights of state citizenship for African Americans consisted of, taking the teeth out of the Thirteenth and Fourteenth Amendments. The *Plessy v. Ferguson* decision of 1896 allowed segregation, in a notorious phrase, as long as the facilities offered to African Americans were "separate but equal." The ruling was ominously silent on how this "equality" would be determined and enforced. Further, in the 1906 case of *Hodges v. United States*, the Court averred that state courts would have the sole responsibility of identifying and addressing violations of the Thirteenth Amendment, a power that, needless to say, Jim Crow–era southern states were not aggressive in exercising.

Ultimately, a late-twentieth-century Supreme Court case resurrected the dormant amendment. In the *Jones v. Alfred H. Mayer Company* ruling of 1968, the Court insisted that the constitutional rights of an African American man had been violated when he was barred from buying property in a private housing development owing to his race. The Thirteenth Amendment, the court ruled, had given African Americans freedom and the same status as all other Americans, making such discrimination illegal. Coming in the wake of other judicial and legislative civil rights rulings of the 1950s and 1960s, this case suggested that the full promise of the Thirteenth Amendment would finally be fulfilled.

See also *Dred Scott v. Sandford* (1857); Emancipation Proclamation (1863); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); *Plessy v. Ferguson* (1896).

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—Michael Thomas Smith

Questions for Further Study

1. Why might some Americans have voted for the Thirteenth Amendment in 1865? Why might some have voted against it?

2. President Lincoln regarded the Thirteenth Amendment as a "king"s cure-all for all the evils" of slavery, but following his death Congress passed two more amendments in an attempt to complete the work of ensuring freedom and equality for freedmen. Compare and contrast the Thirteenth Amendment with the Fourteenth and Fifteenth Amendments. Which do you think did the most to advance civil rights, and why do you think so?

3. Historians continue to argue about who should receive the most credit for ending slavery: President Lincoln, Congress, the army, or the slaves themselves. Which of these parties do you think played the most crucial role in this process, and why do you think so?

4. The great African American historian and political activist W. E. B. Du Bois wrote in his 1935 book *Black Reconstruction in America* that "slavery was not abolished even after the Thirteenth Amendment." To what extent and in what ways was this true? How was this possible, once the amendment had become law? What does this suggest about the power of the Constitution?

Thirteenth Amendment to the U.S. Constitution

♦ **Section 1.**

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

♦ **Section 2.**

Congress shall have power to enforce this article by appropriate legislation.

Testimony before the Joint Committee on Reconstruction on Atrocities in the South against Blacks

1866

"We feel in danger of our lives, of our property, and of everything else."

Overview

The testimony taken by the Joint Committee on Reconstruction consists of a series of interviews conducted after the Civil War to determine the condition of society in the former Confederacy. The Joint Committee, formed by both Senate and House members of the Thirty-ninth Congress in December 1865, investigated reports of violence toward white Unionists and freed slaves in order to determine the extent of federal intervention needed in the South. Opposed to President Andrew Johnson's policy of quick restoration of the southern states to their prewar status, also known as "Presidential Reconstruction," the Joint Committee interviewed 144 people about their experiences in the postwar South, asking specifically about white southerners' treatment of freedpeople and white Unionists as well as their attitudes toward the federal government. Upon the conclusion of its investigation, the committee issued a report summarizing its findings on March 5, 1866, which included transcripts of witnesses' testimony. The testimony largely supported the belief held by Johnson's opponents, the Radical Republicans, that greater oversight was needed to ensure that freedpeople's rights were protected and that the old power structures that had supported slavery and secession were not reestablished. The testimony gave Radical Republicans the proof they needed to wrest control away from Johnson and institute a set of policies known as "Radical Reconstruction," which included a period of military governance, disfranchisement of white Confederates, the extension of the Freedmen's Bureau, and the passage of the Fourteenth and Fifteenth Amendments to the U.S. Constitution.

Context

Although the Confederate general Robert E. Lee surrendered what remained of his army to Ulysses S. Grant on April 9, 1865, the official cessation of armed conflict left many unresolved questions. Paramount among them was what would become of the former Confederate states and their leaders. Should the two sections immediately be reunited and set about the work of healing and forgiving, or should the South remain separate, under federal control, until its people could demonstrate that they had been thoroughly reconstructed? Could southern whites be trusted to oversee their own affairs, and, most important, respect the rights of the newly freed? Although many rejoiced that the war was over, these troubling questions loomed large on the political horizon.

President Andrew Johnson favored a policy of quick restoration of the southern states to their prewar status. A native of Tennessee and an ardent Unionist, Johnson assumed the presidency upon Abraham Lincoln's death on April 15, 1865. At first, Johnson's well-known dislike for slaveholders and their aristocratic pretensions led many Republicans to believe that his treatment of the South would be much harsher than that of his predecessor, who had urged charity toward errant southerners. Johnson's initial plans to deprive wealthy southerners and high-ranking Confederate leaders of citizenship, along with his demands that the southern states repeal their secession ordinances and ratify the Thirteenth Amendment before being readmitted to the Union, pleased the more radical members of his party. Soon, however, it became apparent that Johnson would do little else to ensure a peaceful transition from slavery to freedom in the South.

Following what he believed would have been President Lincoln's course of action, Johnson issued a general amnesty proclamation in May 1865, effectively relieving Confederates of any fear of criminal prosecution or other retributive measures the government might take against them. He appointed provisional governors to the southern states, many of whom had Confederate sympathies. He also removed federal troops from the South upon request from the provisional governors and in 1866 vetoed key measures aimed at protecting freed slaves, namely the renewal of the Freedmen's Bureau and enactment of a bill on civil rights. (Congress overrode both vetoes.)

Johnson's plans were unpopular among many within his own party, who favored greater federal intervention in the South and a longer, more sustained plan of Reconstruction. Known as Radical Republicans, these men came from an antislavery background and had struggled to make emancipation the primary war aim. While Lincoln hesitated, fearing that such a move would alienate the border states and push them out of the Union, men like Massachusetts sena-

Time Line

1860

■ **December**
Southern states begin to secede from the Union.

1861

■ **April 12**
The first shots of the Civil War are fired at Fort Sumter, South Carolina.

1865

■ **April 9**
Robert E. Lee surrenders to Ulysses S. Grant at the village of Appomattox Court House, Virginia.

■ **April 15**
President Abraham Lincoln dies from wounds received the previous evening at the hands of John Wilkes Booth; Andrew Johnson becomes president.

■ **May 29**
President Johnson issues a general amnesty proclamation restoring rights and property to most southern rebels once they have taken a loyalty oath, but which excludes civil and diplomatic officials, military officers, and those who left judicial or political offices to join the Confederacy.

■ **November**
The Mississippi state legislature passes its Black Code; other southern states follow suit.

■ **December 3**
The Thirty-ninth Congress meets in Washington, D.C. Among its newly elected members are many former Confederates elected by unreconstructed state legislatures, whom Republicans refuse to seat.

■ **December 13**
The Joint Committee on Reconstruction is formed by a joint resolution of Congress to investigate the condition of affairs in the southern states and the effects of Johnson's leniency toward former rebels.

■ **December 19**
The Thirteenth Amendment is ratified, officially abolishing slavery in the United States.

tor Charles Sumner and Pennsylvania congressman Thaddeus Stevens urged the president to see that emancipation was not only a military necessity but also a moral imperative. Their leadership on the issue eventually secured the Thirteenth Amendment (December 1865), which abolished slavery forever. However, Radical Republicans felt that more needed to be done in order to ensure that freedpeople's rights would be firmly established and protected.

Former Confederates responded to Johnson's leniency by passing laws aimed at curtailing black freedom. Known as Black Codes, these state laws attempted to regulate labor relations between white employers and black workers by making it illegal to break an employment contract. The laws enacted fines and jail time for vagrancy, thereby forcing black people to sign contracts with whites, who were often their former owners. The laws also required the apprenticeship of minor children. The Black Codes also forbade freedpeople from owning or carrying firearms, so as to limit their ability to defend themselves against assault or coercion. They instituted curfews and sometimes required blacks to carry passes in order to travel off the plantation, just as they formerly had to do as slaves. The Black Codes criminalized a variety of personal behaviors, such as using insulting language or gestures or otherwise being "insolent." White southerners proudly declared their intention to establish "a white man's country," and the Black Codes aimed to do just that.

White southerners elected former Confederate leaders to positions of political power. Candidates running for office would print on their tickets "late of the Confederate army," and former Confederate officers often wore their old uniforms. In Alabama, a man accused of murdering a Union general was elected sheriff. The unreconstructed state legislatures sent high-ranking Confederate leaders, including their former vice president, Alexander H. Stephens of Georgia, to Congress. They also called state constitutional conventions that valorized the southern war effort and refused to repudiate secession. President Johnson advised provisional governors against such acts of open defiance, but his advice fell on deaf ears. Ultimately, the former Confederates overplayed their hand. Their disloyal behavior and attacks against freedpeople caused Johnson much embarrassment and fueled Radical criticisms against him.

It was in this context that the Joint Committee on Reconstruction was established by the Thirty-Ninth Congress on December 13, 1865, to investigate and report on conditions in the former Confederate states and to propose necessary legislation. Nine representatives and six senators composed the committee: the senators William Pitt Fessenden of Massachusetts, James W. Grimes of Iowa, Ira Harris of New York, Jacob M. Howard of Michigan, Reverdy Johnson from Maryland, and George H. Williams of Oregon and the representatives Thaddeus Stevens of Pennsylvania, Elihu B. Washburne of Illinois, Justin S. Morrill of Vermont, Kentuckian Henry Grider, John A. Bingham from Ohio, Roscoe Conkling of New York, George S. Boutwell from Massachusetts, Missourian Henry T. Blow, and Andrew J. Rogers of New Jersey. Radical Republicans were a minority on the committee, as

most of its members were moderate Republicans. There were only three Democrats.

For several months in 1866 four subcommittees took testimony in Washington, D.C., from a variety of sources: among them, U.S. military officers and Freedmen's Bureau officials; former Confederate leaders, including General Robert E. Lee and the Confederate vice president, Alexander H. Stephens; northerners who had spent time in the South; southern Unionists, and black southerners. Only 7 of the 144 witnesses called before the Joint Committee were black. There would have been no blacks testifying at all, except for the fact that a freedmen's rights convention coincided with the hearings in Washington, D.C., and the Virginia delegates to the convention petitioned to appear before the committee. The men were Daniel Norton, a free black man from New York trained as a physician; the Reverend William Thornton, a former slave and minister in Hampton; Madison Newby, a free black landowner from Norfolk who had worked as a boat pilot for Union forces during the war; Richard R. Hill, a former slave also living in Hampton; Alexander Dunlop, a free black before the war and trustee of the First Baptist Church in Williamsburg; Thomas Bain, a fugitive slave living in Massachusetts until emancipation, when he returned to Virginia; and Edmund Parsons, a house servant before the war living in Williamsburg. Based on the overall testimony (most of which was taken in February), the committee issued its report in March of 1866.

About the Author

The seven black men who testified before the Joint Committee came from diverse backgrounds. Their ages ranged from twenty-six to fifty. Some were freeborn, and others had been enslaved until the Emancipation Proclamation set them free. Two came from the North but had ties to Virginia. Despite these differences, however, all the men held positions of respect and authority in their local communities and acted as representatives both at the hearings of the Joint Committee and at a freedmen's convention that took place concurrently with the hearings in Washington, D.C.

Daniel Norton, twenty-six and the youngest among the black Virginians, was a physician from New York State who had come south either during or immediately after the war to aid the freed population. Although he was born in Williamsburg, it is not known whether Norton had been a slave or free or at what age he went to New York. Unlike Norton, the Reverend William Thornton, forty-two, had been a slave until 1863, when the Emancipation Proclamation went into effect. Madison Newby, thirty-three and from Surrey County, had been free before the war and owned his own house and land. Richard Hill, thirty-four, was a former slave from Hampton. Alexander Dunlop, forty-eight, was also a free black before the war, worked as a blacksmith, and was a trustee of the First Baptist Church in Williamsburg. Thomas Bain, forty, was a freedman who had escaped Virginia on the Underground Railroad and was living in Massachusetts at the time of emancipation in 1863, when he returned to Virginia as a missionary. Edmund Parsons, who at fifty was the oldest of the men, had been a house slave in Williamsburg. These men's testimony reveals the attitudes of whites toward their former slaves and their efforts to reassert their domination and supremacy in all areas of life. The testimony provides an important view into life

Time Line

1866

- **January** The Joint Committee begins to form four subcommittees to take testimony in Washington, D.C., relating to the condition of the South.
- **February 3** Seven black Virginians testify before the Joint Committee.
- **March 5** The Joint Committee issues its report to Congress and orders the findings and testimony printed for publication.
- **April 9** The Civil Rights Act of 1866 is passed by Congress over presidential veto; the bill guarantees equal protection to all citizens regardless of color.
- **June 13** Fearing that the Civil Rights Act might face a constitutional challenge, Congress proposes the Fourteenth Amendment to the U.S. Constitution.
- **July 16** The bill extending the Freedmen's Bureau is passed over presidential veto.

1868

- **February 24** The House of Representatives votes to impeach President Johnson over conflicts related to Reconstruction policy.
- **July 9** The Fourteenth Amendment is ratified, granting national citizenship "to all persons born or naturalized in the United States" and guaranteeing to them the rights of due process and equal protection.

1870

- **February 3** The Fifteenth Amendment is ratified, guaranteeing universal suffrage to all male citizens.

The surrender of Robert E. Lee to Ulysses S. Grant, ending the Civil War (Library of Congress)

in the immediate postwar South and the struggles between freedpeople and southern whites to define freedom there. It also gives insight into the problems of establishing a system of wage labor after slavery and freedpeople's efforts to gain economic as well as political independence.

Explanation and Analysis of Document

The most powerful testimony came from the small group of black men who testified before the committee. Although they received some condescending questions from some Committee members (particularly Democrats opposed to the whole process), who asked if they had any "white blood" or could read and or write, the black deponents responded patiently and with great detail about freedpeople's desire to live peaceably and build a better life.

They testified to the mistreatment of freedpeople by white southerners and the need for increased federal protection. The physician Daniel Norton, living in Yorktown, Virginia, testified that he believed freedpeople would be "hunted and killed" if federal troops were removed. As a doctor working among the black community, he was in a position to observe their relationship with local whites. He related how numerous freedmen had not been paid their wages and how their white employers threw them off the land and sold the crops that the freedmen had raised. The employers then dared the freedmen to complain to the government. He insisted that freedpeople were "law-abiding citizens" who loved the federal government and wanted nothing more than to work hard and be productive.

Like Norton, the Reverend William Thornton told of the violence freedpeople endured from whites. In his testimony, Thornton recalled how a white man became enraged at his mention of Abraham Lincoln's assassination in a sermon and told Thornton that once the troops and the Freedmen's Bureau were gone, "we will put you to rights" and promised to break up the black churches. Thornton also recounted how a white man shot a neighboring black man who had unintentionally trespassed on the white man's property.

The black witnesses also negated the contentions of many southern deponents that blacks were lazy and indolent and that they committed breaches of the peace by drinking, carrying weapons, and acting aggressively toward whites. Madison Newby, a landowner, related how he had gone to the county courthouse to pay his taxes but found no federal agent there to take them, so he held on to the money, fearing that disloyal southerners would pocket it. He insisted that blacks wanted to work and would work diligently for decent pay. He reminded the committee that as slaves, blacks were used to hard work. He said that in Surrey County whites would tie blacks up by the thumbs if they did not consent to work for low wages. Newby also testified that whites continued to patrol black neighborhoods, searching their houses, confiscating valuables, and terrorizing the residents.

Richard Hill, a former slave from Hampton, reassured the committee that blacks had no intentions of "amalgamating" with the whites. However, Hill did point out that during the years of slavery, white men frequently had sexual relations with black women, and he suspected that this would continue. White southerners and opponents of Radical Reconstruction argued that interracial marriage would result from extending civil and political rights to freedpeople.

Alexander Dunlop had aided Union troops by giving them information about the local area and had suffered because of it. He was considered a "Union man" and targeted for special abuse by former Confederates. He insisted that freedpeople were anxious to get an education. Because they were poor, however, and whites threatened teachers and drove them away, they needed assistance from the government.

Thomas Bain, living and working as a Methodist missionary in Norfolk, told how whites tricked freedpeople into believing that the military officials had ordered them to punish blacks. Because they did not want to disobey the government, Bain said, freedpeople often submitted to being whipped. Like the others, however, Bain also spoke of freedpeople's eagerness for education and independence.

Finally, Edmund Parsons, formerly a slave, testified that before he was emancipated he always felt "secure" with whites but that now he stood in fear of them. He testifies to the threats that had been made against him and describes how he had been evicted from his house. He also indicates that the African Americans he knows would like to become educated and are grateful for any education they receive.

A caricature of Reconstruction under Andrew Johnson, showing an acrobat with legs stretched between the head of Thaddeus Stevens (Library of Congress)

Audience

As part of a Congressional investigation, the Joint Committee's report and testimony aimed to persuade members of Congress to vote in favor of the Radical Republicans' measures and thereby override President Johnson's vetoes of the Freedmen's Bureau and Civil Rights bills. Upon publication, the report and testimony created a public record justifying federal intervention in the South and amending the Constitution to guarantee citizenship rights to African Americans. Northern newspapers reported on the committee's investigation and excerpted testimony, thereby broadening the documents' scope beyond the walls of Congress. In the end, the black Virginians who testified were speaking directly to Congress and the nation.

Impact

After hearing the testimony, the Joint Committee issued a lengthy report and made recommendations to Congress. The report consists of three parts: the majority report, the minority report, and the testimony. The testimony is divided into three parts. Part I contains the testimony from Tennessee; Part II contains that from Virginia, North Carolina, and South Carolina; and Part III contains testimony from Georgia, Alabama, Mississippi, Arkansas, Florida, Louisiana, and Texas. In the majority report, Republican members of the committee made their case against President Johnson's quick restoration of the southern states and called for tougher measures, including continued use of federal troops, the extension of the Freedmen's Bureau, and passage of the Fourteenth Amendment. Citing testimony given to the committee regarding former Confederates' abuse of freedpeople and white Unionists, the report argued that the southern states remained in a state of open rebellion. The minority report, signed by Reverdy Johnson, Henry Grider, and Andrew Rogers, the Democrats on the committee, countered the majority's conclusions by accusing them of stacking the witness pool in their favor and ignoring evidence presented that proved the South was peaceable and that any violence committed

Essential Quotes

"Question. Do they find any difficulty in obtaining employment at fair wages? … Answer. They do find some difficulty. The slaveholders, who have owned them, say that they will take them back, but cannot pay them any wages. Some are willing to pay a dollar a month, and some less, and some are only willing to give them their clothing and what they eat. They are not willing to pay anything for work."

(Dr. Daniel Norton)

"Question. Do you feel any danger? … Answer. We feel in danger of our lives, of our property, and of everything else."

(Alexander Dunlop)

"Question. Are the black people there anxious for education and to go to school? Answer: Generally they are; but in my neighborhood they are afraid to be caught with a book"

(Madison Newby)

"Question. How are the black people treated in Virginia by the whites since the close of hostilities? Answer. The only hope the colored people have is in Uncle Sam's bayonets."

(Thomas Bain)

was the work of outside agitators or freedmen themselves. The minority report supported President Johnson's lenient policy toward the South. The testimony consists of transcripts of the interviews conducted during the committee's investigation, mostly with white witnesses.

The majority report placed the blame for southern violence squarely on President Johnson's shoulders. At the end of the war, the southern states, according to the report, "were in a state of utter exhaustion," but Johnson had missed a golden opportunity to remake southern society for the better. The report charged Johnson with neglecting his obligation to preserve the life and property of loyal citizens: As "commander-in-chief of a victorious army it was his duty, under the law of nations … to restore order, to preserve property, and to protect the people against violence from any quarter until provision should be made by law for their government." The report argued that Johnson had violated his duty by withdrawing military authority and reinstating disloyal leaders. He had ignored evidence of continued disloyalty, hostility to the government, and violence against freedpeople and loyal whites. Furthermore, he had acted unconstitutionally by assuming unilateral power to reorganize the governments of the southern states, a task the report claimed belonged not to the president but to Congress. By portraying Johnson as not simply inept but criminally negligent, the majority report laid the foundations for his future impeachment.

The report's aggressive tone reflected not only the level of animosity that existed between Radical Republicans and President Johnson but also the importance of controlling the war's meaning for the Republican Party. Radical Republicans remained committed to the emancipationist vision of the war. The report rejected the legality of secession and labeled the Confederate war effort as treasonous as well as murderous.

The minority report claimed that once the war ceased, so too did Congress's war power. Therefore, Johnson's policy

of restoration was both expedient and constitutional. They believed that Radical Republicans were driven by greed and revenge. Yet an additional concern animated the minority's opposition to Radical Reconstruction: economics. Not only would it be very expensive to oversee such an expansive Reconstruction effort, it also might delay the South's reemergence as the world's primary producer of cotton.

Whatever the minority objections, the testimony of the seven black men compelled Congress to act on behalf of freedpeople. The Joint Committee's report helped persuade moderate Republicans, who were skeptical of increasing federal intervention, to take a more vigorous path to southern Reconstruction. This shift enabled Radical Republicans to wrest control from President Johnson and eventually led to his impeachment for efforts to circumvent Congress. As a result of the Joint Committee's investigation, Congress extended the Freedmen's Bureau and passed the Civil Rights Act of 1866. The report introduced the Fourteenth Amendment and paved the way for the Fifteenth Amendment, granting universal suffrage to all men regardless of color.

The Joint Committee's report was one of a flurry of such reports and other documents that were issued in 1866. Among them was Carl Schurz's *The Condition of the South: Extracts from the Report of Major-General Carl Schurz, on the States of South Carolina, Georgia, Alabama, Mississippi and Louisiana: Addressed to the President*. Schurz's conclusion was that in his travels throughout the South (at the request of President Johnson), he saw little in the way of national feeling; instead, the war was seen as the result of the perfidy of the Yankees. He noted, too, that while the South fought against the Union, blacks did all they could to aid the Union.

Also in 1866, Secretary of War Edwin Stanton wrote *Murder of Union Soldiers in North Carolina*, a report issued to the U.S. House of Representatives detailing atrocities committed against Union loyalists and any persons or organizations that aided blacks. Stanton noted that churches and schools were favorite targets and that the South was relying on Johnson and a Democratic Congress to keep blacks in subordinate positions. On July 25, 1866, Elihu Benjamin Washburne, a congressional representative from Illinois and a member of the Select Committee on the Memphis Riots, issued a report, *Memphis Riots and Massacres*, to Congress. The riot had taken place in May of that year and was one of the events that prompted Congress to assume control of Reconstruction. During the riot, white mobs attacked a black shantytown in Memphis and killed nearly fifty people in an early show of white southern rejection of emancipation. Meanwhile, after the First Convention of Colored Men of Kentucky, held in Lexington, Kentucky, in March 1866, the group issued its proceedings, asserting the place of African Americans in the body politic. Later that year, in October, the Freedmen held a convention in Raleigh, North Caroli-

Questions for Further Study

1. What was the distinction between "Presidential Reconstruction" and "Radical Reconstruction"? What do you think might have been the effects if Presidential Reconstruction had continued to be the policy of the Union?

2. What do you think were President Andrew Johnson's motives in treating the rebellious South with leniency in the immediate aftermath of the Civil War? Do you believe he was right or wrong? Explain.

3. Throughout the Civil War, numerous people living in the Confederacy were loyal to the Union at heart and, in some instances, did what they could to aid the Union by, for example, providing information to Union generals. What do you think the position of these Union loyalists would have been in the months and years following the war? How vulnerable to reprisals do you think they would have been?

4. Even in the twenty-first century, debates continue to rage about the legacy of the Confederacy and its role in the Civil War. Some people continue to regard the Confederacy—and the Confederate flag—as a symbol of a way of life and of an attitude toward state and regional interests versus federal interests. What is your position on this matter?

5. In the years immediately following the Civil War, many African Americans felt a sense of hope, despite the dangers and abuses they suffered. The Emancipation Proclamation had freed slaves, the Thirteenth Amendment abolished slavery, and numerous African Americans were elected to Congress. What happened? Why did this hope collapse in later years?

na, and through published minutes continued to agitate for equal rights and the vote. These documents, together with the Joint Committee report, gave the president, Congress, and the American public a vivid portrait of southern intransigence in the months following the Civil War.

See also Emancipation Proclamation (1863); Black Code of Mississippi (1865); Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870).

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—Carole Emberton

Document Text

Testimony before the Joint Committee on Reconstruction on Atrocities in the South against Blacks

Washington, February 3, 1866.

Dr. Daniel Norton (colored) sworn and examined.

By Mr. Howard:

Question. Where do you reside?

Answer. I reside in Yorktown, Virginia.

Question. How old are you?

Answer. About 26 years old.

Question. Are you a regularly licensed physician?

Answer. I am.

Question. Where were you educated?

Answer. In the State of New York. I studied privately under Dr. Warren.

Question. How long have you resided at Yorktown?

Answer. About two years.

Question. Are you a native of Virginia?

Answer. Yes, sir; I was born in Williamsburg, Virginia.

Question. What is the feeling among the rebels in the neighborhood of Yorktown towards the government of the United States?

Answer. They do not manifest a very cordial feeling toward the government of the United States. There are some, of course, who do, but the majority do not seem to manifest a good spirit or feeling.

Question. How are they disposed to treat you?

Answer. Me, as a man, they are generally disposed to treat well, but there are others of my fellow-men whom they do not treat as well.

Question. Are you employed as a physician in white families?

Answer. I have not been employed in any white families, except in one case, since I have been there. I principally practice among the colored.

Question. How do the returned rebels treat the colored people?

Answer. They have in some cases treated them well, but in more cases they have not. A number of persons living in the country have come into Yorktown and reported to the Freedmen's Bureau that they have not been treated well; that they worked all the year and had received no pay, and were driven off on the first of January. They say that the owners with whom they had been living rented out their places, sold their crops, and told them they had no further use for them, and that they might go to the Yankees.

Question. What is the condition of the colored people in that neighborhood?

Answer. They are poor, sir. There is a large settlement near Yorktown, called Slabtown, settled by the government during the war with those who came within the lines. The colored people there are doing such work as they can get to do, oystering, &c.

Question. Are not their old masters ready to employ them for wages?

Answer. There have been some sent for, and in several cases they received such bad treatment that they came back again. (Witness related several instances of this kind.)

Question. Are the colored people in your neighborhood willing to work for fair wages?

Answer. They are, sir.

Question. Do they find any difficulty in obtaining employment at fair wages?

Answer. They do find some difficulty. The slaveholders, who have owned them, say that they will take them back, but cannot pay them any wages. Some are willing to pay a dollar a month, and some less, and some are only willing to give them their clothing and what they eat. They are not willing to pay anything for work.

Question. Are the colored people generally provided with houses in which they can eat and sleep?

Answer. Yes, sir; such houses as they have built themselves, slab-houses.

Question. How do the colored people feel toward the government of the United States?

Answer. They feel determined to be law-abiding citizens. There is no other feeling among them.

Question. Are you a delegate sent to the city of Washington by some association?

Answer. I am. I was sent by three counties; I represent, perhaps, something like fifteen or twenty thousand people. The great trouble, in my opinion, is, that the colored people are not more disposed to return to their former homes on account of the treatment which those who have gone back have received.

Question. State generally whether or not the treatment which these colored people receive at the hands of their old white masters is kind or unkind?

Answer. It is not what I would consider kind or good treatment. Of course I do not mean to be under-

stood that there are not some who treat them kindly, but I mean generally; they do not treat them kindly.

Question. In case of the removal of the military force from among you, and also of the Freedmen's Bureau, what would the whites do with you?

Answer. I do not think that the colored people would be safe. They would be in danger of being hunted and killed. The spirit of the whites against the blacks is much worse than it was before the war; a white gentleman with whom I was talking made this remark: he said he was well disposed toward the colored people, but that, finding that they took up arms against him, he had come to the conclusion that he never wanted to have anything to do with them, or to show any spirit of kindness toward them. These were his sentiments.

Washington, February 3, 1866.

Reverend William Thornton (colored) sworn and examined.

By Mr. Howard:

Question. What is your age?

Answer. Forty-two, sir.

Question. Where were you born?

Answer. In Elizabeth City county, Virginia.

Question. What degree of education have you received?

Answer. My education is very narrowly limited; I have not had the advantages of a first-rate education.

Question. You can read and write?

Answer. Yes, sir.

Question. Can you read the Bible?

Answer. Oh, yes, sir.

Question. Can you read ordinary newspapers?

Answer. Yes, sir.

Question. Can you write a letter on business?

Answer. Yes, sir.

Question. Were you ever a slave?

Answer. Yes, sir.

Question. When were you made free?

Answer. I was made free under the proclamation.

Question. Where do you reside?

Answer. Hampton, Elizabeth City county, Virginia.

Question. How do the old rebel masters down there feel toward your race?

Answer. The feeling existing there now is quite disagreeable.

Question. Do they not treat the colored race with kindness down there?

Answer. No, sir.

Question. What acts of unkindness can you mention?

Answer. I was asked the other day if I did not know I was violating the law in celebrating marriages. I did not know that that was the case, and I went up to the clerk's office to inquire; I said nothing out of the way to the clerk of the court; I only asked him if there had been any provision for colored people to be lawfully married. Said he, "I do not know whether there is or not, and if they are granting licenses you can't have any; that is my business, not yours." After I found I was violating the law, I went to the Freedmen's Bureau and stated the case. A provision was afterwards made in the bureau granting licenses, and authorizing me to marry. Some days after that an old gentleman named Houghton, a white man living in the neighborhood of my church, was in the church. In my sermon I mentioned the assassination of Mr. Lincoln. Next day I happened to meet Houghton, who said to me, "Sir, as soon as we can get these Yankees off the ground and move that bureau, we will put you to rights; we will break up your church, and not one of you shall have a church here." Said I, "For what? I think it is for the safety of the country to have religious meetings, and for your safety as well as everybody else's." "We will not have it, sir," said he, and then he commenced talking about two classes of people whom they intended to put to rights, the colored people and the loyal white men. I asked him in what respect be was going to put them to rights; said he, "That is for myself."

Question. Is he a man of standing and condition in the neighborhood?

Answer. He owns property there.

Question. Is he a rebel?

Answer. Oh, yes.

Question. Can you speak of any acts of violence committed by the whites upon the blacks?

Answer. Yes, sir; about three weeks ago a colored man got another one to cut some wood for him, and sent him into the woods adjoining the property of a Mr. Britner, a white man. The colored man, not knowing the line between the two farms, cut down a tree on Britner's land, when Britner went into the woods and deliberately shot him as he would shoot a bird.

Question. Was he not indicted and punished for that?

Answer. They had him in prison.

Question. Is he not in prison now?

Answer. I heard that they had let him out last Sunday morning.

Question. Do you know any other instances of cruelty?

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Answer. I have church once a month in Matthews county, Virginia, the other side of the bay. The last time I was over there an intelligent man told me that just below his house a lady and her husband, who had been at the meeting, received thirty-nine lashes for being there, according to the old law of Virginia, as if they had been slaves. This was simply because they were told not to go to hear a Yankee darkey talk. They said he was not a Yankee but was a man born in Virginia, in Hampton,

Question. Why did they not resist being flogged?

Answer. They are that much down.

Question. Did they not know that they had a right to resist?

Answer. They dare not do it.

Question. Why?

Answer. I do not know. On the 1st of January we had a public meeting there, at which I spoke. The next night when I was coming from the church, which is about a mile and a half from my house, I met a colored man who told me that there was a plot laid for me; I went back to the church and got five of my church members to come with me. I afterwards learned that a fellow named Mahon, a white man, had determined, for my speech that day, to murder me the first chance.

Question. Did that come to you in so authentic a form as to leave no doubt upon your mind?

Answer. I believe he made the threat. The next day he said to me, "We hope the time will come that these Yankees will be away from here, and then we will settle with you preachers." That gave me to understand that the threat was made.

Question. Do you wish to state any other instances?

Answer. These are as many as I care to speak of.

Question. You are up here as a delegate to make representations to the President in reference to the condition of the colored people?

Answer. Yes, sir.

Question. Are you a regularly ordained minister of the gospel?

Answer. Yes, sir.

Question. In what church?

Answer. In the Baptist church.

Washington, February 3, 1866.

Madison Newby (colored) sworn and examined.

By Mr. Howard:

Question. Have you any white blood in you?

Answer. No, sir.

Question. Where were you born?

Answer. In Surrey county, Virginia.

Question. How old are you?

Answer. Thirty-three.

Question. Can you read and write?

Answer. I cannot write; I can read a little.

Question. Can you read the Testament?

Answer. A little.

Question. Have you a family?

Answer. Yes, sir.

Question. Have you been a slave before the war?

Answer. No, sir; I never was a slave.

Question. How do the rebel white people treat you since the war?

Answer. They do not allow me to go where I came from, except I steal in there.

Question. Why not?

Answer. They say I am a Yankee. I have been there, but was driven away twice; they said I would not be allowed to stay there, and I had better get away as quick as possible. I had gone down to look after my land.

Question. Do you own land there?

Answer. Yes.

Question. How much?

Answer. One hundred and fifty acres.

Question. Did you pay for it?

Answer. Yes.

Question. Do you stand in fear of the rebel white men?

Answer. Yes, sir, I do. If all the Union men that are down there would protect us we would not be so much afraid. I went down there to pay my taxes upon my land, but I could not see any person to pay them to; I didn't want to pay any but the United States government; and finally, they told me at the courthouse that I had better let it alone until I could see further about it.

Question. What is your land worth?

Answer. I gave $700 for it.

Question. Is there a house on it?

Answer. Yes.

Question. Do the colored people down there love to work?

Answer. They work if they can get anything for it; but the rebel people down there who have got lands will not let the colored people work unless they work for their prices, and they drive them away. They expect colored people down there to work for ten or eighteen cents a day. Six or eight dollars a month is the highest a colored man can get; of course he gets his board, but he may have a family of six to support on these wages, and of course he cannot do it.

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Question. How do you get your living?

Answer. I am living in Norfolk at present. I piloted the Union forces there when they first came to Surrey; and afterwards the rebels would not let me go back.

Question. Were you impressed by the Union forces, or did you voluntarily act as a guide?

Answer. I was impressed. I told the Union forces when they came that unless they were willing to protect me I did not want them to take me away, because my living was there; and they promised they would see to me.

Question. Did they pay you for your services?

Answer. No, sir.

Question. They gave you enough to eat and drink?

Answer. They gave me plenty to eat when I was travelling, but nothing to drink except water.

Question. Now that the blacks are made free, will they not, if left to themselves without the protection of the whites, become strollers and rovers about the country and live in idleness, and pilfer and misbehave generally?

Answer. No, sir.

Question. Why not?

Answer. Because they have all been used to work, and will work if they can get anything to do.

Question. Do they not want to go away from the old places where they have been accustomed to live and go off west somewhere?

Answer. No, sir; we want to stay in our old neighborhoods, but those of us who have gone away are not allowed to go back. In Surrey county they are taking the colored people and tying them up by the thumbs if they do not agree to work for six dollars a month; they tie them up until they agree to work for that price, and then they make them put their mark to a contract.

Question. Did you ever see a case of that kind?

Answer. Yes, sir, I did.

Question. How many cases of that kind have you ever seen?

Answer. Only one; I have heard of several such, but I have only seen one.

Question. What is the mode of tying up by the thumbs?

Answer. They have a string tied around the thumbs just strong enough to hold a man's weight, so that his toes just touch the ground; and they keep the man in that position until he agrees to do what they say. A man cannot endure it long.

Question. What other bad treatment do they practice on the blacks? Do they whip them?

Answer. Yes, sir; just as they did before the war; I see no difference.

Question. Have you seen them whipped since the war?

Answer. Several times.

Question. By their old masters?

Answer. By the old people around the neighborhood; the old masters get other people to do it.

Question. Do they whip them just as much as they did before the war?

Answer. Just the same; I do not see any alteration in that. There are no colored schools down in Surrey county; they would kill any one who would go down there and establish colored schools. There have been no meetings or anything of that kind. They patrol our houses just us formerly.

Question. What do you mean by patrolling your houses?

Answer. A party of twelve or fifteen men go around at night searching the houses of colored people, turning them out and beating them. I was sent here as a delegate to find out whether the colored people down there cannot have protection. They are willing to work for a living; all they want is some protection and to know what their rights are; they do not know their rights; they do not know whether they are free or not, there are so many different stories told them.

Question. Where did you learn to read?

Answer. I first picked up a word from one and then from another.

Question. Have you ever been at school?

Answer. Never in my life.

Question. Are the black people there anxious for education and to go to school?

Answer. Generally they are; but down in my neighborhood they are afraid to be caught with a book.

Washington, February 3, 1866.

Richard R. Hill (colored) sworn and examined.

By Mr. Howard:

Question. Where do you live?

Answer. Hampton, Virginia.

Question. That is where President Tyler used to live?

Answer. Yes, sir.

Question. Did you know him?

Answer. Yes, I knew him pretty well.

Question. Can you read and write?

Answer. Yes, sir.

Question. How old are you?

Answer. About thirty-four years.

Question. Were you ever a slave?

Answer. Yes, sir.

Document Text

Question. When did you become free?

Answer. When the proclamation was issued. I left Richmond in 1863.

Question. Did you serve in the rebel army?

Answer. No, sir.

Question. Or in the Union army?

Answer. No, sir.

Question. How do the rebels down there, about Hampton, treat the colored people?

Answer. The returned rebels express a desire to get along in peace if they can. There have been a few outrages out upon the roadside there. One of the returned Union colored soldiers was met out there and beaten very much.

Question. By whom was he beaten?

Answer. It was said they were rebels; they had on Union overcoats, but they were not United States soldiers. Occasionally we hear of an outrage of that kind, but there are none in the little village where I live.

Question. What appears to be the feeling generally of the returned rebels towards the freedmen; is it kind or unkind?

Answer. Well, the feeling that they manifest as a general thing is kind, so far as I have heard.

Question. Are they willing to pay the freedmen fair wages for their work?

Answer. No, sir; they are not willing to pay the freedmen more than from five to eight dollars a month.

Question. Do you think that their labor is worth more than that generally?

Answer. I do, sir; because, just at this time, everything is very dear, and I do not see how people can live and support their families on those wages.

Question. State whether the black people down there are anxious to go to school?

Answer. Yes, sir; they are anxious to go to school; we have schools there every day that are very well filled; and we have night schools that are very well attended, both by children and aged people; they manifest a great desire for education.

Question. Who are the teachers; white or black?

Answer. White, sir.

Question. How are the white teachers treated by the rebels down there?

Answer. I guess they are not treated very well, because they have very little communication between each other. I have not heard of any threatening expression in regard to them.

Question. Did you ever hear any threats among the whites to reduce your race to slavery again?

Answer. They have said, and it seems to be a prevalent idea, that if their representatives were received in Congress the condition of the freedmen would be very little better than that of the slaves, and that their old laws would still exist by which they would reduce them to something like bondage. That has been expressed by a great many of them.

Question. What has become of your former master?

Answer. He is in Williamsburg.

Question. Have you seen him since the proclamation?

Answer. Yes, sir.

Question. Did he want you to go back and live with him?

Answer. No, sir; he did not ask me to go back, but he was inquiring of me about another of his slaves, who was with him at the evacuation of Williamsburg by the rebels.

Question. How do you feel about leaving the State of Virginia and going off and residing as a community somewhere else?

Answer. They do not wish to leave and go anywhere else unless they are certain that the locality where they are going is healthy and that they can get along.

Question. Are they not willing to be sent back to Africa?

Answer. No, sir.

Question. Why not?

Answer. They say that they have lived here all their days, and there were stringent laws made to keep them here; and that if they could live here contented as slaves, they can live here when free.

Question. Do you not think that to be a very absurd notion?

Answer. No, sir; if we can get lands here and can work and support ourselves, I do not see why we should go to any place that we do not want to go to.

Question. If you should stay here, is there not danger that the whites and blacks would intermarry and amalgamate?

Answer. I do not think there is any more danger now than there was when slavery existed. At that time there was a good deal of amalgamation.

Question. Amalgamation in Virginia?

Answer. There was no actual marrying, but there was an intermixture to a great extent. We see it very plainly. I do not think that that troubles the colored race at all.

Question. But you do not think that a Virginia white man would have connexion with a black woman?

Answer. I do, sir; I not only think so, but I know it from past experience. It was nothing but the stringent laws of the south that kept many a white man from marrying a black woman.

Question. It would be looked upon as a very wicked state of things, would it not, for a while man to marry a black woman?

Answer. I will state to you as a white lady stated to a gentleman down in Hampton, that if she felt disposed to fall in love with or marry a black man, it was nobody's business but hers; and so I suppose, that if the colored race get all their rights, and particularly their equal rights before the law, it would not hurt the nation or trouble the nation.

Question. In such a case do you think the blacks would have a strong inclination to unite with the whites in marriage?

Answer. No, sir; I do not. I do not think that the blacks would have so strong an inclination to unite with the whites as the whites would have to unite with the blacks.

Washington, D. C. February 3, 1866.

Alexander Dunlop (colored) sworn and examined.

By Mr. Howard:

Question. How old are you?

Answer. Forty-eight years.

Question. Where do you reside?

Answer. In Williamsburg, Virginia. I was born there.

Question. Have you ever been a slave?

Answer. Never, sir.

Question. Are you able to read and write?

Answer. No, sir; I can read some. That was not allowed me there.

Question. Can you read the Bible?

Answer. Yes, sir.

Question. Do you belong to a church?

Answer. Yes; I belong to the First Baptist church of Williamsburg. I am one of the leading men and trustees.

Question. About how many are included in the church?

Answer. Our minutes show seven hundred and thirty-six.

Question. Do you own the church building?

Answer. We do.

Question. Are you a delegate to the President of the United States?

Answer. Yes, sir; I was sent by my people convened at a large mass meeting.

Question. For what purpose?

Answer. My purpose was to let the government know our situation, and what we desire the government to do for us if it can do it. We feel down there without any protection.

Question. Do you feel any danger?

Answer. We do.

Question. Danger of what?

Answer. We feel in danger of our lives, of our property, and of everything else.

Question. Why do you feel so?

Answer. From the spirit which we see existing there every day toward us as freedmen.

Question. On the part of whom?

Answer. On the part of the rebels. I have a great chance to find out these people. I have been with them before the war. They used to look upon me as one of the leading men there. I have suffered in this war; I was driven away from my place by Wise's raid; and so far as I, myself, am concerned, I do not feel safe; and if the military were removed from there I would not stay in Williamsburg one hour, although what little property I possess is there.

Question. In case of the removal of the military, what would you anticipate?

Answer. Nothing shorter than death; that has been promised to me by the rebels.

Question. Do they entertain a similar feeling toward all the freedmen there?

Answer. I believe, sir, that that is a general feeling, I ask them, sometimes, "Why is it? we have done you no harm." "Well," they say, "the Yankees freed you, and now let the Yankees take care of you: we want to have nothing to do with you." I say to them, "You have always been making laws to keep us here, and now you want to drive us away—for what?" They say, "We want to bring foreign immigration here, and drive every scoundrel of you away from here." I told them that I was born in Virginia, and that I am going to die in Virginia. "There is but one thing that will make me leave Virginia," I say, "and that is, for the government to withdraw the military and leave me in your hands; when it does that, I will go."

Question. Has your property been destroyed by the rebels?

Answer. I had not much, except my blacksmith's shop. I carried on a large business there. The rebels and the northern men destroyed everything I had; what the one did not take, the other did; they did not leave me even a hammer.

Question. Have you a family?

Answer. Yes, sir; a wife, but no children; I bought my wife.

Question. How much did you give for her?

Document Text

Answer. I gave four hundred and fifty dollars for my wife, and seven hundred dollars for my wife's sister. After I bought my wife, they would not let me set her free. I paid the money, and got the bill of sale.

Question. What hindered her being free?

Answer. It was the law, they said. She had to stand as my slave.

Question. How extensive is this feeling of danger on the part of colored people there?

Answer. I believe, sincerely, that it is the general feeling.

Question. Did you ever see a black rebel, or hear of one?

Answer. I must be honest about that. I believe that we have had some as big rebel black men as ever were white.

Question. Many?

Answer. No, sir; they are "few and far between;" but I believe that any man who, through this great trouble that we have had, would do anything to stop the progress of the Union army, was a rebel. When Wise made his raid into Williamsburg, I just had time to leave my house and make my escape. They broke up everything I had; they took their bayonets and tore my beds all to pieces. All they wanted was Aleck Dunlop; they wanted to hang him before his own door. One day, since the fall of Richmond, I met General Henry A. Wise at Norfolk. He spoke to me, and asked me how I was. I said, "I am doing a little better than could be expected." Said he, "Why?" Said I, "Them devils of yours did not catch me; I was too smart for them that morning." "Do you think," said he, "they would have hurt you?" "No," said I, "I don't think so, but I know it; they had orders to hang me."

Question. Did Wise admit it?

Answer. He did not say so; but he turned and went off. The day that Wise's men were there, my wife asked them what had I done that they wanted to hang me in preference to anybody else? They said it was because I was a Union man. I had worked for the rebels from the time the war broke out until General McClellan moved up; and then they concocted a scheme to get me to Richmond; but when I saw the wagon coming for me, I went off in the opposite, direction. When General Hooker and General Kearney came there, they sent for me, within three hours of their arrival, and asked me about the country, and what I knew. I gave them all the information I could; that, through a colored friend, got to the secessionists and embittered them against me. The next Union officer who came there was Colonel Campbell, of the 5th Pennsylvania cavalry; and I believe he was as great a rebel as Jeff. Davis. He was governor there for a long time. They captured him, and carried him to Richmond.

Question. The rebels never caught you?

Answer. They have never caught me yet.

Question. How do the black people down there feel about education?

Answer. They want it, and they have a desire to get it; but the rebels use every exertion to keep teachers from them. We have got two white teachers in Williamsburg, and have got to put them in a room over a colored family.

Question. Do the black people contribute liberally to the support of their own schools?

Answer. They are not able, sir. The rebels made many raids there, and destroyed everything they could get their hands on belonging to colored people—beds and clothing.

Washington, February 3, 1866.

Thomas Bain (colored) sworn and examined.

By Mr. Howard:

Question. Where do you reside?

Answer. Norfolk, Virginia.

Question. How old are you?

Answer. I think about forty.

Question. Have you ever been a slave?

Answer. Yes.

Question. When were you made free?

Answer. When emancipation came, I was in Massachusetts; I had got there on the underground railroad. I went back to Virginia after the proclamation, and sent my child away to Massachusetts; I have been down there ever since.

Question. Can you read and write?

Answer. Yes, sir.

Question. Can you write a letter on business?

Answer. Yes, sir.

Question. Can you read the Bible?

Answer. Yes, sir.

Question. And newspapers?

Answer. Yes, sir; I subscribe to newspapers.

Question. What is your business?

Answer. Dentist.

Question. Did you ever start to be a dentist?

Answer. Yes, sir; I was raised in the business.

Question. Where?

Answer. In Norfolk. I spent ten years at it in Norfolk, and ten years in Massachusetts.

Question. Have you a family?

Answer. My wife died some time after I was married; I have one child—a daughter.

Question. Are you here as a delegate from the colored people of Norfolk?

Answer. Yes, sir.

Question. To make representations to the President?

Answer. Yes, sir.

Question. Have you had an interview with him?

Answer. No, sir.

Question. What is the feeling on the part of white rebels at Norfolk towards the colored people?

Answer. Their feelings are very hard—terrible. I have had a chance to travel around some, preaching.

Question. Do you preach?

Answer. Yes, sir; I am a volunteer missionary—a self-sustaining one. The church, under whose auspices I act, is not taxed for my services; neither are the people; I make my practice as I go along; just enough to support me; I can reach most of them in that way; I have a permanent office; and then I travel about the State and preach.

Question. To what denomination do you belong?

Answer. The Wesleyan Methodist.

Question. You preach to the colored people?

Answer. Yes; I have had occasion, of course, to visit a great many.

Question. How are the black people treated in Virginia by the whites since the close of hostilities?

Answer. The only hope the colored people have is in Uncle Sam's bayonets; without them, they would not feel any security; and what is true of the colored people in that respect, is also true of the Union men; the secessionists do not seem to discriminate between them; they do not seem to care whether a northern man is with us or not with us; if he is a Yankee, that is enough; they hardly wait to examine what his views are; it is not uncommon to hear such threats as this: "We will kill one negro, at least, for every rebel soldier killed by them."

Question. Did you, yourself, over hear such a threat as that made?

Answer. I have heard it at night, in the streets of Norfolk. (Witness related some incidents going to show how much afraid the colored people there are of ill treatment from the whites.) Last June there was a threat by a white citizen of Norfolk to get up a riot.

Question. Did he get one up?

Answer. Yes; they got one up.

Question. What did it result in?

Answer. It resulted in three colored men being shot. One white man got shot through the shoulder; had his arm amputated, and died. It was got up to attack the colored people, and clear all the negroes out of the city.

Question. Are the colored people whipped now as they used to be?

Answer. Not in my vicinity; I only hear reports of that.

Question. Have you heard of cases of whipping by white men?

Answer. Yes, sir.

Question. During the summer?

Answer. Yes, sir.

Question. Many cases?

Answer. Yes, sir; and it is not so much that the colored people are afraid of the white people, as it is that they are a law-abiding people.

Question. Do they submit to be whipped?

Answer. They do, in places near where there are military men. They fool the colored people into believing that the military ordered them to be whipped; they do not want to resist the government.

Question. Are the black people down there fond of education?

Answer. I think that they are excelled by no people in an eagerness to learn.

Washington, February 3, 1866.

Edmund Parsons (colored) sworn and examined.

By Mr. Howard:

Question. How old are yon?

Answer. A little over fifty.

Question. Where do you reside?

Answer. In Williamsburg, Virginia.

Question. Can you read and write?

Answer. I can read a little. I have been a regular house-servant, and I had a chance to turn my attention to it.

Question. Have you ever been a slave?

Answer. Yes, sir. I have been a slave from my childhood up to the time I was set free by the emancipation proclamation.

Question. How do the black people in your neighborhood feel toward the rebels?

Answer. I did think myself always secure with the whites; but it is very different now sir, very different.

Question. Do you stand in fear of them?

Answer. Yes, sir.

Question. What have you to be afraid off

Answer. When the Union forces came there first a good many officers became attached to me and my wife, and we felt perfectly secure; but now the rebels

Document Text

use the officers that are there "to pull the chestnuts out of the fire."

Question. Have you heard threats of violence by white rebels against the blacks?

Answer. Yes.

Question. What do they threaten to do?

Answer. They threaten to do everything they can. My wife died about a year ago. I had a house, where I had been living for twenty years. A lawyer there went and got the provost marshal to send a guard and put me out of my house. They broke my things up, and pitched them out, and stole a part of them.

Question. The Union guard?

Answer. Yes, sir; it is a positive fact. They put me out of my own house. That was January, 1866.

Question. What was the pretext for putting you out?

Answer. My wife had been left free. She had a half-sister and a half-brother; and they pretended to be owners of the property where I had been living all my lifetime.

Question. Who was the provost marshal?

Answer. Reynolds.

Question. Do the returned rebels threaten to commit violence on the colored people there?

Answer. I can hear people complaining of that; but I have really been so mortified at the bad treatment I received, that I have not paid much attention.

Question. How do the colored people feel in regard to education?

Answer. They are very anxious to get education, and feel grateful for it.

Question. Are you a member of a church?

Answer. Yes, sir. I have been deacon of the Baptist church for years. It is pretty much my living.

Question. Are you willing to go away and leave old Virginia?

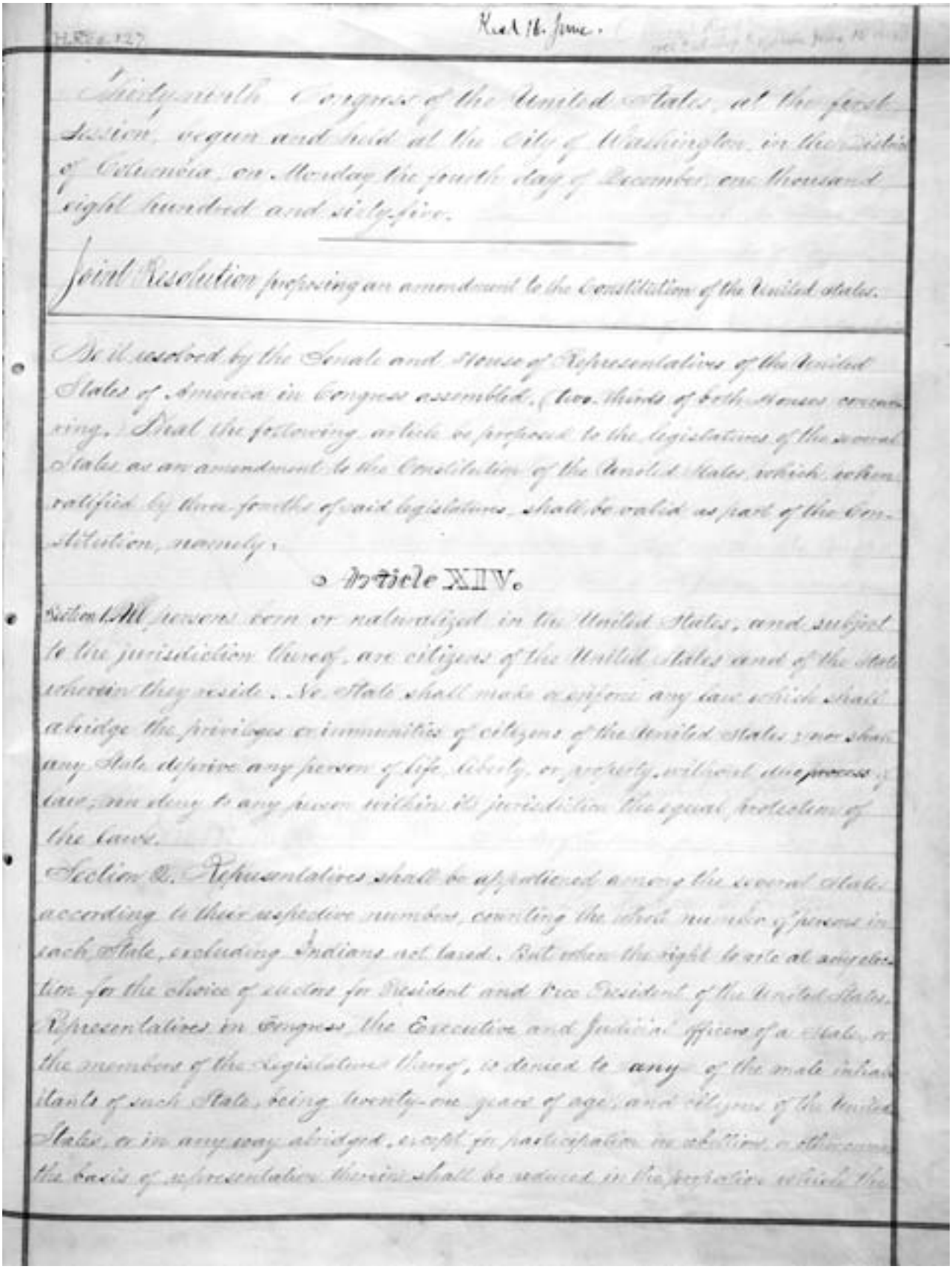
Answer. No, sir.

Question. Why not?

Answer. I would rather stay in Virginia.

Glossary

Colonel Campbell	Colonel Thomas Campbell, the provost marshal for Williamsburg, Virginia
Freedmen's Bureau	The Bureau of Refugees, Freedmen, and Abandoned Lands, established in 1865 to aid newly emancipated African Americans
General Hooker	Joseph Hooker, a major general in the Union army
General Kearney	Philip Kearny, Jr., a brigadier general in the Union army
General McClellan	George McClellan, the commander of all Union forces early in the Civil War
Jeff. Davis	Jefferson Davis, the president of the Confederate States of America during the Civil War
President Tyler	John Tyler, the tenth U.S. president
proclamation	the Emancipation Proclamation of 1863
slab-houses	houses sided with rough-hewn planks of lumber
"to pull the chestnuts out of the fire"	to rescue someone
Uncle Sam	a common nickname for the United States
underground railroad	the informal system of routes, safe houses, and guides who led slaves to the North prior to the Civil War
Wise's raid	a raid by the Confederate cavalry led by General Henry A. Wise on a Union command post in Williamsburg, Virginia, in 1862
Yankees	a common nickname for northerners



Rec'd 16 June.

H.R. No. 127

Thirty-ninth Congress of the United States, at the first Session, begun and held at the City of Washington, in the District of Columbia, on Monday the fourth day of December, one thousand eight hundred and sixty-five.

Joint Resolution proposing an amendment to the Constitution of the United States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said legislatures, shall be valid as part of the Constitution, namely:

Article XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the

The Fourteenth Amendment (National Archives and Records Administration)

Fourteenth Amendment to the U.S. Constitution

1868

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

Overview

Even before the Civil War ended, President Abraham Lincoln wrestled with Congress over how to reconstruct the Union. After Lincoln's assassination, President Andrew Johnson initiated a minimalist program that offended many northerners. The Thirty-ninth Congress, after failing to reach a compromise with Johnson, proposed a constitutional amendment to solve the most pressing issues.

The Fourteenth Amendment extended citizenship and rights to the freed slaves and excluded many prominent former Confederates from government. It revised the formula for congressional reapportionment and settled the status of wartime debts. The Fourteenth Amendment, approved by Congress in June 1866, was pronounced ratified by the states on July 28, 1868. Although today three of its five sections are nonfunctional, the first section of the amendment has been used, especially since the mid-1900s, to expand significantly the rights of African Americans and other groups in society. Accompanying these developments, the powers of the Supreme Court and federal government have increased at the expense of the states. Debate rages to the present day about the ultimate boundaries of the Fourteenth Amendment.

Context

In 1861 the Lincoln administration and Congress declared that the goal of the Civil War was to restore the Union and that slavery was not to be disturbed. By mid-1862 President Lincoln had changed his mind, to the delight of abolitionists and the grudging acceptance of many frustrated northerners. His Emancipation Proclamation and the subsequent Thirteenth Amendment ended the institution. Nevertheless, with the capitulation of the Confederacy in the spring of 1865, the government faced numerous unprecedented questions that the Constitution was unable to answer. Foremost among the uncertainties were, first, the requirements and procedures for readmitting the Confederate states into the Union and, second, the status of the freed slaves. The absence of the politically astute Abraham Lincoln complicated the resolution of these problems.

President Andrew Johnson certainly did not shy away from the task, but his stubbornness allowed for little consultation with Republican congressional leaders. The former Democrat from Tennessee demanded that southern states renounce their Confederate debts and ratify the Thirteenth Amendment. He had little interest in any other steps to assist the freed slaves and was content to leave their progress to state action. Johnson also used presidential pardons to restore some prominent Confederates to political life. He then permitted the obedient former Confederate states to elect state officials as well as representatives and senators to Congress.

The Republican-dominated Thirty-ninth Congress, which first met December 4, 1865, would have none of this. Individual southern states aggravated the situation by enacting so-called Black Codes, which significantly circumscribed the economic and social freedoms of former slaves. At this time political rights were not contemplated by many in the North or South. To counter the Black Codes, Congress passed the Freedmen's Bureau Bill and the Civil Rights Act in February 1866 to give the freed slaves educational and economic opportunities and to guarantee basic civil rights. Johnson vetoed both. Although Congress overrode both vetoes, Republican congressmen concluded that they needed to take a greater initiative to restore the Union and protect African Americans. A constitutional amendment (or series of amendments) seemed the most effective device to remedy the situation and to prevent future legislation from undermining their gains.

About the Author

The Fourteenth Amendment has many authors. It was legislation of the first session of the Thirty-ninth Congress following the recommendation of the Joint Committee on Reconstruction. In general, the Republican majority in Congress was responsible for its major features and success. The criticisms of the Democratic minority did little to reshape the amendment.

Time Line

1861

- **April 12**
  The Confederates bombard Fort Sumter, beginning the Civil War.

1862

- **September 17**
  The Battle of Antietam (Maryland) is a draw, but Robert E. Lee's Army of Northern Virginia is forced to retreat.
- **September 22**
  With the preliminary Emancipation Proclamation, Lincoln warns seceded states of the impending emancipation of slaves.

1863

- **January 1**
  Using his war powers to issue the Emancipation Proclamation, Lincoln frees the slaves in ten states.

1865

- **April 9**
  Lee surrenders at Appomattox Court House, Virginia.
- **April 14**
  Lincoln is shot at Ford's Theatre in Washington, D.C., and dies the next morning.
- **December 18**
  The Thirteenth Amendment is ratified, ending slavery in the United States.

1866

- **March 27**
  President Johnson vetoes the Civil Rights Act.
- **April 6–9**
  The Senate and House of Representatives override the veto of the Civil Rights Act.
- **June 8–13**
  The Senate and House of Representatives pass the final version of the Fourteenth Amendment.

1868

- **July 28**
  The Fourteenth Amendment is pronounced ratified.

John A. Bingham, a Republican representative from Ohio, is usually credited with the wording of the crucial first section of the Fourteenth Amendment. He was born in Mercer, Pennsylvania, on January 21, 1815. He attended Franklin College in Ohio and later studied law. Bingham was admitted to the bar in 1840 and served as district attorney for Tuscarawas County, Ohio, from 1846 to 1849. He was known for his antislavery sentiments and had advocated for the rights of free blacks. In 1854, following the political turmoil of the Kansas-Nebraska Act, Bingham was elected to Congress. Although Bingham was defeated in the 1862 congressional election, Lincoln employed his talents in the Bureau of Military Justice and then as solicitor in the U.S. Court of Claims. In the spring of 1865 he was a judge advocate in the commission that tried the Lincoln assassination conspirators. Bingham was returned to Congress, taking his seat in December 1865. In the Joint Committee on Reconstruction, Bingham played an active role, especially in composing draft after draft of what would become the Fourteenth Amendment. Ironically, he was one of the few Republicans who agreed with President Johnson that the Civil Rights Act of 1866 was unconstitutional. Bingham, however, felt that the true solution was a constitutional amendment legitimizing the federal government's protection of black rights. In 1868 Bingham was instrumental in the impeachment of President Johnson. He failed to be renominated in 1872. President Ulysses S. Grant appointed the former congressman to be minister to Japan in 1873, where he served for twelve years. Bingham died in Cadiz, Ohio, on March 19, 1900.

Thaddeus Stevens, a Republican representative from Pennsylvania, led a vigorous opposition to President Johnson's Reconstruction program. His motion created the Joint Committee on Reconstruction to investigate whether southern congressmen should be seated and to propose guidelines for the states' restoration. Stevens, who served as cochair of the Joint Committee, strove to secure maximum punishment of the former Confederates and maximum rights for the freedmen. Born in Danville, Vermont, on April 4, 1792, Thaddeus Stevens graduated from Dartmouth College in 1814 and moved to Pennsylvania that same year. He was admitted to the bar in 1816 and established a law practice in Gettysburg and later in Lancaster. He defended many fugitive slaves without taking a fee. Stevens served in the Pennsylvania legislature and the convention to revise the state constitution. He refused to sign the constitution because it restricted suffrage to white men. From 1849 to 1853 Stevens served in Congress as a Whig who opposed the extension of slavery. He returned to the House of Representatives in March 1859 as a Republican and represented Pennsylvania there until his death on August 11, 1868.

Stevens was the leader of the Radical Republicans in the House during and after the war. He was a vocal critic of Lincoln's moderation on slavery and Reconstruction. He felt that the former Confederate states were conquered territories and that Congress had primary responsibility to supervise such territories. Stevens pushed as hard as

he could to secure black suffrage and to disfranchise all Confederates, whom he classified as traitors. Unlike some radicals, however, Stevens had a pragmatic streak. When leading the debate in favor of the passage of the Fourteenth Amendment, he responded to his fellow radicals that he was disappointed with the proposed amendment, but as to why he would "accept so imperfect a proposition? I answer, because I live among men and not among angels." Stevens continued to advocate black suffrage as a condition of readmission to the Union. Two years later he demanded the impeachment of President Johnson, but he was fatally ill at the time and left the matter in the hands of others, including Bingham.

The members of the Joint Committee on Reconstruction conducted the early debates on the Fourteenth Amendment. In January 1866 alone they received more than fifty proposals for constitutional amendments. From the House, in addition to Stevens and Bingham, were Elihu B. Washburne of Illinois, Roscoe Conkling of New York, George S. Boutwell of Massachusetts, Justin S. Morrill of Vermont, Henry T. Blow of Missouri, Henry Grider of Kentucky, and Andrew J. Rogers of New Jersey. The Senate appointed William Pitt Fessenden of Maine, James W. Grimes of Iowa, Jacob M. Howard of Michigan, Ira Harris of New York, George H. Williams of Oregon, and Reverdy Johnson of Maryland. Rogers, Grider, and Johnson were the only Democrats on the committee. Although he was often ill, Fessenden acted as a moderate counterbalance to Stevens's designs.

Time Line

1869
- **March 4**
Ulysses S. Grant is inaugurated as president.

1870
- **July 15**
Georgia is readmitted to the Union, becoming the final former Confederate state to be reconstructed.

1873
- **April 14**
With their decision in the Slaughter-House Cases, the Supreme Court significantly restricts the scope of the Fourteenth Amendment.

1883
- **October 15**
With their decision in the Civil Rights Cases, the Supreme Court limits enforcement of the Fourteenth Amendment by declaring the Civil Rights Act of 1875 unconstitutional.

1896
- **May 18**
With the *Plessy v. Ferguson* decision, the Supreme Court permits "separate but equal" facilities for African Americans.

Explanation and Analysis of the Document

♦ Section 1

The least controversial part of Section 1 is the first sentence, which makes it clear that the former slaves are now citizens of the United States and citizens of the states in which they live. National citizenship is thus defined for the first time. This pointedly overturns the *Dred Scott* decision of 1857. In that Supreme Court case, Chief Justice Roger Taney denied Dred Scott, a slave, his freedom in part on the ground that a black might be a citizen of a state but not of the United States. Therefore, Scott had no right to sue in a federal court. In 1866, however, Republicans wanted to prevent former slaves from slipping into a half-free position by explicitly granting them citizenship and at least the promise of federal protection.

The lengthy second sentence contains three distinctive clauses; the meaning of each remains controversial today. Each prohibits certain state actions. First, the Fourteenth Amendment guarantees to every citizen privileges and immunities; second, all "persons" are protected from a loss of life, liberty, and property without "due process"; and, third, all are to enjoy the "equal protection of the laws." At a minimum, congressmen were determined to stop the southern states from enacting Black Codes that recreated a form of near-slavery. Many, including John Bingham, specifically declared that their intention was to constitutionalize the Civil Rights Act of 1866. Former abolitionists had long wanted to extend to African Americans the natural rights that are celebrated in the Declaration of Independence. The vagueness of Section 1 emerges from the "the difficulties inherent in any attempt to incorporate a natural law concept into a constitution or public law, especially in a federal system," as Harold Hyman and William M. Wiecek put it. "No legal authorities supplied neat definitions of civil rights; none does today, or can."

John Bingham, the principal author of Section 1, took the terms "privileges and immunities" from Article IV, Section 2, of the U.S. Constitution. He and Senator Jacob Howard argued that the phrase embraced not only the rights that the states created for their citizens but also the Bill of Rights. Many scholars today agree with Bingham that the federal government has the power to enforce the Bill of Rights in the states. This represented a huge expansion of federal power in the 1860s. Some of Bingham's colleagues and later scholars disputed this broad interpretation. They observed that privileges and immunities preceded the Bill of Rights and the wording simply meant that citizens visiting from another state would enjoy the same rights as the citizens of that state. These rights might include freedom of movement, property rights, and

John A. Bingham (Library of Congress)

freedom to make contracts. In essence, the privileges and immunities clause guarantees equality within a state. In the Slaughter-House Cases (1873) the Supreme Court declined to apply the privileges or immunities clause to a Louisiana state law. While most constitutional scholars see this as a poor decision, it would have the real effect of negating whatever meaning the phrase had.

Section 1 guarantees every person "due process of law." Bingham took this phrase from the Fifth Amendment, which says that the federal government cannot deny due process. The Fourteenth Amendment dictates that a state may not do so either. The accepted interpretation of due process is simply that the legal rules, proceedings, and customs of a state are available to all persons in that state, again with an emphasis on equality for all. Later in the nineteenth century, the Supreme Court would expand the meaning of due process by examining how laws and regulations affected the life, liberty, or property of persons.

Finally, Section 1 restricts states from denying "to any person … the equal protection of the laws." In the 1860s this was another assertion of equal justice and that states could not discriminate against groups of individuals by selectively enforcing laws. As such, it is a subset of rights contained in the privileges and immunities clause. For decades the clause had little impact, to the point where Justice Oliver Wendell Holmes ridiculed it as "the last refuge of a lawyer with no other arguments to make." Again, in time, the meaning of the equal protection clause would change. Because of the confusion over the meaning of "privileges or immunities," the interpretation of what constitutes "equal laws" resulted in a vast expansion of rights and government-enforced toleration of minority groups in society.

♦ Section 2

The Thirteenth Amendment ended slavery, but it remained unclear how to apportion members of Congress in the absence of the three-fifths clause (Article I, Section 2, of the Constitution). On one level the Fourteenth Amendment's answer is not surprising; apportionment is based on the total number of people, excluding Native Americans on reservations and tribal areas. According to Section 2, if a state discriminates against any group of adult males by preventing them from voting for federal or state offices, the state would be punished by losing representation. The total number of people would be reduced in proportion to the group of voters that is excluded. In other words, a state could not benefit with a full representation in Congress if they refused to let some of their male citizens vote.

This section represents a complicated compromise. Radical Republicans like Thaddeus Stevens and Charles Sumner of Massachusetts demanded black suffrage. While most northerners wanted protection for African Americans in the South, they generally were not prepared to give them the right to vote in either the South or the North. On the other hand, if blacks were to be counted as full persons, not three-fifths persons, the southern states would gain approximately ten to twelve representatives. It seemed ironic that because of four years of bloodletting, white southerners would increase their presence in Congress without recognizing the needs and rights of the freedmen. At that time, northern states had small black populations, so excluding them made no difference in their congressional delegations. Senator James Grimes proposed the solution to forgo black suffrage but to prevent the increase of the southern delegation in the House of Representatives. If a former slave state wanted to grant its black male citizens the vote, then the apportionment would change. The Fifteenth Amendment granting suffrage to African Americans would make this section largely moot.

Despite the protests of Elizabeth Cady Stanton, Susan B. Anthony, and other leaders of the women's rights movement, the word *male* is used here for the first time in the Constitution. There would be no penalty for denying women the right to vote.

♦ Section 3

The Fourteenth Amendment prevented some Confederates from serving in federal and state offices. This section was also a product of compromise. Radicals wanted to disfranchise anyone who had aided the Confederacy, but this move was seen as too draconian, if not impractical. If blacks were denied political rights, the former Confederate states would be in turmoil for decades. Instead, Congress came up with a much milder punishment. If one had held state or federal office before the Civil War but

In this 1866 engraving, Andrew Johnson holds a leaking kettle labeled "The Reconstructed South" toward a woman representing liberty and carrying a baby who represents the newly approved Fourteenth Amendment. (Library of Congress)

then renounced loyalty to the United States, that person was to be forbidden to hold federal or state office, with two exceptions. First, anyone who received a presidential pardon before the ratification of the Fourteenth Amendment could hold office. Second, the amendment allowed Congress to pardon, in effect, an individual by a two-thirds vote in each house.

Northerners were upset by two patterns in the months following the end of the war. First, President Johnson was increasingly lenient to wealthy former slaveholders who came to plead for mercy or who sent their spouses to do so. Second, as Johnson's approved state governments came into operation, former Confederate military officers and political leaders were filling positions in state government and being sent to Washington, D.C., to assume seats in Congress. The South's leaders were not showing sufficient sorrow for the death and destruction they had caused.

A substantial amount of the debate recorded in the *Congressional Globe* surrounds this section and its earlier drafts. Some like Stevens wanted severe penalties for all Confederates. Others wanted disfranchisement until 1870 or 1876. The compromise was to deny political power

Essential Quotes

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

(Section 1)

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed."

(Section 2)

"No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same."

(Section 3)

to as many established southern leaders as possible with the hope that new white leaders would emerge with more conciliatory views. As crucial as Section 1 was for the future, Stevens concluded one of his last speeches about the Fourteenth Amendment by exclaiming, "Give us the third section or give us nothing."

♦ Section 4

The Fourteenth Amendment makes it clear that all the debts the United States incurred in prosecuting the war, including soldiers' bounties for enlisting and their pensions, war bonds, greenback currency, and other debts, were legitimate. All Confederate debts, including their paper money and bonds, were worthless. Furthermore, slave owners would not be reimbursed for the loss of their slaves. This section is largely obvious to all. Some Radical Republicans tried to scare the northern public into thinking that if President Johnson had his way and if the Democratic Party gained control of Congress, northern creditors would not be paid in full but Confederates *would* be paid in full. This was nonsense, or perhaps it was just a ploy to get votes. This section, however, reassured the Union's backers—both foreign and domestic. British shipbuilders who had financed and supplied Confederate blockade-runners, on the other hand, were out of luck. Finally, there was some concern that the Emancipation Proclamation and the Thirteenth Amendment conflicted with the Fifth Amendment, since no one, not even slaveholders, could have their property taken from them without due process of law. Section 4 resolves the issue by explicitly stating that slaveholders would not be compensated for freed slaves.

♦ Section 5

The single sentence of Section 5 repeats Section 2 of the Thirteenth Amendment almost verbatim. Congress would have the authority to defend the rights outlined in Section 1. When Congress passed the Freedmen's Bureau Bill and the Civil Rights Act of 1866, many Republicans felt they had the authority under this provision of the Thirteenth Amendment. President Johnson disagreed, and Republicans feared that the Supreme Court might back the president's interpretation. By reemphasizing

Congress's authority in the Fourteenth Amendment, Republicans thought that the problem could be avoided. The Ku Klux Klan Act of 1871 (also called the Civil Rights Act of 1871) and the Civil Rights Act of 1875 are just two manifestations of that belief.

Audience

As an addition to the Constitution this legislation was addressed to the entire nation. Each supporter of the amendment in Congress had his own opinion as to how the balance of federal and state powers was changed to the advantage of the former. All agreed that the rights of all citizens were being expanded.

More specifically, the Fourteenth Amendment was a message to four distinct audiences who had very different interests. First, the amendment told President Johnson that Congress was taking charge of Reconstruction policy. If the southerners (with Johnson's silent consent) were not going to protect the lives and rights of African Americans, Congress would do so. Section 3 struck at Johnson's liberal pardoning policies. President Johnson, of course, would not accept this message and took on the Republicans as they campaigned for Congress in the fall of 1866.

Second, the Fourteenth Amendment was addressed to the former Confederate states. Southern whites were being told to heed Congress if they wished to reenter the Union. They would need a new political leadership, and their Black Codes were unacceptable. Originally, there was a provision that would have admitted a state's delegation to Congress upon its ratification of the Fourteenth Amendment. That measure was tabled. Here the Radical Republicans had their way. Tennessee quickly ratified the amendment and was readmitted, but this move clearly did not set a precedent. It was presumed by many, however, that ratification would substantially advance the states toward readmission. Section 2 also prodded the southern states to adopt black suffrage. Unfortunately, President Johnson encouraged southerners to reject the amendment. With no clear promise of readmission and the drastic consequences of the amendment, white southerners balked.

Third, the message sent to northern voters was that Republicans in Congress, not the president, had their interests at heart. Although it is difficult to measure public opinion, it is safe to say that northerners wanted the South to pay and to express sorrow for what they had done. They also wanted some degree of protection for southern blacks. Johnson and white southerners had utterly disappointed them. Republicans gave the northern electorate hope. By avoiding black suffrage directly, punishing Confederate leaders, and guaranteeing the payment of debts, the Fourteenth Amendment was a rallying issue for Republicans in the 1866 and succeeding elections.

Fourth, for oppressed southern blacks, struggling to make their way amid a hostile and humiliated white population, the Fourteenth Amendment held much promise. Should they ever get the right to vote, the party of Lincoln would be their destination. In the meantime, southern blacks relied upon Congress for protection. The Joint Committee on Reconstruction published a report too late to be used by Congress, but it documented the plight of the freedmen and, of course, appealed to the northern public to aid them.

Impact

Politically the Fourteenth Amendment struck a positive chord with the northern electorate. Not surprisingly, President Johnson misjudged public sentiment. The congressional elections of 1866 produced decisive Republican majorities in both the Senate and the House. The North trusted Congress with the responsibility of Reconstruction, which President Johnson might resist at his own peril.

The Fourteenth Amendment required the ratification of twenty-eight of the thirty-seven states. Connecticut was the first to ratify (June 25, 1866), followed quickly by New Hampshire (July 6) and Tennessee (July 19). Ratification became complicated when, in early 1868, New Jersey and Ohio tried to rescind their approvals. By July 28, 1868, Secretary of State William Seward certified that twenty-eight states had ratified the Fourteenth Amendment, allowing it to go into operation.

The Fourteenth Amendment, and particularly Section 1, has had a complicated history. Supreme Court justices and constitutional scholars have read the intentions of its authors in different ways. The legal scholar Alexander Bickel concludes that Section 1 fulfilled the moderate Republicans' objective of striking down the Black Codes but speculates that perhaps there was a compromise to create language that "was sufficiently elastic to permit reasonable future advances." Thus, the debate about how far to stretch the Fourteenth Amendment continues to rage.

In the Slaughter-House Cases (1873), the Supreme Court pulled away from an expansive application of Section 1 of the Fourteenth Amendment. The state of Louisiana had the right to create "reasonable" laws, and "reasonable" was defined as applying equally to all. The federal government had no responsibility to supervise the states and should concern itself with fundamental rights. The Court's majority refused to explore the meaning of "privileges or immunities." In the Civil Rights Cases (1883), the Supreme Court struck down the Civil Rights Act of 1875, which prevented discrimination in public accommodations and by private individuals. The Court claimed that the Fourteenth Amendment dealt only with discrimination by state governments. Sadly, the Court's majority in *Plessy v. Ferguson* (1896) reached the conclusion that "separate but equal" facilities were constitutional.

The concept of due process evolved in important ways. In several cases the Supreme Court examined the substance of state laws to determine whether individuals' liberty and property were unfairly impinged on. In *Munn v. Illinois* (1876) the Court declared that the State of Illinois could serve the public good by imposing maximum rates charged by grain-storage operators,

even though those operators might lose profits. In *Santa Clara County v. Southern Pacific Railroad Company* (1886) the Court broadened the definition of person to include corporations, who then sought relief from state regulations as an infringement of their property under due process. The Supreme Court began to inspect the details of laws, not just the procedures. This is termed "substantive due process." Such an approach led to the striking down of state regulation of businesses, including laws setting maximum work hours or improving working conditions. *Lochner v. New York* (1905) is often cited as the classic statement of the doctrine. Amid the massive distress caused by the Great Depression, applying substantive due process to economic regulation was discredited. What is significant is that substantive due process shifted to the "equal protection of the laws" portion of the Fourteenth Amendment.

In the late 1930s Justice Hugo Black suggested that the equal protection clause meant that the federal government had the responsibility to impose the Bill of Rights on the states. The so-called doctrine of incorporation, whereby the Fourteenth Amendment incorporates the liberties in the Bill of Rights and allows the courts to apply them to state laws, is quite controversial. Cases involving gay rights and affirmative action rely on Section 1 of the Fourteenth Amendment. The Supreme Court in *Griswold v. Connecticut* (1965) said the Bill of Rights and the Fourteenth Amendment created a zone of privacy for individuals against government intrusion. As such, in *Roe v. Wade* (1973) the Supreme Court ruled that state laws forbidding abortion represented a violation of a woman's right to privacy and were unconstitutional.

In today's society Section 1 has made it clear that the ways in which states treat their own citizens is a question of federal law. The responsibility of interpreting the Fourteenth Amendment has fallen into the hands of the federal judiciary and has significantly shifted the balance of power in our federal system. The debate over what rights the Fourteenth Amendment protects and the extent of substantive due process to investigate state laws will continue well into the future.

The fates of the other sections of the Fourteenth Amendment were relatively anticlimactic. The Fifteenth Amendment, which allows black suffrage, largely supplanted Section 2. Furthermore, despite decades of regulations in southern states inhibiting black voting, Section 2 was never invoked. No attempt was made to diminish southern congressional delegations. By the late 1890s those former Confederates who were adversely affected by Section 3 were either dead or had been pardoned by Congress. In a symbolic vote in 1978 Congress removed the political disability of Jefferson Davis and Robert E. Lee. With regard to Section 4 the status of the debts of the Union and Confederacy was never in doubt.

See also Emancipation Proclamation (1863); Black Code of Mississippi (1865); Thirteenth Amendment to the U.S. Constitution (1865); Fifteenth Amendment to the U.S. Constitution (1870); *Plessy v. Ferguson* (1896).

Questions for Further Study

1. How does the Fourteenth Amendment respond to the concerns of President Johnson in his veto of the Civil Rights Act of 1866? To what extent are the goals of the Civil Rights Act contained in the Fourteenth Amendment?

2. Does the Fourteenth Amendment undermine the federal system set up by the Constitution by subverting the rights of the states? Does it delegate too much power to the central government? Has this readjustment of powers been taken too far in our current society?

3. Does the Fourteenth Amendment undermine democracy by overemphasizing equality at the expense of majority rule and the predominant values of American society?

4. Constitutional scholars and Supreme Court justices debate whether the Fourteenth Amendment incorporates the Bill of Rights. To what degree does the Bill of Rights conflict with or complement the intention of Section 1 of the Fourteenth Amendment?

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"14th Amendment to the U.S. Constitution." Library of Congress "Primary Documents in American History" Web site. http://www.loc.gov/rr/program/bib/ourdocs/14thamendment.html.

—M. Philip Lucas

Document Text

Fourteenth Amendment to the U.S. Constitution

♦ **Section 1.**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

♦ **Section 2.**

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

♦ **Section 3.**

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

♦ **Section 4.**

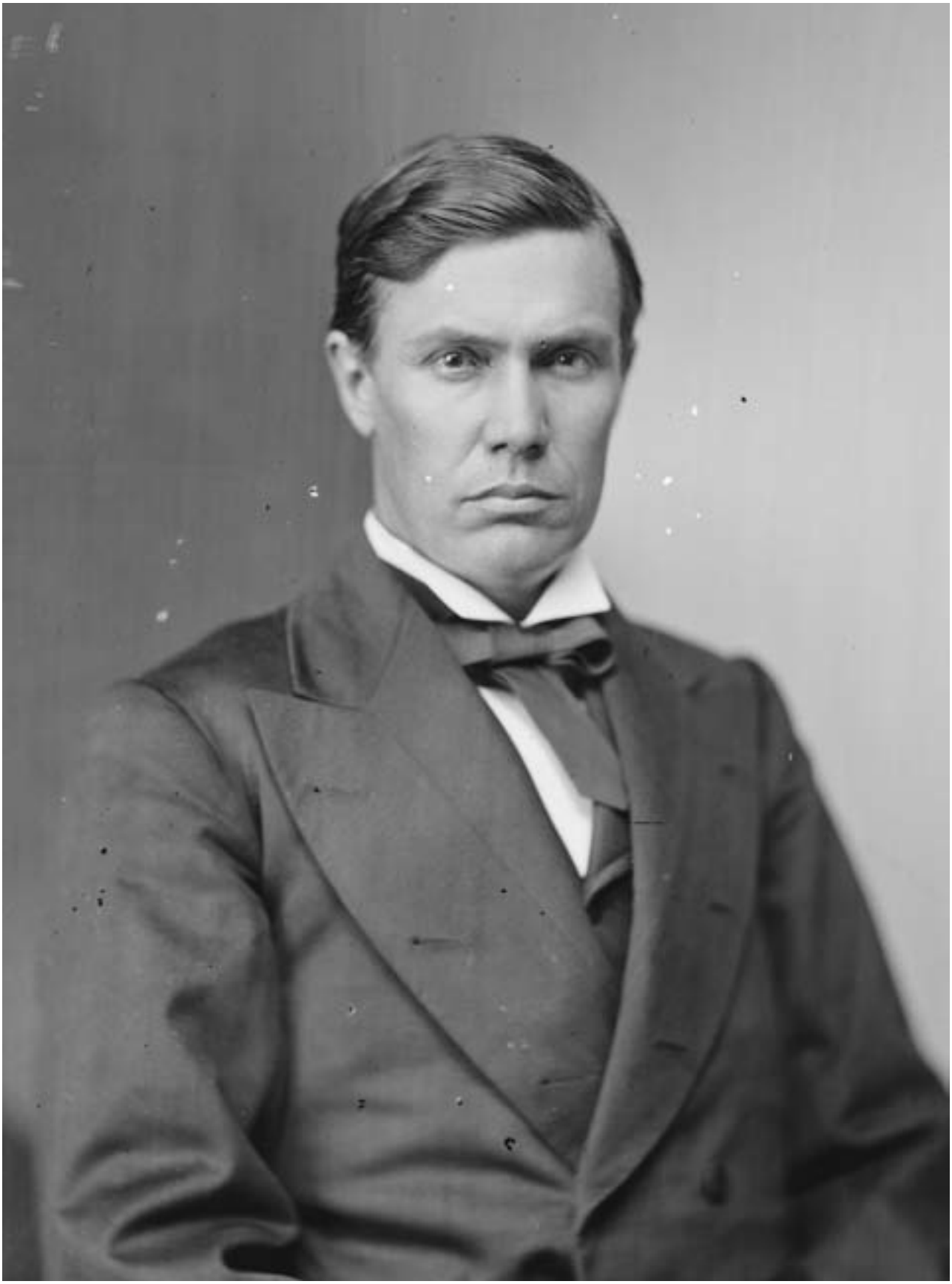
The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

♦ **Section 5.**

The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Glossary

abridge	lessen or curtail
bounties	recruitment money for those volunteering for the army
due process of law	regular legal proceedings and customs
immunities	exemptions
jurisdiction	authority of a government power



Milton A. Candler (Library of Congress)

Henry McNeal Turner's Speech on His Expulsion from the Georgia Legislature

1868

"Am I not a man because I happen to be of a darker hue than honorable gentlemen around me?"

Overview

Henry McNeal Turner's speech to the Georgia legislature in September 1868 was a direct response to the expulsion by that body of twenty-seven African American state legislators. In the first elections initiated by Radical Reconstruction in July 1867, three African Americans were elected to the Georgia Senate and twenty-nine to the Georgia House of Representatives. These black legislators represented a Republican Party that hoped to rise to power in the Reconstruction South by creating a coalition among the newly enfranchised freedmen, sympathetic native southern whites, and northern whites who had come to the South seeking economic prosperity and political opportunities. As in most southern states, Georgia Republicans were riven by factional disputes. Democrats, hoping to take advantage of Republican factionalism, sought means to regain political power for conservative whites.

Years earlier, former governor Joseph E. Brown had suggested the expulsion of the recently elected black legislators on the ground of constitutional ineligibility. On August 6, 1868, a resolution from the House minority committee declared a mulatto representative ineligible. Soon after that, the Democratic state senator Milton A. Candler presented a motion to investigate the eligibility of African Americans to sit in the legislature. White Republicans in the Georgia legislature faced public pressure to attack the evils of "Negro government." By early September, enough Republicans joined with Georgia Democrats to pass resolutions removing African Americans from the legislature. The Senate voted twenty-four to eleven for these resolutions, specifically expelling the blacks Tunis G. Campbell and George Wallace as "ineligible to seats, on the ground that they are persons of color, and not eligible to office by the Constitution and laws of Georgia, nor by the Constitution and laws of the United States." White conservative strength was stronger in the state House of Representatives, where the final vote, cast on September 2, 1868, was eighty-three to twenty-three. In all, close to thirty Republicans in the Georgia legislature supported the measure either by voting for it or by abstaining.

The Republican governor Rufus Bullock defended the expelled blacks, claiming that "the framers of the Constitution made no distinction between electors or citizens on account of race or color, and neither can you." Bullock aimed his protest at the nation's capital, where, with support from black leaders in Georgia, Congress passed the Congressional Reorganization Act of 1869, reconvening the Georgia legislature of 1868 and reseating those black members who had been expelled.

The speech of Henry M. Turner was rooted in an experiment in biracial democracy that underlay Radical Reconstruction. It thus speaks to several important issues in African American political history and in the history of Reconstruction. It sheds illuminating light on the nature of black political leadership, the dynamics of Reconstruction politics in the South, and the ideology of African American leaders during Reconstruction.

Context

During the American Civil War and in its immediate aftermath in 1865, the president took responsibility for reconstructing the Union. In a number of moves made in 1863 and 1864, then President Abraham Lincoln had signaled a moderate approach to reuniting the nation. Lincoln placed his faith in former white Unionist leadership, though he did signal his willingness to see limited suffrage for some blacks. He also registered his opposition to the more radical extremes of Reconstruction by his veto of the Wade-Davis bill (1864), which would have required a prohibition on slavery and made former Confederate states' readmittance to the Union contingent on a majority vote of the so-called Ironclad Oath, which repudiated prior support for the Confederacy. After the Confederate surrender at Appomattox and Lincoln's assassination on April 14, 1865, President Andrew Johnson announced his own plan of Reconstruction. He promised amnesty to those who pledged allegiance to the United States and accepted emancipation, and he announced provisional governors for each of the former Confederate states and required them to ratify the Thirteenth Amendment abolishing slavery, nullify their secession ordinance, and repudiate the Confederate

Time Line

1865

- **June**
  Presidential Reconstruction begins in Georgia when President Andrew Johnson names James Johnston provisional governor.

1867

- **March 7**
  Congress passes the first of four Reconstruction Acts, beginning the process of Radical, or Congressional, Reconstruction in Georgia and nine other southern states.
- **May**
  Georgia blacks organize into Republican Party.
- **October**
  Georgia votes to hold a constitutional convention.
- **December–March**
  The Georgia constitutional convention meets in Atlanta.

1868

- **June**
  Georgia fulfills the requirements of Congressional Reconstruction and is restored to the Union.
- **September 3**
  Turner is one of the delegates to be expelled from the Georgia legislature, prompting his speech.
- **October**
  Turner calls for a convention of black leaders in Macon.
- **December**
  President Grant and Congress reimplement military rule in Georgia.

1870

- **December**
  The Democrats defeat Republicans in state elections.

1871

- **February**
  Georgia is finally readmitted to the Union.
- **October**
  Republican governor Rufus Bullock resigns and leaves the state to avoid certain impeachment. A conservative government is reestablished in Georgia.

debt. Yet during the summer and fall of 1865, southerners exhibited a defiance that disturbed many northerners. They reelected former Confederates to office and passed a series of "Black Codes" that severely compromised the freedom and civil rights of former slaves. In December 1865, Congress refused to recognize these Johnsonian governments, moving Reconstruction into a new phase. The northern senators and representatives were dissatisfied with the readmission process that led to the election of these new southern members of Congress. In not seating them, they also served notice that Congress would make its own terms for Reconstruction.

The framing of Reconstruction policy now lay in the hands of Congress. Led by a Radical faction driven by antislavery idealism and by a commitment to black freedom and civil equality, Congressional Republicans passed a more stringent program of Reconstruction. They first moved to protect the rights of freedmen by extending the life of the Freedmen's Bureau. They also put through the Civil Rights Act of 1866, which asserted the power of the federal government to protect black rights by intervening in state affairs. In June 1866, Congress passed the Fourteenth Amendment (adopted July 9, 1868) that set the basis for citizenship. Still, ten former Confederate states refused to ratify the amendment. In response, Congress passed the first of four Reconstruction Acts on March 7, 1867, which divided ten southern states into five military districts and declared the existing state governments illegitimate and subject to military commanders. Georgia was part of the Third Military District commanded by Major General John Pope. The Reconstruction Acts called for a new registration of voters to elect delegates to constitutional conventions. They also allowed for freedmen to vote while proscribing certain groups of whites. Thus began the period of Congressional, or Radical, Reconstruction in the South.

The process of registration and elections spurred the creation of a Republican Party in the former Confederacy. In all southern states, the Republicans were an alliance of northern whites, native southern white supporters, and African Americans. While blacks constituted a majority of Republican voters in the southern states, they were only a majority of the population in two states, South Carolina and Mississippi. Although the extent of black domination of Reconstruction governments was exaggerated by those whites who opposed them, blacks did serve in the U.S. Congress, state executive and legislative positions, and local offices.

During 1865 and 1866, Freedmen Bureau agents helped initiate the rise of the Republican Party. They made speeches, encouraged organization, and supported the development of a partisan press. Henry M. Turner was a former army chaplain assigned to the bureau in Georgia. The bureau also supplied one of the key players in Georgia Reconstruction politics: John Emory Bryant, a former Union army officer from Maine, founded the Republican newspaper *Loyal Georgian* in Augusta, Georgia, and later served at the constitutional convention of 1867. Clergymen and missionaries from the Northern Methodist Church also assisted in the birth of the Republican

Party. In January 1866 a new organization, the Georgia Equal Rights Association, took the lead in spearheading efforts to mobilize support for Reconstruction. They received help from Union Leagues, pro-Union secret societies formed after the Civil War. The leagues were first popular in the Unionist strongholds in northern Georgia but did little to attract the interest of freedmen. In 1867, General Pope divided Georgia into registration districts to register voters to vote on a constitutional convention. Registration included 102,411 whites and 98,507 blacks. The Republican Party in Georgia was ready for the elections. By March they had a state executive committee and a party chairman.

As in other southern states in 1867, Republican freedmen and their southern and northern white allies were victorious in the elections calling for a constitutional convention. In Georgia, Republicans took advantage of Democratic disorganization and lethargy. Frustrated and discouraged white conservatives sat out the election; only 36,500 whites voted, of the more than 100,000 who had registered. The voters of Georgia approved a convention 102,282 to 4,127. The Georgia constitutional convention began on December 9, 1867. More than 80 percent of the delegates were white, a figure unusually high among southern states. The Radical Republicans, led by Bullock and Bryant, pushed for black suffrage and the disfranchisement of former Confederates. Other Republicans sought the support of white yeoman farmers by pressing the issue of debt relief. The Republican convention guaranteed basic civil and political rights to African Americans. Southern Republicans also created state-funded public school systems, asylums, and penitentiaries and promoted economic prosperity by funding railroad construction.

The constitutional conventions of 1867–1868 created new Republican governments that followed the agenda set forth by the conventions. Over the course of the next decade, however, Republican regimes in each state would succumb to both internal and external forces. Three major factors were responsible for the end of Radical Reconstruction. First, antiblack and anti-Republican violence seriously crippled Reconstruction efforts. Republican officeholders were attacked and often murdered. Second, internecine conflicts within the Republican coalition hampered their ability to rule effectively. In Georgia, the Macon newspaper editor and federal commissioner J. Clarke Swayze became a bitter opponent of fellow Republican Turner. It proved difficult to unite former Whigs and former Democrats. Within the black community, urban elites differed with rural freedmen over prioritizing civil rights or economic issues. Third, Reconstruction in the South was doomed by a growing lack of support among northern Republicans. The administration of President Ulysses S. Grant was crippled by scandals like Crédit Mobilier and the Whiskey Ring. (The former scandal led to the demise of Grant's first vice president; the latter involved Treasury Department agents, who received bribes from whiskey distillers in exchange for assisting distillers in tax evasion.) Economically, the Panic of 1873 led to the creation of a number of dissident parties, like Labor Reform and Greenbackers, that allied with Democrats to defeat incumbent Republicans. Among the northern population, the panic also led to growing concern with domestic financial issues.

Rufus Bullock (Library of Congress)

In several ways, Reconstruction in Georgia followed this regional pattern. Like other states, internal dissensions within Republican ranks led to their defeat. Particularly challenging was the attempt to appeal to both the freedmen and the former Democrats of north Georgia. Georgia Republicans also had to contend with politically motivated terrorism. In March 1868 the Republican legislator George A. Ashburn was assassinated while visiting Columbus after receiving a warning from the Ku Klux Klan. According to Edmund Drago, "At least one-fourth of Georgia's black legislators were threatened, bribed, beaten, jailed or killed during the period." Yet Georgia Reconstruction was distinctive in other ways. Unlike Reconstruction in such states as South Carolina and Mississippi, Radical Reconstruction in Georgia was relatively short lived. And during its heyday, in protest of Congressional Reconstruction that enfranchised African American males, conservative southern white Democrats barred their admission into the Georgia legislature by declaring their ineligibility to holding office both in Georgia and the United States.

About the Author

Henry McNeal Turner was born in Newberry, South Carolina, to free black parents in 1834. As an apprentice to a local planter, Turner acquired the trades of blacksmith and carriage maker. He learned to read and write while working in a law office. Turner joined the African Methodist Episcopal Church in 1848 and became a licensed preacher in 1853. He traveled throughout the South as an itinerant evangelist and, in 1860, took a preaching position at Union Bethel Church in Baltimore, Maryland. In 1862 he moved to Washington, D.C., and, as pastor of Israel Bethel Church there, became a prominent leader in the black community. During the Civil War, President Abraham Lincoln appointed Turner as chaplain to the First Regiment, U.S. Colored Troops.

Turner moved to Georgia in 1865 with the Freedmen's Bureau. He soon became an influential figure in Reconstruction politics in that state. He organized Union Leagues that brought blacks into the Republican Party. Turner once boasted that he had traveled fifteen thousand miles and spoken five hundred times in Georgia. He served as a delegate to the 1866 Georgia black convention and worked for the Republican Congressional Committee in 1867. Turner was elected to the Georgia constitutional convention of 1867–1868. Voters then chose him for the Georgia House of Representatives in 1868. After his expulsion, Turner was reseated by order of Congress in 1870 and reelected in 1871. As a legislator, he submitted bills for an eight-hour day for laborers and to prohibit discrimination on public transportation (primarily streetcars), yet he was the only black member to support a literacy test for voting. Turner's political activism proved dangerous in Georgia in the late 1860s. Two attempts were made on his life, and his home was often protected by armed guards. In 1871 Turner was appointed by national Republicans as customs inspector in Savannah.

Turner was ordained a bishop in the African Methodist Episcopal Church in 1880 and became chancellor of Morris Brown College, an African American institution in Atlanta. He later joined the Prohibitionist Party. Besides publishing three religious periodicals, he became a leading advocate for black emigration from the United States. He met with President Benjamin Harrison to enlist his support in his colonization schemes. Turner served as the vice president of the American Colonization Society and even gave the benediction to the ship *Azor* as it left Charleston, South Carolina, for Africa in April 1878 with two hundred African Americans aboard. Turner made four trips to Africa during the 1890s. In 1894 the College of Liberia bestowed upon Turner the degree of Doctor of Canonical Law. He died in Windsor, Canada, in 1915.

Explanation and Analysis of the Document

Henry McNeal Turner's speech of September 3, 1868, to the Georgia legislature was essentially an impassioned attack on the injustice of his expulsion—an event he claimed in the first paragraph was "unparalleled in the history of the world." One reporter considered it "perhaps the best speech that had been made on his side." No legislator had ever been denied his office on the ground of race. Turner wanted to force his white listeners to look squarely at the fundamental contradiction between the principles of republicanism and racism. Attacking the pillars of white supremacy, he defends (in paragraph 4) the contributions of African Americans: "Who first rallied around the standard of Reconstruction? Who set the ball of loyalty rolling in the state of Georgia?" Turner then pursues the theme of white hypocrisy, pointing out the inconsistency of voting against the Constitution of 1867 while acting as current legislators to remove a black person.

Turner's speech was not as structured as a formal sermon or a political tract nor did it develop one sustained argument. Rather, he used several rhetorical strategies and made a number of points in his protest to the Georgia legislature. He opens his remarks in an essentially defiant tone. He would be defending his right to a seat in the legislature without apology: "I am here to demand my rights and to hurl thunderbolts at the men who would dare to cross the threshold of my manhood." In the next two paragraphs Turner drives home the novel and momentous nature of his case. Never, he claims, has a man been expelled from a governing body for no other offense than the color of his skin. He next reminds his fellow legislators of the political wisdom of giving former slaves political rights, calling it the "safest and best course for the interest of the state." In the fifth paragraph, he points out the irony that he is being expelled by sitting white legislators, many of whom did not even vote for the Georgia constitutional convention or originally recognize the legitimacy of the Radical government.

In paragraphs 6–8, Turner defends political equality between the races. He asks his listeners to remember the essential humanity of African Americans: "Am I a man? … Have I a soul to save, as you have?" He also counters the old proslavery argument that blacks were of a different species and reminds his audience of the contributions of southern blacks. On the basis of this primary political equality, blacks should be able to speak for themselves: "It is very strange, if a white man can occupy on this floor *a seat created by colored votes*, and a black man cannot do it."

In the following three paragraphs, Turner counters the argument that Congress never gave blacks the right to hold office and insists that a biracial political order was the essence of Reconstruction. If this principle is in doubt, he suggests that the question of a black representative be submitted to the sitting Congress. Moreover, he begins to insist that former slaves deserve this change. White legislators do not realize "the dreadful hardships which these people have endured, and especially those who in any way endeavored to acquire an education."

To appeal to the white legislators, Turner reminds them in paragraphs 12 and 13 that during the Civil War and so far in the postwar period blacks have not behaved in any destructive fashion. He reminds them how few advantages the freed people have had, perhaps appealing to their sympathies as well. In speaking to both African

Essential Quotes

"I am here to demand my rights and to hurl thunderbolts at the men who would dare to cross the threshold of my manhood."

(Paragraph 1)

"Am I a man? If I am such, I claim the rights of a man. Am I not a man because I happen to be of a darker hue than honorable gentlemen around me?"

(Paragraph 6)

"We are willing to let the dead past bury its dead; but we ask you, now for our rights*."*

(Paragraph 13)

"Where have you ever heard of four millions of freemen being governed by laws, and yet have no hand in their making?"

(Paragraph 15)

American and white legislators, Turner then insists that black loyalty to the state depends on the state's loyalty to blacks: "Never lift a finger nor raise a hand in defense of Georgia, until Georgia acknowledges that you are men and invests you with the rights pertaining to manhood." Going back to his defense based on essentials (in paragraph 15), Turner argues that his expulsion contradicts a basic premise of republican government—the consent of the governed.

In paragraphs 16 and 17, Turner seems to reassure his audience, who were perhaps anxious about black radicalism. He repeats his earlier point that blacks will act within the boundaries of political behavior. He reminds white listeners that "we have built a monument of docility, of obedience, of respect, and of self-control, that will endure longer than the Pyramids of Egypt." He also presents himself as a political martyr, comparing his plight with other persecuted pioneers like the religious leader Martin Luther and the scientist Galileo. Finally, Turner warns the legislature that by their action to expel him, they will permanently alienate black voters. In his final paragraphs Turner closes with poetic and religious imagery, comparing the position of blacks to that of the ill-fated British cavalry charge (of October 25, 1854) against Russian forces in the Battle of Balaclava during the Crimean War and warning of providential revenge for "acts of the oppressor."

In his speech to the Georgia legislature, Turner echoed several themes of African American political thought during Reconstruction. First and primary was the fundamental commitment to Jeffersonian notions of independence and equality. Significantly, Turner quoted the Revolutionary premise that "government derives their just powers from the consent of the governed." A second theme was the use of religious principles and language to defend his cause.

> Because God saw fit to make some red, and some white, and some black, and some brown, are we to sit here in judgment upon what God has seen fit to do? As well might one play with the thunderbolts of heaven as with that creature that bears God's image—God's photograph.

Like many Americans in the nineteenth century, Turner saw the scriptures as a political tract that taught the principles of justice.

Turner exhibits a curious mixture of militancy and conciliation in this speech. "I am here to demand my rights," he declares at one point, "and to hurl thunderbolts at the men who would dare to cross the threshold of my manhood." At other points, however, he assures his listeners that the freedman is not seeking retribution: "We are willing to let the dead past bury its dead; but we ask you, now for our

rights." Turner even urges his fellow freedmen to pay taxes and obey their employers. Turner's ambivalence might be explained by the nature of his audience. He undoubtedly had to appease the Radicals in the Republican ranks. At the same time, Georgia freedmen needed the support of white Republicans, who needed reassurance that Reconstruction would not turn the racial order upside down.

Audience

Turner was a self-acknowledged spokesman for the black community in Reconstruction Georgia. His role as preacher, Freedmen Bureau official, and state legislator illustrates the central place of black politicians during Reconstruction. After emancipation, African American men and women built community institutions like churches and schools. In Georgia, black leaders also founded newspapers such as the *Colored American* (1865) and organizations like the Georgia Equal Rights and Educational Association. As a central institution in the black community, the church became, according to Drago, "the focal point of black political life during Reconstruction." Preachers, especially those like Turner from the African Methodist Episcopal Church, entered into the political sphere. Of twenty-two African American delegates to the Georgia constitutional convention, seventeen were ministers. The antebellum free black urban elite contributed disproportionately to Reconstruction politics, providing the core of black leadership in Louisiana and South Carolina.

Congressional Republicans from the North were probably another intended audience of Turner's speech. The northern press kept a very close watch on Reconstruction events in the South. A number of papers, among them the *Cincinnati Commercial* and the *New York Tribune*, had southern correspondents. Northerners would have heard about the speech if they did not read it themselves. Radicals in the North, like Benjamin Butler of Massachusetts, spoke for the plight of black Republicans in the South. The correspondence of northern Republicans is filled with letters from the South describing the southerners' problems and seeking aid.

Impact

The expulsion of Henry McNeal Turner and other black delegates from the Georgia legislature heightened antiblack sentiment in the state. White conservatives passed several discriminatory laws against African Americans. One such law deprived them of the right to serve on juries. The Ku Klux Klan also escalated its violence on freed people. A group of blacks meeting in Macon claimed that the expulsion of Turner and other legislators gave support to the "murdering bands" of the Klan. Racial violence in Reconstruction Georgia culminated in September 1868 in a riot in the southern town of Camilla, in which at least seven blacks were killed during a political rally.

Turner's speech and his subsequent expulsion spurred black political leaders in Georgia to action, making them more militant and more willing to challenge the white leadership of the Republican Party. In October 1868, black leaders met in a convention in Macon, where they created the Civil and Political Rights Association to lobby Congress on behalf of southern blacks. They elected Turner as president. Republican losses during the presidential election of 1868 and political opposition led Governor Bullock to Washington, D.C., where he succeeded in receiving federal support for renewed Reconstruction measures. The action of white conservatives in expelling Georgia's black delegates was the kind of incident that incurred the wrath of Radical Republicans in Congress.

While the expulsion of the black delegates opened a breach between white and black Republicans, it did not lead to the formation of a separate black party. African American allegiance to the Republicans was shaken but not broken. The issue of black eligibility to hold elected office came before the Georgia Supreme Court in June 1869. In the case of *White v. Clements*, Justices Brown and McCay decided in favor of the African American delegates.

In early 1870 the rift widened between the Bullock and Bryant Republican factions on the extent of African American participation in Republican governments and over civil rights legislation. Moderate Republicans began to look for coalition with Democrats. In 1870 they joined with Democrats to support the candidacy of Bryant for Speaker of the House. Georgia Republicans eventually lost the support of Washington, as President Grant became increasingly disillusioned with the Bullock regime. When the 1870 election returned a Democratic majority to the legislature, Governor Bullock resigned his office. By October of 1871, a conservative government was in control of Georgia.

See also War Department General Order 143 (1863); Black Code of Mississippi (1865); Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870).

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—Mitchell Snay

Questions for Further Study

1. Summarize the political climate surrounding Reconstruction after the Civil War. What were the political parties, both major and minor? What interests did they represent? Why was one faction of the Republican Party referred to as the Radical Republicans?

2. Why did the program for Reconstruction espoused by the Republican Party, especially the Radical Republicans, ultimately break down? What forces contributed to its demise?

3. What impact did Turner's expulsion have on the emergence of white supremacist groups such as the Ku Klux Klan?

4. If you had been in charge of the Reconstruction effort after the Civil War, what might you have done differently? Explain how your course of action might have altered the outcome of events.

5. Following the Civil War, numerous laws and constitutional amendments were passed to ensure the freedom and civil rights of African Americans. Among them were the Thirteenth, Fourteenth, and Fifteenth Amendments; the Ku Klux Klan Act; the Civil Rights Acts of 1866; and the Reconstruction Acts, as well as the funding of the Freedmen's Bureau. How were the southern states ultimately able to circumvent many of these laws?

Document Text

Henry McNeal Turner's Speech on His Expulsion from the Georgia Legislature

Mr. Speaker: Before proceeding to argue this question upon its intrinsic merits, I wish the members of this House to understand the position that I take. I hold that I am a member of this body. Therefore, sir, I shall neither fawn nor cringe before any party, nor stoop to beg them for my rights. Some of my colored fellow members, in the course of their remarks, took occasion to appeal to the sympathies of members on the opposite side, and to eulogize their character for magnanimity. It reminds me very much, sir, of slaves begging under the lash. I am here to demand my rights and to hurl thunderbolts at the men who would dare to cross the threshold of my manhood. There is an old aphorism which says, "fight the devil with fire," and if I should observe the rule in this instance, I wish gentlemen to understand that it is but fighting them with their own weapon.

The scene presented in this House, today, is one unparalleled in the history of the world. From this day, back to the day when God breathed the breath of life into Adam, no analogy for it can be found. Never, in the history of the world, has a man been arraigned before a body clothed with legislative, judicial or executive functions, charged with the offense of being a darker hue than his fellow men. I know that questions have been before the courts of this country, and of other countries, involving topics not altogether dissimilar to that which is being discussed here today. But, sir, never in the history of the great nations of this world—never before—has a man been arraigned, charged with an offense committed by the God of Heaven Himself. Cases may be found where men have been deprived of their rights for crimes and misdemeanors; but it has remained for the state of Georgia, in the very heart of the nineteenth century, to call a man before the bar, and there charge him with an act for which he is no more responsible than for the head which he carries upon his shoulders. The Anglo-Saxon race, sir, is a most surprising one. No man has ever been more deceived in that race than I have been for the last three weeks. I was not aware that there was in the character of that race so much cowardice or so much pusillanimity. The treachery which has been exhibited in it by gentlemen belonging to that race has shaken my confidence in it more than anything that has come under my observation from the day of my birth.

What is the question at issue? Why, sir, this Assembly, today, is discussing and deliberating on a judgment; there is not a Cherub that sits around God's eternal throne today that would not tremble—even were an order issued by the Supreme God Himself—to come down here and sit in judgment on my manhood. Gentlemen may look at this question in whatever light they choose, and with just as much indifference as they may think proper to assume, but I tell you, sir, that this is a question which will not die today. This event shall be remembered by posterity for ages yet to come, and while the sun shall continue to climb the hills of heaven.

Whose legislature is this? Is it a white man's legislature, or is it a black man's legislature? Who voted for a constitutional convention, in obedience to the mandate of the Congress of the United States? Who first rallied around the standard of Reconstruction? Who set the ball of loyalty rolling in the state of Georgia? And whose voice was heard on the hills and in the valleys of this state? It was the voice of the brawny-armed Negro, with the few humanitarian-hearted white men who came to our assistance. I claim the honor, sir, of having been the instrument of convincing hundreds—yea, thousands—of white men, that to reconstruct under the measures of the United States Congress was the safest and the best course for the interest of the state.

Let us look at some facts in connection with this matter. Did half the white men of Georgia vote for this legislature? Did not the great bulk of them fight, with all their strength, the Constitution under which we are acting? And did they not fight against the organization of this legislature? And further, sir, did they not vote against it? Yes, sir! And there are persons in this legislature today who are ready to spit their poison in my face, while they themselves opposed, with all their power, the ratification of this Constitution. They question my right to a seat in this body, to represent the people whose legal votes elected me. This objection, sir, is an unheard-of monopoly of power. No analogy can be found for it, except it be the case of a man who should go into my house, take possession of my wife and children, and then tell me to walk out. I stand very much in the position of a criminal before your bar, because I dare to be the exponent

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of the views of those who sent me here. Or, in other words, we are told that if black men want to speak, they must speak through white trumpets; if black men want their sentiments expressed, they must be adulterated and sent through white messengers, who will quibble and equivocate and evade as rapidly as the pendulum of a clock. If this be not done, then the black men have committed an outrage, and then representatives must be denied the right, to represent their constituents.

The great question, sir, is this: Am I a man? If I am such, I claim the rights of a man. Am I not a man because I happen to be of a darker hue than honorable gentlemen around me? Let me see whether I am or not. I want to convince the House today that I am entitled to my seat here. A certain gentleman has argued that the Negro was a mere development similar to the orangoutang or chimpanzee, but it so happens that, when a Negro is examined, physiologically, phrenologically and anatomically, and I may say, physiognomically, he is found to be the same as persons of different color. I would like to ask any gentleman on this floor, where is the analogy? Do you find me a quadruped, or do you find me a man? Do you find three bones less in my back than in that of the white man? Do you find fewer organs in the brain? If you know nothing of this, I do; for I have helped to dissect fifty men, black and white, and I assert that by the time you take off the mucous pigment—the color of the skin—you cannot, to save your life, distinguish between the black man and the white. Am I a man? Have I a soul to save, as you have? Am I susceptible of eternal development, as you are? Can I learn all the arts and sciences that you can? Has it ever been demonstrated in the history of the world? Have black men ever exhibited bravery as white men have done? Have they ever been in the professions? Have they not as good articulative organs as you? Some people argue that there is a very close similarity between the larynx of the Negro and that of the orangoutang. Why, sir, there is not so much similarity between them as there is between the larynx of the man and that of the dog, and this fact I dare any member of this House to dispute. God saw fit to vary everything in nature. There are no two men alike—no two voices alike—no two trees alike. God has weaved and tissued variety and versatility throughout the boundless space of His creation. Because God saw fit to make some red, and some white, and some black, and some brown, are we to sit here in judgment upon what God has seen fit to do? As well might one play with the thunderbolts of heaven as with that creature that bears God's image—God's photograph.

The question is asked, "What is it that the Negro race has done?" Well, Mr. Speaker, all I have to say upon the subject is this: If we are the class of people that we are generally represented to be, I hold that we are a very great people. It is generally considered that we are the children of Canaan; and the curse of a father rests upon our heads, and has rested, all through history. Sir, I deny that the curse of Noah had anything to do with the Negro. We are not the Children of Canaan; and if we are, sir, where should we stand? Let us look a little into history. Melchizedek was a Canaanite; all the Phoenicians—all those inventors of the arts and sciences—were the posterity of Canaan; but, sir, the Negro is not. We are the children of Cush, and Canaan's curse has nothing whatever to do with the Negro. If we belong to that race, Ham belonged to it, under whose instructions Napoleon Bonaparte studied military tactics. If we belong to that race, Saint Augustine belonged to it. Who was it that laid the foundation of the great Reformation? Martin Luther, who lit the light of gospel truth—a light that will never go out until the sun shall rise to set no more; and, long ere then, Democratic principles will have found their level in the regions of Pluto and of Prosperpine.…

The honorable gentleman from Whitfield [Mr. Shumate], when arguing this question, a day or two ago, put forth the proposition that to be a representative was not to be an officer—"it was a privilege that citizens had a right to enjoy." These are his words. It was not an office; it was a "privilege." Every gentleman here knows that he denied that to be a representative was to be an officer. Now, he is recognized as a leader of the Democratic party in this House, and generally cooks victuals for them to eat; makes that remarkable declaration, and how are you, gentlemen on the other side of the House, because I am an officer, when one of your great lights says that I am *not* an officer? If you deny my right—the right of my constituents to have representation here—because it is a "privilege," then, sir, I will show you that I have as many privileges as the whitest man on this floor. If I am not permitted to occupy a seat here, for the purpose of representing my constituents, I want to know how white men can be permitted to do so. How can a white man represent a colored constituency, if a colored man cannot do it? The great argument is: "Oh, we have inherited" this, that and the other. Now, I want gentlemen to come down to cool, common sense. Is the created greater than the Creator? Is man greater than God? It is very strange, if a white man can occupy on this floor *a seat created by colored*

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votes, and a black man cannot do it. Why, gentlemen, it is the most shortsighted reasoning in the world. A man can see better than that with half an eye; and even if he had no eye at all, he could forge one, as the Cyclops did, or punch one with his finger, which would enable him to see through that.

It is said that Congress never gave us the right to hold office. I want to know, sir, if the Reconstruction measures did not base their action on the ground that no distinction should be made on account of race, color or previous condition? Was not that the grand fulcrum on which they rested? And did not every reconstructed state have to reconstruct on the idea that no discrimination, in any sense of the term, should be made? There is not a man here who will dare say No. If Congress has simply given me a merely sufficient civil and political rights to make me a mere political slave for Democrats, or anybody else—giving them the opportunity of jumping on my back in order to leap into political power—I do not thank Congress for it. Never, so help me God, shall I be a political slave. I am not now speaking for those colored men who sit with me in this House, nor do I say that they endorse my sentiments, but assisting Mr. Lincoln to take me out of servile slavery did not intend to put me and my race into *political* slavery. If they did, let them take away my ballot—I do not want it, and shall not have it. I don't want to be a mere tool of that sort. I have been a slave long enough already.

I tell you what I would be willing to do: I am willing that the question should be submitted to Congress for an explanation as to what was meant in the passage of their Reconstruction measures, and of the Constitutional Amendment. Let the Democratic party in this House pass a resolution giving this subject that direction, and I shall be content. I dare you, gentlemen, to do it. Come up to the question openly, whether it meant that the Negro might hold office, or whether it meant that he should merely have the right to vote. If you are honest men, you will do it. If, however, you will not do that, I would make another proposition: Call together, again, the convention that framed the constitution under which we are acting; let them take a vote upon the subject, and I am willing to abide by their decision.…

These colored men, who are unable to express themselves with all the clearness and dignity and force of rhetorical eloquence, are laughed at in derision by the Democracy of the country. It reminds me very much of the man who looked at himself in a mirror and, imagining that he was addressing another person, exclaimed: "My God, how ugly you are!" These gentlemen do not consider for a moment the dreadful hardships which these people have endured, and especially those who in any way endeavored to acquire an education. For myself, sir, I was raised in the cotton field of South Carolina, and in order to prepare myself for usefulness, as well to myself as to my race, I determined to devote my spare hours to study. When the overseer retired at night to his comfortable couch, I sat and read and thought and studied, until I heard him blow his horn in the morning. He frequently told me with an oath, that if he discovered me attempting to learn, that he would whip me to death, and I have no doubt he would have done so, if he had found an opportunity. I prayed to Almighty God to assist me, and He did, and I thank Him with my whole heart and soul.…

So far as I am personally concerned, no man in Georgia has been more conservative than I. "Anything to please the white folks" has been my motto; and so closely have I adhered to that course, that many among my own party have classed me as a Democrat. One of the leaders of the Republican party in Georgia has not been at all favorable to me for some time back, because he believed that I was too "conservative" for a Republican. I can assure you, however, Mr. Speaker, that I have had quite enough, and to spare, of such "conservatism." …

But, Mr. Speaker, I do not regard this movement as a thrust at me. It is a thrust at the Bible—a thrust at the God of the Universe, for making a man and not finishing him; it is simply calling the Great Jehovah a fool. Why, sir, though we are not white, we have accomplished much. We have pioneered civilization here; we have built up your country; we have worked in your fields and garnered your harvests for two hundred and fifty years! And what do we ask of you in return? Do we ask you for compensation for the sweat our fathers bore for you—for the tears you have caused, and the hearts you have broken, and the lives you have curtailed, and the blood you have spilled? Do we ask retaliation? We ask it not. We are willing to let the dead past bury its dead; but we ask you, now for our *rights*. You have all the elements of superiority upon your side; you have our money and your own; you have our education and your own; and you have our land and your own too. We, who number hundreds of thousands in Georgia, including our wives and families, with not a foot of land to call our own—strangers in the land of our birth; without money, without education, without aid, without a roof to cover us while we live, nor sufficient clay to cover us when we die! It is extraordinary that a

Document Text

race such as yours, professing gallantry and chivalry and education and superiority, living in a land where ringing chimes call child and sire to the church of God—a land where Bibles are read and Gospel truths are spoken, and where courts of justice are presumed to exist; it is extraordinary that, with all these advantages on your side, you can make war upon the poor defenseless black man. You know we have no money, no railroads, no telegraphs, no advantages of any sort, and yet all manner of injustice is placed upon us. You know that the black people of this country acknowledge you as their superiors, by virtue of your education and advantages.…

You may expel us, gentlemen, but I firmly believe that you will some day repent it. The black man cannot protect a country, if the country doesn't protect him; and if, tomorrow, a war should arise, I would not raise a musket to defend a country where my manhood is denied. The fashionable way in Georgia, when hard work is to be done, is for the white man to sit at his ease while the black man does the work; but, sir, I will say this much to the colored men of Georgia, as, if I should be killed in this campaign, I may have no opportunity of telling them at any other time: Never lift a finger nor raise a hand in defense of Georgia, until Georgia acknowledges that you are men and invests you with the rights pertaining to manhood. Pay your taxes, however, obey all orders from your employers, take good counsel from friends, work faithfully, earn an honest living, and show, by your conduct, that you can be good citizens.

Go on with your oppressions. Babylon fell. Where is Greece? Where is Nineveh? And where is Rome, the Mistress Empire of the world? Why is it that she stands, today, in broken fragments throughout Europe? Because oppression killed her. Every act that we commit is like a bounding ball. If you curse a man, that curse rebounds upon you; and when you bless a man, the blessing returns to you; and when you oppress a man, the oppression also will rebound. Where have you ever heard of four millions of freemen being governed by laws, and yet have no hand in their making? Search the records of the world, and you will find no example. "Governments derive their just powers from the consent of the governed." How dare you to make laws by which to try me and my wife and children, and deny me a voice in the making of these laws? I know you can establish a monarchy, an autocracy, an oligarchy, or any other kind of *ocracy* that you please; and that you can declare whom you please to be sovereign; but tell me, sir, how you can clothe me with more power than another, where all are sovereigns alike? How can you say you have a republican form of government, when you make such distinction and enact such proscriptive laws?

Gentlemen talk a good deal about the Negroes "building no monuments." I can tell the gentlemen one thing: that is, that we could have built monuments of fire while the war was in progress. We could have fired your woods, your barns and fences, and called you home. Did we do it? No, sir! And God grant that the Negro may never do it, or do anything else that would destroy the good opinion of his friends. No epithet is sufficiently opprobrious for us now. I saw, sir, that we have built a monument of docility, of obedience, of respect, and of self-control, that will endure longer than the Pyramids of Egypt.

We are a persecuted people. Luther was persecuted; Galileo was persecuted; good men in all nations have been persecuted; but the persecutors have been handed down to posterity with shame and ignominy. If you pass this bill, you will never get Congress to pardon or enfranchise another rebel in your lives. You are going to fix an everlasting disfranchisement upon Mr. Toombs and the other leading men of Georgia. You may think you are doing yourselves honor by expelling us from this House; but when we go, we will do as Wickliffe and as Latimer did. We will light a torch of truth that will never be extinguished—the impression that will run through the country, as people picture in their mind's eye these poor black men, in all parts of this Southern country, pleading for their rights. When you expel us, you make us forever your political foes, and you will never find a black man to vote a Democratic ticket again; for, so help me God, I will go through all the length and breadth of the land, where a man of my race is to be found, and advise him to beware of the Democratic party. Justice is the great doctrine taught in the Bible. God's Eternal Justice is founded upon Truth, and the man who steps from Justice steps from Truth, and cannot make his principles to prevail.

I have now, Mr. Speaker, said all that my physical condition will allow me to say. Weak and ill, though I am, I could not sit passively here and see the sacred rights of my race destroyed at one blow. We are in a position somewhat similar to that of the famous "Light Brigade," of which Tennyson says, they had

Cannon to right of them,
Cannon to left of them,
Cannon in front of them,
Volleyed and thundered.

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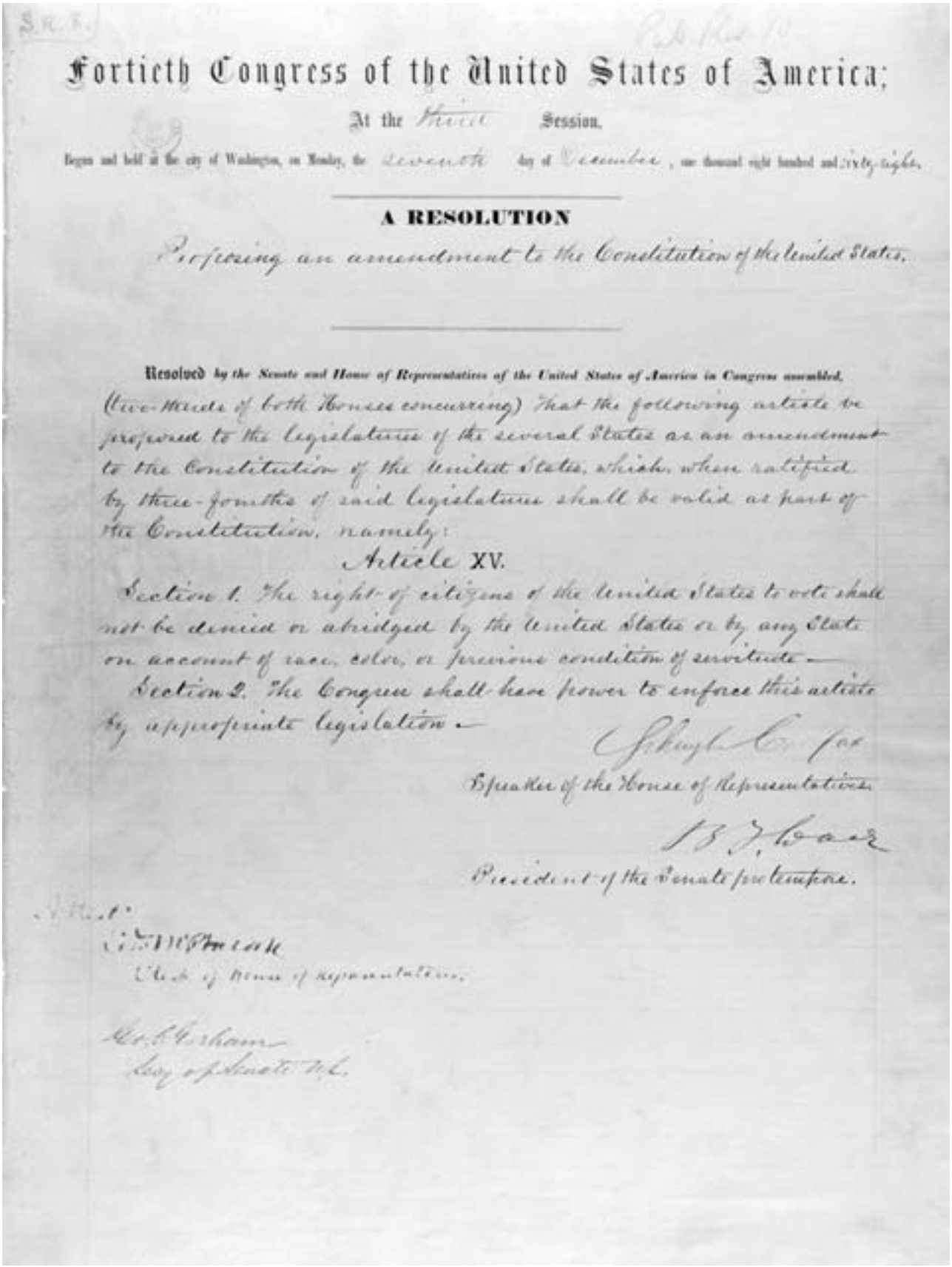
I hope our poor, downtrodden race may act well and wisely through this period of trial, and that they will exercise patience and discretion under all circumstances.

You may expel us, gentlemen, by your votes, today; but, while you do it, remember that there is a just God in Heaven, whose All-Seeing Eye beholds alike the acts of the oppressor and the oppressed, and who, despite the machinations of the wicked, never fails to vindicate the cause of Justice, and the sanctity of His own handiwork.



Fortieth Congress of the United States of America;

At the First Session.

Begun and held at the city of Washington, on Monday, the Seventh day of December, one thousand eight hundred and sixty-eight.

A RESOLUTION

Proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both Houses concurring) That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures shall be valid as part of the Constitution, namely:

Article XV.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.—

Section 2. The Congress shall have power to enforce this article by appropriate legislation.—

Schuyler Colfax

Speaker of the House of Representatives.

H. V. Boutwell

President of the Senate pro tempore.

J. W. Forney

Clerk of House of Representatives.

Geo. C. Gorham

Secy of Senate U.S.

The Fifteenth Amendment (National Archives and Records Administration)

Fifteenth Amendment to the U.S. Constitution

1870

"The right ... to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

Overview

The Fifteenth Amendment (1870) was the third and last amendment adopted in the era immediate following the Civil War. It prohibited states from denying the right to vote to individuals on the basis of "race, color, or previous condition of servitude." Section 2 of the amendment further vested Congress with power to enforc e it.

The Fifteenth Amendment bears elements of both continuity and discontinuity with earlier American history. Consistent with earlier history, it did not make voting an affirmative right for African Americans or other citizens, but rather it prohibited denying or abridging such groups the right to vote. Because it was the first specific prohibition to be incorporated into the Constitution, it served as a model for the Nineteenth Amendment (1920), which prohibited similar denials based on sex, and the Twenty-sixth Amendment (1971), which prohibited such denials to those who were eighteen years of age or older.

When Congress proposed the Fifteenth Amendment and the states ratified it, Congress was still attempting to "reconstruct" the southern states; this period of Reconstruction began in 1866 and ended in 1877. During this time, federal troops were posted in the South. Congress had forced states to adopt constitutions extending the right to vote to former slaves, and it had required southern states to ratify the Fourteenth Amendment as a condition for renewed representation in Congress.

Ironically, northern voters resisted some of the same requirements that they had imposed on the South. In his pathbreaking study of the Fifteenth Amendment, William Gillette observed that five jurisdictions rejected black suffrage in referendums in 1865. These votes, most of which were overwhelming, occurred in the Colorado Territory in September, in Connecticut in October, in Wisconsin and Minnesota in November, and in the District of Columbia in December. Similar votes rejected such suffrage in the Nebraska Territory in June 1866, in Kansas and Ohio in 1867, in Michigan and Missouri in 1868, and in New York in 1869. Minnesota reversed itself in November 1868, which was the same year Iowa also accepted such suffrage, but these states remained exceptions to the general rule.

Context

The United States transformed from thirteen separate colonies into thirteen states united and independent from Great Britain. Even though they vested powers in a central government, first under the Articles of Confederation from 1781 to 1789 and then under the Constitution that they created in 1787, the states retained numerous rights. Delegates to the Constitutional Convention, rejecting calls to impose a national property qualification on voters, left voting qualifications to the states, simply specifying in Article I, Section 2, of the Constitution that "the Electors [voters] in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." Over time, most states eliminated voting qualifications based on church membership and religious belief—a common requirement in the early colonies—or property ownership; because property was more freely available in America than elsewhere, this qualification had rarely disenfranchised large numbers of voters. American history is commonly portrayed as progressively democratic, but in retrospect the movement was not always as forward as some think. Although its supporters claimed that the presidential election of 1828 ushered in a period of Jacksonian democracy, the emphasis continued to be on universal white male suffrage rather than on universal suffrage. Indeed, because the U.S. Constitution apportioned representation in the U.S. House of Representatives not simply according to white population but also according to "three-fifths" of such "other persons" (a euphemism for slaves), southern whites who were otherwise losing population compared with northerners and westerners continued to be overrepresented there.

Over time, southerners who once defended slavery only as a "necessary evil" came to defend it as a positive good. The South justified slavery on theories of human inequality that contradicted the nation's earlier articulation in the Declaration of Independence that "all men are created equal"; leading southerners argued that slavery both lifted what they regarded as the inferior race and provided leisure time for the superior race to cultivate itself. As southern attitudes hardened in justifying slavery, northern attitudes hardened against it. Not all northerners joined abolition-

Time Line

1776

■ **July 4**
Congress adopts the Declaration of Independence, which declares that "all men are created equal."

1828

■ **November 3**
Andrew Jackson is elected president; his election marks the rise of the "common man," which is often associated with universal white male suffrage.

1857

■ **March**
The U.S. Supreme Court declares in the *Dred Scott* decision that blacks are not and cannot be U.S. citizens.

1860

■ **November 6**
Abraham Lincoln is narrowly elected president.

1861

■ **April 12**
The Civil War begins when southerners fire on Fort Sumter in South Carolina.

1863

■ **January 1**
The Emancipation Proclamation takes effect; it proclaims the freedom of black slaves behind Confederate lines.

1865

■ **April 18**
The Confederate army surrenders, ending the Civil War.

■ **December 18**
The Thirteenth Amendment is ratified, ending slavery.

1866

■ **June 13**
Congress proposes the Fourteenth Amendment.

1868

■ **July 28**
The Fourteenth Amendment is declared ratified.

■ **November 3**
Ulysses S. Grant is narrowly elected president.

ists in favoring immediate emancipation, but an increasing number concluded that the institution was morally wrong and would have to be eliminated.

As slave states continued to lose power vis-à-vis the North, southerners increasingly feared that northern states would eventually strike at their "peculiar institution" of slavery. After the Republican Abraham Lincoln was narrowly elected president in 1860, eleven southern states chose to secede. Lincoln felt duty-bound to preserve the Union, and in 1861 the nation's bloodiest conflict, the Civil War, began. By the end of the war in 1865 Lincoln, who had long regarded slavery as a moral evil, had transformed its objective from that of simply preserving the Union to that of freeing the slaves. His Emancipation Proclamation, which initially applied as a war measure only behind enemy lines, was eventually secured by the ratification of the Thirteenth Amendment, which abolished chattel slavery throughout the nation.

Southern states attempted to limit the freedom of the newly freed slaves through legislation restricting movement and limiting other rights, Congress responded again by proposing the Fourteenth Amendment, which the states ratified in 1868. It overturned the notorious Supreme Court decision in *Dred Scott v. Sandford* (1857) and declared that all persons including blacks "born or naturalized" within the United States were citizens entitled to the privileges and immunities of U.S. citizens and to due process and equal protection. Ironically, by abolishing slavery, the Thirteenth Amendment increased southern representation in the House of Representatives by invalidating the three-fifths clause; Republicans thought they had to act to ensure that this increased southern representation did not actually work against African American rights. Section 2 of the Fourteenth Amendment, short of specifically prohibiting states from denying the vote to blacks, provided great anguish to advocates of woman's suffrage and allowed representation to be reduced in states that denied or abridged the right to vote to "any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, except for rebellion, or other crime." Congress never reduced a state's representation based on this provision.

During the 1866 congressional elections President Andrew Johnson, who had become president in 1865 after John Wilkes Booth assassinated Lincoln, opposed ratification of the Fourteenth Amendment, which Congress had just proposed. Republicans picked up substantial support in this election, and Congress subsequently approved a bill over Johnson's veto on January 8, 1867, granting black suffrage in the District of Columbia. It followed up with a similar expansion of the franchise in the federal territories and required Nebraska to extend to blacks the right to vote as a condition of its admission into the Union. In the fifth section of the first Reconstruction Act of March 2, 1867, Congress further required southern states to enfranchise blacks as a condition of readmission into the Union and representation within Congress. Although the House of Representatives impeached President Johnson in 1868, the Senate fell a single vote shy of the two-thirds needed to convict him and remove him from office.

In the meantime, sentiment against African American voting outside the South continued to be strong, with Democrats picking up some seats that they had lost in 1866 in special elections. The Republican presidential platform that Ulysses S. Grant ran on in 1868 reflected the party's reluctance to extend the policies it had adopted in the South outside that region. Not surprisingly, Democrats praised President Johnson for opposing congressional Reconstruction and continued to advance the view that, despite the outcome of the Civil War, federalism left determination of the franchise to the states.

The Republican Ulysses S. Grant defeated the Democrat Horatio Seymour by only three hundred thousand votes in the 1868 election; he would have won the Electoral College but not the popular vote without the support of southern blacks whom Republicans had enfranchised. With most African Americans continuing to be grateful to Republicans for both their freedom and their civil and political rights, expanding the franchise to northern blacks presented a way to bolster Republican strength in the North.

Given its brevity, the Fifteenth Amendment is best understood in the context of possible alternatives. The Republican representative George S. Boutwell of Massachusetts initially sought simultaneously to introduce both a bill and an amendment to enfranchise northern blacks, but rights secured by a bill were less secure than those achieved by an amendment, and the fact that Boutwell thought an amendment might be desirable suggested that legislation might exceed existing federal powers. The version of the amendment that Boutwell introduced in the House of Representatives was close to the final version. Ohio's Republican representative Samuel Shellabarger had proposed a more detailed and radical version, while fellow Ohio Republican John A. Bingham had offered a similar proposal, which allowed states to establish a one-year residency requirement.

In the Senate, Nevada Republican William M. Stewart introduced an amendment on January 28, 1869, that would also have protected the rights of African Americans to hold office. Republican Representative Jacob Howard of Michigan proposed a similar amendment, which the Senate defeated on February 8, that would have made it permissible to exclude naturalized Chinese or Irish from balloting. The next day the Senate also rejected a proposal by Henry Wilson that would have abolished restrictions on voting or office holding based on factors including race, color, property, and education and that would thus presumably have precluded literacy tests and poll taxes. The Senate subsequently accepted a modified version of Wilson's amendment and an additional proposal by Indiana Senator Oliver P. Morton to reform the Electoral College.

The House considered the Senate amendment on February 15 but rejected it and requested a conference committee to resolve differences between the two proposals. The longtime abolitionist Wendell Phillips was among those who feared that the Senate's more utopian proposal stood little chance of ratification. Debate continued in both houses until they finally agreed to a conference committee consisting of House members Bingham, Boutwell, and John A. Logan (Republican from Illinois) and Senate members Steward, Roscoe Conkling (Republican from New York), and George Edmunds (Republican from Vermont). This committee adopted the current version of the amendment. The House accepted this version by the necessary two-thirds vote on February 25, 1869, and the Senate agreed to it the next day. William Gillette, in his book on the subject, observes that the amendment sought two limited goals: "to enfranchise the northern Negro" and "to protect the southern Negro against disenfranchisement." He further attributed its passage largely to congressional moderates.

Time Line

1869	■ **February 26** Congress proposes the Fifteenth Amendment.
1870	■ **February 3** The states ratify the Fifteenth Amendment.
1965	■ **August 6** President Lyndon B. Johnson signs the historic Voting Rights Act, which Congress later reaffirms and extends.
1966	■ **March 7 and June 13** Relying largely on Section 2 of the Fifteenth Amendment, the U.S. Supreme Court upholds key provisions of the Voting Rights Act of 1965 in *South Carolina v. Katzenbach* and *Katzenbach v. Morgan*.

Nevada was the first state to ratify the amendment on March 1, 1869. During this process New York initially approved the amendment and then attempted to rescind its ratification, while Ohio first rejected it and then approved it. (Today's precedents, while still ambiguous, are more favorable to Ohio's actions than to New York's actions.) Congress required some southern states to approve it as a condition of resuming their place in Congress, and Secretary of State Hamilton Fish declared the amendment ratified on March 30, 1870. Southern states, dominated by Reconstruction governments, were most supportive of the amendment, which faced strong opposition in border states, tepid endorsement in the Middle Atlantic states, and considerable conflict in the Midwest. Kentucky, Delaware, California, Tennessee, Maryland, and Oregon all rejected ratification, though some later approved it.

Advocates of women's suffrage, who had called for women's suffrage at the Seneca Falls Convention of 1848 and who were already chafing over the use of the word *male* to describe voters in Section 2 of the Fourteenth Amendment, were very disappointed by the adoption of the Fif-

George S. Boutwell (Library of Congress)

teenth Amendment. Susan B. Anthony and Elizabeth Cady Stanton were among those who refused to endorse an amendment that extended suffrage to black men but not to women. When the American Equal Rights Association met in New York City in May 1869, it split into the National Woman Suffrage Association, led by Anthony and Stanton, and the American Woman Suffrage Association, led by Lucy Stone. These organizations continued to work apart until they were united in 1890 as the National American Woman Suffrage Association.

About the Author

Two-thirds majorities in both houses of Congress are needed to propose amendments, and approval by three-fourths of the states is required to ratify them. When Congress proposed the Fifteenth Amendment, it followed the procedures used for all previous amendments, sending the amendment to state legislatures rather than to state conventions (as it would later do in the case of the Twenty-first Amendment, repealing national Prohibition on alcohol) for ratification. Some opponents of the amendment in Congress had sought to send the amendment to special state conventions.

The first version of the Fifteenth Amendment, which Republican Representative George S. Boutwell of Massachusetts authored in the House of Representatives, ended up being close to the final version. Ohio representatives Samuel Shellabarger and John A. Bingham, who was largely responsible for the wording of Section 1 of the Fourteenth Amendment, proposed more extensive amendments in the House. The initial version that the Senate considered, which was also broader than the one that Congress actually adopted, was largely the work of Henry Wilson, a Massachusetts Republican who would later serve as vice president under Ulysses S. Grant.

Ultimately, a congressional conference committee of six men proposed the existing Fifteenth Amendment. The committee focused not only on ironing out the differences between the House and Senate versions of the amendment but also on proposing language that was likely to gain the support of the necessary three-fourths of state legislatures.

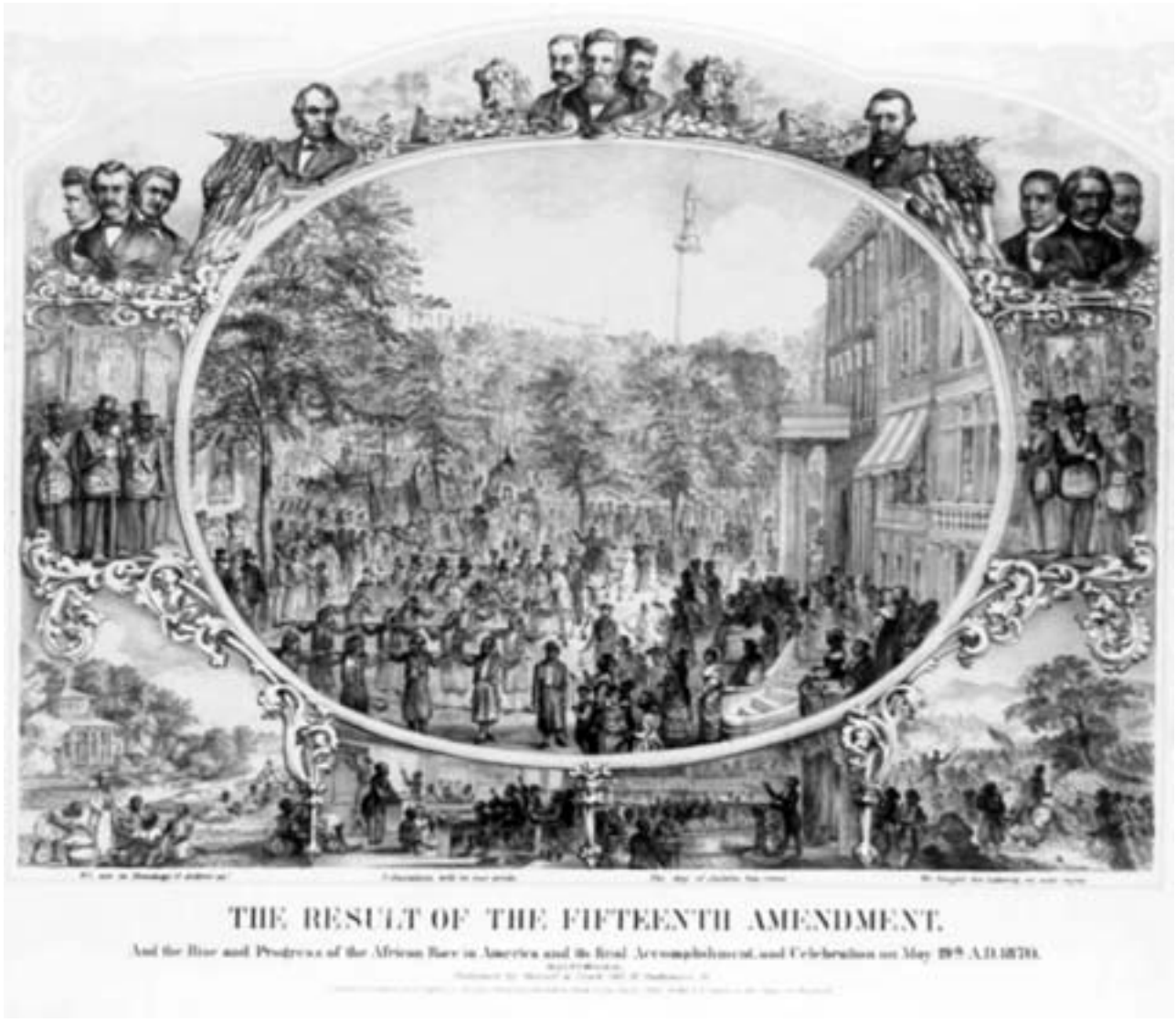
Explanation and Analysis of the Document

The Fifteenth Amendment consists of two very brief sections. The first provides that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." The second specifies that "Congress shall have the power to enforce this article by appropriate legislation." The scope of the Fifteenth Amendment is limited to U.S. citizens. Section 1 of the Fourteenth Amendment had established that all persons "born or naturalized in the United States" were citizens, but Congress had not yet extended such citizenship to Native Americans, and there was widespread opposition to naturalizing Chinese in the American West as well as Irish and other immigrants in other parts of the country. Whereas the Fourteenth Amendment extended some civil rights to all "persons," the Fifteenth Amendment intended to guard only "citizens" against deprivation of their votes.

In a continuation of federal principles, Section 1 of the Fifteenth Amendment does not positively confer the right to vote on anyone; it simply prohibits denying or abridging such rights based on "race, color, or previous condition of servitude." In contrast to this negative wording, Section 2 more positively vests Congress with enforcement powers, using language almost identical to that employed in Section 2 of the Thirteenth Amendment and Section 5 of the Fourteenth Amendment.

Audience

Once proposed and ratified by the required majorities, constitutional amendments join other parts of the Constitution as part of what Article VI of the Constitution calls "the supreme law of the land." The language of amendments thus speaks to the American people and to the world as a whole. Like the two previous amendments, the Fifteenth Amendment helped articulate American values and provide legal language that individuals can cite when they attempt to secure their rights in courts. Many Americans, including President Grant, who had favored



This print from 1870 commemorates the celebration over the passage of the Fifteenth Amendment in Baltimore, Maryland. (Library of Congress)

its adoption, viewed it as the culmination of earlier provisions in the Thirteenth and Fourteenth Amendments and as a practical implementation of the principles articulated in the Declaration of Independence.

The Fifteenth Amendment arguably carried different messages for North and South. It required states in the North, which had previously rejected black suffrage, to accept it, while attempting to ensure that southern states, on which Congress had imposed such suffrage, would retain it. While the former hopes were largely fulfilled, the latter were dashed relatively quickly and did not reemerge for nearly a century.

Impact

Although the Fifteenth Amendment successfully enfranchised northern blacks, its long-term impact on African Americans in the South for its first one hundred years was negligible. Congress initially adopted Enforcement Acts between 1866 and 1875 designed to prevent obstruction to federal voting, but once northern troops left the South in 1877, whites who had once supported the Confederacy struggled to regain their power. They effectively evaded the force of the Fifteenth Amendment through adoption of numerous stratagems left open when Congress omitted restrictions on property or educational qualifications. The Supreme Court decision in *Ex parte Yarbrough* (1884) was one of the few cases where the Court upheld federal laws restricting private actions aimed at denying African American voting rights.

Literacy tests, often administered in a highly discriminatory fashion, were used to keep both lower-class whites and blacks from voting. Many states further combined them with grandfather clauses, which the U.S. Supreme Court

Essential Quotes

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

(Section 1)

"If it be just, it should not be denied; if it be necessary, it should be adopted; if it be a punishment to traitors, they deserve it."

(Thaddeus Stevens, qtd. in Gillette, p. 31)

"I would sooner cut off my right hand than ask for the ballot for the black man and not for woman."

(Susan B. Anthony, qtd. in McFeely, p. 266)

"The question of suffrage is one which is likely to agitate the public so long as a portion of the citizens of the nation are excluded from its privileges in any State. It seems to be very desirable that this question should be settled now, and I entertain the hope and express the desire that it may be by the ratification of the fifteenth article of amendment to the Constitution."

(Ulysses S. Grant, First Inaugural Address, March 4, 1869)

did not invalidate until *Guinn v. United States* (1915); such clauses exempted individuals whose grandfathers had voted—at a time when only whites could vote—from such literacy tests. States also adopted poll taxes, which they sometimes made cumulative so that individuals who wanted to vote had to pay the tax not only for that year but also for previous years in which they had not voted. Other states added additional obstacles to voter registration. In still others, racist groups like the Ku Klux Klan used physical violence to intimidate black voters. As the Democratic Party increasingly dominated the South (so that the winners of the Democratic primary almost always won in general elections), it, too, cooperated in black disenfranchisement by excluding blacks until the Supreme Court finally outlawed the practice in *Smith v. Allwright* (1944).

Although the nation never returned to chattel slavery, judicial interpretations of the Thirteenth, Fourteenth, and Fifteenth Amendments were extremely limited by the end of the nineteenth century. In the Civil Rights Cases of 1883, the Court decided that the amendments covered only state as opposed to private actions. By 1896 the Court used the doctrine of "separate but equal" to approve the developing system of racial segregation in *Plessy v. Ferguson*. The Court did not reverse course until its historic 1954 decision in *Brown v. Board of Education*, which finally began the long process of desegregation.

The Fifteenth Amendment proved so ineffective in its first century that Goldwin Smith, a British-born attorney who presented plans for reforming the Constitution in 1898, favorably cited a petition by Louisiana and other states to repeal it. Ironically, at about the same time, a number of attorneys unsuccessfully argued that the amendment had been so revolutionary and so contrary to American federalism that it had violated implicit constitutional limitations on the constitutional amending process.

However impotent it seemed, in time the amendment provided authority not only for some of the Supreme Court decisions that invalidated its evasions but also for congressional legislation. In 1957 Congress adopted the first of a number of civil rights acts designed to overcome the paucity of southern African American voters. These acts reached their high point with the adoption of the Voting Rights Act

of 1965. Relying on congressional enforcement powers in Section 2 of the Fifteenth Amendment, this law suspended the use of literacy tests in seven southern states and used U.S. marshals to register voters. The law further prohibited states from adopting new laws that might restrict black suffrage without federal clearance. Justice Hugo Black was the only justice to object to this provision when the Supreme Court upheld this and other provisions in *South Carolina v. Katzenbach* (1966). Congress subsequently extended the Voting Rights Act in 1970, 1975, 1982, and 2006.

In 1964 the Twenty-fourth Amendment prohibited the imposition of poll taxes in federal elections. Relying chiefly on the equal protection clause of the Fourteenth Amendment, the Supreme Court subsequently extended this ban to state elections in *Harper v. Virginia Board of Elections* (1966). Since the Supreme Court's decision in *Baker v. Carr* (1962) ruling that issues of state legislative apportionment are justiciable (that is, subject to judicial intervention), the Supreme Court has increasingly overseen state plans for legislative apportionment. In recent years, it has looked with increased suspicion at plans that used racial classifications to configure districts, sometimes even in cases where states used such plans to increase rather than to restrict minority representation. The Court has clearly understood the Fifteenth Amendment as giving it a broad mandate to oversee voting issues.

Questions for Further Study

1. When members of Congress debated the language of the Fifteenth Amendment, they had to decide whether to include protections for women as well as for African American men. Would it have been better for them to sponsor an amendment to protect the rights of both groups that might go down in defeat or for them to do what they chose to do? What do you think might have been the consequences of linking these two rights together?

2. Once federal troops withdrew in 1877 and southerners elected Democrats who opposed racial equality, the Fifteenth Amendment largely remained a virtual dead letter in the South. What, if anything, do you think the authors of the amendment might have done to preclude later evasions through literacy tests, all-white primaries, poll taxes, and the like?

3. Once the Nineteenth Amendment was adopted in 1920, women had few problems accessing the polls. How can you account for the relative success of the Nineteenth Amendment compared with the relative failure (especially in its early years) of the Fifteenth Amendment?

4. Literacy tests and poll taxes proved to be central obstacles to African American voting. Do you think it is possible to make a nonracist argument on behalf of one or both of these mechanisms? How would you make such an argument? Do you think it is convincing? Do you think literacy tests that are administered fairly might encourage people who would not otherwise do so to get an education?

5. Today laws restrict relatively few groups from voting. Restrictions vary from state to state, but they include limits on voting for felons, former felons, the mentally ill, noncitizens, and individuals under the age of eighteen. Do you think any of these restrictions should be lifted? If so, which ones? Explain.

6. The political landscape has changed considerably since the states ratified the Fifteenth Amendment in 1870. Do you think any existing state would seek to reimpose restrictions on African American voting if there was no such amendment today? Generally, do you think it more likely that the national government or the states might seek to restrict such rights?

7. Do you think it is permissible to apportion districts to maximize the likelihood that members of minority races will be able to elect members of their own race? Do you consider such apportionment essentially similar to or qualitatively different from attempting to maximize party advantage?

See also *Dred Scott v. Sandford* (1857); Emancipation Proclamation (1863); Black Code of Mississippi (1865); Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); *Plessy v. Ferguson* (1896); *Guinn v. United States* (1915); *South Carolina v. Katzenbach* (1966).

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—John R. Vile

Document Text

Fifteenth Amendment to the U.S. Constitution

A Resolution Proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both Houses concurring) that the following article be proposed to the legislature of the several States as an amendment to the Constitution of the United States which, when ratified by three-fourths of said legislatures shall be valid as part of the Constitution, namely:

♦ Article XV

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude—

Section 2. The Congress shall have the power to enforce this article by appropriate legislation.

Glossary

abridged	curtailed
servitude	slavery

Illustration from* Harper's Weekly *of two Ku Klux Klan members in their disguises (Library of Congress)

Ku Klux Klan Act

1871

"Each and every person so offending shall be deemed guilty of a high crime."

Overview

During the Reconstruction era after the Civil War, the U.S. Congress passed four Civil Rights Acts, on April 9, 1866; May 31, 1870; April 20, 1871; and March 1, 1875. The third is also known as the Ku Klux Klan (KKK) Act. Collectively, these acts are sometimes called Enforcement Acts, for they were intended to create a more just and racially inclusive American culture by enforcing the Fourteenth and Fifteenth Amendments to the U.S. Constitution, which, together with the Thirteenth Amendment abolishing slavery, are often called the Reconstruction Amendments. While the Civil Rights Acts all shaped and protected the Fourteenth and Fifteenth Amendments, the KKK Act specifically aimed at violence and conspiracies perpetrated against black Americans.

Context

Postwar civil rights legislation represented a series of compromises between various factions within the Republican Party. Founded in 1854, the Republican Party was a coalition of several mid-nineteenth-century political organizations: Whigs, Free-Soilers, Know-Nothings, and even some pro-Union Democrats. Arriving at a political agenda or platform proved difficult, though by the time of Reconstruction most members of the party supported increased civil rights for blacks. Just what constituted "civil rights," however, was a matter of endless and evolving debate. For the radical minority of the party—the so-called Radical Republicans—civil rights included not only "life, liberty, and the pursuit of happiness" but also the full range of political and social rights, such as voting, jury participation, and equal access to public accommodations.

The Civil War brought an end to slavery in America, thus freeing over four million blacks. But Americans confronted two major challenges in the aftermath of war: the terms of readmission for southern states and the extent of assimilation for freedmen. Most white southerners resented punitive actions against them and resisted attempts to treat blacks as citizens. Southern legislatures passed oppressive laws, called Black Codes, which subjugated blacks in a manner essentially tantamount to slavery by prohibiting their right to vote, carry weapons in public places, work in certain occupations, and sit on juries and by limiting their right to testify against white people in court. Any effort to ensure peace and protect blacks through postwar military rule seemed as necessary to northerners as it was objectionable to southerners.

To assist freedmen to begin anew, Republicans in Congress established the Bureau of Refugees, Freedmen, and Abandoned Lands (more commonly called the Freedmen's Bureau) on March 3, 1865, hoping to destroy all remnants of the white power structure in the South. The bureau was largely intended to shield the lives, interests, and rights of black Americans. After the congressional election of 1866 and the further radicalization of the Republican Party, Congress passed four Reconstruction Acts in 1867 and 1868. Those acts created five military districts in the seceded states, required approval of new southern state constitutions by Congress, granted voting rights to all adult males in southern states, and forced southern states to ratify the Reconstruction Amendments.

Additionally, Congress passed a series of Civil Rights Acts. The first, passed April 9, 1866, consisted of ten sections and was titled "An Act to protect all Persons in the United States in their Civil Rights, and furnish the Means of their Vindication." Congress designed its legislation in conjunction with the Fourteenth Amendment in an effort to constitutionalize civil rights; it was this amendment that guaranteed to all citizens "due process" and "equal protection" under the law. The chief effect of the act was to confirm the citizenship of all persons born in the United States. To fortify black rights, Congress passed further legislation, reenacting sections of the previous act in the much longer Civil Rights Act of 1870, intended primarily to enforce the Fifteenth Amendment and the right of blacks to vote. This act established criminal penalties for anyone caught interfering with federal elections. Yet white southerners remained recalcitrant, forcing Congress to amend the act of 1870 with the Force Act of February 28, 1871. The Force Act stipulated that

Time Line

1865

- **December 6**
  The Thirteenth Amendment, abolishing slavery, is ratified.
- **March 3**
  The Freedmen's Bureau is established by Congress at the request of President Abraham Lincoln.
- **December 24**
  The Ku Klux Klan is formed in Pulaski, Tennessee.

1866

- **April 9**
  Congress passes the Civil Rights Act of 1866, making citizens of "all persons born in the United States."

1868

- **July 9**
  The Fourteenth Amendment, guaranteeing due process and equal protection under the law, is ratified.

1870

- **May 31**
  Congress passes the Civil Rights Act of 1870 (also called the Enforcement Act) to protect voting rights.

1871

- **March**
  South Carolina governor Robert Kingston Scott requests federal support to suppress the Ku Klux Klan, and President Ulysses S. Grant asks Congress for emergency relief.
- **April 20**
  Congress passes the Civil Rights Act of 1871—the KKK Act—to enforce the provisions of the Fourteenth Amendment.
- **October 17**
  President Grant suspends habeas corpus in nine counties in South Carolina, leading to mass arrests of Klansmen.
- **November**
  The first of two waves of trials of the Ku Klux Klan are conducted in Columbia, South Carolina; a second wave would begin in April 1872.

1875

- **March 1**
  President Grant signs the Civil Rights Act, guaranteeing equal treatment in "public accommodations."

> all citizens of the United States who are or shall be otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

Despite the ongoing efforts of Congress to peaceably readmit seceded states while simultaneously protecting freedmen, southern legislatures continued to write Black Codes and to impose literacy tests and poll taxes to prevent blacks from voting. At the same time, violence escalated even further throughout the South. Some southerners mounted a campaign of intimidation and murder against blacks and white Republicans in order to preserve white supremacy and prevent black citizenship. Whites were especially eager to inhibit black participation on juries and in elections.

In this environment, various white supremacist vigilante groups appeared, organized under banners such as the Men of Justice, the Pale Faces, the White Brotherhood, the Order of the Rose, and the Constitutional Union Guards. Perhaps the most egregious and methodical perpetrator of hostilities was the Ku Klux Klan, first organized by a group of six middle-class Confederate veterans from Pulaski, Tennessee, on December 24, 1865. Originally intended as a social group, the Klan became a paramilitary extension of the southern Democrats that quickly terrorized blacks throughout the South.

Within a year of its founding, the Klan consisted of several state organizations, each constituted as a Realm managed by a Grand Dragon, the entire organization led by Confederate general Nathan Forrest as Grand Wizard of the Empire. Klansmen (also called Ghouls), posing as ghosts of Confederate dead returned from the battlefield, dressed themselves and their horses in white robes and sheets. These horrifying disguises were employed during midnight rides of unlimited terror, usually intended to keep blacks from the election booths. They left thousands of dead blacks in their wake. In November 1868 alone, Louisiana residents killed 1,081 (mostly black) persons, a level of violence worse than the lynching spree of the late-nineteenth- and early-twentieth-century Jim Crow era. Although the KKK was disbanded during the 1870s, in 1915 the Klan reappeared in even larger numbers, reaching a peak membership of nearly five million by the mid-1920s.

By March 1871, violence against blacks had become sufficiently uncontrollable in South Carolina that Governor Robert Kingston Scott requested federal assistance to restore order. A former Union general and commissioner of the South Carolina Freedmen's Bureau, Scott was a Republican and the first governor of reconstructed South Carolina. As governor, Scott oversaw a massive increase in state debt (already quite large when he took

office), thus provoking partisan-induced impeachment proceedings against him by the state assembly. Scott held on to his office, however, allowing him to wage war against the KKK.

Both the legislative and executive branches of the federal government responded to events in South Carolina and Scott's request. President Ulysses S. Grant had already created the Office of Solicitor General to assist the attorney general in prosecuting Klansmen, and Congress had passed the Judiciary Act of 1869 to increase the number of federal judges in the South. In March 1871, after hearing from Governor Scott, Grant asked Congress for emergency legislation, resulting in another enforcement act, namely the Civil Rights Act of 1871, also called the KKK Act. Congress also created the Department of Justice, which began operations on July 1, 1870, to help combat the KKK. Since so many southern police belonged to the Klan, Congress enabled the president to use federal troops in suppressing racial violence. The KKK Act also allowed the president to suspend habeas corpus, creating the possibility of mass arrests without individual charges or court proceedings. Following the act, President Grant issued a proclamation ordering the South Carolina KKK to disperse and surrender its weapons. When the Klan refused to submit to those orders, Grant suspended habeas corpus and sent federal troops to make arrests. Within two months, hundreds of Klansmen were arrested in South Carolina, while many others fled the state. Because the state judicial system could not handle the vast number of defendants, however, most of them were soon released.

Caricature of Radical Republicans bribing African Americans to give false testimony of atrocities and intimidation by the Democrats (Library of Congress)

About the Author

Among the radical leaders of the Republican Party was Benjamin Franklin Butler, the primary author of the KKK Act. Born in Deerfield, New Hampshire, on November 5, 1818, and named for the Founding Father Benjamin Franklin, Butler grew up in Lowell, Massachusetts, where his widowed mother ran a boardinghouse. After graduating from Waterville College (now Colby College) in Maine, Butler was admitted to the bar in Massachusetts. He began his political career as a Democrat and served in the Massachusetts legislature throughout the 1850s, which established his military rank of brigadier general at the start of the Civil War. Butler participated actively in the Democratic Convention of 1860, yet Republican president Abraham Lincoln was so impressed by the general's early and aggressive support for the Union that he appointed Butler as third-highest-ranking major general of the U.S. Volunteers. Nicknamed "Spoons" for his alleged habit of relieving southern homes of their silverware during his harsh administration of New Orleans after the Union recaptured it during the war (earning him, too, the nickname Butler the Beast), Butler also became famous at Virginia's Fort Monroe in 1861 for refusing to return escaped slaves to their masters and thereby creating the notion of slaves as "contraband" of war. After the war, Butler served in the U.S. House of Representatives (1867–1875 and 1877–1879) and as governor of Massachusetts in 1883–1884.

Despite his previous Democratic affiliation, Butler emerged from the Civil War as a devoted Republican; in fact, he could be counted among the more radical members of the party. Along with the U.S. senator of his state, Charles Sumner, Butler proposed the highly progressive Civil Rights Act of 1875, which banned racial discrimination in public accommodations. Butler had already demonstrated his dedication to civil rights, however, with the KKK Act.

During his career, Butler participated in many historic events. As a congressional representative he managed the impeachment trial of President Andrew Johnson in 1868, whereas as governor of Massachusetts he is remembered for having appointed the nation's first Irish American judge, the first African American judge (George Lewis Ruffin), and the first woman to executive office (Clara Barton). His shifting political affiliations, from antebellum Democrat to postwar Radical Republican to post-Reconstruction Greenback (a minor party that advocated the continued use of paper currency) to Democratic governor, are not unique and speak to the enormous social upheaval of the era. Butler died on January 11, 1893, in Washington, D.C.

Senator Benjamin Butler of Massachusetts (Library of Congress)

Explanation and Analysis of the Document

The KKK Act, written in dense, repetitive legislative language, consists of seven sections, the first of which is an unnumbered preamble of sorts, establishing the primary purpose of the act. It states that any person, even a person acting within the law of his state, who deprives a citizen of his or her rights as a citizen can be prosecuted in the U.S. federal courts. This section of the act, now codified as Section 1983 of the U.S. Code, remains the most influential portion of the KKK Act.

The longest section of the KKK Act, section 2, provided the core of this new legislation. Its focus is on conspiracies, that is, the effort by two or more persons to "conspire together to overthrow, or to put down, or to destroy by force the government of the United States." It goes on to list various ways in which this could be done, including the use of force or intimidation, delaying or hindering the execution of laws, seizing U.S. property, and in particular using force or intimidation to prevent a U.S. officer from executing his duty. Additionally, the section specifies any effort to "deter" a party from serving as a witness in court, using force or intimidation to prevent a juror from serving or to influence his verdict, preventing a person from holding public office, or impeding a person from exercising the right to vote. In a broader sense, it prohibited any conspiracy that would deprive a person of equal protection under the law. These offenses would be regarded as high crimes punishable by fines of not less than $500 and not more than $5,000 or imprisonment for not less than six months or more than six years, possibly consisting of hard labor. Notice that the emphasis is on conspiracies, on the actions of "two or more persons." Clearly, the act was targeted at the KKK and similar organizations that conspired to do just the sorts of things this section of the act specifies. Although the KKK began as a fraternal organization, it quickly evolved into a terrorist one. Usually its victims were black leaders, such as ministers, politicians, teachers, or former soldiers. It used floggings, beatings, and rape to intimidate and undermine Reconstruction. In 1868, an election year, the KKK was behind as many as two thousand political assassinations throughout the South. Many of them were carried out with the approval and even support of the Democratic Party.

Section 3, after essentially repeating much of the material from the second section, begins to stipulate the powers the act grants to the president. In the event that a state is unable or unwilling to prevent the offenses from Section 2 (laboriously repeated so as not to leave any uncertainty), the president can call out the militia or the army and navy to enforce the act, with or without the state's request. Section 4 stipulates a further power: that if any of the "unlawful combinations" named in section 3 are organized and armed, "and so numerous and powerful as to be able … to either overthrow or set at defiance" the authorities, or when the threat to public safety is great, the president can suspend the writ of habeas corpus as part of the federal effort to suppress the insurgency. *Habeas corpus* is a Latin term used commonly in the law; its literal meaning is "you shall have the body," and it refers to the obligation of the government to specify charges against a person who has been arrested and to conduct a trial (and thus not to conduct secret arrests and detentions). By suspending habeas corpus, the authorities have the power to arrest and detain people indefinitely without bringing charges against them or bringing them to trial. Suspension of habeas corpus is an extreme measure that has been taken principally during wartime. Abraham Lincoln took the step during the Civil War, as did Woodrow Wilson during World War I. In the twenty-first century, the issue of habeas corpus has arisen in connection with the detention of suspected terrorists in facilities such as the U.S. base at Guantánamo Bay in Cuba.

The remaining sections of the act are relatively procedural by comparison to the previous ones. Section 5 states that conspirators of the sorts listed could not serve on a grand or petit jury hearing a case arising as a result of this act. A grand jury is one that determines whether there is enough evidence for a case to go to trial; it does not determine guilt or innocence. A petit jury is one that actually hears the case in open court. Additionally, jurors would be required to take an oath swearing that they had never participated in such conspiracies—which would prove to be a problem in South Carolina, where affiliation with the Klan was widespread. Section 6 states that any person who failed to report a KKK Act conspiracy could be treated as a participant to that conspiracy; this provision has been codified in Section 1986 of the U.S. Code. Finally, Section 7 defines the act as supporting, rather than repealing, any and all previous civil rights legislation.

Essential Quotes

"Be it enacted by the Senate and Home of Representatives of the United States of America in Congress assembled, *That any person who … shall subject, or cause to be subjected, any person within the jurisdiction of the United States to the deprivation of any rights, privileges, or immunities secured by the Constitution of the United States, shall … be liable to the party injured in any action at law.*"

(Paragraph 1)

"Each and every person so offending shall be deemed guilty of a high crime."

(Section 2)

"It shall be lawful for the President, and it shall be his duty to take such measures, by the employment of the militia or the land and naval forces of the United States, or of either, or by other means, as he may deem necessary for the suppression of such insurrection, domestic violence, or combinations."

(Section 3)

"It shall be lawful for the President of the United States, when in his judgment the public safety shall require it, to suspend the privileges of the writ of habeas corpus."

(Section 4)

Audience

The first Enforcement Act (1870) failed to curtail racial violence in the South. Klansmen seemed particularly unimpressed by the law, prompting President Grant to send troops to South Carolina under the command of Major Lewis Merrill. Reacting to the spiraling violence throughout the region, Congress passed yet another enforcement act, tailored even more specifically toward the Klan. The KKK Act served as a stern rebuke and warning to all white supremacists in the South. Democrats and conservative Republicans complained that Congress exceeded its constitutional authority over individuals and dangerously enlarged presidential power. Radical Republicans, by contrast, worried more about the threat posed by paramilitary organizations, compelling them to send a definitive message to the Ku Klux Klan.

Impact

The KKK Act engendered a heroic, though brief, unfunded, and undermanned assault upon racial violence in the South. During Reconstruction, the KKK Act, in conjunction with federal troops (as opposed to state militias), helped suppress the Ku Klux Klan. Partly due to black jurors' presence in federal courts, numerous Klansmen were successfully prosecuted, fined, and imprisoned, most notably in South Carolina. After the KKK trials in South Carolina, the Klan effectively disappeared in America until 1915.

The South Carolina Ku Klux Klan trials stand out as a singular moment in the nineteenth-century campaign for civil rights. On October 12, 1871, President Grant declared nine counties of South Carolina in a state of rebellion and sent in federal troops. Yet Klan-related murders continued.

Thus, on October 17, he suspended habeas corpus in those counties, enabling mass arrests of Klansmen under the KKK Act. Grant's actions had the effect of emptying the streets while filling the jails of South Carolina.

Circuit Court Judge Hugh Lennox Bond of Maryland—recently appointed by President Grant because of his courageous commitment to civil rights—and District Judge George Seabrook Bryan of South Carolina presided over the KKK trials. Far from being an impartial jurist, Bond saw himself as part of a federal team of Klan busters. Bryan was a Democrat and former slaveholder appointed by President Andrew Johnson; his Carolina district court had acquitted most Klansmen. Democrats raised a substantial sum of money for the defense to hire the former U.S. senator from Maryland, Reverdy Johnson, and the former attorney general (under Andrew Johnson), Henry Stanbery, both vocal critics of Republican Reconstruction policy. David T. Corbin, a prominent South Carolina Republican who graduated from Dartmouth College before practicing law in Vermont, handled the prosecution.

The trials began on November 28, 1871, with both sides fully prepared for a major constitutional battle. The fact that the KKK Act required prospective jurors to swear they had never participated in the Klan partly explains the court's difficulty in forming a jury. Fifteen of the twenty-one grand jurors and two-thirds of the petit jurors were black, increasing both the probability of convictions and the animus of local whites.

More than simply deciding the fate of the Klan and the authority of the KKK Act, the court addressed the meaning of Reconstruction, the reach of the amended Constitution, and the fate of civil rights. The prosecution wanted a clear precedent for black rights, arguing that the Fourteenth and Fifteenth Amendments confirmed positive rights and applied the Bill of Rights against the states, while the defense sought to preserve federal-state relations, insisting that the Reconstruction Amendments did nothing to alter the existing federal system. Ultimately, the court heard many cases during its November 1871 and April 1872 terms; thousands of Klansmen were indicted, and over six hundred were convicted. In the first set of trials, the sentences—fines and imprisonment—were relatively light. In the second set the government concentrated on murder cases, and the court imposed eight- and ten-year prison sentences. Although the KKK Act penalties proved less harsh than criminal penalties for murder, it is unlikely that southern state courts would have found Klansmen guilty at all, so the sentences were regarded as better than nothing.

The KKK trials were more than the courts could handle. The sheer number of offenders was too great for an already stretched judiciary. It did not help that defendants were often wealthy whites while the victims were poor blacks. Klansmen cleverly admitted to their crimes in exchange for leniency, which was generally granted. To make matters worse, Democrats constantly criticized the government for partisan excess, militarily despotism, and executive tyranny. Indeed, even northern Democrats denied the existence of the Klan, suggesting it was a partisan fiction of the Republican Party. Despite success in South Carolina, Attorney General Amos Akerman admitted the inadequacy of the federal judiciary to end Klan violence. Thereafter the judiciary focused on ringleaders of the Klan, though prosecutions became increasingly difficult to achieve. By the spring of 1873, prosecutions under the KKK Act were discontinued. While the Klan was temporarily defeated, white supremacy and racial violence remained a fixture in southern life.

The Civil Rights Act of 1875 represents Congress's final attempt to secure civil rights for blacks. The act proved controversial from the moment it was proposed in 1870, not least for its attempt to eliminate segregation in all forms and for redefining civil rights to include what most Americans understood as "social rights." Even many Republicans objected to desegregation in schools, churches, and cemeteries. The notion that Congress could regulate private persons or companies was especially contentious, with Democrats and conservative Republicans repeatedly insisting that the law was unconstitutional and would never be upheld by the Supreme Court.

The 1875 act met with mixed treatment from federal circuit courts before being ruled unconstitutional by the Supreme Court. Hundreds of civil rights cases were tried and appealed during the late 1870s and early 1880s, with federal judges in Pennsylvania, Texas, Maryland, and Kentucky holding the act constitutional, while in New York, Tennessee, Missouri, Kansas, and other states, divided federal circuit courts sent the issue to the Supreme Court, where some of the act's provisions were ruled unconstitutional in the Civil Rights Cases of 1883.

Meanwhile, the Supreme Court impaired the effectiveness of the KKK Act by limiting the reach of the Fourteenth Amendment. In the Slaughter-House Cases (1873) the Court held that the Fourteenth Amendment protected the privileges and immunities only of national, not state, citizenship. Civil rights were thereafter deemed to be privileges of state citizenship and protected by the states. In *United States v. Reese* (1876), the Court held that Congress went beyond its constitutional authority in various parts of the Enforcement Acts. Since the KKK Act was intended to enforce the Fourteenth Amendment, those decisions rendered the act essentially obsolete. Subsequent Supreme Court decisions, including *United States v. Cruikshank* in 1876 and *Virginia v. Rives* in 1880, narrowed the Fourteenth Amendment even further, insisting that it applied only to state action. The Court's decision in *United States v. Harris* (1883) invalidated the criminal conspiracy section of the KKK Act for the same reason. Finally, when Democrats regained control of Congress later in the nineteenth century, they repealed certain elements of the Enforcement Acts.

Even today, however, federally codified portions of the KKK Act help protect the rights of U.S. citizens. The federal code allows people to sue for state and local violations of federal law and the Constitution. A very broad range of cases are litigated involving equal protection and due process rights as well as constitutional rights applied to the states by the Fourteenth Amendment and subsequent federal statutes. Also, the federal code allows citizens to sue if

they are injured by conspiracies formed to prevent an officer of the United States from performing official duties, for obstructing justice, or for depriving others of the equal protection of the laws. The language of these statutes remains largely unchanged from the KKK Act of 1871.

See also Emancipation Proclamation (1863); Black Code of Mississippi (1865); Thirteenth Amendment to the U.S. Constitution (1865); Testimony before the Joint Committee on Reconstruction on Atrocities in the South against Blacks (1866); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); *United States v. Cruikshank* (1876); Civil Rights Cases (1883).

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—R. Owen Williams

Questions for Further Study

1. What were the Black Codes, as exemplified by the Black Code of Mississippi (1865), and why did they make the Ku Klux Klan Act, along with the other Enforcement Acts, necessary in the post–Civil War period?

2. For decades after the Civil War, many people in the former Confederacy bitterly resented what they saw as the intrusion of the victorious North in southern affairs. Try to imagine a different set of historical circumstances in which the North approached the issue of Reconstruction differently. What do you think would have been the effect on newly freed slaves of your alternative version of history?

3. Habeas corpus is one of the fundamental liberties of Americans. What is habeas corpus, and under what circumstances might it be suspended? Do you see any similarity between the president's power to suspend habeas corpus under the Ku Klux Klan Act and the power of twenty-first-century presidents to do so in cases involving suspected terrorism? Explain.

4. For a period of time in the late nineteenth century the Ku Klux Klan was in eclipse, before its resurgence in the early twentieth century. What events led to a period of lessening Klan activity and influence?

5. Read this document in light of the 1876 U.S. Supreme Court case *United States v. Cruikshank*. In what sense did the Court's decision in that case have the effect of partially undermining the Ku Klux Klan Act?

Document Text

Ku Klux Klan Act

Forty-Second Congress. Sess I.

♦ **Chap XXII—*An Act to enforce the Provisions of the Fourteenth Amendment to the Constitution of the United States, and for other Purposes.***

Be it enacted by the Senate and Home of Representatives of the United States of America in Congress assembled, That any person who, under color of any law, statute, ordinance, regulation, custom, or usage of any State, shall subject, or cause to be subjected, any person within the jurisdiction of the United States to the deprivation of any rights, privileges, or immunities secured by the Constitution of the United States, shall, any such law, statute, ordinance, regulation, custom, or usage of the State to the contrary notwithstanding, be liable to the party injured in any action at law, suit in equity, or other proper proceeding for redress; such proceeding to be prosecuted in the several district or circuit courts of the United States, with and subject to the same rights of appeal, review upon error, and other remedies provided in like cases in such courts, under the provisions of the act of the ninth of April, eighteen hundred and sixty-six, entitled "An act to protect all persons in the United States in their civil rights, and to furnish the means of their vindication"; and the other remedial laws of the United States which are in their nature applicable in such cases.

Sec. 2. That if two or more persons within any State or Territory of the United States shall conspire together to overthrow, or to put down, or to destroy by force the government of the United States, or to levy war against the United States, or to oppose by force the authority of the government of the United States, or by force, intimidation, or threat to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, or by force, intimidation, or threat to prevent any person from accepting or holding any office or trust or place of confidence under the United States, or from discharging the duties thereof, or by force, intimidation, or threat to induce any officer of the United States to leave any State, district, or place where his duties as such officer might lawfully be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or to injure his person while engaged in the lawful discharge of the duties of his office, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duty, or by force, intimidation, or threat to deter any party or witness in any court of the United States from attending such court, or from testifying in any matter pending in such court fully, freely, and truthfully, or to injure any such party or witness in his person or property on account of his having so attended or testified, or by force, intimidation, or threat to influence the verdict, presentment, or indictment, of any juror or grand juror in any court of the United States, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or on account of his being or having been such juror, or shall conspire together, or go in disguise upon the public highway or upon the premises of another for the purpose, either directly or indirectly, of depriving any person or any class of persons of the equal protection of the laws, or of equal privileges or immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State from giving or securing to all persons within such State the equal protection of the laws, or shall conspire together for the purpose of in any manner impeding, hindering, obstructing, or defeating the due course of justice in any State or Territory, with intent to deny to any citizen of the United States the due and equal protection of the laws, or to injure any person in his person or his property for lawfully enforcing the right of any person or class of persons to the equal protection of the laws, or by force, intimidation, or threat to prevent any citizen of the United States lawfully entitled to vote from giving his support or advocacy in a lawful manner towards or in favor of the election of any lawfully qualified person as an elector of President or Vice-President of the United States, or as a member of the Congress of the United States, or to injure any such citizen in his person or property on account of such support or advocacy, each and every person so offending shall be deemed guilty of a high crime, and, upon conviction thereof in any district or circuit court of the United States or district or supreme court of any Territory

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of the United States having jurisdiction of similar offences, shall be punished by a fine not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, as the court may determine, for a period of not less than six months nor more than six years, as the court may determine, or by both such fine and imprisonment as the court shall determine. And if any one or more persons engaged in any such conspiracy shall do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby any person shall be injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the person so injured or deprived of such rights and privileges may have and maintain an action for the recovery of damages occasioned by such injury or deprivation of rights and privileges against any one or more of the persons engaged in such conspiracy, such action to be prosecuted in the proper district or circuit court of the United States, with and subject to the same rights of appeal, review upon error, and other remedies provided in like cases in such courts under the provisions of the act of April ninth, eighteen hundred and sixty-six, entitled "An act to protect all persons in the United States in their civil rights, and to furnish the means of their vindication."

Sec. 3. That in all cases where insurrection, domestic violence, unlawful combinations, or conspiracies in any State shall so obstruct or hinder the execution of the laws thereof, and of the United States, as to deprive any portion or class of the people of such State of any of the rights, privileges, or immunities, or protection, named in the Constitution and secured by this act, and the constituted authorities of such State shall either be unable to protect, or shall, from any cause, fail in or refuse protection of the people in such rights, such facts shall be deemed a denial by such State of the equal protection of the laws to which they are entitled under the Constitution of the United States; and in all such cases, or whenever any such insurrection, violence, unlawful combination, or conspiracy shall oppose or obstruct the laws of the United States or the due execution thereof, or impede or obstruct the due course of justice under the same, it shall be lawful for the President, and it shall be his duty to take such measures, by the employment of the militia or the land and naval forces of the United States, or of either, or by other means, as he may deem necessary for the suppression of such insurrection, domestic violence, or combinations; and any person who shall be arrested under the provisions of this and the preceding section shall be delivered to the marshal of the proper district, to be dealt with according to law.

Sec. 4. That whenever in any State or part of a State the unlawful combinations named in the preceding section of this act shall be organized and armed, and so numerous and powerful as to be able, by violence, to either overthrow or set at defiance the constituted authorities of such State, and of the United States within such State, or when the constituted authorities are in complicity with, or shall connive at the unlawful purposes of, such powerful and armed combinations; and whenever, by reason of either or all of the causes aforesaid, the conviction of such offenders and the preservation of the public safety shall become in such district impracticable, in every such case such combinations shall be deemed a rebellion against the government of the United States, and during the continuance, of such rebellion, and within the limits of the district which shall be so under the sway thereof, such limits to be prescribed by proclamation, it shall be lawful for the President of the United States, when in his judgment the public safety shall require it, to suspend the privileges of the writ of habeas corpus, to the end that such rebellion may be overthrown: *Provided*, That all the provisions of the second section of an act entitled "An act relating to habeas corpus, and regulating judicial proceedings in certain cases," approved March third, eighteen hundred and sixty-three, which relate to the discharge of prisoners other than prisoners of war, and to the penalty for refusing to obey the order of the court, shall be in full force so far as the same are applicable to the provisions of this section: *Provided further.* That the President shall first have made proclamation, as now provided by law, commanding such insurgents to disperse: *And provided also*, That the provisions of this section shall not be in force after the end of the next regular session of Congress.

Sec. 5. That no person shall be a grand or petit juror in any court of the United States upon any inquiry, hearing, or trial of any suit, proceeding, or prosecution based upon or arising under the provisions of this act who shall, in the judgment of the court, be in complicity with any such combination or conspiracy; and every such juror shall, before entering upon any such inquiry, hearing, or trial, take and subscribe an oath in open court that he has never, directly or indirectly, counselled, advised, or voluntarily aided any such combination or conspiracy; and each and every person who shall take this oath, and shall therein swear falsely, shall be guilty of perjury, and shall be subject to the pains and penalties declared

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against that crime, and the first section of the act entitled "An act defining additional causes of challenge and prescribing an additional oath for grand and petit jurors in the United States courts," approved June seventeenth, eighteen hundred and sixty-two, be, and the same is hereby, repealed.

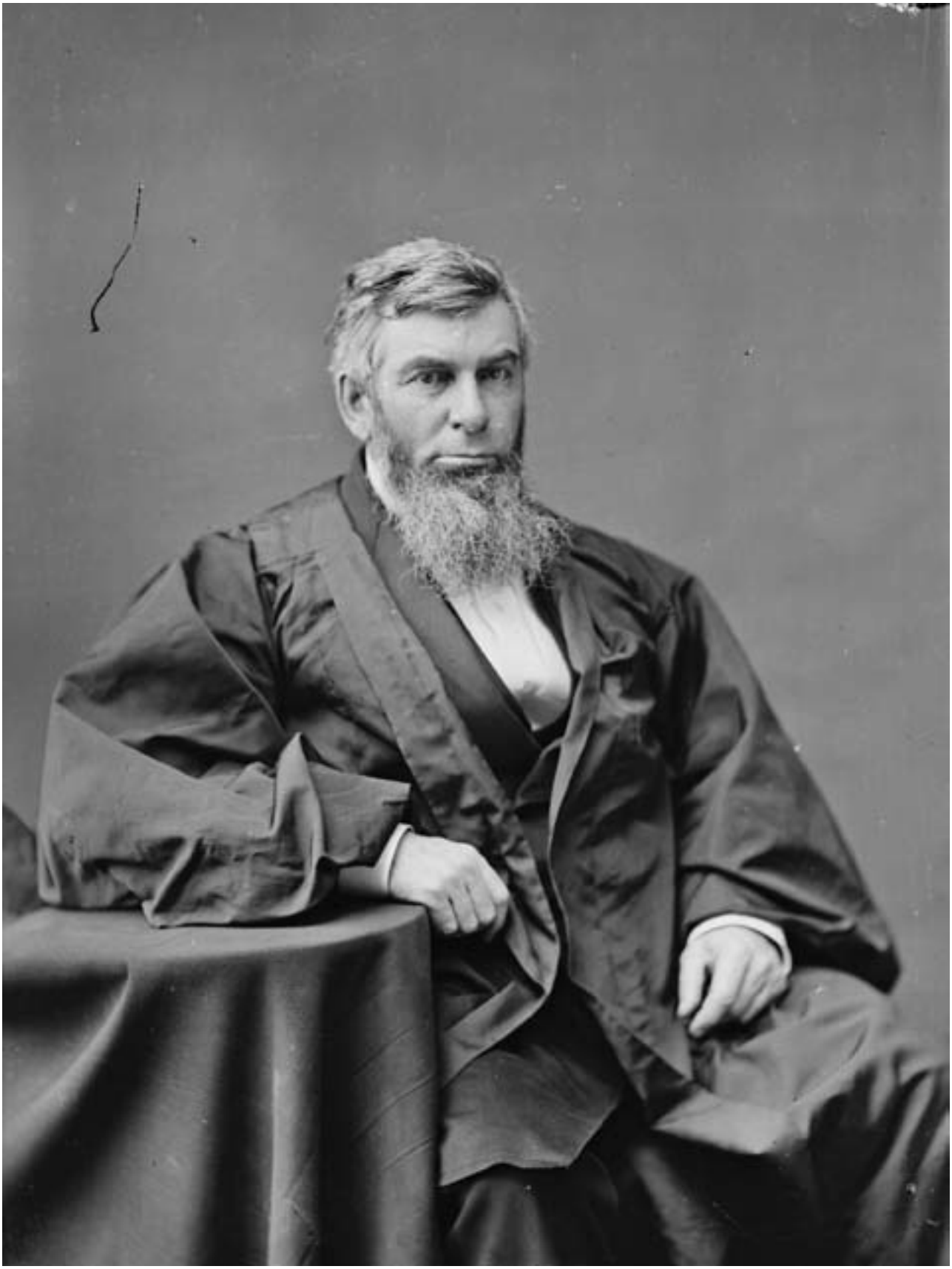
Sec. 6. That any person or persons, having knowledge that any of the wrongs conspired to be done and mentioned in the second section of this act are about to be committed, and having power to prevent or aid in preventing the same, shall neglect or refuse so to do, and such wrongful act shall be committed, such person or persons shall be liable to the person injured, or his legal representatives, for all damages caused by any such wrongful act which such first-named person or persons by reasonable diligence could have prevented; and such damages may be recovered in an action on the case in the proper circuit court of the United States, and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in such action: *Provided*, That such action shall be commenced within one year after such cause of action shall have accrued; and if the death of any person shall be caused by any such wrongful act and neglect, the legal representatives of such deceased person shall have such action therefor, and may recover not exceeding five thousand dollars damages therein, for the benefit of the widow of such deceased person, if any there be, or if there be no widow, for the benefit of the next of kin of such deceased person.

Sec. 7. That nothing herein contained shall be construed to supersede or repeal any former act or law except so far as the same may be repugnant thereto; and any offences heretofore committed against the tenor of any former act shall be prosecuted, and any proceeding already commenced for the prosecution thereof shall be continued and completed, the same as if this act had not been passed, except so far as the provisions of this act may go to sustain and validate such proceedings.

Approved, April 20, 1871.

Glossary

color	in legal terms, pretense
elector	a member of the Electoral College, which votes for the president and vice president of the United States
immunities	the concept that a state cannot deprive citizens from other states of their rights
petit juror	a juror in a trial court, as opposed to a grand juror
presentment	an accusation of a crime made by a grand jury on its own initiative
review upon error	an appeal to a higher court based on the argument that the lower court erred in its ruling
suit in equity	a civil suit, as opposed to a criminal proceeding
Territory	any of the areas formed under the authority of the U.S. government that had not yet been admitted to the Union as states
writ of habeas corpus	from the Latin for "we shall have the body," the requirement that the government openly specify the charges against and bring to trial a person accused of a crime



Morrison R. Waite (Library of Congress)

United States v. Cruikshank

1876

"We may suspect that race was the cause of the hostility, but it is not so averred."

Overview

United States v. Cruikshank et al. involved an effort to bring to justice three men accused of participating in the slaughter of some one hundred blacks in Colfax, Louisiana, on April 13, 1873, one of the most sensational incidents of Reconstruction political violence. During Reconstruction, the decade-long period after the Civil War, the federal government passed laws to protect blacks from violence and intimidation as they sought to exercise the right to vote. Nonetheless, in *Cruikshank*, the Supreme Court affirmed a lower federal court's decision to invalidate the result of a previous verdict of guilty and ordered the release of the defendants.

While the Court's decision rested in large part upon its criticism of a poorly drafted indictment, the narrow grounds upon which it based its decision hampered federal efforts to protect blacks from violence. Coupled with another Court decision, *United States v. Reese*, the *Cruikshank* decision marked a significant step in the federal government's retreat from Reconstruction. It would be nearly a century before new legislation reaffirmed the federal government's ability and will to protect African Americans in exercising their right to vote.

Context

In the five years following the end of the Civil War, Congress adopted several measures that together removed race as a barrier to African Americans' right to vote. The change was piecemeal in approach but revolutionary in impact. In March and July 1867 and March 1868, the Reconstruction Acts provided for the enfranchisement of African Americans so as to allow them to participate in fresh elections to establish new state constitutions in ten former Confederate states. African Americans also won election as delegates to these conventions, and the ten state constitutions that eventually emerged from this process secured their right to vote. In July 1868 the Fourteenth Amendment guaranteed citizenship for former slaves and equal protection under the law for all, and, while recognizing that the right of suffrage remained one reserved to the states, it provided that a state's representation in the House of Representatives would be reduced in proportion to the state's restrictions upon suffrage. That year, over half a million African Americans voted in the presidential election, providing the Republican candidate Ulysses S. Grant with his popular majority—though he would have still claimed victory in the Electoral College had blacks not voted in such numbers.

Although Republicans achieved much with the enfranchisement of most southern blacks, blacks still could not vote in many other states, including key northern states such as Ohio and Pennsylvania. Republican efforts to secure suffrage for blacks in several northern states between 1865 and 1868 usually fell short of success. With Grant elected, Republicans turned to amending the Constitution once more, this time to remove barriers to voting for American citizens based on "race, color, or previous condition of servitude," as the Fifteenth Amendment would state. Such phrasing recognized that states remained the primary determiners of suffrage qualifications for their citizens but forbade those states from depriving black citizens of the right to vote based on their race. As constitutional amendments are ratified by state legislatures, not by popular vote, and the Republicans then controlled enough state legislatures for ratification, the Fifteenth Amendment became part of the Constitution in 1870.

Southern white supremacist terrorists first targeted black voters during the 1868 presidential contest. By 1870 Congress decided to take action, and on May 31 it passed the Enforcement Act of 1870, designed to provide federal protection for black voters and the means to prosecute white terrorists. In April 1871 another Enforcement Act, also known as the Ku Klux Klan Act, authorized President Grant to suspend the writ of habeas corpus in the effort to subdue such domestic terrorism: Grant used these powers to pursue the Klan in South Carolina in the fall of 1871. However, the Ku Klux Klan Act was of limited duration, and it expired in 1872. That year, a presidential election year, violence broke out in Louisiana during a closely contested local election whose results were disputed. Both Democrats and Republicans claimed victory; with Congress declining to count the state's electoral vote, it remained unclear for weeks which party would gain control of the state government, including

Time Line

1870

- **February 3**
  The Fifteenth Amendment is ratified, guaranteeing African Americans' right to vote.
- **May 31**
  The Enforcement Act of 1870 is passed, protecting the right to vote as outlined in the Fifteenth Amendment.

1871

- **February 28**
  The 1870 Enforcement Act is amended to reduce registration fraud and allow for federal supervision of elections.
- **April 20**
  The Enforcement Act of 1871, also known as the Ku Klux Klan Act, is passed to punish the acts of white supremacist terrorists.

1873

- **April 13**
  Some one hundred African Americans gathered at the town courthouse are slaughtered in Colfax, Louisiana.
- **June**
  In the Colfax case, ninety-eight defendants are indicted by a federal grand jury, charged with violating the Enforcement Act of 1870.

1874

- **February 23**
  The first trial of nine Colfax defendants begins in federal court.
- **April**
  The first trial of the Colfax defendants ends in a mistrial for eight defendants and acquittal for the ninth.
- **May 18**
  The second trial of the eight remaining Colfax defendants begins.
- **June 10**
  The second Colfax trial ends with guilty verdicts for three defendants, William J. Cruikshank, John P. Hadnot, and William D. Irwin, on sixteen of thirty-two counts.

the governorship. Eventually the Republicans prevailed—but not without outbreaks of violence, the most sensational of which happened in Colfax, in Grant Parish.

Established in 1869 and named after the nation's eighteenth president, Grant Parish is located along the Red River, north of New Orleans, in the heart of Louisiana; the county seat located at Colfax is named after Grant's first vice president, Schuyler Colfax. It soon witnessed its share of political friction and violence: Both parties claimed victory in the 1872 elections. Clashes between blacks and whites subsequently increased, and in the early spring, blacks seeking protection began flocking to the shelter of the Colfax courthouse. Efforts to prevent a confrontation proved futile, and some three hundred whites gathered outside the courthouse. On Easter Sunday, April 13, 1873, the whites first demanded that the blacks surrender; when that proved unavailing, they allowed women and children to depart. Soon after, a firefight between the two sides commenced. Eventually the whites launched an assault on the courthouse, set it on fire, and tracked down those blacks who had fled from the building, killing some and capturing others. That night, the whites slaughtered the remaining black prisoners. Estimates of the dead for the entire day ranged from fifty to some four hundred black men; a federal investigation settling upon 105 known dead black men, with the fates of dozens more remaining unknown.

Federal officials indicted ninety-eight men under the terms of the Enforcement Act of 1870, among them, William J. Cruikshank, John P. Hadnot, and William D. Irwin, who, along with six other men, had been taken into custody by federal authorities. The nine men were tried in New Orleans before the U.S. circuit court judge William B. Woods. The prosecuting district attorney, James R. Beckwith, with a view to presenting a clean case, carefully narrowed the number of victims to two—Levi Nelson and Alexander Tillman, who had not been involved in resisting the whites by force. (Indeed, Nelson survived the massacre and testified for the government.) A first trial acquitted one defendant, while Woods declared a mistrial for the other eight defendants when the jury was unable to agree on a verdict. Those eight men underwent a second trial in May 1874, and on June 10 three men—Cruikshank, Hadnot, and Irwin—were found guilty of violating section 6 of the Enforcement Act of 1870, which stipulated that if two or more people conspired to violate the provisions of the act or to "oppress" any citizen by trying to prevent him from exercising his rights under federal law or the Constitution, such an act would be punished as a felony, with possible fines and imprisonment.

During the second trial, Judge Woods was joined for short periods of time by the Supreme Court associate justice Joseph P. Bradley, who appeared in New Orleans as part of his duties as a federal circuit-court judge—an onerous additional duty performed by all justices of the Supreme Court at the time. Woods was inclined to uphold the convictions, but Bradley dissented and was determined to explain why. His detailed opinion carefully defined federal power to enforce the Thirteenth, Fourteenth, and Fifteenth Amendments. He argued that while violence inflicted for

racial reasons was well within the jurisdiction of federal law, that motive had to be proved: It was insufficient to argue simply that conflict between people of different races must be due to the racial difference. Unless race as a motive could be established, cases of criminal violence should be handled in state court. Turning to the case at hand, Bradley argued that as the indictment did not expressly specify that Nelson and Tillman's rights as U.S. citizens had been violated owing to their race, there was no justification to treat them under federal law. It was an opinion narrow in its reasoning but broad in its implications. As the district attorney who prosecuted the case later complained, "If the demolished indictment is not good, I am incompetent to frame a good one"; Bradley had come close to implying just that. As Bradley and Woods divided on the propriety of the convictions, the punishment was placed in abeyance, or "arrested," while the Supreme Court heard the case.

Between the time of the massacre at Colfax in April 1873 and the Supreme Court's release of its decision nearly three years later, Republican Reconstruction policy suffered a series of serious setbacks that all but doomed the federal government's efforts to protect African Americans as free people, as citizens, and as voters and officeholders. In several southern states, including Alabama, Arkansas, Mississippi, and Texas, Republicans lost their hold on power as the result of political circumstances, terrorism, and internal friction. In Louisiana and Mississippi, violence played a key role in Democrats' resurgence; although Republicans barely held on to power in Louisiana, they lost it in Mississippi, where the Democrats embraced as a slogan a pledge that they would regain power peaceably if they could and forcibly if they must. An economic depression in 1873 had long-term effects and, combined with debates over monetary policy and tales of Republican corruption and malfeasance, resulted in the Democrats' reclaiming control of the House of Representatives in 1874, shutting down any further efforts to pass legislation to protect black citizens from violence and intimidation.

Even President Grant, who had once expressed his willingness to protect black rights, allowed frustration to get the better of him. In a special message to the Senate in January 1875, he made specific reference to the Colfax massacre, "a butchery of citizens … which in bloodthirstiness and barbarity is hardly surpassed by any acts of savage warfare." Nearly two years later, he declared that while critics of Reconstruction waxed eloquent about the missteps of southern Republican regimes, "every one of the Colfax miscreants goes unwhipped of justice, and no way can be found in this boasted land of civilization and Christianity to punish the perpetrators of this bloody and monstrous crime." Grant at length grew exasperated with the fractious behavior of southern Republicans and eroding support in the North for protecting the fruits of victory. When Mississippi's governor requested that federal troops be dispatched to his state in 1875, the president declined, explaining that "the whole public are tired out with these annual autumnal outbreaks in the South" and would no longer support such federal intervention policy. In fact, Grant himself had nominated Bradley to the Supreme Court in 1870, and it was his administration's Department of Justice, led by Attorney General George H. Williams, that did not seem equal to the task at hand, as much because of its lack of legal skill as a paucity of resources.

The chief justice when *Cruikshank* was argued from March 30 to April 1, 1875, was Morrison J. Waite, appointed by President Grant. Waite's eight associate justices, aside from Nathan Clifford, were all Republican appointees, though two, David Davis and Stephen J. Field (both Abraham Lincoln's nominees), could no longer be counted as Republicans themselves. Samuel F. Miller and Noah H. Swayne, both also Lincoln nominees, had each hoped to be tapped as the next chief justice; the remaining justices, Ward Hunt, William Strong, and Joseph P. Bradley, had been named by Grant. It was Bradley whose vote while on circuit-court duty in Louisiana brought *Cruikshank* to the Supreme Court, and he hoped his detailed 1874 opinion would guide the Court's decision and reasoning. Although ideally justices were to rise above their partisan roots, it was generally assumed that they would most often lean in the direction of their previous party affiliation and view cases in that light. When Congress passed legislation establishing an electoral commission to help resolve the disputed election of 1876, among the five commission members from the Court it was assumed that Clifford and Field would cast their votes for the Democratic case while Miller and Strong would side with the Republican claimant. When the sup-

Time Line

1874

- **July**
  A federal circuit court in Louisiana "arrests" the Colfax convictions, opening the way for the Supreme Court to hear the case.
- **November**
  Democrats triumph in the midterm congressional elections, retaking control of the House of Representatives.

1875

- **January 13**
  President Ulysses S. Grant denounces the failure to bring the Colfax defendants to justice.
- **March 30–April 1**
  The Supreme Court hears the arguments in *United States v. Cruikshank*.

1876

- **March 27**
  The *Cruikshank* decision and opinions are released, overturning the convictions of Cruikshank, Hadnot, and Irwin.

A Harper's Weekly illustration of blacks hiding in the swamps of Louisiana in 1873 (Library of Congress)

posedly independent Davis stepped aside to accept election as U.S. senator from Illinois, Democrats wondered whether his replacement, none other than Bradley, would also favor the Republicans. Some Democrats believed otherwise, in part because of Bradley's actions in the course of events that brought the *Cruikshank* case before the Court, for he had thereby defied Republican preferences.

In 1873 all of the associate justices who heard the arguments in the *Cruikshank* case had participated in deciding what became known as the Slaughter-House Cases, with Miller delivering the opinion for a slim five-to-four majority on April 14, 1873—the day after the massacre at Colfax. The cases involved a series of suits testing the constitutionality of a Louisiana law that attempted to regulate the state's slaughterhouse industry by establishing a private corporation that would exercise sole control over the industry by allocating space to area slaughterhouses. The suits cited the Fourteenth Amendment in support of their claim that the legislation was invalid. Miller's opinion, allowing the Louisiana law and the controlling corporation to stand, argued that the Fourteenth Amendment's privileges and immunities clause affects only those rights a person holds as part of U.S. citizenship, not as citizens of a state; furthermore, the primary objective of that clause was rather to protect the federal rights of former slaves. Thus, the Fourteenth Amendment did not protect the butchers' interests, namely, to freely pursue their chosen vocation, against the interests of the state. Miller's concept of dual citizenship would appear again in *Cruikshank*, this time as adverse to the former slaves. Clifford, Strong, Hunt, and Davis had agreed with Miller, while Field, Swayne, and Bradley dissented, along with Waite's predecessor, Salmon P. Chase.

While many members of the Court at first glance seemed sympathetic to the ends of Reconstruction policy, Bradley's circuit-court opinion on the Colfax massacre defendants, coming in the wake of Miller's reasoning in the Slaughter-House Cases, suggested that a majority of the justices were in favor of a strict and narrow explication of congressional legislation, which did not augur well for the prosecution. Moreover, the government's short brief for *Cruikshank* proved less than compelling in its argument, especially as it sidestepped Bradley's circuit-court opinion, failed to mention either African Americans or the Fifteenth Amendment, and mentioned the Enforcement Acts only in passing. It instead focused on just two counts of the indictment that concerned "conspiracy," arguing that an effort to conspire to deprive anyone of their constitutional rights was punishable under federal law. In contrast, the four briefs filed by the defense—including one by Justice Field's brother, David Dudley Field—argued at length that the pertinent

Essential Quotes

"To bring this case under the operation of the statute, therefore, it must appear that the right, the enjoyment of which the conspirators intended to hinder or prevent, was one granted or secured by the Constitution or laws of the United States. If it does not so appear, the criminal matter charged has not been made indictable by any act of Congress."

"The people of the United States resident within any State are subject to two governments—one State and the other National—but there need be no conflict between the two. The powers which one possesses the other does not. They are established for different purposes, and have separate jurisdictions. Together, they make one whole, and furnish the people of the United States with a complete government, ample for the protection of all their rights at home and abroad."

"Inasmuch, therefore, as it does not appear in these counts that the intent of the defendants was to prevent these parties from exercising their right to vote on account of their race, &c., it does not appear that it was their intent to interfere with any right granted or secured by the Constitution or laws of the United States."

"We may suspect that race was the cause of the hostility, but it is not so averred. This is material to a description of the substance of the offence, and cannot be supplied by implication. Everything essential must be charged positively, and not inferentially. The defect here is not in form, but in substance."

"The charge as made is really of nothing more than a conspiracy to commit a breach of the peace within a State. Certainly it will not be claimed that the United States have the power or are required to do mere police duty in the States."

sections of the Enforcement Act of 1870 were unconstitutional and that the Bill of Rights, far from conferring upon citizens specific rights, simply prohibited their infringement by the federal government and did not apply to state governments. The lawyer Field went so far as to attack the constitutionality of all postwar civil rights legislation, and he sought to bring his arguments before the public by publishing his brief.

All in all, by the time the Supreme Court heard the arguments in the *Cruikshank* case at the end of March 1875, the political foundations of Reconstruction, flawed as they were, were beginning to erode. By the time the Court released its opinion in March 1876, what had begun as a fighting withdrawal by Reconstruction's supporters was turning into a full-scale retreat to ensure the political survival of the Republican Party in the 1876 presidential contest.

About the Author

Chief Justice Morrison R. Waite composed the Court's opinion in *United States v. Cruikshank*. At first he had hoped to entrust Associate Justice Nathan Clifford with drafting the Court's opinion, but Clifford's draft, presented to the justices in November 1875, fell short of offering a comprehensive overview of the issues at stake and based the Court's ruling on narrow grounds.

The son of a judge, Waite, born on November 19, 1816, was a native of Connecticut and an 1837 graduate of Yale who moved to Ohio after graduation, eventually settling in Toledo. Originally a Whig in politics, he became a Republican, but his sole brush with political office came when he served a term in the Ohio Senate. In 1871 he served on the legal team that presented the United States' case at a Geneva tribunal convened to settle U.S. claims of damages caused by the CSS *Alabama*, built by Great Britain to serve the Confederacy. Three years later, in the wake of several frustrated attempts to nominate a new chief justice of the United States, President Grant settled upon Waite, who won confirmation despite critical commentary that he would not be up to the task. Along with *United States v. Reese*, *United States v. Cruikshank* provided Waite with his first substantial test as chief justice. After *Cruikshank*, Waite went on to serve twelve more years as chief justice. When he died on March 23, 1888, he left behind a solid but unspectacular record. If his performance surprised those critics who had criticized Grant for nominating a nonentity, it nevertheless fell short of the greatness achieved by other chief justices.

Explanation and Analysis of the Document

Waite's opinion outlines a concept of dual citizenship first developed by the Supreme Court in 1873 in the Slaughter-House Cases. A citizen owed allegiance to both the federal and state governments and, in turn, could expect those governments to protect the specific rights attributable to each jurisdiction. Under this construction it was left to the states to prosecute cases of murder, manslaughter, and homicide as well as most infringements of civil rights.

Although Waite argues that the Fifteenth Amendment in itself does not guarantee the right to vote, he concedes that the amendment's second section constructed a new constitutional right that could be protected by the federal government, namely, that voters not suffer discrimination "on account of race, color, or previous condition of servitude." Yet such wording, he contends, means that the fact that Cruikshank and his collaborators were charged with murdering black Republican voters was not sufficient to bring them under the scope of the Enforcement Act of 1870: Prosecutors had to charge—and prove—that the victims were murdered because of their race. The right not to be discriminated against as such was the only relevant right protected under federal law. But the prosecutors did not demonstrate violation of this right in this instance. The chief justice asserts that the indictments were so vague that they did not sufficiently meet the Fourth Amendment standard of informing the accused of the offense for which they were being tried. Had the indictment specified that race was the basis upon which the accused murdered the victims, then and only then would the actions of the accused have come under the Enforcement Acts.

Waite's opinion mentions the sixteen counts on which Cruikshank, Hadnot, and Irwin were convicted. The first eight counts charged that the defendants "banded together" to deprive Levi Nelson and Alexander Tillman of their rights, while the ninth through sixteenth counts charged, equivalently, that the defendants "conspired" to deprive Nelson and Tillman of their rights. The defendants were charged with seeking to deprive Nelson and Tillman of, in the first and ninth counts, the right to assemble peacefully; in the second and tenth counts, of the right to keep and bear arms; in the third and tenth counts, of the right to not be deprived of life and liberty without due process of law; in the fourth and twelfth counts, of equal rights and equal treatment under law; in the fifth and thirteenth counts, of their rights as citizens by reason of their race; in the sixth and fourteenth counts, of their right to vote; in the seventh and fifteenth counts, of the right to vote without suffering harm; and in the eighth and sixteenth counts, of the free exercise of their rights secured by federal law and the Constitution.

In his opinion, Waite carefully goes through the sixteen counts, which were framed with section 6 of the Enforcement Act of 1870 in mind. That section states that if two or more people "shall band or conspire together" to intimidate or harm "any citizen" to prevent that citizen from exercising his rights secured by the Constitution and federal law, those people could be found guilty of a felony and could be fined, imprisoned, or both. Citing the Slaughter-House Cases, Waite distinguishes between the rights of citizens protected by the federal government and those protected by state government. He reads the Bill of Rights as operating to restrain the federal government, not state governments, and thus quickly sets aside those charges dealing with the right to assemble peacefully and to bear arms. He rather summarily dismisses those counts that addressed the

victims' right not to be deprived of life or liberty without due process, arguing that state governments were to protect those rights. Repeatedly he offers a narrow view of federal power based upon his interpretation of the Fourteenth Amendment; time and again, he argues that the victims needed to seek recourse at the state level.

Waite also criticizes the indictment as too vague in what it alleged. He rejects the fourth and twelfth counts, charging that they failed to claim race as the reason the defendants attempted to deprive Nelson and Tillman of their civil rights, even as he admits that the Fifteenth Amendment did establish a new right, that of exempting citizens from racial discrimination in their effort to exercise the right to vote. He employs the same justification as the reason the defendants attempted to deprive Nelson and Tillman of the right to vote, thus setting aside the sixth and fourteenth counts: He repeats that reasoning in dismissing the seventh and fifteenth counts, which charged the defendants with endangering Nelson and Tillman because they had voted.

This left two pairs of counts: the fifth and thirteenth, which concerned whether Tillman and Nelson had been deprived of their rights as citizens because of their race, and the eighth and sixteenth, which simply said that they had been deprived of their rights as U.S. citizens. Here Waite finds that section 6 of the Enforcement Act of 1870 went beyond the grant of authority extended to Congress in the Fifteenth Amendment by failing to specify race, rendering the section inappropriate; in turn, he finds the counts "too vague and general" and "so defective that no judgment of conviction should be pronounced upon them."

Waite's opinion develops the notion of federalism and dual sovereignty, reminding Americans that the Court would not nationalize all rights and grant them federal protection. Having failed to specify the federal right being violated as specified in the Enforcement Act of 1870, the indictment, in Waite's opinion, was insufficient and could not sustain a conviction. The Fourteenth Amendment offered minimal protection, as it called for federal intervention to remedy state inaction or violation of the Bill of Rights, but, again, the prosecution did not demonstrate the relevant unlawful activity, namely, any such inaction or violation on the part of the state. In sum, although Waite was willing to accept the responsibility of the federal government to protect a voter from finding his right to vote challenged or blocked owing to his race, the chief justice's decision placed a heavy burden of proof on prosecutors by requiring that they specify that motive and demonstrate it.

Audience

As might have been expected, Democrats celebrated the decision as a blow against Republican Reconstruction policy. They were aware that the decision weakened efforts to protect black voters by forcing prosecutors to prove that the motive of violence against them was their race. Given the limited resources of the Department of Justice, this would not be easy. Moreover, given Democratic control of the House of Representatives, it was extremely unlikely that new legislation would appear that would expand the protection offered black voters under law. However, many Republicans also spoke highly of the decision as responsible and dispassionate. By now, they wondered whether it was politically wise or even possible to protect black rights, given the growing opposition to federal intervention in southern affairs. African Americans and their allies might well have seen the decision as another step backward with a promise of worse to come, but even President Grant, who had been outspoken earlier in his comments on the case, chose to remain silent in the aftermath of the Court's decision.

Impact

The *Cruikshank* decision marked yet another milepost on the Republican retreat from Reconstruction. With the Democrats in control of the House of Representatives, there would be no chance for Republicans to pass new enforcement legislation. Meanwhile, by the time the decision appeared, the Grant administration was engulfed by charges of corruption involving cabinet members and the White House staff. Although the decision itself did not rule on the constitutionality of the Enforcement Act of 1870, the opinion ensured that its clauses would be construed strictly and narrowly. A second opinion released by the Court on the same day the *Cruikshank* decision was issued, *United States v. Reese*, bore more directly upon the Enforcement Act of 1870. In *Reese*, strictly interpreting the scope and meaning of that legislation, Waite found it insufficient to protect the right outlined in the Fifteenth Amendment, that is, the right to vote as not abridged due to race, color, or previous condition of servitude. The prosecution had charged that Kentucky election officials had violated the law in refusing to allow William Garner, an African American, to vote, but it could not be demonstrated that they did so because of Garner's race.

By March 1876, only three southern states remained under Republican rule: South Carolina, Louisiana, and Florida. Without the threat of federal prosecution, terrorist forces continued to target black voters, tipping the scale toward Democratic candidates. Had southern blacks been allowed to vote freely in the election of 1876, the Republican candidate Rutherford B. Hayes would have then secured the presidency. Instead, the Democratic candidate Samuel J. Tilden claimed a majority of the popular vote, falling just one electoral vote short of the presidency owing to disputed voting returns in the three Republican states still remaining in the South. Through the resulting Compromise of 1877, Hayes was awarded the disputed votes and the presidency in exchange for the promise that federal troops would be removed from the three southern Republican-led states. Grant and then Hayes duly removed the troops from Florida, South Carolina, and Louisiana, and by the summer of 1877 the southern states were all under Democratic rule. Not until the twentieth century would the federal government once more use force and the law to assure blacks their right to vote.

See also Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); Ku Klux Klan Act (1871).

Further Reading

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—Brooks D. Simpson

Questions for Further Study

1. In what way did the Court's decision in this case represent a retreat from Reconstruction and the protection of African Americans afforded by the Fourteenth and Fifteenth Amendments to the Constitution?

2. An ongoing source of dispute in the United States concerns the respective powers of the federal government and those of the states. How did *United States v. Cruikshank* reflect this struggle?

3. What events led to the Colfax massacre of 1873? Why did the Supreme Court become involved in what could have been regarded as a Louisiana matter?

4. What political consequences did the Court's decision in this case have? How might the history of Reconstruction and the post–Civil War South have been different if the Court had reached a different decision?

5. What could the U.S. government have done differently in enforcing the civil rights of African Americans in the post–Civil War South? If you had been president during the 1870s, what would you have done?

Document Text

United States v. Cruikshank

Mr. Chief Justice Waite delivered the opinion of the court

This case comes here with a certificate by the judges of the Circuit Court for the District of Louisiana that they were divided in opinion upon a question which occurred at the hearing. It presents for our consideration an indictment containing sixteen counts, divided into two series of eight counts each, based upon sect. 6 of the Enforcement Act of May 31, 1870. That section is as follows:—

"That if two or more persons shall band or conspire together, or go in disguise upon the public highway, or upon the premises of another, with intent to violate any provision of this act, or to injure, oppress, threaten, or intimidate any citizen, with intent to prevent or hinder his free exercise and enjoyment of any right or privilege granted or secured to him by the Constitution or laws of the United States, or because of his having exercised the same, such persons shall be held guilty of felony, and, on conviction thereof, shall be fined or imprisoned, or both, at the discretion of the court—the fine not to exceed $5,000, and the imprisonment not to exceed ten years—and shall, moreover, be thereafter ineligible to, and disabled from holding, any office or place of honor, profit, or trust created by the Constitution or laws of the United States."

The question certified arose upon a motion in arrest of judgment after a verdict of guilty generally upon the whole sixteen counts, and is stated to be whether "the said sixteen counts of said indictment are severally good and sufficient in law, and contain charges of criminal matter indictable under the laws of the United States."

The general charge in the first eight counts is that of "banding," and in the second eight that of "conspiring" together to injure, oppress, threaten, and intimidate Levi Nelson and Alexander Tillman, citizens of the United States, of African descent and persons of color, with the intent thereby to hinder and prevent them in their free exercise and enjoyment of rights and privileges "granted and secured" to them "in common with all other good citizens of the United States by the Constitution and laws of the United States."

The offences provided for by the statute in question do not consist in the mere "banding" or "conspiring" of two or more persons together, but in their banding or conspiring with the intent, or for any of the purposes, specified. To bring this case under the operation of the statute, therefore, it must appear that the right, the enjoyment of which the conspirators intended to hinder or prevent, was one granted or secured by the Constitution or laws of the United States. If it does not so appear, the criminal matter charged has not been made indictable by any act of Congress.

We have in our political system a government of the United States and a government of each of the several States. Each one of these governments is distinct from the others, and each has citizens of its own who owe it allegiance and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States and a citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other. *Slaughter-House Cases*,16 Wall. 74.

Citizens are the members of the political community to which they belong. They are the people who compose the community, and who, in their associated capacity, have established or submitted themselves to the dominion of a government for the promotion of their general welfare and the protection of their individual as well as their collective rights. In the formation of a government, the people may confer upon it such powers as they choose. The government, when so formed, may, and when called upon should, exercise all the powers it has for the protection of the rights of its citizens and the people within its jurisdiction, but it can exercise no other. The duty of a government to afford protection is limited always by the power it possesses for that purpose.

Experience made the fact known to the people of the United States that they required a national government for national purposes. The separate governments of the separate States, bound together by the articles of confederation alone, were not sufficient for the promotion of the general welfare of the people in respect to foreign nations, or for their complete protection as citizens of the confederated States. For this reason, the people of the United States, "in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common

defence, promote the general welfare, and secure the blessings of liberty" to themselves and their posterity (Const. Preamble), ordained and established the government of the United States, and defined its powers by a Constitution, which they adopted as its fundamental law, and made its rule of action.

The government thus established and defined is to some extent a government of the States in their political capacity. It is also, for certain purposes, a government of the people. Its powers are limited in number, but not in degree. Within the scope of its powers, as enumerated and defined, it is supreme, and above the States; but beyond, it has no existence. It was erected for special purposes, and endowed with all the powers necessary for its own preservation and the accomplishment of the ends its people had in view. It can neither grant nor secure to its citizens any right or privilege not expressly or by implication placed under its jurisdiction.

The people of the United States resident within any State are subject to two governments—one State and the other National—but there need be no conflict between the two. The powers which one possesses the other does not. They are established for different purposes, and have separate jurisdictions. Together, they make one whole, and furnish the people of the United States with a complete government, ample for the protection of all their rights at home and abroad. True, it may sometimes happen that a person is amenable to both jurisdictions for one and the same act. Thus, if a marshal of the United States is unlawfully resisted while executing the process of the courts within a State, and the resistance is accompanied by an assault on the officer, the sovereignty of the United States is violated by the resistance, and that of the State by the breach of peace in the assault. So, too, if one passes counterfeited coin of the United States within a State, it may be an offence against the United States and the State: the United States because it discredits the coin, and the State because of the fraud upon him to whom it is passed. This does not, however, necessarily imply that the two governments possess powers in common, or bring them into conflict with each other. It is the natural consequence of a citizenship which owes allegiance to two sovereignties and claims protection from both. The citizen cannot complain, because he has voluntarily submitted himself to such a form of government. He owes allegiance to the two departments, so to speak, and, within their respective spheres, must pay the penalties which each exacts for disobedience to its laws. In return, he can demand protection from each within its own jurisdiction.

The Government of the United States is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States or the people. No rights can be acquired under the Constitution or laws of the United States, except such as the Government of the United States has the authority to grant or secure. All that cannot be so granted or secured are left under the protection of the States. We now proceed to an examination of the indictment, to ascertain whether the several rights, which it is alleged the defendants intended to interfere with, are such as had been in law and in fact granted or secured by the Constitution or laws of the United States.

The first and ninth counts state the intent of the defendants to have been to hinder and prevent the citizens named in the free exercise and enjoyment of their "lawful right and privilege to peaceably assemble together with each other and with other citizens of the United States for a peaceful and lawful purpose."

The right of the people peaceably to assemble for lawful purposes existed long before the adoption of the Constitution of the United States. In fact, it is, and always has been, one of the attributes of citizenship under a free government. It "derives its source," to use the language of Chief Justice Marshall in 22 U. S. 211, "from those laws whose authority is acknowledged by civilized man throughout the world." It is found wherever civilization exists. It was not, therefore, a right granted to the people by the Constitution. The Government of the United States, when established, found it in existence, with the obligation on the part of the States to afford it protection. As no direct power over it was granted to Congress, it remains, according to the ruling in *Gibbons v. Ogden*, id., @ 22 U. S. 203, subject to State jurisdiction.

Only such existing rights were committed by the people to the protection of Congress as came within the general scope of the authority granted to the national government.

The first amendment to the Constitution prohibits Congress from abridging "the right of the people to assemble and to petition the government for a redress of grievances." This, like the other amendments proposed and adopted at the same time, was not intended to limit the powers of the State governments in respect to their own citizens, but to operate upon the National Government alone. *Barron v. The City of Baltimore*, 7 Pet. 250; *Lessee of Livingston v. Moore*, id., 551; *Fox v. Ohio*, 5 How. 434; *Smith v. Maryland*, 18 id. 76; *Withers v. Buckley*, 20 id. 90; *Pervear v. The Commonwealth*, 5 Wall. 479; *Twitchell v. The Commonwealth*,

7 id. 321; *Edwards v. Elliott*, 21 id. 557. It is now too late to question the correctness of this construction. As was said by the late Chief Justice, in *Twitchell v. The Commonwealth*, 7 Wall. 325, "the scope and application of these amendments are no longer subjects of discussion here." They left the authority of the States just where they found it, and added nothing to the already existing powers of the United States.

The particular amendment now under consideration assumes the existence of the right of the people to assemble for lawful purposes, and protects it against encroachment by Congress. The right was not created by the amendment; neither was its continuance guaranteed, except as against congressional interference. For their protection in its enjoyment, therefore, the people must look to the States. The power for that purpose was originally placed there, and it has never been surrendered to the United States.

The right of the people peaceably to assemble for the purpose of petitioning Congress for a redress of grievances, or for any thing else connected with the powers or the duties of the national government, is an attribute of national citizenship, and, as such, under the protection of, and guaranteed by, the United States. The very idea of a government republican in form implies a right on the part of its citizens to meet peaceably for consultation in respect to public affairs and to petition for a redress of grievances. If it had been alleged in these counts that the object of the defendants was to prevent a meeting for such a purpose, the case would have been within the statute, and within the scope of the sovereignty of the United States. Such, however, is not the case. The offence, as stated in the indictment, will be made out, if it be shown that the object of the conspiracy was to prevent a meeting for any lawful purpose whatever.

The second and tenth counts are equally defective. The right there specified is that of "bearing arms for a lawful purpose." This is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. The second amendment declares that it shall not be infringed, but this, as has been seen, means no more than that it shall not be infringed by Congress. This is one of the amendments that has no other effect than to restrict the powers of the national government, leaving the people to look for their protection against any violation by their fellow citizens of the rights it recognizes, to what is called, in *The City of New York v. Miln*, 11 Pet. 139, the "powers which relate to merely municipal legislation, or what was, perhaps, more properly called internal police," "not surrendered or restrained" by the Constitution of the United States.

The third and eleventh counts are even more objectionable. They charge the intent to have been to deprive the citizens named, they being in Louisiana, "of their respective several lives and liberty of person without due process of law." This is nothing else than alleging a conspiracy to falsely imprison or murder citizens of the United States, being within the territorial jurisdiction of the State of Louisiana. The rights of life and personal liberty are natural rights of man. "To secure these rights," says the Declaration of Independence, "governments are instituted among men, deriving their just powers from the consent of the governed." The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of these "unalienable rights with which they were endowed by their Creator." Sovereignty, for this purpose, rests alone with the States. It is no more the duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within a State, than it would be to punish for false imprisonment or murder itself.

The Fourteenth Amendment prohibits a State from depriving any person of life, liberty, or property without due process of law, but this adds nothing to the rights of one citizen as against another. It simply furnishes an additional guaranty against any encroachment by the States upon the fundamental rights which belong to every citizen as a member of society. As was said by Mr. Justice Johnson, in *Bank of Columbia v. Okely*, 4 Wheat. 244, it secures "the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice."

These counts in the indictment do not call for the exercise of any of the powers conferred by this provision in the amendment.

The fourth and twelfth counts charge the intent to have been to prevent and hinder the citizens named, who were of African descent and persons of color, in "the free exercise and enjoyment of their several right and privilege to the full and equal benefit of all laws and proceedings, then and there, before that time, enacted or ordained by the said State of Louisiana and by the United States, and then and there, at that time, being in force in the said State and District of Louisiana aforesaid, for the security of their respective persons and property, then and there, at that time enjoyed at and within said State and District of Louisiana by white persons, being citizens of said State of Louisiana

and the United States, for the protection of the persons and property of said white citizens."

There is no allegation that this was done because of the race or color of the persons conspired against. When stripped of its verbiage, the case as presented amounts to nothing more than that the defendants conspired to prevent certain citizens of the United States, being within the State of Louisiana, from enjoying the equal protection of the laws of the State and of the United States.

The Fourteenth Amendment prohibits a State from denying to any person within its jurisdiction the equal protection of the laws; but this provision does not, any more than the one which precedes it, and which we have just considered, add anything to the rights which one citizen has under the Constitution against another. The equality of the rights of citizens is a principle of republicanism. Every republican government is in duty bound to protect all its citizens in the enjoyment of this principle, if within its power. That duty was originally assumed by the States, and it still remains there. The only obligation resting upon the United States is to see that the States do not deny the right. This the amendment guarantees, but no more. The power of the national government is limited to the enforcement of this guaranty.

No question arises under the Civil Rights Act of April 9, 1866 (14 Stat. 27), which is intended for the protection of citizens of the United States in the enjoyment of certain rights, without discrimination on account of race, color, or previous condition of servitude, because, as has already been stated, it is nowhere alleged in these counts that the wrong contemplated against the rights of these citizens was on account of their race or color.

Another objection is made to these counts that they are too vague and uncertain. This will be considered hereafter, in connection with the same objection to other counts.

The sixth and fourteenth counts state the intent of the defendants to have been to hinder and prevent the citizens named, being of African descent, and colored, "in the free exercise and enjoyment of their several and respective right and privilege to vote at any election to be thereafter by law had and held by the people in and of the said State of Louisiana, or by the people of and in the parish of Grant aforesaid."

In @ 88 U. S. 214, we hold that the Fifteenth Amendment has invested the citizens of the United States with a new constitutional right, which is, exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. From this, it appears that the right of suffrage is not a necessary attribute of national citizenship, but that exemption from discrimination in the exercise of that right on account of race, &c., is. The right to vote in the States comes from the States, but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been.

Inasmuch, therefore, as it does not appear in these counts that the intent of the defendants was to prevent these parties from exercising their right to vote on account of their race, &c., it does not appear that it was their intent to interfere with any right granted or secured by the Constitution or laws of the United States. We may suspect that race was the cause of the hostility, but it is not so averred. This is material to a description of the substance of the offence, and cannot be supplied by implication. Everything essential must be charged positively, and not inferentially. The defect here is not in form, but in substance.

The seventh and fifteenth counts are no better than the sixth and fourteenth. The intent here charged is to put the parties named in great fear of bodily harm, and to injure and oppress them, because, being and having been in all things qualified, they had voted "at an election before that time had and held according to law by the people of the said State of Louisiana, in said State, to-wit, on the fourth day of November, A.D. 1872, and at divers other elections by the people of the State, also before that time had and held according to law."

There is nothing to show that the elections voted at were any other than State elections, or that the conspiracy was formed on account of the race of the parties against whom the conspirators were to act. The charge as made is really of nothing more than a conspiracy to commit a breach of the peace within a State. Certainly it will not be claimed that the United States have the power or are required to do mere police duty in the States. If a State cannot protect itself against domestic violence, the United States may, upon the call of the executive, when the legislature cannot be convened, lend their assistance for that purpose. This is a guaranty of the Constitution (art. 4, sect. 4), but it applies to no case like this.

We are therefore of the opinion that the first, second, third, fourth, sixth, seventh, ninth, tenth, eleventh, twelfth, fourteenth, and fifteenth counts do not contain charges of a criminal nature made indictable

under the laws of the United States, and that consequently they are not good and sufficient in law. They do not show that it was the intent of the defendants, by their conspiracy, to hinder or prevent the enjoyment of any right granted or secured by the Constitution.

We come now to consider the fifth and thirteenth and the eighth and sixteenth counts, which may be brought together for that purpose. The intent charged in the fifth and thirteenth is "to hinder and prevent the parties in their respective free exercise and enjoyment of the rights, privileges, immunities, and protection granted and secured to them respectively as citizens of the United States, and as citizens of said State of Louisiana … for the reason that they, … being then and there citizens of said State and of the United States, were persons of African descent and race, and persons of color, and not white citizens thereof;" and in the eighth and sixteenth, to hinder and prevent them "in their several and respective free exercise and enjoyment of every, each, all, and singular the several rights and privileges granted and secured to them by the Constitution and laws of the United States."

The same general statement of the rights to be interfered with is found in the fifth and thirteenth counts.

According to the view we take of these counts, the question is not whether it is enough, in general, to describe a statutory offence in the language of the statute, but whether the offence has here been described at all. The statute provides for the punishment of those who conspire "to injure, oppress, threaten, or intimidate any citizen, with intent to prevent or hinder his free exercise and enjoyment of any right or privilege granted or secured to him by the Constitution or laws of the United States."

These counts in the indictment charge, in substance that the intent in this case was to hinder and prevent these citizens in the free exercise and enjoyment of "every, each, all, and singular" the rights granted them by the Constitution, &c. There is no specification of any particular right. The language is broad enough to cover all.

In criminal cases, prosecuted under the laws of the United States, the accused has the constitutional right "to be informed of the nature and cause of the accusation." Amend. VI. In *United States v. Mills*, 7 Pet. 142, this was construed to mean that the indictment must set forth the offence "with clearness and all necessary certainty, to apprise the accused of the crime with which he stands charged;" and in *United States v. Cook*, 17 Wall. 174 that "every ingredient of which the offence is composed must be accurately and clearly alleged." It is an elementary principle of criminal pleading that, where the definition of an offence, whether it be at common law or by statute, "includes generic terms, it is not sufficient that the indictment shall charge the offence in the same generic terms as in the definition, but it must state the species—it must descend to particulars."

The object of the indictment is, first, to furnish the accused with such a description of the charge against him as will enable him to make his defence, and avail himself of his conviction or acquittal for protection against a further prosecution for the same cause; and, second, to inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if one should be had. For this, facts are to be stated, not conclusions of law alone. A crime is made up of acts and intent; and these must be set forth in the indictment, with reasonable particularity of time, place, and circumstances.

It is a crime to steal goods and chattels, but an indictment would be bad that did not specify with some degree of certainty the articles stolen. This because the accused must be advised of the essential particulars of the charge against him, and the court must be able to decide whether the property taken was such as was the subject of larceny. So, too, it is in some States a crime for two or more persons to conspire to cheat and defraud another out of his property, but it has been held that an indictment for such an offence must contain allegations setting forth the means proposed to be used to accomplish the purpose. This because, to make such a purpose criminal, the conspiracy must be to cheat and defraud in a mode made criminal by statute; and, as all cheating and defrauding has not been made criminal, it is necessary for the indictment to state the means proposed, in order that the court may see that they are in fact illegal. *State v. Parker*, 43 N. H. 83; *State v. Keach*, 40 Vt. 118; *Alderman v. The People*, 4 Mich. 414; *State v. Roberts*, 34 Me. 32. In Maine, it is an offence for two or more to conspire with the intent unlawfully and wickedly to commit any crime punishable by imprisonment in the State prison (*State v. Roberts*), but we think it will hardly be claimed that an indictment would be good under this statute which charges the object of the conspiracy to have been "unlawfully and wickedly to commit each, every, all, and singular the crimes punishable by imprisonment in the State prison." All crimes are not so punishable. Whether a particular crime be such a one or not is a question of law. The accused has, therefore, the right to have

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a specification of the charge against him in this respect in order that he may decide whether he should present his defence by motion to quash, demurrer, or plea, and the court that it may determine whether the facts will sustain the indictment. So here, the crime is made to consist in the unlawful combination with an intent to prevent the enjoyment of any right granted or secured by the Constitution, &c. All rights are not so granted or secured. Whether one is so or not is a question of law, to be decided by the court, not the prosecutor. Therefore, the indictment should state the particulars, to inform the court as well as the accused. It must be made to appear—that is to say, appears from the indictment, without going further—that the acts charged will, if proved, support a conviction for the offence alleged.

But it is needless to pursue the argument further. The conclusion is irresistible that these counts are too vague and general. They lack the certainty and precision required by the established rules of criminal pleading. It follows that they are not good and sufficient in law. They are so defective that no judgment of conviction should be pronounced upon them.

The order of the Circuit Court arresting the judgment upon the verdict is, therefore, affirmed; and the cause remanded, with instructions to discharge the defendants.

Glossary

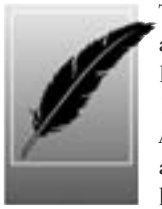
articles of confederation	the initial constitution of the United States, replaced by the present Constitution because they gave too much power to the states and not enough to the federal government
Chief Justice Marshall	John Marshall, the early-nineteenth-century chief justice whose decisions defined many of the powers of the federal government
demurrer	a court pleading filed by a defendant stating that the facts of the case do not support the plaintiff's accusations
Enforcement Act of May 31, 1870	one of three federal laws passed to protect the civil rights of African Americans, especially the right to vote
Justice Johnson	Associate Justice William Johnson
quash	the action of voiding a legal proceeding or court decision

Richard Harvey Cain's "All That We Ask Is Equal Laws, Equal Legislation, and Equal Rights"

1874

"We do not come here begging for our rights....
We come demanding our rights in the name of justice."

Overview



The South Carolina congressman Richard Harvey Cain's speech to the U.S. House of Representatives of January 10, 1874, given the title "All That We Ask Is Equal Laws, Equal Legislation, and Equal Rights," was one of two that he made in support of what became the Civil Rights Act of 1875. The legislation had been first introduced by Senator Charles Sumner and Congressman Benjamin Butler, both of Massachusetts, in 1870. The original all-encompassing bill would have prohibited segregation or discrimination in public accommodations, transportation, jury service, public schools, and churches. It languished in the Senate for five years, until Sumner begged on his deathbed that it be passed. His plea energized the bill's supporters, and it was approved by the Senate, minus, however, its provision banning discrimination in churches.

Despite its success in the Senate, most observers thought the bill would not get through the House. But impassioned speeches by the seven black members of Congress, including Cain, helped create momentum for the bill. All of the men related instances of personal discrimination against them even after their election to Congress. The oratory of Cain's fellow South Carolina congressman Robert Brown Elliott on behalf of the bill attracted national attention, but the powerful words of Cain's speech of January 1874 were little noticed by the press, even among sympathetic Republican newspapers in his home state. However, Cain's speech, together with the others, had ample impact where it counted. One Republican leader in Congress praised all the black congressmen for being more eloquent than their white brethren. Congress was impressed, and the bill became law on March 1, 1875, though it had been further amended to delete the coverage of public schools. Nevertheless, the bill's passage was a major step forward taken just in time, as soon thereafter a Democratic majority took over the House. The enactment of the public accommodations bill was in many ways the high-water mark for the Reconstruction-era Congress.

Context

After the Civil War, the United States attempted to reconstruct the war-ravaged South and lay a foundation for the broader democracy that would encompass both black and white citizens. Emancipation would result in long-term economic and social shifts, but how the law would be molded was the most critical question. When Richard H. Cain moved to South Carolina in 1865, the defeated former Confederates had assumed control of the state government and had enacted the Black Codes, which were modeled after slave codes and were designed to restrict the freedom of African Americans in every aspect of their lives. But South Carolina was a majority black state, and its freedmen did not simply acquiesce to the actions of the former Confederates. In 1865 the Colored People's Convention was held in Charleston to protest such laws. This was the first gathering of black men from throughout the state in South Carolina history, and Cain was among those attending. While the state legislature did not respond to the petition of the black convention to refrain from passing Black Codes, their protest was heard by others. In fact, the state was still under Union army control, and the military commander for South Carolina declared the Black Codes void.

In 1866 Congress passed its first Civil Rights Act, despite President Andrew Johnson's opposition. This act effectively overruled the Black Codes across the South and affirmed the actions of the military governor of South Carolina. The act declared that all Americans were citizens regardless of race and were guaranteed the right to contract, to sue and be sued, to give evidence in court, and to purchase and hold real and personal property. A year later, in March 1867, Congress began enacting a series of statutes known as the Reconstruction Acts. These laws imposed preconditions before congressmen from the southern states could be seated, the most significant of which required that the former Confederate states grant all men the right to vote. In states like South Carolina, this meant that a majority of the voting citizens were now black, and as elections came along black citizens began voting and making laws. Cain was elected a delegate to the state's constitutional convention in 1868. When the state's voters approved the constitution and elected a new legislature, the majority of

Time Line

1863

- **January 1**
  The Republican president Abraham Lincoln signs the Emancipation Proclamation, freeing all slaves in the rebelling states.

1865

- **December 6**
  Having been approved that January, the Thirteenth Amendment is ratified by the states.
- **April 9**
  Robert E. Lee surrenders to the Union general Ulysses S. Grant on behalf of his Confederate army.

1866

- **April 9**
  The first Civil Rights Act, granting American citizenship to freed slaves, is approved by Congress.
- **June 13**
  The Fourteenth Amendment, which will extend citizenship to all those born in the United States, is approved.

1867

- **March–July**
  Three Reconstruction Acts are approved by Congress over President Andrew Johnson's vetoes.
- **November**
  Elections in which African Americans vote for the first time are held across the South.

1868

- **March 11**
  The fourth Reconstruction Act is passed by Congress.
- **July 9**
  The Fourteenth Amendment is ratified.

1870

The first African Americans are named to Congress, through the election of Hiram Revels as senator from Mississippi and Joseph H. Rainey as representative from South Carolina.

those chosen were black, with Cain becoming one of the first black men elected to the state senate. A priority for these legislators was achieving civil rights for all citizens at the state level.

The Reconstruction Amendments to the U.S. Constitution had been approved by Congress and were being ratified by the states during this same period. These were the most important amendments to the Constitution since the Bill of Rights. The Thirteenth Amendment, ratified in 1865, abolished slavery. The Fourteenth Amendment extended citizenship to all those born in the United States and was ratified in 1868. The Fifteenth Amendment granted all men the right to vote and was ratified in 1870. Other than the Thirteenth Amendment, these amendments were not self-executing; federal and state legislation was needed to obtain enforcement, which was one purpose of the Reconstruction Acts—four statues enacted in 1867–1868—and the various civil rights acts. Imposing a system that ensured the participation of the freedmen in the body politic did not resolve the issue of their social equality. The civil rights bill introduced by Senator Sumner in 1870 attempted to address this by banning discrimination in all major areas of everyday life—in public accommodations, transportation, jury service, public schools, and churches. Southern whites by and large opposed any civil rights for the former slaves, and their opposition was often violent. Congress was compelled to pass the Enforcement Acts of 1870 and 1871 (the latter also known as the Ku Klux Klan Act) to protect black citizens from the outrages of these terrorists. Yet Sumner's bill was a much more radical concept. It was one thing to protect blacks from the Klan; it was quite another to mandate equal treatment for them at the hands of local governments and private citizens alike.

Sumner's bill languished for three sessions after its first introduction, but Sumner introduced it in the Senate yet again in December 1873, on the opening day of the second session of the Forty-third Congress. In the House, Congressman Butler did the same. Sumner died on March 11, 1874, and his deathbed request was that his bill be passed. Cain had been elected a U.S. congressman from South Carolina the previous year, and he made an impassioned speech in support of the bill in January 1874. In all, seven black representatives sat in the Forty-third Congress, and all spoke in support of Sumner's civil rights bill.

Speaking in opposition were a number of former Confederate soldiers and officers. Among them were Alexander Stephens, former vice president of the Confederacy and congressman from Georgia, and the Democratic congressman Robert B. Vance of North Carolina, who had been a brigadier general in the Confederate army. Clearly, Vance was proud of his military service and made clear that he and other southern whites considered themselves in all respects superior to blacks. His chief arguments against the bill were insulting and patronizing. He asserted that black men were asking for something they had not earned, their civil rights. But his major concern was one that would echo through the halls of Congress for decades. He argued that the bill would force whites to socialize with blacks.

He warned that forced socialization would destroy the kind relationship that southern whites had established with their freed slaves and that those former slaves could not survive without the help of their former masters.

About the Author

Richard Harvey Cain was born on April 12, 1825, of free black parents in Greenbrier County, Virginia (now in West Virginia). In 1831 the family moved to Gallipolis, Ohio. There he obtained an education through church school classes. In 1844 he was ordained in the Methodist Episcopal Church and assigned to Hannibal, Missouri, but the segregationist practices of the Methodists caused him to resign and join the African Methodist Episcopal Church (AME). He served an AME church in Iowa in the 1850s and then attended Wilberforce University, an AME school in Ohio. When the Civil War broke out, he and other Wilberforce students attempted to enlist but were turned away by the governor of Ohio. From 1861 to 1865, Cain was assigned to a church in Brooklyn, New York. While he was in New York he attended the National Convention of Colored Men, held in Syracuse in 1864.

Following the Civil War, Cain was sent to Charleston, South Carolina. There he reorganized Emanuel Church, which would grow to over four thousand members and become one of the most potent political organizations in the state. In 1867 Cain assumed control of a newspaper, the *Charleston Leader*, which fostered such important political figures as Alonzo Ransier and Robert Brown Elliott. From the outset of his arrival in Charleston, Cain was quite active in politics. When the Black Codes were proposed, the Colored People's Convention was held in Charleston in 1865 to object to them. The protest failed to dissuade the white legislature from approving the restrictive laws, but the convention's voice was successful in persuading the military commander of South Carolina, the Union general Daniel Sickles, to nullify the Black Codes.

Subsequently, Cain was elected as a delegate to the South Carolina Constitutional Convention of 1868. In the convention, he sponsored a resolution urging Congress to appropriate $1 million to purchase land in South Carolina for freedmen. Although it was not accepted, the idea was incorporated in the establishment of the state land commission. Cain was elected to the state senate from Charleston in 1868 and was a member of the committees on printing (1868–1870), incorporations (1868–1870), and railroads (1869–1870). He became known as "Daddy Cain" because of his leadership on the cause of civil rights for black South Carolinians as well as his influence among his fellow Republicans. He was chairman of the Charleston County Republican Party from 1870 to 1871 and a delegate to numerous state Republican conventions from 1867 to 1876. His political power was demonstrated with his election as the at-large representative from South Carolina to the Forty-third Congress, opening March 4, 1873.

Time Line

1871

- **April 20** The Ku Klux Klan Act is approved by Congress.

1872

- Six African Americans are elected to the House of Representatives, including Richard Harvey Cain.

1874

- **January 10** Cain delivers a speech in support of the pending civil rights bill.
- **March 1** The Civil Rights Act of 1875 is signed into law; a clause that would have led to integration of public schools is dropped from the final bill.

1876

- **November** Contested election results across the South lead to the Compromise of 1877 and the removal of federal troops from South Carolina and other southern states, effectively ending Reconstruction.

1883

- **October 15** In the Civil Rights Cases, the U.S. Supreme Court declares the Civil Rights Act of 1875 unconstitutional.

In Congress, Cain and other black congressmen gained national attention through their oratory in support of the civil rights bill that had been the last cause of Charles Sumner. The bill was all-encompassing, in that it proposed to ban segregation and racial discrimination in public accommodations, public schools, jury selection, cemeteries, transportation, and churches. In March 1874, the dying Sumner urged passage of the bill. After his death, the bill passed the Senate intact except for the proviso on churches. In the House, Cain was one of seven black members who spoke of their personal experiences with discrimination even as congressmen. Also among these men were his protégés Elliott and Ransier. In 1875 the bill passed the House, but without its ban on discrimination in public education.

Cain was not a candidate for renomination in 1874 but was elected to the Forty-fifth Congress, opening March 4, 1877. Cain's service in Congress ended in March 1879. The abandonment of the enforcement of civil rights in the South by the federal government coupled with the threats and violence by southern whites against blacks meant that

Group portrait of the senators of the Forty-third Congress (Library of Congress)

Reconstruction was over. Cain, like most African American public officials, exited the political arena and attempted to contribute in other fields. In 1880 he was named a bishop in the AME Church, to preside over the denomination's work in Louisiana and Texas. He was a founder of Paul Quinn College in Austin, Texas (the school later moved to Waco), and served as its president for four years. Cain moved to Washington, D.C., in 1883 and died there on January 18, 1887.

Explanation and Analysis of the Document

The chief theme of Cain's speech is that the black man merely wants "equal laws, equal legislation, and equal rights." While the speech was responsive to one by Representative Vance, it was independently a powerful and assertive oration on behalf of the civil rights bill. Cain made clear that African Americans had "come demanding our rights in the name of justice."

♦ The Rights of Citizenship

One of Cain's first points, made in the second paragraph, is that the Thirteenth, Fourteenth, and Fifteenth Amendments stand for the proposition that black people are "invested with all the rights of citizenship." Next, he addresses Vance's allegation that the civil rights bill would impose social relations. Cain retorts that the bill would simply place "the colored men of this country upon the same footing with every other citizen under the law, and will not at all enforce social relationship with any other class of persons in the country whatsoever." He counters Vance's claim that civil rights were already enjoyed by all people in North Carolina by using his own and other blacks' personal experiences there. Cain relates a story from his fellow South Carolina congressman Elliott: "My colleague … a few months ago entered a restaurant at Wilmington and sat down to be served, and while there a gentleman stepped up to him and said, 'You cannot eat here.'" Cain himself had eaten on the train rather than risk such a confrontation in a North Carolina restaurant, only to be accused of "putting on airs" in paying for dinner service on the train. He caustically ends this portion of his speech by saying, "Yet this was in the noble State of North Carolina."

Next Cain responds to Vance's argument that if the bill were to pass, the black man in the South would

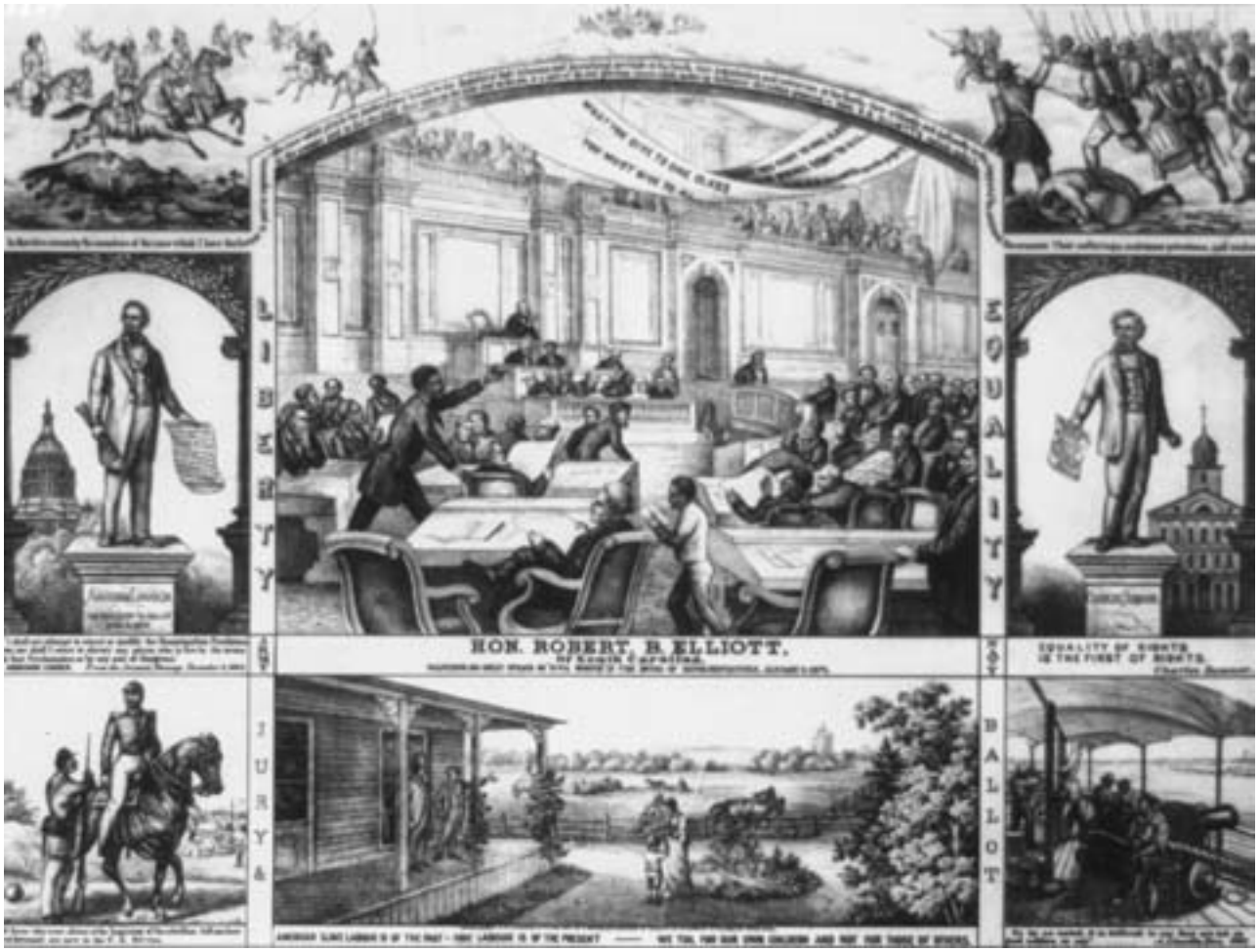


Illustration depicting South Carolina representative Robert B. Elliot delivering one of several impassioned speeches in favor of the Civil Rights Act of 1875 (Library of Congress)

lose the friendship of the region's whites. Cain was attempting to appeal to more sympathetic whites, but in paragraph 7 his speech demonstrates a certain amount of naïveté in expressing the belief that the "higher class" of southern whites did not oppose the civil rights bill. Twice more in the speech, Cain exhibits optimism about the country and the age. In some of his most eloquent words, Cain states in paragraph 26, "Rapid as the weaver's shuttle, swift as the lightning's flash, such progress is being made that our rights will be accorded to us ere long."

♦ Equality in Education

Probably the most important provision of the bill to Cain was one that would have prohibited segregation in schools. Naturally, Vance had assaulted this proviso, by claiming that the state university in South Carolina had been destroyed by desegregation. But Cain easily repels this attack. Being from that state, he knew that the University of South Carolina had lost some faculty and students but was still operating and thriving. In fact, the college operated a law school that was soon to produce nearly a dozen black lawyers. Beyond responding to the attack on the University of South Carolina, Cain expresses fervent belief in the value of education. He again asserts that the better class of whites in the South support African American equality, here declaring that they see the value of education for his people. He cites examples from Massachusetts, Rhode Island, and New York to buttress his claim that there would be little trouble in integrated schools. He also uses reports from California, Illinois, and Indiana to demonstrate that discrimination in education is a national problem, further proof of the need for the civil rights provision on education. Cain recognizes that the right to an education is the most paramount civil right. He entreats, "All we ask is that you, the legislators of the nation, shall pass a law so strong and so powerful that no one shall be able to elude it and destroy our rights under the Constitution and laws of our country." Later in the speech, in paragraph 23, he refers to education and jury service as "great palladiums of our liberty." At the end of his speech, Cain briefly returns to the subject of education to cite it as a device critical to civil rights and to declare his belief that the educational system ought not to discriminate against anyone.

Essential Quotes

"But since our emancipation, since liberty has come, and only since—only since we have stood up clothed in our manhood, only since we have proceeded to take hold and help advance the civilization of this nation—it is only since then that this bugbear is brought up against us again."

(Paragraph 11)

"The gentleman from North Carolina [Mr. Vance] announced before he sat down, in answer to an interrogatory by a gentleman on this side of the House, that they went into the war conscientiously before God. So be it. Then we simply come and plead conscientiously before God that those are our rights, and we want them. We plead conscientiously before God, believing that these are our rights by inheritance, and by the inexorable decree of Almighty God."

(Paragraph 19)

"I want to say that we do not come here begging for our rights. We come here clothed in the garb of American citizenship. We come demanding our rights in the name of justice. We come, with no arrogance on our part, asking that this great nation, which laid the foundations of civilization and progress more deeply and more securely than any other nation on the face of the earth, guarantee us protection from outrage."

(Paragraph 25)

"We come here, five millions of people—more than composed this whole nation when it had its great tea-party in Boston Harbor, and demanded its rights at the point of the bayonet—asking that unjust discriminations against us be forbidden. We come here in the name of justice, equity, and law, in the name of our children, in the name of our country, petitioning for our rights."

(Paragraph 25)

"Inasmuch as we have toiled with you in building up this nation; inasmuch as we have suffered side by side with you in the war; inasmuch as we have together passed through affliction and pestilence, let there be now a fulfillment of the sublime thought of our father—let all men enjoy equal liberty and equal rights."

(Paragraph 28)

♦ Economic Justice

Another argument utilized effectively by Cain is a call for civil rights as a matter of economic justice. Throughout his speech Cain uses his eloquence and facility with language to express this firm belief. At times his words are poetic, such as when he notes, "We have been hewers of wood and drawers of water." He then adds,

> If we have made your cotton-fields blossom as the rose; if we have made your rice-fields wave with luxuriant harvests; if we have made your corn-fields rejoice; if we have sweated and toiled to build up the prosperity the whole country by the productions of our labor, I submit, now that the war has made a change, now that we are free—I submit to the nation whether it is not fair and right that we should come in and enjoy to the fullest extent our freedom and liberty.

He reinforces this point by citing examples of patient service and sacrifice by his people for the nation. He reminds the assembly of the costs incurred by black men in the ranks of the Union army, especially citing their bravery on the battlefields of Fort Wagner, in South Carolina, and Vicksburg, Mississippi. Cain also adapts Vance's defensive affirmation that he had gone to war on behalf of the Confederacy "conscientiously before God" to offer his own prayer to "Almighty God" to grant "our rights by inheritance." Then Cain points out the clarion call of the Declaration of Independence whereby "all men … are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness."

♦ The Meaning of the Civil War

Cain next moves to respond to the critics of the bill who claimed it would usurp the rights of the states. He expresses astonishment that these congressmen could place states' rights above the rights of individuals. He points out that these same men had joined efforts to pass legislation in Congress in 1860 to save the Union and preserve slavery. Without explicitly stating as much, Cain makes the point that since the war for states' rights had already been lost and the war for civil rights had been won, the patriotic course of action would be to concede that the Reconstruction Amendments were the law of the land. These amendments and the Civil War should compel these "gentlemen" to accept civil rights for all people.

It is in paragraph 24 that Cain's most famous line, lending the speech its title, is uttered: "All that we ask is equal laws, equal legislation, and equal rights throughout the length and breadth of this land." Then Cain responds to Vance's remark that "the colored men" were begging Congress for their rights. Cain denies this by recasting the circumstances, asserting, "We come demanding our rights in the name of justice."

In concluding, Cain expresses an optimism that justice will prevail. His words are again powerful: "Let it be proclaimed that henceforth all the children of this land shall be free; that the stars and stripes, waving over all, shall secure to every one equal rights, and the nation will say 'amen.'" Cain calls on the nation's five million black people to sing a song of rejoicing, and he again emphasizes the toil and sacrifice they have made on behalf of the nation. Before his final words, Cain cites his own support for amnesty for former Confederates; in giving the speech, he turned to Vance and offered to shake hands as he affirmed his "desire to bury forever the tomahawk." Cain then turns his offer into a memorial for the "widows and orphans" of North and South and urges that in their name Congress "let this righteous act be done. I appeal to you in the name of God and humanity to give us our rights, for we ask nothing more."

Audience

The primary audience for Cain's speech was the Forty-third Congress. In addition, during some of the speeches by the black congressmen on behalf of the civil rights bill, the gallery of the House of Representatives was filled by African Americans. The failure of the press to report Cain's speech may suggest that his oration was otherwise little known at the time. But the bill Cain was supporting was especially important to many African Americans, and all Americans would be an audience for the Civil Rights Act of 1875 upon its passage.

Impact

The act imposed both criminal and civil penalties for its violation. Enforcement could be made either by an individual or through federal attorneys, marshals, and commissioners. As the historian John Hope Franklin has pointed out, many African Americans attempted to obtain accommodations, meals, drinks, haircuts, railway passage, and entry into theaters all across the country within days of the act's passage. However, white resistance was substantial. More important, legal enforcement was sporadic, uneven, and sometimes denied. Some cases made it to federal district court, but obtaining convictions by jury proved to be very difficult. When eighteen blacks sued a railroad for relegating them to a segregated car, for instance, the jury found for the railroad. A few federal judges declared the act constitutional, but a greater number of judges declared the law unconstitutional.

The 1875 Civil Rights Act was passed at a time when Reconstruction was both cresting and ebbing. That year, there were more black congressmen than at any other point in the era, but much of the South had fallen back into Democratic hands. South Carolina was one of only three states remaining in Republican control after the elections of 1874. Soon, Reconstruction ended. Violence against Republicans, and especially blacks, preceded the Democratic takeover of the South Carolina state government in 1877. The Compromise of 1877 decided the highly contested U.S. presidency and resulted in the abandonment of enforcement of civil rights in the South by the national Republican Party. Meanwhile, waning support for Reconstruction had already been

seen on many fronts. In particular, the courts were proving unsympathetic to civil rights. The judicial retreat from Reconstruction began in 1873 when the Supreme Court in the Slaughter-House Cases held that national citizenship provided few "privileges and immunities." Federal prosecutions under the Enforcement Acts of 1870 and 1871 dropped dramatically across the South in 1875. In 1876 the Supreme Court held in *United States v. Cruikshank* that the federal government had no authority to prosecute individuals who deprived blacks of their civil rights. The Court said that blacks should instead look to state officials for protection. Of course, state officials in the South were the very people Congress had sought to protect blacks from.

Soon cases were being appealed to the Supreme Court. However, no opinion was issued until 1883, when, in the Civil Rights Cases, the Court declared the 1875 act unconstitutional as applied to public accommodations. The Court reasoned that the Fourteenth Amendment applied only to actions of the states, not private conduct, and that the refusal of service by a private individual did not violate the Thirteenth Amendment because such conduct did not constitute a badge of slavery. Like many of the accomplishments of Reconstruction, the Civil Rights Act of 1875 became a victim to the Jim Crow jurisprudence that would dominate the Supreme Court and the nation for decades to come.

See also Emancipation Proclamation (1863); Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); Ku Klux Klan Act (1871); *United States v. Cruikshank* (1876); Civil Rights Cases (1883).

Further Reading

■ Books

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■ Web Sites

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—W. Lewis Burke

Questions for Further Study

1. Compare this document with George H. White's Farewell Address to Congress in 1901. Both speeches were made by black legislators, and both were addressed to their legislatures. What, if anything, changed between 1874 and 1901? Did the two speakers make similar arguments?

2. Describe the circumstances that led to the passage of the Civil Rights Act of 1875. What protections did the act afford that were not afforded by earlier legislation and the Civil Rights Amendments to the Constitution?

3. What were the chief arguments made against passage of the Civil Rights Act of 1875? How did Cain respond to these arguments?

4. What role did party politics play in the passage of the Civil Rights Act and in subsequent events? What were the origins of these party allegiances?

5. In the Civil Rights Cases of 1883, the U.S. Supreme Court declared the Civil Rights Act unconstitutional. Consult that document. On what basis did the Court reach its decision? How do you think Cain would have responded to the Court's reasoning?

Document Text

Richard Harvey Cain's "All That We Ask Is Equal Laws, Equal Legislation, and Equal Rights"

Mr. Cain. Mr. Speaker, I feel called upon more particularly by the remarks of the gentleman from North Carolina [Mr. Vance] on civil rights to express my views. For a number of days this question has been discussed, and various have been the opinions expressed as to whether or not the pending bill should be passed in its present form or whether it should be modified to meet the objections entertained by a number of gentlemen whose duty it will be to give their votes for or against its passage. It has been assumed that to pass this bill in its present form Congress would manifest a tendency to override the Constitution of the country and violate the rights of the States.

Whether it be true or false is yet to be seen. I take it, so far as the constitutional question is concerned, if the colored people under the law, under the amendments to the Constitution, have become invested with all the rights of citizenship, then they carry with them all rights and immunities accruing to and belonging to a citizen of the United States. If four, or nearly five, million people have been lifted from the thralldom of slavery and made free; if the Government by its amendments to the Constitution has guaranteed to them all rights and immunities, as to other citizens, they must necessarily therefore carry along with them all the privileges enjoyed by all other citizens of the Republic.

Sir, the gentleman from North Carolina [Mr. Vance] who spoke on the question stated some objections, to which I desire to address a few words of reply. He said it would enforce social rights, and therefore would be detrimental to the interests of both the whites and the blacks of the country. My conception of the effect of this bill, if it be passed into a law, will be simply to place the colored men of this country upon the same footing with every other citizen under the law, and will not at all enforce social relationship with any other class of persons in the country whatsoever. It is merely a matter of law. What we desire is that our civil rights shall be guaranteed by law as they are guaranteed to every other class of persons; and when that is done all other things will come in as a necessary sequence, the enforcement of the rights following the enactment of the law.

Sir, social equality is a right which every man, every woman, and every class of persons have within their own control. They have a right to form their own acquaintances, to establish their own social relationships. Its establishment and regulation is not within the province of legislation. No laws enacted by legislators can compel social equality. Now, what is it we desire? What we desire is this: inasmuch as we have been raised to the dignity, to the honor, to the position of our manhood, we ask that the laws of this country should guarantee all the rights and immunities belonging to that proud position, to be enforced all over this broad land.

Sir, the gentleman states that in the State of North Carolina the colored people enjoy all their rights as far as the highways are concerned; that in the hotels, and in the railroad cars, and in the various public places of resort, they have all the rights and all the immunities accorded to any other class of citizens of the United States. Now, it may not have come under his observation, but it has under mine, that such really is not the case; and the reason why I know and feel it more than he does is because my face is painted black and his is painted white. We who have the color—I may say the objectionable color—know and feel all this. A few days ago, in passing from South Carolina to this city, I entered a place of public resort where hungry men are fed, but I did not dare—I could not without trouble—sit down to the table. I could not sit down at Wilmington or at Weldon without entering into a contest, which I did not desire to do. My colleague, the gentleman who so eloquently spoke on this subject the other day, [Mr. Elliott,] a few months ago entered a restaurant at Wilmington and sat down to be served, and while there a gentleman stepped up to him and said, "You cannot eat here." All the other gentlemen upon the railroad as passengers were eating there; he had only twenty minutes, and was compelled to leave the restaurant or have a fight for it. He showed fight, however, and got his dinner; but he has never been back there since. Coming here last week I felt we did not desire to draw revolvers and present the bold front of warriors, and therefore we ordered our dinners to be brought into the cars, but even there we found the existence of this feeling; for, although we had paid a dollar apiece for our meals, to be brought by the servants into the cars, still there was objection on the

part of the railroad people to our eating our meals in the cars, because they said we were putting on airs. They refused us in the restaurant, and then did not desire that we should eat our meals in the cars, although we paid for them. Yet this was in the noble State of North Carolina.

Mr. Speaker, the colored men of the South do not want the adoption of any force measure. No; they do not want anything by force. All they ask is that you will give them, by statutory enactment under the fundamental law, the right to enjoy precisely the same privileges accorded to every other class of citizens.

The gentleman, moreover, has told us that if we pass this civil-rights bill we will thereby rob the colored men of the South of the friendship of the whites. Now, I am at a loss to see how the friendship of our white friends can be lost to us by simply saying we should be permitted to enjoy the rights enjoyed by other citizens. I have a higher opinion of the friendship of the southern men than to suppose any such thing. I know them too well. I know their friendship will not be lost by the passage of this bill. For eight years I have been in South Carolina, and I have found this to be the fact, that the higher class, comprising gentlemen of learning and refinement, are less opposed to this measure than are those who do not occupy so high a position in the social scale.

Sir, I think that there will be no difficulty. But I do think this that there will be more trouble if we do not have those rights. I regard it important, therefore, that we should make the law so strong that no man can infringe those rights.

But, says the gentleman from North Carolina, some ambitious colored man will, when this law is passed, enter a hotel or railroad car, and thus create disturbance. If it be his right, then there is no vaulting ambition in his enjoying that right. And if he can pay for his seat in a first-class car or his room in a hotel, I see no objection to his enjoying it. But the gentleman says more. He cited, on the school question, the evidence of South Carolina, and says the South Carolina University has been destroyed by virtue of bringing into contact the white students with the colored. I think not. It is true that a small number of students left the institution, but the institution still remains. The buildings are there as erect as ever; the faculty are there as attentive to their duties as ever they were; the students are coming in as they did before. It is true, sir, that there is a mixture of students now; that there are colored and white students of law and medicine sitting side by side; it is true, sir, that the prejudice of some of the professors was so strong that it drove them out of the institution; but the philanthropy and good sense of others were such that they remained; and thus we have still the institution going on, and because some students have left, it cannot be reasonably argued that the usefulness of the institution has been destroyed. The University of South Carolina has not been destroyed.

But the gentleman says more. The colored man cannot stand, he says, where this antagonism exists, and he deprecates the idea of antagonizing the races. The gentleman says there is no antagonism on his part. I think there is no antagonism so far as the country is concerned. So far as my observation extends, it goes to prove this: that there is a general acceptance upon the part of the larger and better class of the whites of the South of the situation, and that they regard the education and the development of the colored people as essential to their welfare, and the peace, happiness, and prosperity of the whole country. Many of them, including the best minds of the South, are earnestly engaged in seeking to make this great system of education permanent in all the States. I do not believe, therefore, that it is possible there can be such an antagonism. Why, sir, in Massachusetts there is no such antagonism. There the colored and the white children go to school side by side. In Rhode Island there is not that antagonism. There they are educated side by side in the high schools. In New York, in the highest schools, are to be found, of late, colored men and colored women. Even old democratic New York does not refuse to give the colored people their rights, and there is no antagonism. A few days ago, when in New York, I made it my business to find out what was the position of matters there in this respect. I ascertained that there are, I think, seven colored ladies in the highest school in New York, and I believe they stand No. 1 in their class, side by side with members of the best and most refined families of the citizens of New York, and without any objection to their presence.

I cannot understand how it is that our southern friends, or a certain class of them, always bring back this old ghost of prejudice and of antagonism. There was a time, not very far distant in the past, when this antagonism was not recognized, when a feeling of fraternization between the white and the colored races existed, that made them kindred to each other. But since our emancipation, since liberty has come, and only since—only since we have stood up clothed in our manhood, only since we have proceeded to take hold and help advance the civilization of this nation—it is only since then that this bugbear is brought up against us again. Sir, the progress of the age demands that the colored man

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of this country shall be lifted by law into the enjoyment of every right, and that every appliance which is accorded to the German, to the Irishman, to the Englishman, and every foreigner, shall be given to him; and I shall give some reasons why I demand this in the name of justice.

For two hundred years the colored men of this nation have assisted in building up its commercial interests. There are in this country nearly five millions of us, and for a space of two hundred and forty-seven years we have been hewers of wood and drawers of water; but we have been with you in promoting all the interests of the country. My distinguished colleague, who defended the civil rights of our race the other day on this floor, set this forth so clearly that I need not dwell upon it at, this time.

I propose to state just this: that we have been identified with the interests of this country from its very foundation. The cotton crop of this country has been raised and its rice-fields have been tilled by the hands of our race. All along as the march of progress, as the march of commerce, as the development of your resources has been widening and expanding and spreading, as your vessels have gone on every sea, with the stars and stripes waving over them, and carried your, commerce everywhere, there the black man's labor has gone to enrich your country and to augment the grandeur of your nationality. This was done in the time of slavery. And if, for the space of time I have noted, we have been hewers of wood and drawers of water; if we have made your cotton-fields blossom as the rose; if we have made your rice-fields wave with luxuriant harvests; if we have made your corn-fields rejoice; if we have sweated and toiled to build up the prosperity of the whole country by the productions of our labor, I submit, now that the war has made a change, now that we are free—I submit to the nation whether it is not fair and right that we should come in and enjoy to the fullest extent our freedom and liberty.

A word now as to the question of education. Sir, I know that, indeed, some of our republican friends are even a little weak on the school clause of this bill; but, sir, the education of the race, the education of the nation, is paramount to all other considerations. I regard it important, therefore, that the colored people should take place in the educational march of this nation, and I would suggest that there should be no discrimination. It is against discrimination in this particular that we complain.

Sir, if you look over the reports of superintendents of schools in the several States, you will find, I think, evidences sufficient to warrant Congress in passing the civil-rights bill as it now stands. The report of the commissioner of education of California shows that, under the operation of law and of prejudice, the colored children of that State are practically excluded from schooling. Here is a case where a large class of children are growing up in our midst in a state of ignorance and semi-barbarism. Take the report of the superintendent of education of Indiana, and you will find that while efforts have been made in some places to educate the colored children, yet the prejudice is so great that it debars the colored children from enjoying all the rights which they ought to enjoy under the law. In Illinois, too, the superintendent of education makes this statement: that, while the law guarantees education to every child, yet such are the operations among the school trustees that they almost ignore, in some places, the education of colored children.

All we ask is that you, the legislators of the nation, shall pass a law so strong and so powerful that no one shall be able to elude it and destroy our rights under the Constitution and laws of our country. That is all we ask.

But, Mr. Speaker, the gentleman from North Carolina [Mr. Vance] asks that the colored man shall place himself in an attitude to receive his rights. I ask, what attitude can we assume? We have tilled your soil, and during the rude shock of war, until our hour came, we were docile during that long, dark night, waiting patiently the coming day. In the Southern States during that war our men and women stood behind their masters; they tilled the soil, and there were no insurrections in all the broad lands of the South; the wives and daughters of the slaveholders were as sacred then as they were before; and the history of the war does not record a single event, a single instance, in which the colored people were unfaithful, even in slavery; nor does the history of the war record the fact that on the other side, on the side of the Union, there were any colored men who were not willing at all times to give their lives for their country. Sir, upon both sides we waited patiently. I was a student at Wilberforce University, in Ohio, when the tocsin of war was sounded, when Fort Sumter was fired upon, and I never shall forget the thrill that ran through my soul when I thought of the coming consequences of that shot. There were one hundred and fifteen of us, students at that university, who, anxious to vindicate the stars and stripes, made up a company, and offered our services to the governor of Ohio; and, sir, we were told that this was a white man's war and that the negro had nothing to do with it. Sir, we returned—docile, patient, waiting, casting our eyes to the heavens whence help always comes. We knew

that there would come a period in the history of this nation when our strong black arms would be needed. We waited patiently; we waited until Massachusetts, through her noble governor, sounded the alarm, and we hastened then to hear the summons and obey it.

Sir, as I before remarked, we were peaceful on both sides. When the call was made on the side of the Union we were ready; when the call was made for us to obey orders on the other side, in the confederacy, we humbly performed our tasks, and waited patiently. But, sir, the time came when we were called for; and, I ask, who can say that when that call was made, the colored men did not respond as readily and as rapidly as did any other class of your citizens. Sir, I need not speak of the history of this bloody war. It will carry down to coming generations the valor of our soldiers on the battle-field. Fort Wagner will stand forever as a monument of that valor, and until Vicksburgh shall be wiped from the galaxy of battles in the great contest for human liberty that valor will be recognized.

And for what, Mr. Speaker and gentlemen was the great war made! The gentleman from North Carolina [Mr. Vance] announced before he sat down, in answer to an interrogatory by a gentleman on this side of the House, that they went into the war conscientiously before God. So be it. Then we simply come and plead conscientiously before God that those are our rights, and we want them. We plead conscientiously before God, believing that these are our rights by inheritance, and by the inexorable decree of Almighty God.

We believe in the Declaration of Independence, that all men are born free and equal, and are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness. And we further believe that to secure those rights governments are instituted. And we further believe that when governments cease to subserve those ends the people should change them.

I have been astonished at the course which gentlemen on the other side have taken in discussing this bill. They plant themselves right behind the Constitution, and declare that the rights of the State ought not to be invaded. Now, if you will take the history of the war of the rebellion, as published by the Clerk of this House, you will see that in 1860 the whole country, each side, was earnest in seeking to make such amendments to the Constitution as would forever secure slavery and keep the Union together under the circumstances. The resolutions passed, and the sentiments expressed in speeches at that time, if examined by gentlemen, will be found to bear out all that I have indicated. It was felt in 1860 that anything that would keep the "wayward sisters" from going astray was desirable. They were then ready and willing to make any amendments.

And now, when the civil rights of our race are hanging upon the issue, they on the other side are not willing to concede to us such amendments as will guarantee them; indeed, they seek to impair the force of existing amendments to the Constitution of the United States, which would carry out the purpose.

I think it is proper and just that the civil-rights bill should be passed. Some think it would be better to modify it, to strike out the school clause, or to so modify it that some of the State constitutions should not be infringed. I regard it essential to us and the people of this country that we should be secured in this if in nothing else. I cannot regard that our rights will be secured until the jury-box and the school-room, these great palladiums of our liberty, shall have been opened to us. Then we will be willing to take our chances with other men.

We do not want any discriminations to be made. If discriminations are made in regard to schools, then there will be accomplished just what we are fighting against. If you say that the schools in the State of Georgia, for instance, shall be allowed to discriminate against colored people, then you will have discriminations made against us. We do not want any discriminations. I do not ask any legislation for the colored people of this country that is not applied to the white people. All that we ask is equal laws, equal legislation, and equal rights throughout the length and breadth of this land.

The gentleman from North Carolina [Mr. Vance] also says that the colored men should not come here begging at the doors of Congress for their rights. I agree with him. I want to say that we do not come here begging for our rights. We come here clothed in the garb of American citizenship. We come demanding our rights in the name of justice. We come, with no arrogance on our part, asking that this great nation, which laid the foundations of civilization and progress more deeply and more securely than any other nation on the face of the earth, guarantee us protection from outrage. We come here, five millions of people—more than composed this whole nation when it had its great tea-party in Boston Harbor, and demanded its rights at the point of the bayonet—asking that unjust discriminations against us be forbidden. We come here in the name of justice, equity, and law, in the name of our children, in the name of our country, petitioning for our rights.

Our rights will yet be accorded to us, I believe, from the feeling that has been exhibited on this floor of the growing sentiment of the country. Rapid as

Document Text

the weaver's shuttle, swift as the lightning's flash, such progress is being made that our rights will be accorded to us ere long. I believe the nation is perfectly willing to accord this measure of Justice, if only those who represent the people here would say the word. Let it be proclaimed that henceforth all the children of this land shall be free; that the stars and stripes, waving over all, shall secure to every one equal rights, and the nation will say "amen."

Let the civil-rights bill be passed this day, and five million black men, women, and children, all over the land, will begin a new song of rejoicing, and the thirty-five millions of noble-hearted Anglo-Saxons will join in the shout of joy. Thus will the great mission be fulfilled of giving to all the people equal rights.

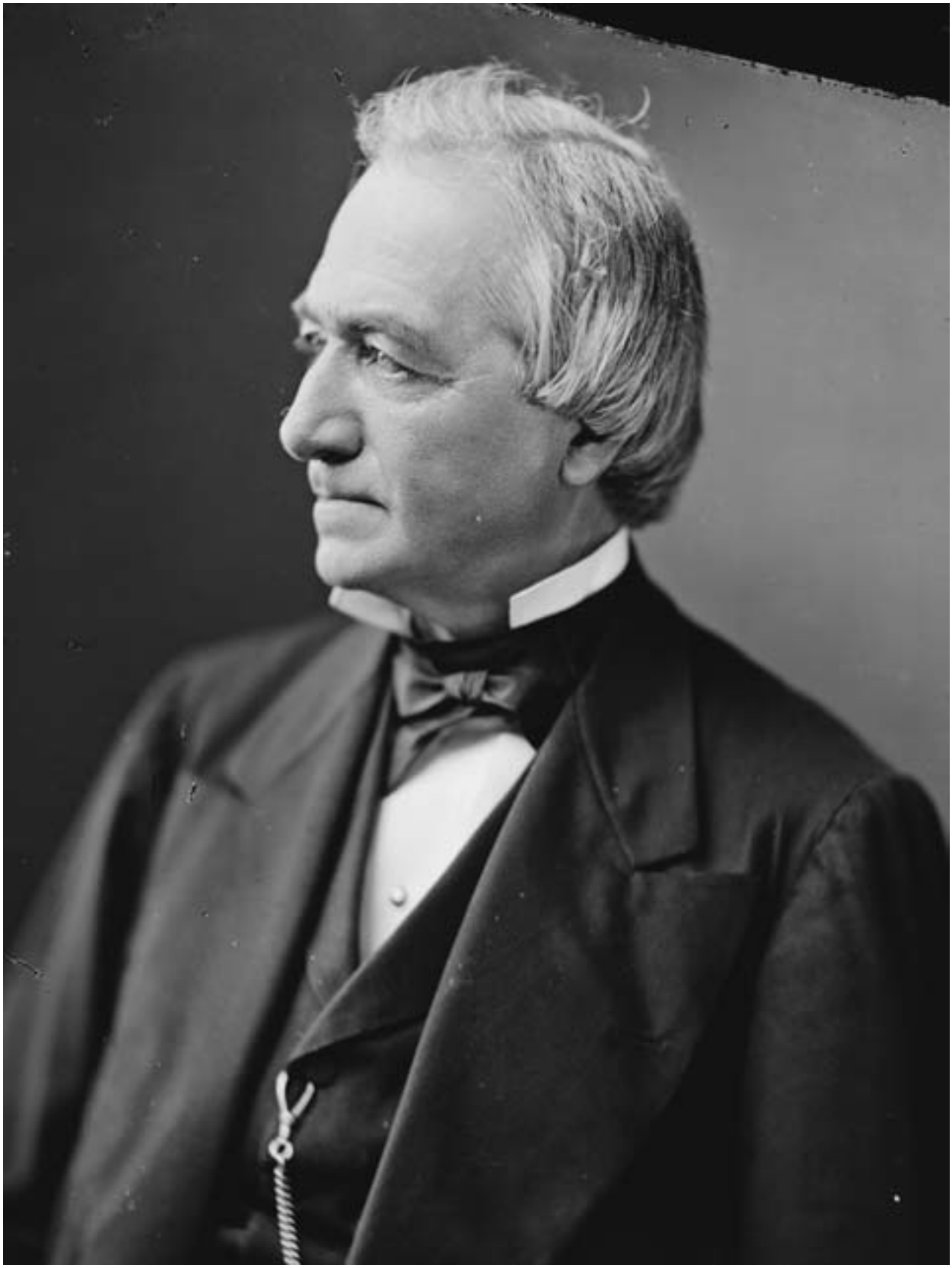
Inasmuch as we have toiled with you in building up this nation; inasmuch as we have suffered side by side with you in the war; inasmuch as we have together passed through affliction and pestilence, let there be now a fulfillment of the sublime thought of our fathers—let all men enjoy equal liberty and equal rights.

In this hour, when you are about to put the capstone on the mighty structure of government, I ask you to grant us this measure, because it is right. Grant this, and we shall go home with our hearts filled with gladness. I want to "shake hands over the bloody chasm." The gentleman from North Carolina has said he desires to have forever buried the memory of the recent war. I agree with him. Representing a South Carolina constituency, I desire to bury forever the tomahawk. I have voted in this House with a free heart to declare universal amnesty. Inasmuch as general amnesty has been proclaimed, I would hardly have expected there would be any objection on this floor to the civil-rights bill, giving to all men the equal rights of citizens. There should be no more contest. Amnesty and civil rights should go together. Gentlemen on the other side will admit that we have been faithful; and now, when we propose to bury the hatchet, let us shake hands upon this measure of justice; and if heretofore we have been enemies, let us be friends now and forever.

Our wives and our children have high hopes and aspirations; their longings for manhood and womanhood are equal to those of any other race. The same sentiment of patriotism and of gratitude, the same spirit of national pride that animates the hearts of other citizens, animates theirs. In the name of the dead soldiers of our race, whose bodies lie at Petersburgh and on other battle-fields of the South; in the name of the widows and orphans they have left behind; in the name of the widows of the confederate soldiers who fell upon the same fields, I conjure you let this righteous act be done. I appeal to you in the name of God and humanity to give us our rights, for we ask nothing more.

Glossary

Anglo-Saxons	the early Germanic tribes that subdued the British Isles; used loosely to refer to white northern Europeans
Fort Sumter	a fort in South Carolina, site of the opening hostilities of the Civil War in 1861
Fort Wagner	a fort in South Carolina, the scene of an assault in 1863 led by the Fifty-fourth Massachusetts Volunteer Infantry, one of the Union's first black units
immunities	in constitutional law, the concept that a person in one state enjoys the same legal protections in other states when he or she crosses the border
Mr. Elliott	Robert Brown Elliott, a congressional representative from South Carolina
Mr. Vance	Democratic congressman Robert B. Vance of North Carolina
Petersburgh	Petersburg, a city in Virginia, scene of one of the final campaigns of the Civil War
stars and stripes	the U.S. flag
tea-party in Boston Harbor	reference to an event that took place on December 16, 1773, when American colonists protested British taxation by boarding three British ships and dumping their cargos of tea into the harbor
tocsin	a warning bell
Vicksburgh	Vicksburg, a city in Mississippi, the site of a major Civil War battle in 1863



Joseph P. Bradley (Library of Congress)

Civil Rights Cases

1883

"It is … scarcely just to say that the colored race has been the special favorite of the laws."

Overview

In the Civil Rights Cases decision of 1883, the U.S. Supreme Court limited the powers of Congress with its finding that the equal protection clause of the Fourteenth Amendment did not pertain to actions involving private parties. This case decided five similar discrimination cases that had been grouped together as the Civil Rights Cases when they were heard by the Supreme Court. These cases involved African Americans who had been denied access to whites-only facilities in railroads, hotels, and theaters. All five cases were related to the Civil Rights Act of 1875, which the majority of justices declared unconstitutional in the Civil Rights Cases decision. Nearly ninety years later, Congress would revive that legislation with the enactment of the Civil Rights Act of 1964. One of the most frequently examined decisions of the nineteenth century, the Civil Rights Cases decision dealt a dramatic blow to African Americans because it significantly narrowed the legal reach of the pivotal Fourteenth Amendment, which had provided for equal protection under the Constitution for African Americans.

Context

The American Civil War freed nearly four million slaves. While historians continue to debate the causes of the war, as President Abraham Lincoln made clear in his Second Inaugural Address, "These slaves constituted a peculiar and powerful interest. All knew that this interest was somehow the cause of the war." Eleven southern states seceded from the Union to form the Confederate States of America, nominally to protect "states' rights" but more specifically to preserve the institution of slavery. Even after four years of bloodshed, Confederate defeat, and the ratification of the Thirteenth Amendment abolishing slavery, southern states stubbornly resisted northern attempts to grant blacks civil, political, and social rights. Throughout the period known as Reconstruction (until the mid-1870s Republicans in Congress passed a great deal of legislation, and two more amendments to the Constitution (the Fourteenth and Fifteenth Amendments), all with an eye toward expanding American citizenship to include former slaves. Of these many initiatives, none has had more positive or lasting effect than the Fourteenth Amendment, the five sections of which are notable for providing the "due process" and "equal protection" clauses that serve as the basis for over two-thirds of all cases that go before the Supreme Court today.

Under the leadership of such Radical Republicans from the Midwest and New England as John Bingham, Charles Sumner, and Thaddeus Stevens, Congress had passed the Civil Rights Act of 1866, which reversed the Supreme Court's decision in 1857 in *Dred Scott v. Sandford*, in which the Court had ruled that African Americans could not be considered citizens of the United States. The Civil Rights Act of 1866 deemed "all persons born in the United States" to be American citizens. Congress then established constitutional protection of that act with the Fourteenth Amendment, the ratification of which Congress demanded of former Confederate states before they could be readmitted to the Union. The equal protection clause of the Fourteenth Amendment's vital first section—"no state shall … deny to any person within its jurisdiction equal protection of the laws"—enforced the Declaration of Independence's principle that "all men are created equal." The Fourteenth Amendment extended legal protection to African Americans and ensured both equality and protection of all U.S. citizens, although the meaning of the terms *equality* and *protection* would soon prove to be the focus of considerable debate.

The Civil Rights Act of 1875 was controversial from the moment Senator Charles Sumner of Massachusetts first proposed it in 1870. The original bill had attempted to eliminate all forms of segregation, which Sumner viewed as inherently discriminatory. Sumner's proposed legislation also sought to redefine what most Americans took to be "social rights" as civil rights. The concept that Congress could regulate the actions of individuals or privately held companies proved to be especially contentious; Democrats and Republicans alike insisted that such provisions were unconstitutional and would never be upheld by the Supreme Court. Many legislators objected to the bill's initial provisions for desegregation in schools, churches, and cemeteries, all of which were omitted from the final version passed by the lame-duck second session of the Forty-third Congress.

Time Line

1857

■ **March 6**
The Supreme Court hands down its decision in *Dred Scott v. Sandford*, ruling that African Americans could not be considered citizens of the United States.

1865

■ **December 6**
The Thirteenth Amendment, which abolishes slavery, is ratified.

1866

■ **April 9**
Over the veto of President Andrew Johnson, Congress passes the Civil Rights Act of 1866, which makes "all persons born in the United States" American citizens.

1868

■ **July 9**
The Fourteenth Amendment is ratified, extending citizenship and guaranteeing legal equal protection to all persons born or naturalized in the United States, including African Americans who formerly were slaves.

1875

■ **March 1**
Congress passes the Civil Rights Act of 1875, barring racial discrimination in "public accommodations."

1883

■ **October 15**
The Supreme Court issues the Civil Rights Cases decision, ruling the Civil Rights Act of 1875 unconstitutional.

1964

■ **July 2**
President Lyndon B. Johnson signs the Civil Rights Act into law.

The Civil Rights Act of 1875 met with mixed treatment from federal circuit courts prior to being ruled unconstitutional by the Supreme Court in 1883. During the late 1870s and early 1880s, as many as one hundred cases related to the act's provisions were tried and appealed before federal judges in Pennsylvania, Texas, Maryland, and Kentucky—all of which ruled the act constitutional. Divided federal courts in New York, Tennessee, Missouri, Kansas, and other states referred issues arising from the act to the Supreme Court. Although the Supreme Court had already considered the meaning of *equal protection* in three jury cases of 1880, it was not until the Civil Rights Cases ruling that the Court put forth the critically important doctrine of "state action," which limited federal guarantees of equal protection in favor of the laws and customs of individual states.

About the Author

All of the Supreme Court justices who heard the Civil Rights Cases had been appointed and confirmed under Republican presidential administrations. Two of Lincoln's appointees, Samuel Freeman Miller and Stephen Johnson Field, remained on the Court in 1883. Miller was the only Democrat on the nation's highest bench. Justice John Marshall Harlan had been a Democrat before the Civil War but had become a Republican during Reconstruction. The other judges included Chief Justice Morrison Remick Waite and, in order of seniority, William Burnham Woods, Stanley Matthews, Horace Gray, and Samuel Blatchford. Joseph P. Bradley wrote the majority opinion in the Civil Rights Cases decision, while Justice Harlan offered the lone dissent.

Joseph P. Bradley was born on March 14, 1813, in Berne, New York. He studied at Rutgers University before taking up the practice of law through various apprenticeships in Newark, New Jersey, where he passed the bar in 1839. Bradley married Mary Hornblower, the daughter of the chief justice of the New Jersey Supreme Court, and soon became a prominent patent and commercial lawyer. In 1862 he waged an unsuccessful campaign for Congress as a conservative Republican who refused to support either emancipation or civil rights for blacks, despite his aversion to slavery. While there was reason to suspect Bradley's views before his appointment to the Supreme Court under President Ulysses S. Grant in 1870, few could have anticipated the many anti–civil rights decisions in which Bradley's reasoning would prevail. By joining the majority, Bradley attacked the Enforcement Act of 1870 (which protected black voters) in *United States v. Reese* (1875) and *United States v. Cruikshank* (1876). In *United States v. Harris* (1883), Bradley again joined the Court's majority limiting the scope of the Ku Klux Klan Act of 1871, an attempt by Congress to outlaw conspiracies against African Americans. In his majority opinion for the Civil Rights Cases, Bradley pronounced the Civil Rights Act of 1875 unconstitutional. Bradley died on January 22, 1892.

John Marshall Harlan was born on June 1, 1833, into a Kentucky slaveholding family. In 1852 he graduated from Centre College in Danville and joined his father's law practice and then, in 1853, graduated from Transylvania University's law school in Lexington. Harlan was elected county judge of Franklin County, Kentucky, in 1858. In 1861, when the Civil War broke out, he enlisted in the Union army, rising to the rank of colonel. Leaving the army on the death of his father, Harlan took the post of attorney general of Kentucky. In 1877 he was appointed to the Supreme Court by President Rutherford B. Hayes and, because of

his antebellum career as a border-state Democrat (though he had become a Republican in 1868), he endured a heated six-week confirmation process in Congress. Harlan, despite his Kentucky plantation heritage and antebellum opposition to emancipation, soon metamorphosed into the Court's chief opponent of compromise on civil rights. He stood out among the justices as the most resolute voice on behalf of blacks. Refusing to join the majority of justices in the *United States v. Harris* decision, Harlan argued instead for stronger federal enforcement of the Thirteenth, Fourteenth, and Fifteenth Amendments. In his dissent for *Plessy v. Ferguson* in 1896, which echoed his dissent in the Civil Rights Cases, Harlan famously insisted: "Our Constitution is color-blind.… In respect of civil rights, all citizens are equal before the law." While Harlan supported the legal equality of African Americans, he never abandoned prejudiced assumptions about racial difference. Harlan served on the nation's highest bench for thirty-four years. Besides his strong stances on civil rights, he was also a proponent of governmental regulation of the economy during a period when the Court began to develop a broader constitutional focus on matters of law and public policy. Harlan died on October 14, 1911.

Explanation and Analysis of the Document

The five cases consolidated in the Civil Rights Cases were *United States v. Stanley*, *United States v. Ryan*, *United States v. Nichols*, *United States v. Singleton*, and *Robinson &Wife v. Memphis and Charleston Railroad Company*. The Stanley and Nichols cases concerned indictments for denying access to inns or hotels; the Ryan and Singleton cases addressed access to theaters, one in San Francisco and the other in New York City. The Robinson case had originally been brought in Tennessee and involved the refusal of the Memphis and Charleston Railroad Company to allow Mrs. Robinson to travel in a ladies' train car. U.S. Solicitor General Samuel F. Phillips submitted all but the Robinson case as a group on November 7, 1882; briefs regarding the Robinson case were submitted on March 29, 1883.

The five related lawsuits in the Civil Rights Cases all had to do with Section 1 of the Civil Rights Act of 1875, which stated:

> All persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, or other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

Section 2 of the act stipulated:

> Any person who shall violate [Section 1] … shall … forfeit and pay the sum of five hundred dollars to the person aggrieved thereby … and shall also, for every such offense, be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty days nor more than one year.

Senator Charles Sumner (Library of Congress)

♦ "Majority Opinion"

Writing for the majority of justices, Justice Bradley no longer argued for a broad view of the Fourteenth Amendment, which he had proposed in previous cases. With the Civil Rights Cases majority opinion, Bradley echoed the narrow position of the Slaughter-House Cases (1873) majority opinion, which held that state authority was primary and national authority was secondary or "corrective." He rejected the radical pro-nationalist, expansive-rights view and contended instead that the Civil Rights Act of 1875 was an impermissible attempt by Congress to regulate the private conduct of individuals with respect to racial discrimination. The act, Bradley wrote, "does not profess to be corrective of any constitutional wrong committed by the States." Regarding Section 4 of the act, he held that even private interference with such rights as voting, jury service, or appearing as witnesses in state court were not within Congress's control. Anyone faced with such interference had to look to state courts for relief.

The Court had two important missions in issuing this ruling: to contain the power of Congress in enacting

Essential Quotes

"It would be running the slavery argument into the ground to make it apply to every act of discrimination which a person may see fit to make as to guests he will entertain, or as to the people he will take into his coach or cab or car, or admit to his concert or theatre, or deal with in other matters of intercourse or business."

("Majority Opinion")

"It is, I submit, scarcely just to say that the colored race has been the special favorite of the laws."

("Dissenting Opinion")

"The one underlying purpose of congressional legislation has been to enable the black race to take the rank of mere citizens. The difficulty has been to compel a recognition of the legal right of the black race to take the rank of citizens, and to secure the enjoyment of privileges belonging, under the law, to them as a component part of the people for whose welfare and happiness government is ordained."

("Dissenting Opinion")

legislation and to safeguard states' rights. The first became a prerequisite for the second. With respect to the first, Bradley stipulated: "Legislation which Congress is authorized to adopt … is not general … but corrective legislation." To emphasize this point, Bradley repeated the word *corrective* ten more times. As for the second objective, Bradley almost buried the following point in the opinion's text: "Legislation cannot properly cover the whole domain of rights appertaining to life, liberty, and property, defining them and providing for their vindication.… It would be to make Congress take the place of the State legislatures and to supersede them." Federal limitation of state authority through acts of Congress was what the Court most wanted to prevent. While the Court's majority did not challenge the Fourteenth Amendment's applicability to state laws and actions, it also did not tolerate congressional oversight of what it considered private actions regulated under state laws.

Bradley argued that while private actors broke laws, their actions could not destroy civil rights; only states could do that. In other words, "civil rights … cannot be impaired by the wrongful acts of individuals, unsupported by state authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual … is simply a private wrong, or a crime of that individual." According to this reasoning, demonstrations of white supremacy and incidents of segregation and violence against blacks were wrongful private acts and did not generate anything akin to a state action, that is, the denial of civil rights, which could be remedied only by a corrective governmental action.

In the event confusion might persist on the distinction between wrongful private acts and deprivation of civil rights, Bradley provided several specific examples:

> An individual cannot deprive a man of his right to vote, to hold property, to buy and sell, to sue in the courts, or to be a witness or a juror; he may, by force or fraud, interfere with the enjoyment of the right in a particular case; he may commit an assault against the person, or commit murder, or use ruffian violence at the polls, or slander the good name of a fellow citizen; but, unless protected in these wrongful acts by some shield of State law or State authority, he cannot destroy or injure the right; he will only render himself amenable to satisfaction or punishment … [according

to] the laws of the State where the wrongful acts are committed.

In sum, an individual's civil rights could not be destroyed by the acts of others. Any damage done had to be handled as a crime by the state where the offense had occurred.

Bradley also rejected the argument that the Thirteenth Amendment allowed Congress to pass the Civil Rights Act, since denial of access to public accommodations did not constitute slavery. According to the Court, such a broad construction of the Thirteenth Amendment would run "the slavery argument into the ground to make it apply to every act of discrimination." Bradley then went on to assert:

> When a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights as a citizen, or a man, are to be protected in the ordinary modes by which other men's rights are protected.

Gone from the Civil Rights Cases majority opinion was the generous spirit of Bradley's circuit-court opinion in an antecedent to the Slaughter-House Cases. In 1870, three years before the Supreme Court struck down the privileges and immunities clause of the Fourteenth Amendment in the Slaughter-House Cases ruling, Bradley had issued judicial relief for a "flagrant case of violation of the fundamental rights of labor" in *Livestock Dealers' & Butchers Association v. Crescent City Live-Stock Landing & Slaughterhouse Co., et al.*, often called the Crescent City Case. Here he had reasoned that where the Constitution "has provided a remedy, we ought not to shrink from granting the appropriate relief." Gone, too, was Bradley's earlier view that Congress had been authorized to enforce the Fourteenth Amendment with "appropriate legislation." Gone was the perception that "those who framed the article were not themselves aware" of its breadth. Gone was the belief that the Fourteenth Amendment went beyond the "privileges and immunities" of the original Constitution and embraced potentially far more. Gone was the principle that "the privileges and immunities of all citizens shall be absolutely unabridged, unimpaired." Gone as well was the conviction of Bradley's opinion in *United States v. Cruikshank*, which stated "that Congress has the power to secure [the rights of blacks] not only as against the unfriendly operation of state laws, but against outrage … on the part of individuals, irrespective of state laws."

♦ "Dissenting Opinion"

Justice John Marshall Harlan was the sole justice who dissented from the majority opinion. Although Justice Bradley had forsaken the pro–civil rights stance of his Crescent City Case opinion and Slaughter-House Cases dissent, Justice Harlan used Bradley's reasoning in those cases as a starting point for his dissent in the Civil Rights Cases. While by the 1880s many Republicans had abandoned Radical Reconstruction and the extension of civil rights, Harlan had grown more committed to alleviating the plight of African Americans. Few, if any, nineteenth-century Supreme Court opinions have proved to be more prescient or memorable than Harlan's dissent in the Civil Rights Cases.

With a cherished pen and inkwell, the same pen that Chief Justice Roger Taney had used to write the majority opinion in *Dred Scott v. Sandford*, Harlan composed his dissent in the Civil Rights Cases. He forcefully rejected the majority opinion as "entirely too narrow and artificial," protesting that the Thirteenth Amendment gave Congress sufficient power to legislate beyond matters of bondage to address all "badges of slavery." At thirty-six pages and considerably longer than the majority opinion, Harlan's dissent characterized the Civil Rights Cases decision as at best tepid jurisprudential progress.

Harlan took aim at the Court majority's tandem mission with two goals of his own: a detailed critique of the view of congressional authority as "corrective" and recognition of "the enlarged powers conferred by the recent amendments upon the general government." He began his dissent with the observation that the Court had, in effect, sacrificed the recent Reconstruction Amendments (the Thirteenth, Fourteenth, and Fifteenth Amendments) to the Constitution and concluded, among other important points, that "the rights which Congress, by the act of 1875, endeavored to secure and protect are legal, not social rights."

Harlan stressed a number of Court decisions that conflicted with the majority opinion, particularly with respect to the Court's authority to overturn congressional legislation. In *Fletcher v. Peck*, the Court had maintained that to determine whether Congress had transgressed its constitutional power was "a question of much delicacy, which ought seldom, if ever, to be decided in the affirmative." In the Sinking Fund Cases—where railroad companies challenged a lower court injunction against them for trying to pay a stock dividend in alleged violation of recent legislation—the Court had held that declaring an act of Congress void "should never be made except in a clear case" and "every possible presumption is in favor of the validity of a statute." The Court's decision in *Prigg v. Commonwealth of Pennsylvania* held that "when the end is required the means are given" to Congress, though in that case "the end" had meant support for slavery and slaveholders. In *Ableman v. Booth*, the Court had sustained the constitutionality of the Fugitive Slave Act of 1850 "upon the implied power of Congress to enforce" the property claims of slaveholders. Harlan's point was that when slaveholders controlled the federal government, the Court had sustained the authority of Congress to legislate in favor of slavery; however, when it came to enforcement of the Constitution and civil rights in the years after Reconstruction, the Court was doing just the opposite—ruling to impede the legislative authority of Congress.

Perhaps the Court was at least a little embarrassed to be blocking civil rights legislation, especially once Harlan pointed out the litany of recent rulings that appeared to

contradict the majority opinion. According to the Court in *Strauder v. West Virginia* and *Ex parte Virginia*, the purpose of the Reconstruction Amendments "was to raise the colored race from that condition of inferiority … into perfect equality of civil rights." In both *United States v. Cruikshank* and *United States v. Reese*, the Court had held that the Fifteenth Amendment "invested the citizens of the United States with a new constitutional right, which is exemption from discrimination" and that "the right to vote comes from the States; but the right of exemption from the prohibited discrimination comes from the United States."

According to Harlan, "exemption from discrimination … is a new constitutional right" conferred by the nation; Congress shall provide for the "form and manner" of protecting this right. Overwhelmed by the Court's contradictions and conservatism, Harlan posed this question: "Are the powers of the national legislature to be restrained in proportion as the rights and privileges, derived from the nation, are valuable?" One can sense Harlan's extreme frustration with the Court in his concluding comment:

> The one underlying purpose of congressional legislation has been to enable the black race to take the rank of mere citizens. The difficulty has been to compel a recognition of the legal right of the black race to take the rank of citizens, and to secure the enjoyment of privileges belonging, under the law, to them as a component part of the people for whose welfare and happiness government is ordained.

If the Court had wanted to protect civil rights, legal precedent already existed. In his presentation to the justices, Solicitor General Phillips brought up *Munn v. Illinois* (1876), in which the Court had held that government regulation of privately owned grain elevators was "necessary for the public good" and had also affirmed broad police powers for government: "Under the powers inherent in every sovereignty, a government may regulate the conduct of its citizens toward each other." In his Civil Rights Cases dissent, Justice Harlan likewise observed that in *Munn v. Illinois* the Court had ruled that private property is no longer only a private concern when it becomes "affected with a public interest." Accordingly, the Court might well have viewed inns and railroads as public enterprises and thus under the purview of Congress.

Moreover, the Court could have looked to the commerce clause of the Constitution (Article I, Section 8). Justice Harlan noted just that regarding the Robinson case: "Might not the act of 1875 be maintained in that case, as applicable at least to commerce between the States, notwithstanding [that] it does not … profess to have been passed … to regulate commerce?" When Salmon Chase was chief justice from 1864 to 1873, the Court did not alter the interpretation of the commerce clause. In the Civil Rights Cases majority opinion, Justice Bradley acknowledged that "Congress is clothed with direct and plenary powers of legislation" under the commerce clause. However, he did not appear to accept that the three Reconstruction Amendments bolstered Congress's legislative plenary powers. Thus, Bradley dismissed whether inns and public conveyances were encompassed under Congress's legislative authority under the commerce clause as "a question which is not now before us." Nevertheless, the Court could have found the Civil Rights Act of 1875 constitutional under the commerce clause, especially in light of its *Munn v. Illinois* ruling.

That Bradley interpreted the Fourteenth Amendment as merely "corrective" elicited Harlan's harshest criticism. Harlan observed that the entire amendment hardly assumed what Bradley claimed was an exclusively negative or "corrective" form simply because of the clause in Section 1 beginning with "no state shall." The historian Carter Woodson offered this candid assessment: "The court was too evasive or too stupid to observe that the first clause of this amendment was an affirmative.… Such sophistry deserves the condemnation of all fair-minded people." The Court also might have interpreted the Civil Rights Act and the Reconstruction Amendments in light of factors such as history and legislative intent. Or as Harlan put it, borrowing from an old adage: "It is not the words of the law but the internal sense of it that makes the law; the letter of the law is the body; the sense and reason of the law is the soul."

Audience

As with most Supreme Court decisions, the justices' audience included not only lawyers, lower court judges, and legislators at all levels but also in fact all Americans. The Civil Rights Cases decision had political significance for both the Republican and Democratic parties. Given the number of black lynchings in America throughout the late-nineteenth and early-twentieth centuries, it seems likely that groups such as the Ku Klux Klan interpreted the Civil Rights Cases decision as tacitly allowing local instances of racist mob rule.

Impact

The Civil Rights Cases decision closed the first chapter of the civil rights struggle in the United States. The majority ruling negated Section 5 of the Fourteenth Amendment, which had mandated Congress to enforce the amendment with "appropriate legislation." Yet again, the Court abrogated Congress's ability to protect and enforce civil liberties, as it had already previously ruled in the Reese, Cruikshank, and Harris cases. This ruling was as much a setback for Congress as it was for African Americans. With this fierce gesture, the Court applied the brakes on the development of national government and the extension of civil rights.

News of the Court's decision elicited a mixture of smugness and indifference to the principle of equal protection. The *Atlanta Constitution* reported:

> We do not hope to compass with words the deep and perfect satisfaction with which the decision of the United States Supreme Court on the Civil-Rights Bill will

> be received throughout the South.… It was against the mischievous intrusion of the negro into places set apart for white people that we protested.

Frederick Douglass saw the mischief elsewhere: "The decision is to the direction and interest of the Old Calhoun doctrine of State rights as against Federal authority.… The decision has resulted largely from confusing social with civil rights." The *Chicago Tribune* agreed with Douglass: "The Constitution in its present shape does not warrant Congressional regulation of social affairs … which individuals regulate to suit themselves." The *Washington Post* published statements attributed to Lee Nance, "an intelligent and well-informed colored resident of this city," who was quoted as having said, "'I would say that I am bothered more about where and how I can get enough money with which to pay for a good, square meal, than I am about where I will eat it.'" The *Post* then editorialized that "there are other issues of more concern to the colored people … than the social and sentimental questions passed upon by the court." While acknowledging the existence of prejudice against African Americans, *Harper's Weekly* maintained: "Colored citizens … need not regret the fate of the Civil Rights Bill. The wrongs under which they suffer are not to be remedied by law."

From the perspective of more than one well-respected editor, the Civil Rights Act of 1875 never had a chance. *The Nation* under the editor E. L. Godkin had championed civil rights for African Americans, but by 1883 Godkin, like much of the rest of America, had grown weary of the fight. On October 18, 1883, the magazine published this assessment:

> The Act was forced through Congress.… It was as clear then as it is now to almost every candid-minded man, that the Fourteenth Amendment, on which the promoters of the Act professed to base it, was really directed against State legislation, and not against the acts of individuals.… The Civil Rights Act was really rather an admonition, or statement of moral obligation, than a legal command. Probably nine-tenths of those who voted for it knew very well that whenever it came before the Supreme Court it would be torn to pieces.

The *Cleveland Gazette* perhaps offered the most succinct, if solemn, pronouncement: The Civil Rights Bill "lingered unconsciously nearly nine years and died on the 15th of October, 1883."

The Court's narrow reading of the Fourteenth Amendment in the Civil Rights Cases decision destroyed movements toward integration and helped usher in racial segregation that would continue through the post–World War II years in much of the United States. That Justice Bradley and his colleagues did not view segregation as a "badge of slavery" brings up the question that if segregation is not such a badge, what is? The Court's ruling erased civil rights enforcement from the Republican agenda and mandated federal withdrawal from civil rights enforcement, a policy that would not begin to be reversed until well after World War II. Interestingly, when framing the Civil Rights Act of 1964, Congress relied on its powers under the commerce clause of the Constitution—one of the same arguments brought up by Justice Harlan in his famous dissent in the Civil Rights Cases. In passing the Civil Rights Act of 1964,

Questions for Further Study

1. In what ways did the Court's decision in the Civil Rights Cases undermine the protections the Fourteenth Amendment to the Constitution afforded African Americans?

2. Using this document alongside the Thirteenth Amendment to the U.S. Constitution, the Fourteenth Amendment to the U.S. Constitution, the Fifteenth Amendment to the U.S. Constitution, the Ku Klux Klan Act, and *United States v. Cruikshank*, prepare a time line of fifteen key events from 1865 to 1883 that affected African Americans. Be prepared to defend your choices.

3. What was the basis of the Court's reasoning in ruling as it did in the Civil Rights Cases?

4. On what basis did John Marshall Harlan dissent from the majority opinion in the Civil Rights Cases? Select five sentences that you believe express the core of his analysis.

5. What factors in the social, economic, or political environment might have led the Supreme Court to rule as it did in the Civil Rights Cases?

Congress circumvented not only the legal precedent of the Civil Rights Cases decision but also the Supreme Court's limitation on congressional power to enforce "equal protection" under the law.

See also *Prigg v. Pennsylvania* (1841); Fugitive Slave Act of 1850; Black Code of Mississippi (1865); Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870).

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—R. Owen Williams

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Civil Rights Cases

Majority Opinion

Mr. Justice Bradley delivered the opinion of the court. After stating the facts in the above language, he continued:

It is obvious that the primary and important question in all the cases is the constitutionality of the law, for if the law is unconstitutional, none of the prosecutions can stand.

The sections of the law referred to provide as follows:

Sec. 1. That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theatres, and other places of public amusement, subject only to the conditions and limitations established by law and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

Sec. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities, or privileges in said section enumerated, or by aiding or inciting such denial, shall for every such offence, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered in an action of debt, with full costs, and shall also, for every such offence, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty days nor more than one year, *Provided,* That all persons may elect to sue for the penalty aforesaid, or to proceed under their rights at common law and by State statutes, and having so elected to proceed in the one mode or the other, their right to proceed in the other jurisdiction shall be barred. But this provision shall not apply to criminal proceedings, either under this act or the criminal law of any State; *and provided further,* that a judgment for the penalty in favor of the party aggrieved, or a judgment upon an indictment, shall be a bar to either prosecution respectively.

Are these sections constitutional? The first section, which is the principal one, cannot be fairly understood without attending to the last clause, which qualifies the preceding part.

The essence of the law is not to declare broadly that all persons shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances, and theatres, but that such enjoyment shall not be subject to any conditions applicable only to citizens of a particular race or color, or who had been in a previous condition of servitude. In other words, it is the purpose of the law to declare that, in the enjoyment of the accommodations and privileges of inns, public conveyances, theatres, and other places of public amusement, no distinction shall be made between citizens of different race or color or between those who have, and those who have not, been slaves. Its effect is to declare that, in all inns, public conveyances, and places of amusement, colored citizens, whether formerly slaves or not, and citizens of other races, shall have the same accommodations and privileges in all inns, public conveyances, and places of amusement as are enjoyed by white citizens, and vice versa. The second section makes it a penal offence in any person to deny to any citizen of any race or color, regardless of previous servitude, any of the accommodations or privileges mentioned in the first section.

Has Congress constitutional power to make such a law? Of course, no one will contend that the power to pass it was contained in the Constitution before the adoption of the last three amendments. The power is sought, first, in the Fourteenth Amendment, and the views and arguments of distinguished Senators, advanced whilst the law was under consideration, claiming authority to pass it by virtue of that amendment, are the principal arguments adduced in favor of the power. We have carefully considered those arguments, as was due to the eminent ability of those who put them forward, and have felt, in all its force, the weight of authority which always invests a law that Congress deems itself competent to pass. But the responsibility of an independent judgment is now thrown upon this court, and we are bound to exercise it according to the best lights we have.

The first section of the Fourteenth Amendment (which is the one relied on), after declaring who shall be citizens of the United States, and of the several

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States, is prohibitory in its character, and prohibitory upon the States. It declares that:

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

It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States or which injures them in life, liberty or property without due process of law, or which denies to any of them the equal protection of the laws. It not only does this, but, in order that the national will, thus declared, may not be a mere *brutum fulmen,* the last section of the amendment invests Congress with power to enforce it by appropriate legislation. To enforce what? To enforce the prohibition. To adopt appropriate legislation for correcting the effects of such prohibited State laws and State acts, and thus to render them effectually null, void, and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it. It does not invest Congress with power to legislate upon subjects which are within the domain of State legislation, but to provide modes of relief against State legislation, or State action, of the kind referred to. It does not authorize Congress to create a code of municipal law for the regulation of private rights, but to provide modes of redress against the operation of State laws and the action of State officers executive or judicial when these are subversive of the fundamental rights specified in the amendment. Positive rights and privileges are undoubtedly secured by the Fourteenth Amendment, but they are secured by way of prohibition against State laws and State proceedings affecting those rights and privileges, and by power given to Congress to legislate for the purpose of carrying such prohibition into effect, and such legislation must necessarily be predicated upon such supposed State laws or State proceedings, and be directed to the correction of their operation and effect. A quite full discussion of this aspect of the amendment may be found in *United Sates v. Cruikshank*, … *Virginia v. Rives,* … and *Ex parte Virginia*….

An apt illustration of this distinction may be found in some of the provisions of the original Constitution. Take the subject of contracts, for example. The Constitution prohibited the States from passing any law impairing the obligation of contracts. This did not give to Congress power to provide laws for the general enforcement of contracts, nor power to invest the courts of the United States with jurisdiction over contracts, so as to enable parties to sue upon them in those courts. It did, however, give the power to provide remedies by which the impairment of contracts by State legislation might be counteracted and corrected, and this power was exercised. The remedy which Congress actually provided was that contained in the 25th section of the Judiciary Act of 1789, 1 Stat. 8, giving to the Supreme Court of the United States jurisdiction by writ of error to review the final decisions of State courts whenever they should sustain the validity of a State statute or authority alleged to be repugnant to the Constitution or laws of the United States. By this means, if a State law was passed impairing the obligation of a contract and the State tribunals sustained the validity of the law, the mischief could be corrected in this court. The legislation of Congress, and the proceedings provided for under it, were corrective in their character. No attempt was made to draw into the United States courts the litigation of contracts generally, and no such attempt would have been sustained. We do not say that the remedy provided was the only one that might have been provided in that case. Probably Congress had power to pass a law giving to the courts of the United States direct jurisdiction over contracts alleged to be impaired by a State law, and under the broad provisions of the act of March 3d 1875, ch. 137, 18 Stat. 470, giving to the circuit courts jurisdiction of all cases arising under the Constitution and laws of the United States, it is possible that such jurisdiction now exists. But under that, or any other law, it must appear as well by allegation, as proof at the trial, that the Constitution had been violated by the action of the State legislature. Some obnoxious State law passed, or that might be passed, is necessary to be assumed in order to lay the foundation of any federal remedy in the case, and for the very sufficient reason that the constitutional prohibition is against *State laws* impairing the obligation of contracts.

And so, in the present case, until some State law has been passed, or some State action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the Fourteenth Amendment, no legislation of the United States un-

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der said amendment, nor any proceeding under such legislation, can be called into activity, for the prohibitions of the amendment are against State laws and acts done under State authority. Of course, legislation may, and should, be provided in advance to meet the exigency when it arises, but it should be adapted to the mischief and wrong which the amendment was intended to provide against, and that is State laws, or State action of some kind, adverse to the rights of the citizen secured by the amendment. Such legislation cannot properly cover the whole domain of rights appertaining to life, liberty and property, defining them and providing for their vindication. That would be to establish a code of municipal law regulative of all private rights between man and man in society. It would be to make Congress take the place of the State legislatures and to supersede them. It is absurd to affirm that, because the rights of life, liberty, and property (which include all civil rights that men have) are, by the amendment, sought to be protected against invasion on the part of the State without due process of law, Congress may therefore provide due process of law for their vindication in every case, and that, because the denial by a State to any persons of the equal protection of the laws is prohibited by the amendment, therefore Congress may establish laws for their equal protection. In fine, the legislation which Congress is authorized to adopt in this behalf is not general legislation upon the rights of the citizen, but corrective legislation, that is, such as may be necessary and proper for counteracting such laws as the States may adopt or enforce, and which, by the amendment, they are prohibited from making or enforcing, or such acts and proceedings as the States may commit or take, and which, by the amendment, they are prohibited from committing or taking. It is not necessary for us to state, if we could, what legislation would be proper for Congress to adopt. It is sufficient for us to examine whether the law in question is of that character.

An inspection of the law shows that it makes no reference whatever to any supposed or apprehended violation of the Fourteenth Amendment on the part of the States. It is not predicated on any such view. It proceeds *ex directo* to declare that certain acts committed by individuals shall be deemed offences, and shall be prosecuted and punished by proceedings in the courts of the United States. It does not profess to be corrective of any constitutional wrong committed by the States; it does not make its operation to depend upon any such wrong committed. It applies equally to cases arising in States which have the justest laws respecting the personal rights of citizens, and whose authorities are ever ready to enforce such laws, as to those which arise in States that may have violated the prohibition of the amendment. In other words, it steps into the domain of local jurisprudence, and lays down rules for the conduct of individuals in society towards each other, and imposes sanctions for the enforcement of those rules, without referring in any manner to any supposed action of the State or its authorities.

If this legislation is appropriate for enforcing the prohibitions of the amendment, it is difficult to see where it is to stop. Why may not Congress, with equal show of authority, enact a code of laws for the enforcement and vindication of all rights of life, liberty, and property? If it is supposable that the States may deprive persons of life, liberty, and property without due process of law (and the amendment itself does suppose this), why should not Congress proceed at once to prescribe due process of law for the protection of every one of these fundamental rights, in every possible case, as well as to prescribe equal privileges in inns, public conveyances, and theatres? The truth is that the implication of a power to legislate in this manner is based upon the assumption that, if the States are forbidden to legislate or act in a particular way on a particular subject, and power is conferred upon Congress to enforce the prohibition, this gives Congress power to legislate generally upon that subject, and not merely power to provide modes of redress against such State legislation or action. The assumption is certainly unsound. It is repugnant to the Tenth Amendment of the Constitution, which declares that powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

We have not overlooked the fact that the fourth section of the act now under consideration has been held by this court to be constitutional. That section declares that no citizen, possessing all other qualifications which are or may be prescribed by law, shall be disqualified for service as grand or petit juror in any court of the United States, or of any State, on account of race, color, or previous condition of servitude, and any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five thousand dollars.

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In *Ex parte Virginia*, … it was held that an indictment against a State officer under this section for excluding persons of color from the jury list is sustainable. But a moment's attention to its terms will show that the section is entirely corrective in its character. Disqualifications for service on juries are only created by the law, and the first part of the section is aimed at certain disqualifying laws, namely, those which make mere race or color a disqualification, and the second clause is directed against those who, assuming to use the authority of the State government, carry into effect such a rule of disqualification. In the Virginia case, the State, through its officer, enforced a rule of disqualification which the law was intended to abrogate and counteract. Whether the statute book of the State actually laid down any such rule of disqualification or not, the State, through its officer, enforced such a rule, and it is against such State action, through its officers and agents, that the last clause of the section is directed. This aspect of the law was deemed sufficient to divest it of any unconstitutional character, and makes it differ widely from the first and second sections of the same act which we are now considering.

These sections, in the objectionable features before referred to, are different also from the law ordinarily called the "Civil Rights Bill," originally passed April 9th, 1866, 14 Stat. 27, ch. 31, and reenacted with some modifications in sections 16, 17, 18, of the Enforcement Act, passed May 31st, 1870, 16 Stat. 140, ch. 114. That law, as reenacted, after declaring that all persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses and exactions of every kind, and none other, any law, statute, ordinance, regulation or custom to the contrary notwithstanding, proceeds to enact that any person who, under color of any law, statute, ordinance, regulation or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any rights secured or protected by the preceding section (above quoted), or to different punishment, pains, or penalties, on account of such person's being an alien, or by reason of his color or race, than is prescribed for the punishment of citizens, shall be deemed guilty of a misdemeanor, and subject to fine and imprisonment as specified in the act. This law is clearly corrective in its character, intended to counteract and furnish redress against State laws and proceedings, and customs having the force of law, which sanction the wrongful acts specified. In the Revised Statutes, it is true, a very important clause, to-wit, the words "any law, statute, ordinance, regulation or custom to the contrary notwithstanding," which gave the declaratory section its point and effect, are omitted; but the penal part, by which the declaration is enforced, and which is really the effective part of the law, retains the reference to State laws by making the penalty apply only to those who should subject parties to a deprivation of their rights under color of any statute, ordinance, custom, etc., of any State or Territory, thus preserving the corrective character of the legislation.… The Civil Rights Bill here referred to is analogous in its character to what a law would have been under the original Constitution, declaring that the validity of contracts should not be impaired, and that, if any person bound by a contract should refuse to comply with it, under color or pretence that it had been rendered void or invalid by a State law, he should be liable to an action upon it in the courts of the United States, with the addition of a penalty for setting up such an unjust and unconstitutional defence.

In this connection, it is proper to state that civil rights, such as are guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individuals, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress. An individual cannot deprive a man of his right to vote, to hold property, to buy and sell, to sue in the courts, or to be a witness or a juror; he may, by force or fraud, interfere with the enjoyment of the right in a particular case; he may commit an assault against the person, or commit murder, or use ruffian violence at the polls, or slander the good name of a fellow citizen; but, unless protected in these wrongful acts by some shield of State law or State authority, he cannot destroy or injure the right; he will only render himself amenable to satisfaction or punishment, and amenable therefor to the laws of the State where the wrongful acts are committed. Hence, in all those cases

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where the Constitution seeks to protect the rights of the citizen against discriminative and unjust laws of the State by prohibiting such laws, it is not individual offences, but abrogation and denial of rights, which it denounces and for which it clothes the Congress with power to provide a remedy. This abrogation and denial of rights for which the States alone were or could be responsible was the great seminal and fundamental wrong which was intended to be remedied. And the remedy to be provided must necessarily be predicated upon that wrong. It must assume that, in the cases provided for, the evil or wrong actually committed rests upon some State law or State authority for its excuse and perpetration.

Of course, these remarks do not apply to those cases in which Congress is clothed with direct and plenary powers of legislation over the whole subject, accompanied with an express or implied denial of such power to the States, as in the regulation of commerce with foreign nations, among the several States, and with the Indian tribes, the coining of money, the establishment of post offices and post roads, the declaring of war, etc. In these cases, Congress has power to pass laws for regulating the subjects specified in every detail, and the conduct and transactions of individuals in respect thereof. But where a subject is not submitted to the general legislative power of Congress, but is only submitted thereto for the purpose of rendering effective some prohibition against particular State legislation or State action in reference to that subject, the power given is limited by its object, and any legislation by Congress in the matter must necessarily be corrective in its character, adapted to counteract and redress the operation of such prohibited State laws or proceedings of State officers.

If the principles of interpretation which we have laid down are correct, as we deem them to be (and they are in accord with the principles laid down in the cases before referred to, as well as in the recent case of *United States v. Harris* …), it is clear that the law in question cannot be sustained by any grant of legislative power made to Congress by the Fourteenth Amendment. That amendment prohibits the States from denying to any person the equal protection of the laws, and declares that Congress shall have power to enforce, by appropriate legislation, the provisions of the amendment. The law in question, without any reference to adverse State legislation on the subject, declares that all persons shall be entitled to equal accommodations and privileges of inns, public conveyances, and places of public amusement, and imposes a penalty upon any individual who shall deny to any citizen such equal accommodations and privileges. This is not corrective legislation; it is primary and direct; it takes immediate and absolute possession of the subject of the right of admission to inns, public conveyances, and places of amusement. It supersedes and displaces State legislation on the same subject, or only allows it permissive force. It ignores such legislation, and assumes that the matter is one that belongs to the domain of national regulation. Whether it would not have been a more effective protection of the rights of citizens to have clothed Congress with plenary power over the whole subject is not now the question. What we have to decide is whether such plenary power has been conferred upon Congress by the Fourteenth Amendment, and, in our judgment, it has not.

We have discussed the question presented by the law on the assumption that a right to enjoy equal accommodation and privileges in all inns, public conveyances, and places of public amusement is one of the essential rights of the citizen which no State can abridge or interfere with. Whether it is such a right or not is a different question which, in the view we have taken of the validity of the law on the ground already stated, it is not necessary to examine.

We have also discussed the validity of the law in reference to cases arising in the States only, and not in reference to cases arising in the Territories or the District of Columbia, which are subject to the plenary legislation of Congress in every branch of municipal regulation. Whether the law would be a valid one as applied to the Territories and the District is not a question for consideration in the cases before us, they all being cases arising within the limits of States. And whether Congress, in the exercise of its power to regulate commerce amongst the several States, might or might not pass a law regulating rights in public conveyances passing from one State to another is also a question which is not now before us, as the sections in question are not conceived in any such view.

But the power of Congress to adopt direct and primary, as distinguished from corrective, legislation on the subject in hand is sought, in the second place, from the Thirteenth Amendment, which abolishes slavery. This amendment declares that neither slavery, nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction, and it gives Congress power to enforce the amendment by appropriate legislation.

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This amendment, as well as the Fourteenth, is undoubtedly self-executing, without any ancillary legislation, so far as its terms are applicable to any existing state of circumstances. By its own unaided force and effect, it abolished slavery and established universal freedom. Still, legislation may be necessary and proper to meet all the various cases and circumstances to be affected by it, and to prescribe proper modes of redress for its violation in letter or spirit. And such legislation may be primary and direct in its character, for the amendment is not a mere prohibition of State laws establishing or upholding slavery, but an absolute declaration that slavery or involuntary servitude shall not exist in any part of the United States.

It is true that slavery cannot exist without law, any more than property in lands and goods can exist without law, and, therefore, the Thirteenth Amendment may be regarded as nullifying all State laws which establish or uphold slavery. But it has a reflex character also, establishing and decreeing universal civil and political freedom throughout the United States, and it is assumed that the power vested in Congress to enforce the article by appropriate legislation clothes Congress with power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States, and, upon this assumption, it is claimed that this is sufficient authority for declaring by law that all persons shall have equal accommodations and privileges in all inns, public conveyances, and places of amusement, the argument being that the denial of such equal accommodations and privileges is, in itself, a subjection to a species of servitude within the meaning of the amendment. Conceding the major proposition to be true, that Congress has a right to enact all necessary and proper laws for the obliteration and prevention of slavery with all its badges and incidents, is the minor proposition also true, that the denial to any person of admission to the accommodations and privileges of an inn, a public conveyance, or a theatre does subject that person to any form of servitude, or tend to fasten upon him any badge of slavery? If it does not, then power to pass the law is not found in the Thirteenth Amendment.

In a very able and learned presentation of the cognate question as to the extent of the rights, privileges and immunities of citizens which cannot rightfully be abridged by state laws under the Fourteenth Amendment, made in a former case, a long list of burdens and disabilities of a servile character, incident to feudal vassalage in France, and which were abolished by the decrees of the National Assembly, was presented for the purpose of showing that all inequalities and observances exacted by one man from another were servitudes or badges of slavery which a great nation, in its effort to establish universal liberty, made haste to wipe out and destroy. But these were servitudes imposed by the old law, or by long custom, which had the force of law, and exacted by one man from another without the latter's consent. Should any such servitudes be imposed by a state law, there can be no doubt that the law would be repugnant to the Fourteenth, no less than to the Thirteenth, Amendment, nor any greater doubt that Congress has adequate power to forbid any such servitude from being exacted.

But is there any similarity between such servitudes and a denial by the owner of an inn, a public conveyance, or a theatre of its accommodations and privileges to an individual, even though the denial be founded on the race or color of that individual? Where does any slavery or servitude, or badge of either, arise from such an act of denial? Whether it might not be a denial of a right which, if sanctioned by the state law, would be obnoxious to the prohibitions of the Fourteenth Amendment is another question. But what has it to do with the question of slavery?

It may be that, by the Black Code (as it was called), in the times when slavery prevailed, the proprietors of inns and public conveyances were forbidden to receive persons of the African race because it might assist slaves to escape from the control of their masters. This was merely a means of preventing such escapes, and was no part of the servitude itself. A law of that kind could not have any such object now, however justly it might be deemed an invasion of the party's legal right as a citizen, and amenable to the prohibitions of the Fourteenth Amendment.

The long existence of African slavery in this country gave us very distinct notions of what it was and what were its necessary incidents. Compulsory service of the slave for the benefit of the master, restraint of his movements except by the master's will, disability to hold property, to make contracts, to have a standing in court, to be a witness against a white person, and such like burdens and incapacities were the inseparable incidents of the institution. Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offences. Congress, as we have seen, by the Civil Rights Bill of 1866, passed in view of the Thirteenth Amendment before the Fourteenth was adopted, undertook to wipe out these burdens and disabilities, the necessary incidents of slavery constituting its substance and visible form, and to secure to all citizens of every

Document Text

race and color, and without regard to previous servitude, those fundamental rights which are the essence of civil freedom, namely, the same right to make and enforce contracts, to sue, be parties, give evidence, and to inherit, purchase, lease, sell and convey property as is enjoyed by white citizens. Whether this legislation was fully authorized by the Thirteenth Amendment alone, without the support which it afterward received from the Fourteenth Amendment, after the adoption of which it was reenacted with some additions, it is not necessary to inquire. It is referred to for the purpose of showing that, at that time (in 1866), Congress did not assume, under the authority given by the Thirteenth Amendment, to adjust what may be called the social rights of men and races in the community, but only to declare and vindicate those fundamental rights which appertain to the essence of citizenship, and the enjoyment or deprivation of which constitutes the essential distinction between freedom and slavery.

We must not forget that the province and scope of the Thirteenth and Fourteenth amendments are different: the former simply abolished slavery; the latter prohibited the States from abridging the privileges or immunities of citizens of the United States, from depriving them of life, liberty, or property without due process of law, and from denying to any the equal protection of the laws. The amendments are different, and the powers of Congress under them are different. What Congress has power to do under one it may not have power to do under the other. Under the Thirteenth Amendment, it has only to do with slavery and its incidents. Under the Fourteenth Amendment, it has power to counteract and render nugatory all State laws and proceedings which have the effect to abridge any of the privileges or immunities of citizens of the United States, or to deprive them of life, liberty or property without due process of law, or to deny to any of them the equal protection of the laws. Under the Thirteenth Amendment, the legislation, so far as necessary or proper to eradicate all forms and incidents of slavery and involuntary servitude, may be direct and primary, operating upon the acts of individuals, whether sanctioned by State legislation or not; under the Fourteenth, as we have already shown, it must necessarily be, and can only be, corrective in its character, addressed to counteract and afford relief against State regulations or proceedings.

The only question under the present head, therefore, is whether the refusal to any persons of the accommodations of an inn or a public conveyance or a place of public amusement by an individual, and without any sanction or support from any State law or regulation, does inflict upon such persons any manner of servitude or form of slavery as those terms are understood in this country? Many wrongs may be obnoxious to the prohibitions of the Fourteenth Amendment which are not, in any just sense, incidents or elements of slavery. Such, for example, would be the taking of private property without due process of law, or allowing persons who have committed certain crimes (horse stealing, for example) to be seized and hung by the *posse comitatus* without regular trial, or denying to any person, or class of persons, the right to pursue any peaceful avocations allowed to others. What is called class legislation would belong to this category, and would be obnoxious to the prohibitions of the Fourteenth Amendment, but would not necessarily be so to the Thirteenth, when not involving the idea of any subjection of one man to another. The Thirteenth Amendment has respect not to distinctions of race or class or color, but to slavery. The Fourteenth Amendment extends its protection to races and classes, and prohibits any State legislation which has the effect of denying to any race or class, or to any individual, the equal protection of the laws.

Now, conceding for the sake of the argument that the admission to an inn, a public conveyance, or a place of public amusement on equal terms with all other citizens is the right of every man and all classes of men, is it any more than one of those rights which the states, by the Fourteenth Amendment, are forbidden to deny to any person? And is the Constitution violated until the denial of the right has some State sanction or authority? Can the act of a mere individual, the owner of the inn, the public conveyance or place of amusement, refusing the accommodation, be justly regarded as imposing any badge of slavery or servitude upon the applicant, or only as inflicting an ordinary civil injury, properly cognizable by the laws of the State and presumably subject to redress by those laws until the contrary appears?

After giving to these questions all the consideration which their importance demands, we are forced to the conclusion that such an act of refusal has nothing to do with slavery or involuntary servitude, and that, if it is violative of any right of the party, his redress is to be sought under the laws of the State, or, if those laws are adverse to his rights and do not protect him, his remedy will be found in the corrective legislation which Congress has adopted, or may adopt, for counteracting the effect of State laws or State action prohibited by the Fourteenth Amendment. It would be running the slavery argument into the ground to

make it apply to every act of discrimination which a person may see fit to make as to the guests he will entertain, or as to the people he will take into his coach or cab or car, or admit to his concert or theatre, or deal with in other matters of intercourse or business. Innkeepers and public carriers, by the laws of all the States, so far as we are aware, are bound, to the extent of their facilities, to furnish proper accommodation to all unobjectionable persons who in good faith apply for them. If the laws themselves make any unjust discrimination amenable to the prohibitions of the Fourteenth Amendment, Congress has full power to afford a remedy under that amendment and in accordance with it.

When a man has emerged from slavery, and, by the aid of beneficent legislation, has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen and ceases to be the special favorite of the laws, and when his rights as a citizen or a man are to be protected in the ordinary modes by which other men's rights are protected. There were thousands of free colored people in this country before the abolition of slavery, enjoying all the essential rights of life, liberty and property the same as white citizens, yet no one at that time thought that it was any invasion of his personal status as a freeman because he was not admitted to all the privileges enjoyed by white citizens, or because he was subjected to discriminations in the enjoyment of accommodations in inns, public conveyances and places of amusement. Mere discriminations on account of race or color were not regarded as badges of slavery. If, since that time, the enjoyment of equal rights in all these respects has become established by constitutional enactment, it is not by force of the Thirteenth Amendment (which merely abolishes slavery), but by force of the Thirteenth and Fifteenth Amendments.

On the whole, we are of opinion that no countenance of authority for the passage of the law in question can be found in either the Thirteenth or Fourteenth Amendment of the Constitution, and no other ground of authority for its passage being suggested, it must necessarily be declared void, at least so far as its operation in the several States is concerned.

This conclusion disposes of the cases now under consideration. In the cases of the *United States v. Michael Ryan,* and of *Richard A. Robinson and Wife v. The Memphis & Charleston Railroad Company,* the judgments must be affirmed. In the other cases, the answer to be given will be that the first and second sections of the act of Congress of March 1st, 1875, entitled "An Act to protect all citizens in their civil and legal rights," are unconstitutional and void, and that judgment should be rendered upon the several indictments in those cases accordingly.

And it is so ordered.

Dissenting Opinion

Mr. Justice Harlan dissenting.

The opinion in these cases proceeds, it seems to me, upon grounds entirely too narrow and artificial. I cannot resist the conclusion that the substance and spirit of the recent amendments of the Constitution have been sacrificed by a subtle and ingenious verbal criticism.

It is not the words of the law, but the internal sense of it that makes the law; the letter of the law is the body; the sense and reason of the law is the soul.

Constitutional provisions, adopted in the interest of liberty and for the purpose of securing, through national legislation, if need be, rights inhering in a state of freedom and belonging to American citizenship have been so construed as to defeat the ends the people desired to accomplish, which they attempted to accomplish, and which they supposed they had accomplished by changes in their fundamental law. By this I do not mean that the determination of these cases should have been materially controlled by considerations of mere expediency or policy. I mean only, in this form, to express an earnest conviction that the court has departed from the familiar rule requiring, in the interpretation of constitutional provisions, that full effect be given to the intent with which they were adopted.

The purpose of the first section of the act of Congress of March 1, 1875, was to prevent race discrimination in respect of the accommodations and facilities of inns, public conveyances, and places of public amusement. It does not assume to define the general conditions and limitations under which inns, public conveyances, and places of public amusement may be conducted, but only declares that such conditions and limitations, whatever they may be, shall not be applied so as to work a discrimination solely because of race, color, or previous condition of servitude. The second section provides a penalty against anyone denying, or aiding or inciting the denial, of any citizen, of that equality of right given by the first section except for reasons by law applicable to citizens of every race or color and regardless of any previous condition of servitude.

There seems to be no substantial difference between my brethren and myself as to the purpose of Congress, for they say that the essence of the law is not to declare broadly that all persons shall be entitled to the

Document Text

full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances, and theatres, but that such enjoyment shall not be subject to conditions applicable only to citizens of a particular race or color, or who had been in a previous condition of servitude. The effect of the statute, the court says, is that colored citizens, whether formerly slaves or not, and citizens of other races shall have the same accommodations and privileges in all inns, public conveyances, and places of amusement as are enjoyed by white persons, and vice versa.

The court adjudges, I think erroneously, that Congress is without power, under either the Thirteenth or Fourteenth Amendment, to establish such regulations, and that the first and second sections of the statute are, in all their parts, unconstitutional and void.

Whether the legislative department of the government has transcended the limits of its constitutional powers, "is at all times," said this court in *Fletcher v. Peck,* … a question of much delicacy which ought seldom, if ever, to be decided in the affirmative in a doubtful case.… The opposition between the Constitution and the law should be such that the judge feels a clear and strong conviction of their incompatibility with each other.

More recently, in *Sinking Fund Cases,* … we said:

It is our duty, when required in the regular course of judicial proceedings, to declare an act of Congress void if not within the legislative power of the United States, but this declaration should never be made except in a clear case. Every possible presumption is in favor of the validity of a statute, and this continues until the contrary is shown beyond a rational doubt. One branch of the government cannot encroach on the domain of another without danger. The safety of our institutions depends in no small degree on a strict observance of this salutary rule.

Before considering the language and scope of these amendments, it will be proper to recall the relations subsisting, prior to their adoption, between the national government and the institution of slavery, as indicated by the provisions of the Constitution, the legislation of Congress, and the decisions of this court. In this mode, we may obtain keys with which to open the mind of the people and discover the thought intended to be expressed.

In section 2 of article IV of the Constitution, it was provided that no person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Under the authority of this clause, Congress passed the Fugitive Slave Law of 1793, establishing a mode for the recovery of fugitive slaves and prescribing a penalty against any person who should knowingly and willingly obstruct or hinder the master, his agent, or attorney in seizing, arresting, and recovering the fugitive, or who should rescue the fugitive from him, or who should harbor or conceal the slave after notice that he was a fugitive.

In *Prigg v. Commonwealth of Pennsylvania,* … this court had occasion to define the powers and duties of Congress in reference to fugitives from labor. Speaking by Mr. Justice Story, it laid down these propositions:

> That a clause of the Constitution conferring a right should not be so construed as to make it shadowy or unsubstantial, or leave the citizen without a remedial power adequate for its protection when another construction equally accordant with the words and the sense in which they were used would enforce and protect the right granted;
>
> That Congress is not restricted to legislation for the execution of its expressly granted powers, but, for the protection of rights guaranteed by the Constitution, may employ such means, not prohibited, as are necessary and proper, or such as are appropriate, to attain the ends proposed;
>
> That the Constitution recognized the master's right of property in his fugitive slave, and, as incidental thereto, the right of seizing and recovering him, regardless of any State law or regulation or local custom whatsoever; and,
>
> That the right of the master to have his slave, thus escaping, delivered up on claim, being guaranteed by the Constitution, the fair implication was that the national government was clothed with appropriate authority and functions to enforce it.
>
> The court said
>
> The fundamental principle, applicable to all cases of this sort, would seem to be that, when the end is required the means are given, and when the duty is enjoined, the ability to perform it is contemplated to exist on the part of the functionary to whom it is entrusted.

Again,

> It would be a strange anomaly and forced construction to suppose that the national government meant to rely for the due fulfillment of its own proper duties, and the rights which it intended to secure, upon State legislation, and not upon that of the Union. *A fortiori,* it would be more objectionable to suppose that a power which was to be the same throughout the Union should be confided to State sovereignty, which could not rightfully act beyond its own territorial limits.

The act of 1793 was, upon these grounds, adjudged to be a constitutional exercise of the powers of Congress.

It is to be observed from the report of Priggs' case that Pennsylvania, by her attorney general, pressed the argument that the obligation to surrender fugitive slaves was on the States and for the States, subject to the restriction that they should not pass laws or establish regulations liberating such fugitives; that the Constitution did not take from the States the right to determine the status of all persons within their respective jurisdictions; that it was for the State in which the alleged fugitive was found to determine, through her courts or in such modes as she prescribed, whether the person arrested was, in fact, a freeman or a fugitive slave; that the sole power of the general government in the premises was, by judicial instrumentality, to restrain and correct, not to forbid and prevent in the absence of hostile State action, and that, for the general government to assume primary authority to legislate on the subject of fugitive slaves, to the exclusion of the States, would be a dangerous encroachment on State sovereignty. But to such suggestions, this court turned a deaf ear, and adjudged that primary legislation by Congress to enforce the master's right was authorized by the Constitution.

We next come to the Fugitive Slave Act of 1850, the constitutionality of which rested, as did that of 1793, solely upon the implied power of Congress to enforce the master's rights. The provisions of that act were far in advance of previous legislation. They placed at the disposal of the master seeking to recover his fugitive slave substantially the whole power of the nation. It invested commissioners, appointed under the act, with power to summon the *posse comitatus* for the enforcement of its provisions, and commanded all good citizens to assist in its prompt and efficient execution whenever their services were required as part of the *posse comitatus.* Without going into the details of that act, it is sufficient to say that Congress omitted from it nothing which the utmost ingenuity could suggest as essential to the successful enforcement of the master's claim to recover his fugitive slave. And this court, in *Ableman v. Booth,* … adjudged it to be "in all of its provisions, fully authorized by the Constitution of the United States."

The only other case, prior to the adoption of the recent amendments, to which reference will be made, is that of *Dred Scott v. Sanford.*… That case was instituted in a circuit court of the United States by Dred Scott, claiming to be a citizen of Missouri, the defendant being a citizen of another State. Its object was to assert the title of himself and family to freedom. The defendant pleaded in abatement that Scott—being of African descent, whose ancestors, of pure African blood, were brought into this country and sold as slaves—was not a citizen. The only matter in issue, said the court, was whether the descendants of slaves thus imported and sold, when they should be emancipated, or who were born of parents who had become free before their birth, are citizens of a State in the sense in which the word "citizen" is used in the Constitution of the United States.

In determining that question, the court instituted an inquiry as to who were citizens of the several States at the adoption of the Constitution and who at that time were recognized as the people whose rights and liberties had been violated by the British government. The result was a declaration by this court, speaking by Chief Justice Taney, that the legislation and histories of the times, and the language used in the Declaration of Independence, showed that neither the class of persons who had been imported as slaves nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that instrument; that they had for more than a century before been regarded as beings of an inferior race, and altogether unfit to associate with the white race either in social or political relations, and so far inferior that they had no rights which the white man was bound to respect, and that the negro might justly and lawfully be reduced to slavery for his benefit; that he was "bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it;" and, that this opinion was at that time fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals, as well as in politics, which no one thought of disputing, or supposed to be open to dispute, and men in every grade and po-

Document Text

sition in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without for a moment doubting the correctness of this opinion.

The judgment of the court was that the words "people of the United States" and "citizens" meant the same thing, both describing the political body who, according to our republican institutions, form the sovereignty and hold the power and conduct the government through their representatives; that they are what we familiarly call the "sovereign people," and every citizen is one of this people and a constituent member of this sovereignty; but that the class of persons described in the plea in abatement did not compose a portion of this people, were not "included, and were not intended to be included, under the word 'citizens' in the Constitution;" that, therefore, they could "claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States;" that, on the contrary, they were at that time considered as a subordinate and inferior class of beings who had been subjugated by the dominant race and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the government might choose to grant them.

Such were the relations which formerly existed between the government, whether national or state, and the descendants, whether free or in bondage, of those of African blood who had been imported into this country and sold as slaves.

The first section of the Thirteenth Amendment provides that neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Its second section declares that "Congress shall have power to enforce this article by appropriate legislation." This amendment was followed by the Civil Rights Act of April 9, 1866, which, among other things, provided that all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States.… The power of Congress, in this mode, to elevate the enfranchised race to national citizenship was maintained by the supporters of the act of 1866 to be as full and complete as its power, by general statute, to make the children, being of full age, of persons naturalized in this country, citizens of the United States without going through the process of naturalization. The act of 1866 in this respect was also likened to that of 1843, in which Congress declared that the Stockbridge tribe of Indians, and each and every one of them, shall be deemed to be and are hereby declared to be, citizens of the United States to all intents and purposes, and shall be entitled to all the rights, privileges, and immunities of such citizens, and shall in all respects be subject to the laws of the United States.

If the act of 1866 was valid in conferring national citizenship upon all embraced by its terms, then the colored race, enfranchised by the Thirteenth Amendment, became citizens of the United States prior to the adoption of the Fourteenth Amendment. But, in the view which I take of the present case, it is not necessary to examine this question.

The terms of the Thirteenth Amendment are absolute and universal. They embrace every race which then was, or might thereafter be, within the United States. No race, as such, can be excluded from the benefits or rights thereby conferred. Yet it is historically true that that amendment was suggested by the condition, in this country, of that race which had been declared by this court to have had—according to the opinion entertained by the most civilized portion of the white race at the time of the adoption of the Constitution—"no rights which the white man was bound to respect," none of the privileges or immunities secured by that instrument to citizens of the United States. It had reference, in peculiar sense, to a people which (although the larger part of them were in slavery) had been invited by an act of Congress to aid in saving from overthrow a government which, theretofore, by all of its departments, had treated them as an inferior race, with no legal rights or privileges except such as the white race might choose to grant them.

These are the circumstances under which the Thirteenth Amendment was proposed for adoption. They are now recalled only that we may better understand what was in the minds of the people when that amendment was considered, and what were the mischiefs to be remedied and the grievances to be redressed by its adoption.

We have seen that the power of Congress, by legislation, to enforce the master's right to have his slave delivered up on claim was *implied* from the recognition of that right in the national Constitution. But the power conferred by the Thirteenth Amendment does not rest upon implication or inference. Those who framed it were not ignorant of the discussion, covering many years of our country's history, as to the constitutional power of Congress to enact the Fugitive Slave Laws of 1793 and 1850. When, therefore,

it was determined, by a change in the fundamental law, to uproot the institution of slavery wherever it existed in the land and to establish universal freedom, there was a fixed purpose to place the authority of Congress in the premises beyond the possibility of a doubt. Therefore, *ex industria,* power to enforce the Thirteenth Amendment by appropriate legislation was expressly granted. Legislation for that purpose, my brethren concede, may be direct and primary. But to what specific ends may it be directed? This court has uniformly held that the national government has the power, whether expressly given or not, to secure and protect rights conferred or guaranteed by the Constitution. *United States v. Reese, … Strauder v. West Virginia*.... That doctrine ought not now to be abandoned when the inquiry is not as to an implied power to protect the master's rights, but what may Congress, under powers expressly granted, do for the protection of freedom and the rights necessarily inhering in a state of freedom.

The Thirteenth Amendment, it is conceded, did something more than to prohibit slavery as an *institution* resting upon distinctions of race and upheld by positive law. My brethren admit that it established and decreed universal *civil freedom* throughout the United States. But did the freedom thus established involve nothing more than exemption from actual slavery? Was nothing more intended than to forbid one man from owning another as property? Was it the purpose of the nation simply to destroy the institution, and then remit the race, theretofore held in bondage, to the several States for such protection, in their civil rights, necessarily growing out of freedom, as those States, in their discretion, might choose to provide? Were the States against whose protest the institution was destroyed to be left free, so far as national interference was concerned, to make or allow discriminations against that race, as such, in the enjoyment of those fundamental rights which, by universal concession, inhere in a state of freedom? Had the Thirteenth Amendment stopped with the sweeping declaration in its first section against the existence of slavery and involuntary servitude except for crime, Congress would have had the power, by implication, according to the doctrines of *Prigg v. Commonwealth of Pennsylvania,* repeated in *Strauder v. West Virginia,* to protect the freedom established, and consequently, to secure the enjoyment of such civil rights as were fundamental in freedom. That it can exert its authority to that extent is made clear, and was intended to be made clear, by the express grant of power contained in the second section of the Amendment.

That there are burdens and disabilities which constitute badges of slavery and servitude, and that the power to enforce by appropriate legislation the Thirteenth Amendment may be exerted by legislation of a direct and primary character for the eradication not simply of the institution, but of its badges and incidents, are propositions which ought to be deemed indisputable. They lie at the foundation of the Civil Rights Act of 1866. Whether that act was authorized by the Thirteenth Amendment alone, without the support which it subsequently received from the Fourteenth Amendment, after the adoption of which it was reenacted with some additions, my brethren do not consider it necessary to inquire. But I submit, with all respect to them, that its constitutionality is conclusively shown by their opinion. They admit, as I have said, that the Thirteenth Amendment established freedom; that there are burdens and disabilities, the necessary incidents of slavery, which constitute its substance and visible form; that Congress, by the act of 1866, passed in view of the Thirteenth Amendment, before the Fourteenth was adopted, undertook to remove certain burdens and disabilities, the necessary incidents of slavery, and to secure to all citizens of every race and color, and without regard to previous servitude, those fundamental rights which are the essence of civil freedom, namely, the same right to make and enforce contracts, to sue, be parties, give evidence, and to inherit, purchase, lease, sell, and convey property as is enjoyed by white citizens; that, under the Thirteenth Amendment, Congress has to do with slavery and its incidents, and that legislation, so far as necessary or proper to eradicate all forms and incidents of slaver and involuntary servitude, may be direct and primary, operating upon the acts of individuals, whether sanctioned by State legislation or not. These propositions being conceded, it is impossible, as it seems to me, to question the constitutional validity of the Civil Rights Act of 1866. I do not contend that the Thirteenth Amendment invests Congress with authority, by legislation, to define and regulate the entire body of the civil rights which citizens enjoy, or may enjoy, in the several States. But I hold that, since slavery, as the court has repeatedly declared, *Slaughterhouse Cases, … Strauder West Virginia, …* was the moving or principal cause of the adoption of that amendment, and since that institution rested wholly upon the inferiority, as a race, of those held in bondage, their freedom necessarily involved immunity from, and protection against, all discrimination against them, because of their race, in respect of such civil rights as belong to

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freemen of other races. Congress, therefore, under its express power to enforce that amendment by appropriate legislation, may enact laws to protect that people against the deprivation, *because of their race,* of any civil rights granted to other freemen in the same State, and such legislation may be of a direct and primary character, operating upon States, their officers and agents, and also upon at least such individuals and corporations as exercise public functions and wield power and authority under the State.

To test the correctness of this position, let us suppose that, prior to the adoption of the Fourteenth Amendment, a State had passed a statute denying to freemen of African descent, resident within its limits, the same right which was accorded to white persons of making and enforcing contracts and of inheriting, purchasing, leasing, selling and conveying property; or a statute subjecting colored people to severer punishment for particular offences than was prescribed for white persons, or excluding that race from the benefit of the laws exempting homesteads from execution. Recall the legislation of 1865–1866 in some of the States, of which this court in the *Slaughterhouse Cases* said that it imposed upon the colored race onerous disabilities and burdens; curtailed their rights in the pursuit of life, liberty and property to such an extent that their freedom was of little value; forbade them to appear in the towns in any other character than menial servants; required them to reside on and cultivate the soil, without the right to purchase or own it; excluded them from many occupations of gain, and denied them the privilege of giving testimony in the courts where a white man was a party.… Can there be any doubt that all such enactments might have been reached by direct legislation upon the part of Congress under its express power to enforce the Thirteenth Amendment? Would any court have hesitated to declare that such legislation imposed badges of servitude in conflict with the civil freedom ordained by that amendment? That it would have been also in conflict with the Fourteenth Amendment because inconsistent with the fundamental rights of American citizenship does not prove that it would have been consistent with the Thirteenth Amendment.

What has been said is sufficient to show that the power of Congress under the Thirteenth Amendment is not necessarily restricted to legislation against slavery as an institution upheld by positive law, but may be exerted to the extent, at least, of protecting the liberated race against discrimination in respect of legal rights belonging to freemen where such discrimination is based upon race.

It remains now to inquire what are the legal rights of colored persons in respect of the accommodations, privileges and facilities of public conveyances, inns, and places of public amusement?

First, as to public conveyances on land and water. In *New Jersey Steam Navigation Co. v. Merchants' Bank,* … this court, speaking by Mr. Justice Nelson, said that a common carrier is in the exercise of a sort of public office, and has public duties to perform, from which he should not be permitted to exonerate himself without the assent of the parties concerned.

To the same effect is *Munn v. Illinois*.… In *Olcott v. Supervisor,* … it was ruled that railroads are public highways, established by authority of the State for the public use; that they are nonetheless public highways because controlled and owned by private corporations; that it is a part of the function of government to make and maintain highways for the convenience of the public; that no matter who is the agent, or what is the agency, the function performed is *that of the State;* that, although the owners may be private companies, they may be compelled to permit the public to use these works in the manner in which they can be used; that, upon these grounds alone have the courts sustained the investiture of railroad corporations with the State's right of eminent domain, or the right of municipal corporations, under legislative authority, to assess, levy and collect taxes to aid in the construction of railroads. So in *Township of Queensbury v. Culver,* … it was said that a municipal subscription of railroad stock was in aid of the construction and maintenance of a public highway, and for the promotion of a public use. Again, in *Township of Pine Grove v. Talcott*… : "Though the corporation [railroad] was private, its work was public, as much so as if it were to be constructed by the State." To the like effect are numerous adjudications in this and the State courts with which the profession is familiar. The Supreme Judicial Court of Massachusetts, in *Inhabitants of Worcester v. The Western R.R. Corporation,* … said in reference to a railroad:

> The establishment of that great thoroughfare is regarded as a public work, established by public authority, intended for the public use and benefit, the use of which is secured to the whole community, and constitutes, therefore, like a canal, turnpike, or highway, a public easement.… It is true that the real and personal property, necessary to the establishment and management of the rail-

road is vested in the corporation, but it is in trust for the public.

In *Erie, Etc., R.R. Co. v. Casey,* … the court, referring to an act repealing the charter of a railroad, and under which the State took possession of the road, said:

> It is a public highway, solemnly devoted to public use. When the lands were taken, it was for such use, or they could not have been taken at all.… Railroads established upon land taken by the right of eminent domain by authority of the commonwealth, created by her laws as thoroughfares for commerce, are her highways. No corporation has property in them, though it may have franchises annexed to and exercisable within them.

In many courts it has been held that, because of the public interest in such a corporation, the land of a railroad company cannot be levied on and sold under execution by a creditor. The sum of the adjudged cases is that a railroad corporation is a governmental agency, created primarily for public purposes and subject to be controlled for the public benefit. Upon this ground, the State, when unfettered by contract, may regulate, in its discretion, the rates of fares of passengers and freight. And upon this ground, too, the State may regulate the entire management of railroads in all matters affecting the convenience and safety of the public, as, for example, by regulating speed, compelling stops of prescribed length at stations, and prohibiting discriminations and favoritism. If the corporation neglect or refuse to discharge its duties to the public, it may be coerced to do so by appropriate proceedings in the name or in behalf of the State.

Such being the relations these corporations hold to the public, it would seem that the right of a colored person to use an improved public highway upon the terms accorded to freemen of other races is as fundamental, in the state of freedom established in this country, as are any of the rights which my brethren concede to be so far fundamental as to be deemed the essence of civil freedom. "Personal liberty consists," says Blackstone, in the power of locomotion, of changing situation, or removing one's person to whatever places one's own inclination may direct, without restraint unless by due course of law.

But of what value is this right of locomotion if it may be clogged by such burdens as Congress intended by the act of 1875 to remove? They are burdens which lay at the very foundation of the institution of slavery as it once existed. They are not to be sustained except upon the assumption that there is, in this land of universal liberty, a class which may still be discriminated against, even in respect of rights of a character so necessary and supreme that, deprived of their enjoyment in common with others, a freeman is not only branded as one inferior and infected, but, in the competitions of life, is robbed of some of the most essential means of existence, and all this solely because they belong to a particular race which the nation has liberated. The Thirteenth Amendment alone obliterated the race line so far as all rights fundamental in a state of freedom are concerned.

Second, as to inns. The same general observations which have been made as to railroads are applicable to inns. The word "inn" has a technical legal signification. It means, in the act of 1875, just what it meant at common law. A mere private boarding house is not an inn, nor is its keeper subject to the responsibilities, or entitled to the privileges, of a common innkeeper.

To constitute one an innkeeper within the legal force of that term, he must keep a house of entertainment or lodging for all travelers or wayfarers who might choose to accept the same, being of good character or conduct.

Redfield on Carriers, etc., §7. Says Judge Story:

> An innkeeper may be defined to be the keeper of a common inn for the lodging and entertainment of travelers and passengers, their horses and attendants. An innkeeper is bound to take in all travelers and wayfaring persons, and to entertain them, if he can accommodate them, for a reasonable compensation, and he must guard their goods with proper diligence.… If an innkeeper improperly refuses to receive or provide for a guest, he is liable to be indicted therefor.… They (carriers of passengers) are no more at liberty to refuse a passenger, if they have sufficient room and accommodations, than an innkeeper is to refuse suitable room and accommodations to a guest.
>
> Story on Bailments §§475–476.

In *Rex v. Ivens,* 7 Carrington & Payne 213, 32 E.C.L. 49, the court, speaking by Mr. Justice Coleridge, said:

> An indictment lies against an innkeeper who refuses to receive a guest, he having at the time room in his house and either the price of the guest's entertainment being tendered to him or such circumstances occurring as will dispense with that tender.

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> This law is founded in good sense. The innkeeper is not to select his guest. He has no right to say to one, you shall come to my inn, and to another, you shall not, as everyone coming and conducting himself in a proper manner has a right to be received, and, for this purpose innkeepers are a sort of public servants, they having, in return a kind of privilege of entertaining travelers and supplying them with what they want.
>
> These authorities are sufficient to show that a keeper of an inn is in the exercise of a *quasi*-public employment. The law gives him special privileges. and he is charged with certain duties and responsibilities to the public. The public nature of his employment forbids him from discriminating against any person asking admission as a guest on account of the race or color of that person.

Third. As to places of public amusement. It may be argued that the managers of such places have no duties to perform with which the public are, in any legal sense, concerned, or with which the public have any right to interfere, and that the exclusion of a black man from a place of public amusement on account of his race, or the denial to him on that ground of equal accommodations at such places, violates no legal right for the vindication of which he may invoke the aid of the courts. My answer is that places of public amusement, within the meaning of the act of 1875, are such as are established and maintained under direct license of the law. The authority to establish and maintain them comes from the public. The colored race is a part of that public. The local government granting the license represents them as well as all other races within its jurisdiction. A license from the public to establish a place of public amusement imports in law equality of right at such places among all the members of that public. This must be so unless it be—which I deny—that the common municipal government of all the people may, in the exertion of its powers, conferred for the benefit of all, discriminate or authorize discrimination against a particular race solely because of its former condition of servitude.

I also submit, whether it can be said—in view of the doctrines of this court as announced in *Munn v. State of Illinois,* … and reaffirmed in *Peik v. Chicago & N.W. Railway Co.,* … that the management of places of public amusement is a purely private matter, with which government has no rightful concern? In the *Munn* case, the question was whether the State of Illinois could fix, by law, the maximum of charges for the storage of grain in certain warehouses in that State—the *private property of individual citizens*. After quoting a remark attributed to Lord Chief Justice Hale, to the effect that, when private property is "affected with a public interest, it ceases to be *juris privati*only," the court says:

> Property does become clothed with a public interest when used in a manner to make it of public consequence and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use, but, so long as he maintains the use, he must submit to the control.

The doctrines of *Munn v. Illinois* have never been modified by this court, and I am justified upon the authority of that case in saying that places of public amusement, conducted under the authority of the law, are clothed with a public interest because used in a manner to make them of public consequence and to affect the community at large. The law may therefore regulate, to some extent, the mode in which they shall be conducted, and, consequently, the public have rights in respect of such places which may be vindicated by the law. It is consequently not a matter purely of private concern.

Congress has not, in these matters, entered the domain of State control and supervision. It does not, as I have said, assume to prescribe the general conditions and limitations under which inns, public conveyances, and places of public amusement shall be conducted or managed. It simply declares, in effect, that, since the nation has established universal freedom in this country for all time, there shall be no discrimination, based merely upon race or color, in respect of the accommodations and advantages of public conveyances, inns, and places of public amusement.

I am of the opinion that such discrimination practised by corporations and individuals in the exercise of their public or *quasi*-public functions is a badge of servitude the imposition of which Congress may prevent under its power, by appropriate legislation, to enforce the Thirteenth Amendment; and consequently, without reference to its enlarged power under the Fourteenth Amendment, the act of March 1, 1875, is not, in my judgment, repugnant to the Constitution.

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It remains now to consider these cases with reference to the power Congress has possessed since the adoption of the Fourteenth Amendment. Much that has been said as to the power of Congress under the Thirteenth Amendment is applicable to this branch of the discussion, and will not be repeated.

Before the adoption of the recent amendments, it had become, as we have seen, the established doctrine of this court that negroes, whose ancestors had been imported and sold as slaves, could not become citizens of a State, or even of the United States, with the rights and privileges guaranteed to citizens by the national Constitution; further, that one might have all the rights and privileges of a citizen of a State without being a citizen in the sense in which that word was used in the national Constitution, and without being entitled to the privileges and immunities of citizens of the several States. Still further, between the adoption of the Thirteenth Amendment and the proposal by Congress of the Fourteenth Amendment, on June 16, 1866, the statute books of several of the States, as we have seen, had become loaded down with enactments which, under the guise of Apprentice, Vagrant, and contract regulations, sought to keep the colored race in a condition, practically, of servitude. It was openly announced that whatever might be the rights which persons of that race had as freemen, under the guarantees of the national Constitution, they could not become citizens of a State, with the privileges belonging to citizens, except by the consent of such State; consequently, that their civil rights as citizens of the State depended entirely upon State legislation. To meet this new peril to the black race, that the purposes of the nation might not be doubted or defeated, and by way of further enlargement of the power of Congress, the Fourteenth Amendment was proposed for adoption.

Remembering that this court, in the *Slaughter-house Cases,* declared that the one pervading purpose found in all the recent amendments, lying at the foundation of each and without which none of them would have been suggested, was the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly made freeman and citizen from the oppression of those who had formerly exercised unlimited dominion over him—that each amendment was addressed primarily to the grievances of that race—let us proceed to consider the language of the Fourteenth Amendment.

Its first and fifth sections are in these words:

> Sec. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.…
>
> Sec. 5. That Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

It was adjudged in *Strauder v. West Virginia,* … and *Ex parte Virginia,* … and my brethren concede, that positive rights and privileges were intended to be secured, and are, in fact, secured, by the Fourteenth Amendment.

But when, under what circumstances, and to what extent may Congress, by means of legislation, exert its power to enforce the provisions of this amendment? The theory of the opinion of the majority of the court—the foundation upon which their reasoning seems to rest—is that the general government cannot, in advance of hostile State laws or hostile State proceedings, actively interfere for the protection of my of the rights, privileges, and immunities secured by the Fourteenth Amendment. It is said that such rights, privileges, and immunities are secured by way of *prohibition* against State laws and State proceedings affecting such rights and privileges, and by power given to Congress to legislate for the purpose of carrying *such prohibition* into effect; also, that congressional legislation must necessarily be predicated upon such supposed State laws or State proceedings, and be directed to the correction of their operation and effect.

In illustration of its position, the court refers to the clause of the Constitution forbidding the passage by a State of any law impairing the obligation of contracts. That clause does not, I submit, furnish a proper illustration of the scope and effect of the fifth section of the Fourteenth Amendment. No express power is given Congress to enforce, by primary direct legislation, the prohibition upon State laws impairing the obligation of contracts. Authority is, indeed, conferred to enact all necessary and proper laws for carrying into execution the enumerated powers of Congress and all other powers vested by the Consti-

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tution in the government of the United States or in any department or officer thereof. And, as heretofore shown, there is also, by necessary implication, power in Congress, by legislation, to protect a right derived from the national Constitution. But a prohibition upon a State is not a power in *Congress* or *in the national government*. It is simply a *denial of power* to the State. And the only mode in which the inhibition upon State laws impairing the obligation of contracts can be enforced is indirectly, through the courts in suits where the parties raise some question as to the constitutional validity of such laws. The judicial power of the United States extends to such suits for the reason that they are suits arising under the Constitution. The Fourteenth Amendment presents the first instance in our history of the investiture of Congress with affirmative power, by *legislation,* to *enforce* an express prohibition upon the States. It is not said that the *judicial* power of the nation may be exerted for the enforcement of that amendment. No enlargement of the judicial power was required, for it is clear that, had the fifth section of the Fourteenth Amendment been entirely omitted, the judiciary could have stricken down all State laws and nullified all State proceedings in hostility to rights and privileges secured or recognized by that amendment. The power given is, in terms, by congressional legislation, to enforce the provisions of the amendment.

The assumption that this amendment consists wholly of prohibitions upon State laws and State proceedings in hostility to its provisions is unauthorized by its language. The first clause of the first section—

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside

—is of a distinctly affirmative character. In its application to the colored race, previously liberated, it created and granted as well citizenship of the United States as citizenship of the State in which they respectively resided. It introduced all of that race whose ancestors had been imported and sold as slaves at once into the political community known as the "People of the United States." They became instantly citizens of the United States and of their respective States. Further, they were brought by this supreme act of the nation within the direct operation of that provision of the Constitution which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." …

The citizenship thus acquired by that race in virtue of an affirmative grant from the nation may be protected not alone by the judicial branch of the government, but by congressional legislation of a primary direct character, this because the power of Congress is not restricted to the enforcement of prohibitions upon State laws or State action. It is, in terms distinct and positive, to enforce "the *provisions of this article*" of amendment; not simply those of a prohibitive character, but the provisions—*all* of the provisions—affirmative and prohibitive, of the amendment. It is, therefore, a grave misconception to suppose that the fifth section of the amendment has reference exclusively to express prohibitions upon State laws or State action. If any right was created by that amendment, the grant of power through appropriate legislation to enforce its provisions authorizes Congress, by means of legislation operating throughout the entire Union, to guard, secure, and protect that right.

It is therefore an essential inquiry what, if any, right, privilege or immunity was given, by the nation to colored persons when they were made citizens of the State in which they reside? Did the constitutional grant of State citizenship to that race, of its own force, invest them with any rights, privileges and immunities whatever? That they became entitled, upon the adoption of the Fourteenth Amendment, "to all privileges and immunities of citizens in the several States," within the meaning of section 2 of article 4 of the Constitution, no one, I suppose, will for a moment question. What are the privileges and immunities to which, by that clause of the Constitution, they became entitled? To this it may be answered generally, upon the authority of the adjudged cases, that they are those which are fundamental in citizenship in a free republican government, such as are "common to the citizens in the latter States under their constitutions and laws by virtue of their being citizens." Of that provision it has been said, with the approval of this court, that no other one in the Constitution has tended so strongly to constitute the citizens of the United States one people. *Ward v. Maryland,* … *Corfield v. Coryell,* … *Paul v. Virginia,* … *Slaughterhouse Cases*.…

Although this court has wisely forborne any attempt by a comprehensive definition to indicate all of the privileges and immunities to which the citizen of a State is entitled of right when within the jurisdiction of other States, I hazard nothing, in view of former adjudications, in saying that no State can sustain her denial to colored citizens of other States, while within her limits, of privileges or immunities funda-

mental in republican citizenship upon the ground that she accords such privileges and immunities only to her white citizens, and withholds them from her colored citizens. The colored citizens of other States, within the jurisdiction of that State, could claim, in virtue of section 2 of article 4 of the Constitution, every privilege and immunity which that State secures to her white citizens. Otherwise it would be in the power of any State, by discriminating class legislation against its own citizens of a particular race or color, to withhold from citizens of other States belonging to that proscribed race, when within her limits, privileges and immunities of the character regarded by all courts as fundamental in citizenship, and that too when the constitutional guaranty is that the citizens of each State shall be entitled to "all privileges and immunities of citizens of the several States." No State may, by discrimination against a portion of its own citizens of a particular race, in respect of privileges and immunities fundamental in citizenship, impair the constitutional right of citizens of other States, of whatever race, to enjoy in that State all such privileges and immunities as are there accorded to her most favored citizens. A colored citizen of Ohio or Indiana, while in the jurisdiction of Tennessee, is entitled to enjoy any privilege or immunity, fundamental in citizenship, which is given to citizens of the white race in the latter State. It is not to be supposed that anyone will controvert this proposition.

But what was secured to colored citizens of the United States—as between them and their respective States—by the national grant to them of State citizenship? With what rights, privileges, or immunities did this grant invest them? There is one, if there be no other—exemption from race discrimination in respect of any civil right belonging to citizens of the white race in the same State. That, surely, is their constitutional privilege when within the jurisdiction of other States. And such must be their constitutional right in their own State, unless the recent amendments be splendid baubles thrown out to delude those who deserved fair and generous treatment at the hands of the nation. Citizenship in this country necessarily imports at least equality of civil rights among citizens of every race in the same State. It is fundamental in American citizenship that, in respect of such rights, there shall be no discrimination by the State, or its officers, or by individuals or corporations exercising public functions or authority, against any citizen because of his race or previous condition of servitude. In *United States v. Cruikshank,* … it was said at page 555, that the rights of life and personal liberty are natural rights of man, and that "the equality of the rights of citizens is a principle of republicanism." And in *Ex parte Virginia,* … the emphatic language of this court is that one great purpose of these amendments was to raise the colored race from that condition of inferiority and servitude in which most of them had previously stood into perfect equality of civil rights with all other persons within the jurisdiction of the States.

So, in *Strauder v. West Virginia,* … the court, alluding to the Fourteenth Amendment, said:

> This is one of a series of constitutional provisions having a common purpose, namely, securing to a race recently emancipated, a race that, through many generations, had been held in slavery, all the civil rights that the superior race enjoy.

Again, in *Neal v. Delaware,* … it was ruled that this amendment was designed primarily to secure to the colored race, thereby invested with the rights, privileges, and responsibilities of citizenship, the enjoyment of all the civil rights that, under the law, are enjoyed by white persons.

The language of this court with reference to the Fifteenth Amendment adds to the force of this view. In *United States v. Cruikshank,* it was said:

> In *United States v. Reese,* … we held that the Fifteenth Amendment has invested the citizens of the United States with a new constitutional right, which is exemption from discrimination in the exercise of the elective franchise, on account of race, color, or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship, but that exemption from discrimination in the exercise of that right on account of race, &c., is. The right to vote in the States comes from the States, but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been.

Here, in language at once clear and forcible, is stated the principle for which I contend. It can scarcely be claimed that exemption from race discrimination, in respect of civil rights, against those to whom State citizenship was granted by the nation, is any less, for the colored race, a new constitutional right, derived from and secured by the national Con-

stitution, than is exemption from such discrimination in the exercise of the elective franchise. It cannot be that the latter is an attribute of national citizenship, while the other is not essential in national citizenship or fundamental in State citizenship.

If, then, exemption from discrimination in respect of civil rights is a new constitutional right, secured by the grant of State citizenship to colored citizens of the United States—and I do not see how this can now be questioned—why may not the nation, by means of its own legislation of a primary direct character, guard, protect, and enforce that right? It is a right and privilege which the nation conferred. It did not come from the States in which those colored citizens reside. It has been the established doctrine of this court during all its history, accepted as essential to the national supremacy, that Congress, in the absence of a positive delegation of power to the State legislatures, may, by its own legislation, enforce and protect any right derived from or created by the national Constitution. It was so declared in *Prigg v. Commonwealth of Pennsylvania.* It was reiterated in *United States v. Reese,* … where the court said that rights and immunities created by and dependent upon the Constitution of the United States can be protected by Congress. The form and manner of the protection may be such as Congress, in the legitimate exercise of its discretion, shall provide. These may be varied to meet the necessities of the particular right to be protected.

It was distinctly reaffirmed in *Strauder v. West Virginia,* … where we said that a right or immunity created by the Constitution or only guaranteed by it, even without any express delegation of power, may be protected by Congress.

How then can it be claimed, in view of the declarations of this court in former cases, that exemption of colored citizens, within their States, from race discrimination in respect of the civil rights of citizens is not an immunity created or derived from the national Constitution?

This court has always given a broad and liberal construction to the Constitution, so as to enable Congress, by legislation, to enforce rights secured by that instrument. The legislation which Congress may enact in execution of its power to enforce the provisions of this amendment is such as may be appropriate to protect the right granted. The word appropriate was undoubtedly used with reference to its meaning, as established by repeated decisions of this court. Under given circumstances, that which the court characterizes as corrective legislation might be deemed by Congress appropriate and entirely sufficient. Under other circumstances, primary direct legislation may be required. But it is for Congress, not the judiciary, to say that legislation is appropriate—that is, best adapted to the end to be attained. The judiciary may not, with safety to our institutions, enter the domain of legislative discretion and dictate the means which Congress shall employ in the exercise of its granted powers. That would be sheer usurpation of the functions of a coordinate department, which, if often repeated, and permanently acquiesced in, would work a radical change in our system of government. In *United States v. Fisher,* … the court said that Congress must possess the choice of means, and must be empowered to use any means which are, in fact, conducive to the exercise of a power granted by the Constitution.… The sound construction of the Constitution, said Chief Justice Marshall, must allow to the national legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional. *McCulloch v. Maryland.*…

Must these rules of construction be now abandoned? Are the powers of the national legislature to be restrained in proportion as the rights and privileges, derived from the nation, are valuable? Are constitutional provisions, enacted to secure the dearest rights of freemen and citizens, to be subjected to that rule of construction, applicable to private instruments, which requires that the words to be interpreted must be taken most strongly against those who employ them? Or shall it be remembered that a constitution of government, founded by the people for themselves and their posterity and for objects of the most momentous nature—for perpetual union, for the establishment of justice, for the general welfare, and for a perpetuation of the blessings of liberty—necessarily requires that every interpretation of its powers should have a constant reference to these objects? No interpretation of the words in which those powers are granted can be a sound one which narrows down their ordinary import so as to defeat those objects.

Story Const. §422.

The opinion of the court, as I have said, proceeds upon the ground that the power of Congress to legislate for the protection of the rights and privileges

secured by the Fourteenth Amendment cannot be brought into activity except with the view, and as it may become necessary, to correct and annul State laws and State proceedings in hostility to such rights and privileges. In the absence of State laws or State action adverse to such rights and privileges, the nation may not actively interfere for their protection and security, even against corporations and individuals exercising public or *quasi*-public functions. Such I understand to be the position of my brethren. If the grant to colored citizens of the United States of citizenship in their respective States imports exemption from race discrimination in their States in respect of such civil rights as belong to citizenship, then to hold that the amendment remits that right to the States for their protection, primarily, and stays the hands of the nation until it is assailed by State laws or State proceedings is to adjudge that the amendment, so far from enlarging the powers of Congress—as we have heretofore said it did—not only curtails them, but reverses the policy which the general government has pursued from its very organization. Such an interpretation of the amendment is a denial to Congress of the power, by appropriate legislation, to enforce one of its provisions. In view of the circumstances under which the recent amendments were incorporated into the Constitution, and especially in view of the peculiar character of the new rights they created and secured, it ought not to be presumed that the general government has abdicated its authority, by national legislation, direct and primary in its character, to guard and protect privileges and immunities secured by that instrument. Such an interpretation of the Constitution ought not to be accepted if it be possible to avoid it. Its acceptance would lead to this anomalous result: that, whereas, prior to the amendments, Congress, with the sanction of this court, passed the most stringent laws—operating directly and primarily upon States and their officers and agents, as well as upon individuals—in vindication of slavery and the right of the master, it may not now, by legislation of a like primary and direct character, guard, protect, and secure the freedom established, and the most essential right of the citizenship granted, by the constitutional amendments. With all respect for the opinion of others, I insist that the national legislature may, without transcending the limits of the Constitution, do for human liberty and the fundamental rights of American citizenship what it did, with the sanction of this court, for the protection of slavery and the rights of the masters of fugitive slaves. If fugitive slave laws, providing modes and prescribing penalties whereby the master could seize and recover his fugitive slave, were legitimate exercises of an implied power to protect and enforce a right recognized by the Constitution, why shall the hands of Congress be tied so that—under an express power, by appropriate legislation, to enforce a constitutional provision granting citizenship—it may not, by means of direct legislation, bring the whole power of this nation to bear upon States and their officers and upon such individuals and corporations exercising public functions as assume to abridge, impair, or deny rights confessedly secured by the supreme law of the land?

It does not seem to me that the fact that, by the second clause of the first section of the Fourteenth Amendment, the States are expressly prohibited from making or enforcing laws abridging the privileges and immunities of citizens of the United States furnishes any sufficient reason for holding or maintaining that the amendment was intended to deny Congress the power, by general, primary, and direct legislation, of protecting citizens of the several States, being also citizens of the United States, against all discrimination in respect of their rights as citizens which is founded on race, color, or previous condition of servitude.

Such an interpretation of the amendment is plainly repugnant to its fifth section, conferring upon Congress power, by appropriate legislation, to enforce not merely the provisions containing prohibitions upon the States, but all of the provisions of the amendment, including the provisions, express and implied, in the first clause of the first section of the article granting citizenship. This alone is sufficient for holding that Congress is not restricted to the enactment of laws adapted to counteract and redress the operation of State legislation, or the action of State officers, of the character prohibited by the amendment. It was perfectly well known that the great danger to the equal enjoyment by citizens of their rights as citizens was to be apprehended not altogether from unfriendly State legislation, but from the hostile action of corporations and individuals in the States. And it is to be presumed that it was intended by that section to clothe Congress with power and authority to meet that danger. If the rights intended to be secured by the act of 1875 are such as belong to the citizen in common or equally with other citizens in the same State, then it is not to be denied that such legislation is peculiarly appropriate to the end which Congress is authorized to accomplish, *viz.,* to protect the citizen, in respect of such rights, against discrimination on account of his race. Recurring to the specific prohibition in the Fourteenth Amendment upon

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the making or enforcing of State laws abridging the privileges of citizens of the United States, I remark that if, as held in the *Slaughterhouse Cases,* the privileges here referred to were those which belonged to citizenship of the United States, as distinguished from those belonging to State citizenship, it was impossible for any State prior to the adoption of that amendment to have enforced laws of that character. The judiciary could have annulled all such legislation under the provision that the Constitution shall be the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding. The States were already under an implied prohibition not to abridge any privilege or immunity belonging to citizens of the United States as such. Consequently, the prohibition upon State laws in hostility to rights belonging to citizens of the United States was intended—in view of the introduction into the body of citizens of a race formerly denied the essential rights of citizenship—only as an express limitation on the powers of the States, and was not intended to diminish in the slightest degree the authority which the nation has always exercised of protecting, by means of its own direct legislation, rights created or secured by the Constitution. Any purpose to diminish the national authority in respect of privileges derived from the nation is distinctly negatived by the express grant of power by legislation to enforce every provision of the amendment, including that which, by the grant of citizenship in the State, secures exemption from race discrimination in respect of the civil rights of citizens.

It is said that any interpretation of the Fourteenth Amendment different from that adopted by the majority of the court would imply that Congress had authority to enact a municipal code for all the States covering every matter affecting the life, liberty, and property of the citizens of the several States. Not so. Prior to the adoption of that amendment, the constitutions of the several States, without perhaps an exception, secured all *persons* against deprivation of life, liberty, or property otherwise than by due process of law, and, in some form, recognized the right of all *persons* to the equal protection of the laws. Those rights therefore existed before that amendment was proposed or adopted, and were not created by it. If, by reason of that fact, it be assumed that protection in these rights of persons still rests primarily with the States, and that Congress may not interfere except to enforce, by means of corrective legislation, the prohibitions upon State laws or State proceedings inconsistent with those rights, it does not at all follow that privileges which have been *granted by the nation* may not be protected by primary legislation upon the part of Congress. The personal rights and immunities recognized in the prohibitive clauses of the amendment were, prior to its adoption, under the protection, primarily, of the States, while rights, created by or derived from the United States have always been and, in the nature of things, should always be, primarily under the protection of the general government. Exemption from race discrimination in respect of the civil rights which are fundamental in *citizenship* in a republican government, is, as we have seen, a new right, created by the nation, with express power in Congress, by legislation, to enforce the constitutional provision from which it is derived. If, in some sense, such race discrimination is, within the letter of the last clause of the first section, a denial of that equal protection of the laws which is secured against State denial to all persons, whether citizens or not, it cannot be possible that a mere prohibition upon such State denial, or a prohibition upon State laws abridging the privileges and immunities of citizens of the United States, takes from the nation the power which it has uniformly exercised of protecting, by direct primary legislation, those privileges and immunities which existed under the Constitution before the adoption of the Fourteenth Amendment or have been created by that amendment in behalf of those thereby made *citizens* of their respective States.

This construction does not in any degree intrench upon the just rights of the States in the control of their domestic affairs. It simply recognizes the enlarged powers conferred by the recent amendments upon the general government. In the view which I take of those amendments, the States possess the same authority which they have always had to define and regulate the civil rights which their own people, in virtue of State citizenship, may enjoy within their respective limits, except that its exercise is now subject to the expressly granted power of Congress, by legislation, to enforce the provisions of such amendments—a power which necessarily carries with it authority, by national legislation, to protect and secure the privileges and immunities which are created by or are derived from those amendments. That exemption of citizens from discrimination based on race or color, in respect of civil rights, is one of those privileges or immunities can no longer be deemed an open question in this court.

It was said of the case of *Dred Scott v. Sandford* that this court there overruled the action of two generations, virtually inserted a new clause in the Constitution, changed its character, and made a new de-

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parture in the workings of the federal government. I may be permitted to say that, if the recent amendments are so construed that Congress may not, in its own discretion and independently of the action or nonaction of the States, provide by legislation of a direct character for the security of rights created by the national Constitution, if it be adjudged that the obligation to protect the fundamental privileges and immunities granted by the Fourteenth Amendment to citizens residing in the several States rests primarily not on the nation, but on the States, if it be further adjudged that individuals and corporations exercising public functions or wielding power under public authority may, without liability to direct primary legislation on the part of Congress, make the race of citizens the ground for denying them that equality of civil rights which the Constitution ordains as a principle of republican citizenship, then not only the foundations upon which the national supremacy has always securely rested will be materially disturbed, but we shall enter upon an era of constitutional law when the rights of freedom and American citizenship cannot receive from the nation that efficient protection which heretofore was unhesitatingly accorded to slavery and the rights of the master.

But if it were conceded that the power of Congress could not be brought into activity until the rights specified in the act of 1875 had been abridged or denied by some State law or State action, I maintain that the decision of the court is erroneous. There has been adverse State action within the Fourteenth Amendment as heretofore interpreted by this court. I allude to *Ex parte Virginia*, *supra*. It appears in that case that one Cole, judge of a county court, was charged with the duty by the laws of Virginia of selecting grand and petit jurors. The law of the State did not authorize or permit him, in making such selections, to discriminate against colored citizens because of their race. But he was indicted in the federal court, under the act of 1875, for making such discriminations. The attorney general of Virginia contended before us that the State had done its duty, and had not authorized or directed that county judge to do what he was charged with having done; that the State had not denied to the colored race the equal protection of the laws, and that consequently the act of Cole must be deemed his individual act, in contravention of the will of the State. Plausible as this argument was, it failed to convince this court, and after saying that the Fourteenth Amendment had reference to the political body denominated a State "by whatever instruments or in whatever modes that action may be taken," and that a State acts by its legislative, executive, and judicial authorities, and can act in no other way, we proceeded:

> The constitutional provision, therefore, must mean that no agency of the State or of the officers

Glossary

a fortiori	Latin for "with even stronger reason"
act of 1875	the Civil Rights Act of 1875
Black Code	any state or local law or set of laws intended to limit the rights or liberties of African Americans
Blackstone	Sir William Blackstone, a preeminent jurist in eighteenth-century England and the author of *Commentaries on the Laws of England*
brutum fulmen	Latin for "inert thunder," meaning an empty threat or display of force
Chief Justice Marshall	John Marshall, chief justice of the United States in the early nineteenth century, best known for his decisions strengthening the power of the federal government
Chief Justice Taney	Roger Taney, chief justice of the United States remembered primarily for delivering the majority opinion in *Dred Scott v. Sandford*
ex directo	a Latin expression meaning literally "from the direct"; directly, immediately
ex parte	Latin for "by (or for) one party," used in the law to refer to a legal proceeding brought by one party without the presence of the other being required
feudal vassalage	the state of being a serf, owing allegiance to a lord, under the medieval feudal system

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or agents by whom its powers are exerted shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and, as he acts under the name and for the State, and is clothed with the State's power, his act is that of the State. This must be so, or the constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annul or evade it. But the constitutional amendment was ordained for a purpose. It was to secure equal rights to all persons, and, to insure to all persons the enjoyment of such rights, power was given to Congress to enforce its provisions by appropriate legislation. Such legislation must act upon persons, not upon the abstract thing denominated a State, but upon the persons who are the agents of the State in the denial of the rights which were intended to be secured. *Ex parte Virginia*….

In every material sense applicable to the practical enforcement of the Fourteenth Amendment, railroad corporations, keepers of inns, and managers of places of public amusement are agents or instrumentalities of the State, because they are charged with duties to the public and are amenable, in respect of their duties and functions, to governmental regulation. It seems to me that, within the principle settled in *Ex parte Virginia,* a denial by these instrumentalities of the State to the citizen, because of his race, of that equality of civil rights secured to him by law is a denial by the State within the meaning of the Fourteenth Amendment. If it be not, then that race is left, in respect of the civil rights in question, practically at the mercy of corporations and individuals wielding power under the States.

But the court says that Congress did not, in the act of 1866, assume, under the authority given by the Thirteenth Amendment, to adjust what may be called the social rights of men and races in the community. I agree that government has nothing to do with social, as distinguished from technically legal, rights of individuals. No government ever has brought, or ever can bring, its people into social intercourse against their wishes. Whether one person will permit or maintain social relations with another is a matter with which government has no concern. I agree

Glossary

Judge Story	Joseph Story, an early-nineteenth-century U.S. Supreme Court justice and author of the legal treatise *Commentaries on the Law of Bailments*
juris private	Latin for "of private right" (as opposed to public right)
Lord Chief Justice Hale	Matthew Hale, Lord Chief Justice of England in the seventeenth century
Mr. Justice Coleridge	John Coleridge, the Lord Chief Justice of England in the late eighteenth century
"no rights which the white man was bound to respect"	an oft-quoted line from the Supreme Court's decision in *Dred Scott v. Sandford*
nugatory	of no value, trifling, ineffective
posse comitatus	Latin for "power of the county" and referring to a municipality's power to form a temporary police force, commonly called a posse
self-executing	a law that takes effect immediately under given conditions, without the need for any intervening court action
Territories	the western lands that would later become U.S. states
viz.	abbreviation of the Latin word *videlicet*, meaning "that is"
writ of error	a judicial writ from an appellate court ordering the court of record to produce the records of trial; an appeal

that, if one citizen chooses not to hold social intercourse with another, he is not and cannot be made amenable to the law for his conduct in that regard, for even upon grounds of race, no legal right of a citizen is violated by the refusal of others to maintain merely social relations with him. What I affirm is that no State, nor the officers of any State, nor any corporation or individual wielding power under State authority for the public benefit or the public convenience, can, consistently either with the freedom established by the fundamental law or with that equality of civil rights which now belongs to every citizen, discriminate against freemen or citizens in those rights because of their race, or because they once labored under the disabilities of slavery imposed upon them as a race. The rights which Congress, by the act of 1875, endeavored to secure and protect are legal, not social, rights. The right, for instance, of a colored citizen to use the accommodations of a public highway upon the same terms as are permitted to white citizens is no more a social right than his right under the law to use the public streets of a city or a town, or a turnpike road, or a public market, or a post office, or his right to sit in a public building with others, of whatever race, for the purpose of hearing the political questions of the day discussed. Scarcely a day passes without our seeing in this courtroom citizens of the white and black races sitting side by side, watching the progress of our business. It would never occur to anyone that the presence of a colored citizen in a courthouse, or courtroom, was an invasion of the social rights of white persons who may frequent such places. And yet such a suggestion would be quite as sound in law—I say it with all respect—as is the suggestion that the claim of a colored citizen to use, upon the same terms as is permitted to white citizens, the accommodations of public highways, or public inns, or places of public amusement, established under the license of the law, is an invasion of the social rights of the white race.

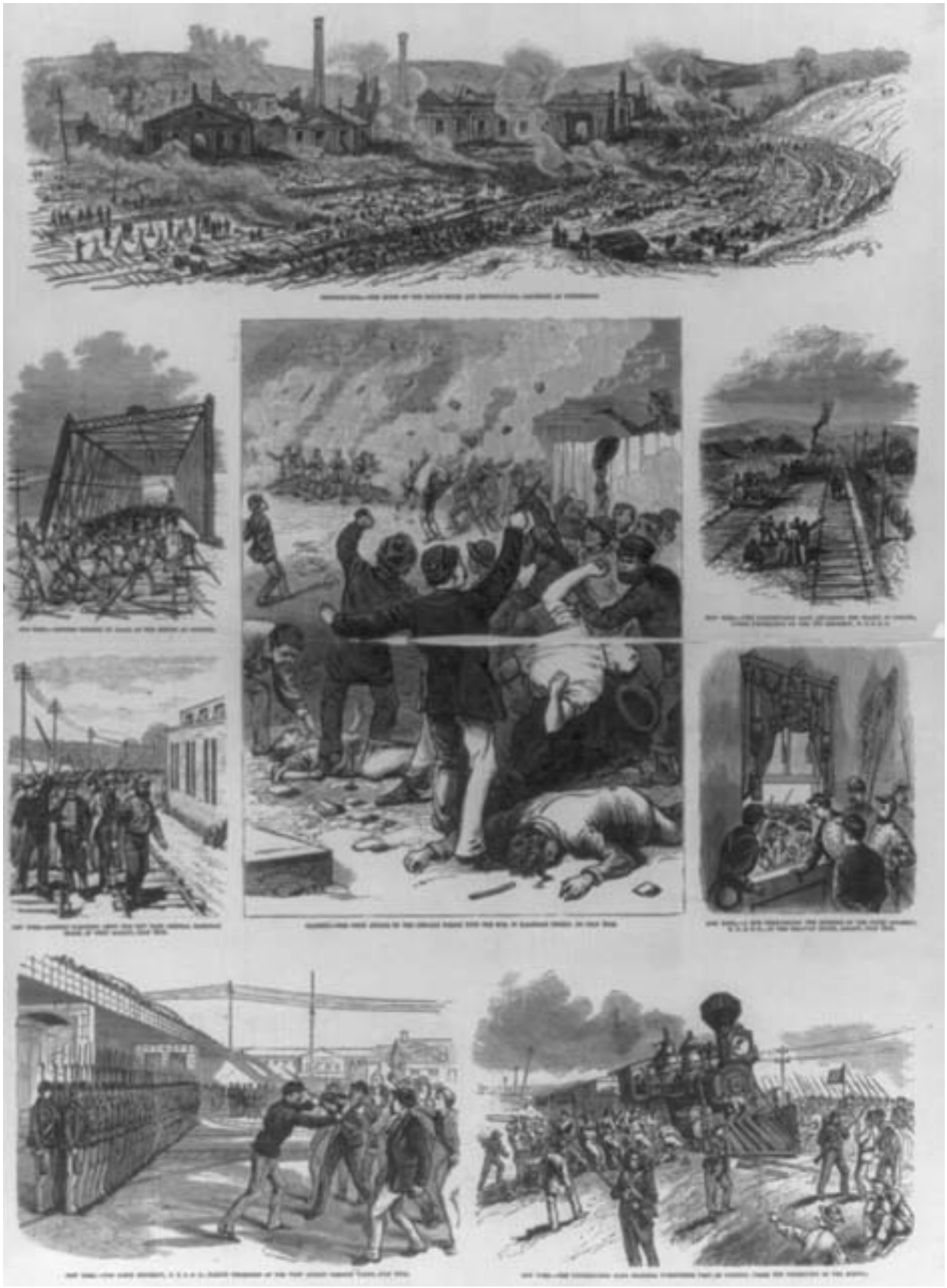
The court, in its opinion, reserves the question whether Congress, in the exercise of its power to regulate commerce amongst the several States, might or might not pass a law regulating rights in public conveyances passing from one State to another. I beg to suggest that that precise question was substantially presented here in the only one of these cases relating to railroads—*Robinson and Wife v. Memphis & Charleston Railroad Company.* In that case, it appears that Mrs. Robinson, a citizen of Mississippi, purchased a railroad ticket entitling her to be carried from Grand Junction, Tennessee, to Lynchburg, Virginia. Might not the act of 1875 be maintained in that case as applicable at least to commerce between the States, notwithstanding it does not, upon its face, profess to have been passed in pursuance of the power of Congress to regulate commerce? Has it ever been held that the judiciary should overturn a statute because the legislative department did not accurately recite therein the particular provision of the Constitution authorizing its enactment? We have often enforced municipal bonds in aid of railroad subscriptions where they failed to recite the statute authorizing their issue, but recited one which did not sustain their validity. The inquiry in such cases has been was there, in any statute, authority for the execution of the bonds? Upon this branch of the case, it may be remarked that the State of Louisiana, in 1869, passed a statute giving to passengers, without regard to race or color, equality of right in the accommodations of railroad and street cars, steamboats or other watercrafts, stage coaches, omnibuses, or other vehicles. But in *Hall v. De Cuir,* … that act was pronounced unconstitutional so far as it related to commerce between the States, this court saying that, "if the public good requires such legislation, it must come from Congress, and not from the States." I suggest, that it may become a pertinent inquiry whether Congress may, in the exertion of its power to regulate commerce among the States, enforce among passengers on public conveyances equality of right, without regard to race, color or previous condition of servitude, if it be true—which I do not admit—that such legislation would be an interference by government with the social rights of the people.

My brethren say that, when a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights as a citizen or a man are to be protected in the ordinary modes by which other men's rights are protected. It is, I submit, scarcely just to say that the colored race has been the special favorite of the laws. The statute of 1875, now adjudged to be unconstitutional, is for the benefit of citizens of every race and color. What the nation, through Congress, has sought to accomplish in reference to that race is what had already been done in every State of the Union for the white race—to secure and protect rights belonging to them as freemen and citizens, nothing more. It was not deemed enough "to help the feeble up, but to support him after." The one under-

lying purpose of congressional legislation has been to enable the black race to take the rank of mere citizens. The difficulty has been to compel a recognition of the legal right of the black race to take the rank of citizens, and to secure the enjoyment of privileges belonging, under the law, to them as a component part of the people for whose welfare and happiness government is ordained. At every step in this direction, the nation has been confronted with class tyranny, which a contemporary English historian says is, of all tyrannies, the most intolerable, for it is ubiquitous in its operation and weighs perhaps most heavily on those whose obscurity or distance would withdraw them from the notice of a single despot.

Today it is the colored race which is denied, by corporations and individuals wielding public authority, rights fundamental in their freedom and citizenship. At some future time, it may be that some other race will fall under the ban of race discrimination. If the constitutional amendments be enforced according to the intent with which, as I conceive, they were adopted, there cannot be, in this republic, any class of human beings in practical subjection to another class with power in the latter to dole out to the former just such privileges as they may choose to grant. The supreme law of the land has decreed that no authority shall be exercised in this country upon the basis of discrimination, in respect of civil rights, against freemen and citizens because of their race, color, or previous condition of servitude. To that decree—for the due enforcement of which, by appropriate legislation, Congress has been invested with express power—everyone must bow, whatever may have been, or whatever now are, his individual views as to the wisdom or policy either of the recent changes in the fundamental law or of the legislation which has been enacted to give them effect.

For the reasons stated, I feel constrained to withhold my assent to the opinion of the court.



Scenes of the 1877 railroad strike, from Chicago, Illinois; Pittsburgh, Pennsylvania; and Corning and Albany, New York (Library of Congress)

T. Thomas Fortune: "The Present Relations of Labor and Capital"

1886

"I abhor injustice and oppression wherever they are to be found."

Overview

T. Thomas Fortune's speech "The Present Relations of Labor and Capital" was an important statement of economic radicalism by a leading black writer, newspaper editor, and political activist of the late nineteenth century. The speech was given on April 20, 1886, and then first appeared in print on May 1—May Day—in Fortune's newspaper, the *New York Freeman*. Fortune was one of the few high-profile black leaders of the era to voice his support for the labor movement and to embrace Socialist principles. Fortune believed that industrial labor unions, concentrated in northern cities and western mining towns, ought to ally themselves with southern black agricultural laborers in common cause against monopolists of wealth and property. Fortune's position put him outside the mainstream political discourse, and he echoed some of the most radical elements of the labor movement.

Context

When the Civil War ended in 1865, Fortune was just eight years old. The Thirteenth Amendment to the Constitution, ratified later that year, permanently abolished slavery in the United States and marked the beginning of a new era. Fortune's generation of African Americans would be the first to grow up in the United States without the institution, and the next fifteen years would be characterized by political strife over the rights of former slaves. The policy of Reconstruction in the former slave states, directed by the Republican Party leaders in Congress, brought new constitutional rights for black Americans, including the guarantee of equality before the law, the rights to hold political office and serve on juries, and the right to manhood suffrage. The majority of white southerners vigorously opposed these policies, and some resorted to organized violence and terrorism to deprive blacks of their rights, joining shadowy groups like the Ku Klux Klan. While Republicans held on to power in the South for as long as fifteen years in some places, the white-supremacist-dominated Democratic Party gained control of the governments in all the southern states by the late 1870s. The 1880s would be a period of transition in which white landowners would tighten their control over black laborers in the South while still professing to recognize their basic right to political and civil equality—though in practice many blacks were unable to exercise their rights freely.

Despite its downfall, Reconstruction brought new opportunities and aspirations for upward mobility to former slaves. Whereas slaves had been forbidden by law to be literate in the antebellum South, the post–Civil War South witnessed the rapid proliferation of schools for African Americans. Republican rule in the South during Reconstruction ushered in a new era of taxpayer-supported public schools and privately supported institutions of higher education, established by northern philanthropists and religious organizations. By the 1870s, a college-educated class of black leaders was emerging from the ranks of former slaves and their families. Newspapers owned and operated by African Americans also proliferated as black literacy grew and black political leadership established itself in the Reconstruction era. Since white-owned newspapers rarely spoke to the issues of the black community, black editors became natural leaders of their own community, addressing pressing issues and shaping public opinion.

African Americans suffered many bitter disappointments and frustrations through the resurgence of racial oppression and economic exploitation that prevailed in the South with the downfall of Reconstruction. Economically, the transition from slavery to a strictly capitalist economy stalled as the South failed to break up the cash-crop plantation system. The wealthiest landowners continued to invest in raising large crops of cotton, tobacco, and sugar—primarily cotton—despite overproduction that glutted the market and caused prices to fall. Black workers, meanwhile, continued to dominate the southern agricultural workforce, as they had as slaves, receiving now a share of the crop in lieu of wages. Because of falling prices, workers and often landowners as well found themselves falling further and further into debt. For blacks, the consequences of becoming debt ridden were dire, leaving them at the mercy of the landowners and merchants on whom they depended for credit. Debt-ridden blacks were tied to the land, forced to

Time Line

1884

■ **October**
The Federation of Organized Trades and Labor Unions declares that May 1, 1886, will be the beginning of the eight-hour workday and that May Day will be an International Workers' Day.

■ **December**
Having published *Black and White: Land, Labor, and Politics in the South* earlier in the year, Fortune starts the *New York Freeman* newspaper.

1885

■ Fortune publishes the pamphlet "The Negro in Politics."

1886

■ **April 20**
Fortune delivers his speech "The Present Relations of Labor and Capital" to the Brooklyn Literary Union, in New York.

■ **May 1**
"The Present Relations of Labor and Capital" is published in the *New York Freeman*. Hundreds of thousands of workers across the country demonstrate for an eight-hour workday.

■ **May 4**
The demonstrations grow deadly in Chicago's Haymarket Square when a bomb explodes, sparking a riot and leading to the deaths of workers and police.

1887

■ Fortune resigns as editor of the *New York Freeman* and launches the *New York Age*.

1890

■ The National Afro-American League is formed in Chicago.

1895

■ **September 18**
Booker T. Washington gives his Atlanta Exposition Address.

1900

■ Fortune supports Booker T. Washington in the formation of the National Negro Business League and ghostwrites *A New Negro for a New Century* in Washington's name.

continue raising cash crops under increasingly harsh conditions while surrendering their shares to cover their debts.

While black southerners were fast becoming a landless peasantry in the South with no avenue for upward mobility, white and black laborers alike in the industrial North and West found themselves at the mercy of corporate monopolies. The financial depression of the mid-1870s rocked the country as a whole, leaving millions out of work and depleting the savings of the working classes through the bank failures of 1873–1874—including that of the Freedman's Saving and Trust Company, which lost millions of dollars saved by former slaves when the institution became insolvent in 1874. In 1877, the severe conditions led to a massive strike against the monopolistic railroad companies that were slashing wages repeatedly in the face of declining profits. Although it was violently repressed by federal and state troops, the great railroad strike of 1877 launched a national labor movement and convinced many reformers that an impending new "civil war" between labor and capital was imminent.

In the 1880s labor organizations of all stripes grew in strength and number across the nation. The Knights of Labor emerged as the most powerful national organization devoted to the issues of the working classes. The group sought to organize all workers—skilled and unskilled, men and women, white and black. By 1886, the Knights boasted over seven hundred thousand members. Although they predominantly focused on industrial labor, the Knights were willing to organize black agricultural laborers, making inroads among sugar plantation workers in Louisiana in the late 1880s. Calls for an eight-hour workday were among the most popular of their demands, but the Knights also opposed the convict-lease system, which addressed one of the most important issues facing the black community in the South. Blacks made up a disproportionately high number of the incarcerated population in the South, which state governments had begun to use as a source of cheap labor by leasing them to work for corporations and thus depressing both wages and the labor market. While progress toward an interracial movement was still embryonic, there was some reason for hope that the interests of African Americans would not be completely excluded in the industrial labor movement.

"The Present Relations of Labor and Capital" was given as a speech on April 20, 1886, and subsequently appeared in print on the significant date of May 1, 1886, in Fortune's newspaper, the *New York Freeman*. In 1884, the Federation of Organized Trades and Labor Unions had called for a shorter, eight-hour workday, to commence on May 1, 1886. Heeding this call, hundreds of thousands of workers across the country instituted a work stoppage on May 1, 1886, to demand an eight-hour workday and celebrate May Day as an International Workers' Day. In Chicago, over forty thousand workers went on strike that day, and over the next two days an even greater number of strikers joined the ranks. A clash between strikers and police in Haymarket Square on May 4 turned violent when a bomb exploded, killing a police officer. In retaliation, many workers in the crowd were shot and beaten by the police, who also accidentally fired upon each other; in the course of what became known

as the Haymarket Riot, seven additional policemen and an unknown number of civilians were killed, and many more were wounded. After eight anarchists were put on trial for plotting the bomb attack, public opinion turned decisively against the strikers and the trade unions. Eventually, four men were executed for the bombing, and the Socialist ideas they represented received a devastating blow. May 1, 1886, was the apex of the nineteenth-century labor movement in America before its precipitous decline.

About the Author

T. Thomas Fortune was one of the leading black editors of the late nineteenth century, with a reputation for militancy and independence from major political parties. He was born a slave on October 3, 1856, in Marianna, Florida. During Reconstruction, his family moved to Jacksonville, Florida, in the wake of growing threats by the Ku Klux Klan. Fortune's father, Emanuel Fortune, was very active in Reconstruction politics and served as a Republican congressman in Florida's House of Representatives.

Fortune began working at newspapers as a printer's apprentice when he was still a teenager. In 1876 he briefly attended Howard University in Washington, D.C, but left for financial reasons. After marrying Carrie Smiley in 1877, he returned to Florida and taught school. The Fortunes moved to New York City in 1878, and Fortune began working for the *Weekly Witness*. Fortune then founded the *New York Globe*, which he edited from 1881 to 1884. When the *Globe* ceased publication, Fortune founded the *New York Freeman*, a newspaper that was published until 1887, when it became the *New York Age*. In the 1890s, the *New York Age* became perhaps the most distinguished and widely read black newspaper in the country.

In 1884 Fortune published his most important work, *Black and White: Land, Labor, and Politics in the South*, an influential volume that looked at the problems facing African Americans in the South. Receiving wide attention in the press, the book launched Fortune's career as a spokesperson for African American rights and an early civil rights activist. In *The Negro in Politics* (1885), Fortune split with the Republican Party, which he felt had abandoned blacks, and declared that blacks must not subordinate the interests of their race to those of any party. In 1888 he openly campaigned for the Democratic candidate Grover Cleveland, to the horror of many black leaders who remained loyal to the party of Abraham Lincoln and the Emancipation Proclamation—and who regarded the Democrats as the party of the Confederacy and the Ku Klux Klan. Later, Fortune begrudgingly rejoined the Republican Party after acknowledging the extent of Democratic support for white supremacy.

In the late 1880s, Fortune organized a national civil rights organization that became the National Afro-American League in 1890. He strongly supported the term *Afro-American* over other labels of identity, such as *Negro* or *colored*, as a term for Americans of African descent. In the 1890s, Fortune notably supported Ida B. Wells's antilynching campaign, publishing her articles in the *Age*, and he also sued and won an antidiscrimination case against a hotel for denying him service.

Time Line

1907	■ Fortune ghostwrites *The Negro in Business* for Washington but then breaks with Washington later that year.
1923	■ Fortune becomes the editor of *Negro World*, Marcus Garvey's newspaper.
1928	■ **June 2** Fortune dies in Philadelphia at the age of seventy-one.

According to the historian John H. Bracey, Jr., there were three main phases of Fortune's ideological development. During the early phase, in which he wrote *Black and White* and "The Present Relations of Labor and Capital," Fortune tended to view the problems of African Americans in the South through the lens of radical labor theory. He retreated from this position by the mid-1890s, aligning himself, in Bracey's words, with "the group economic development or bourgeois nationalism of Booker T. Washington." Fortune often served as a ghostwriter for Washington and received substantial financial support in exchange. Finally breaking with Washington in 1907, Fortune turned toward militant black nationalism and became the editor of Marcus Garvey's *Negro World* in the last years of his life. Fortune died on June 2, 1928, in Philadelphia.

Explanation and Analysis of the Document

In "The Present Relations of Labor and Capital," Fortune echoes the primary Socialist argument of the 1880s: The consolidation of capital and land in the hands of the few is the root problem of modern society and the source of all conflict. In his 1884 book *Black and White*, Fortune looked at the oppression of African Americans in the South through the dual lens of race and class, contending that white racism and an exploitative economic system acted together to subjugate blacks. Two years later in this speech, he focused exclusively on the common plight of the laboring poor, regardless of their nationality or race. The discussion of white racism that informed *Black and White* was missing altogether from this piece, as Fortune emphasized the common oppression of workers across the world.

Very quickly in "The Present Relations of Labor and Capital," the reader understands that Fortune is making a fundamentally Socialist argument. He starts the essay by stating that the inequalities between rich and poor have led to global

At the tenth annual convention of the Knights of Labor, 1886, a black delegate (Frank J. Farrell) introduces the Knights leader, Terence Powderly. (Library of Congress)

unrest. He is not limiting his scope to African Americans or even to poor Americans. He speaks for all oppressed people, regardless of nation, creed, or race, and he warns that if there is not a return to egalitarian principles across the "civilized" world, violent upheaval will come about.

Stepping back from this apocalyptic warning, Fortune lays out the very basic needs that all people share: for food, water, clothing, shelter, and air. These needs are, as Fortune argues, "self evident" and not the subject of debate. He points to both early human history and the current practices of "savage people" to show that, in fact, these are natural rights. And yet, in the modern world, in "civilized" countries, these natural rights have been upended, as laws and practices conspire to place "the prime elements of human existence" into the hands of a fortunate few. Housing, food, and even freedom are doled out to the working masses sparingly, if at all, by the small wealthy minority. Fortune argues that society is organized, and its very laws orchestrated, for the sole purpose of maintaining and supplementing the wealth of a few at the expense of the majority. Implicit in his argument that the governments and laws of modern cultures are designed to continually repress the rights of workers is a call to action and rebellion. There can be no working within the system to achieve change if the system is corrupt.

This argument is made explicit when Fortune turns next to an analysis of the French Revolution. The rallying cry of the French Revolution (1789–1799) was "Liberté, Egalité, Fraternité" (Liberty, Equality, Brotherhood), and in this revolution that led to the overthrow of the monarchy, Fortune sees the "most memorable check" to the type of oppression that the working masses endure. In other words, it took a bloody revolution and the complete overthrow of the social order to shift the balance of power from the haves to the have-nots. The French Revolution also conjures images of the guillotine and the beheadings of many members of the French aristocracy, bringing home Fortune's opening point that if the economic and cultural system remains unchanged, the masses should be expected to revolt, and to revolt with violence.

Fortune next cites the slave rebellion in Haiti of 1791–1804, drawing a line from the ideals espoused in the French Revolution to this revolt. By doing so, he compares rebelling against slavery to rebelling against other forms of oppression; he places the slave revolt in Haiti in the same context as uprisings of white peasants, serfs, and the working poor. Fortune is implicitly arguing that whether agricultural laborers or factory workers, white or black, enslaved or free, the working masses should stand in solidarity against their oppressors—the landowners, the slave owners, the wealthy elite.

The slave revolt in Haiti, like the French Revolution, was known both for its extreme violence and for its success. The slaves secured their freedom and established the first black-ruled republic. Fortune references the Haitian leaders by name in the speech. Toussaint-Louverture, who had been born a slave in Saint Domingue (called Haiti after the revolt), was a free coachman when he became the leader of the revolt. Later, he established Haiti's constitution and was named governor-general for life. Fortune also names the "bloody Dessalines" and the "courtly Christophe." Jean-Jacques Dessalines, who was one of Toussaint-Louverture's lieutenants, eventually betrayed the revolutionary and named himself emperor of Haiti in 1805. He was assassinated in 1806. Henri Christophe, who plotted against Dessalines, was later the president and the king of Haiti. While these Haitian leaders, along with the leaders of the French Revolution, did not stay true to the Socialist principles that Fortune believes they originally stood for, they were notably successful at overthrowing entrenched social systems. These leaders emerged when their countries hit crises—when the slaves of Saint Domingue and the peasants of France could no longer tolerate the gulf between their conditions and those of the landed class. Their rebellions were bloody and ultimately short lived. In referring to these particular revolutions, Fortune is warning that another crisis has been reached, and he points to where the crisis might lead.

Fortune also cites the American Revolution as a crisis point and notes that the primary complaint then was against undue taxation. He believes that "bread and butter" were at the heart of the problem in all three of these revolutions and are at the heart of every crisis. Until there is balance between those who labor, those who supervise the laborers, and those who control the wealth (capital) that the laborers create, unrest and

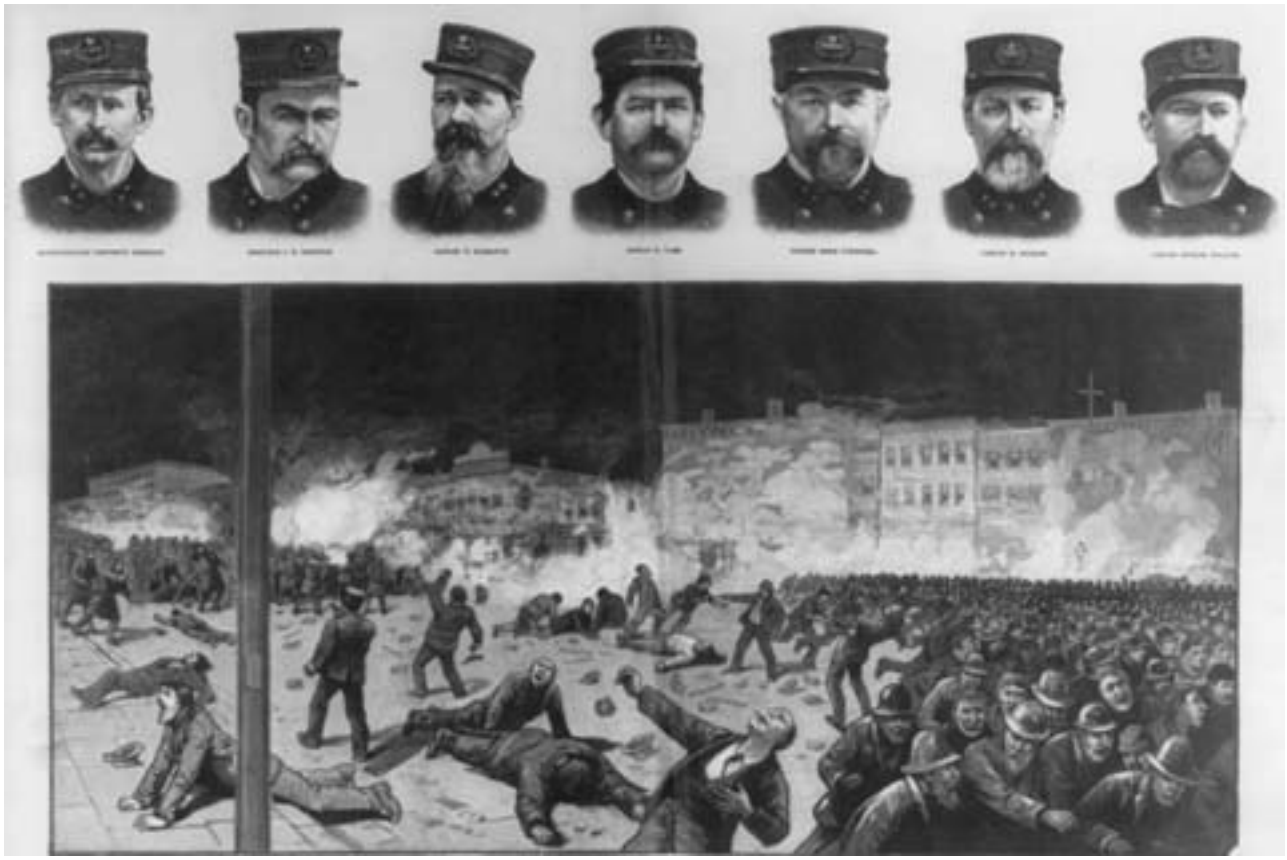


Illustration of the Haymarket Riot, with portraits of seven policemen (Library of Congress)

revolution are inevitable. Under the current system, Fortune believes that in this "trinity," laborers are unfairly denied their rightful share of the wealth their sweat produces. And yet, without laborers, there can be no wealth. Fortune argues that if wealth itself is destroyed, it can and will be rebuilt through the work of laborers. The reverse is not true. Destroy the laborers, and no wealth can be produced.

Given this situation, Fortune argues, should we be surprised that labor is no longer satisfied? Modern culture has served to democratize and educate the masses, and they are no longer willing to sit silently as they are deprived while others amass fortunes. Fortune declares that the new crop of millionaires created in the past few decades offers more evidence that the system of laws is designed to create a minority of winners at the expense of the majority. These are the conditions that have led to the rising discontent of the working classes in America and Europe.

Fortune clearly states his own beliefs in equal rights for all men, regardless of their "caste or class." He believes that the laws that skew the division of wealth so unequally run counter to the laws of God. Divine law does not dictate that some men prosper while others suffer; the laws of man alone are responsible for inequity. By pointing to the example of miners in Siberia and poor black rice workers in the Carolinas, Fortune again implies that the working poor share a common oppression and should share common goals.

Fortune ends his piece by restating that the rising conflict between labor and capital is not new but has been ongoing for centuries. What has changed is that labor is rising and may now be in a position to meaningfully change a system that he sees as fundamentally oppressive. He points to England, where the monarchy has lost the absolute power it held in the time of Queen Elizabeth I, to show that the balance of power can change, if slowly. Equality for all may be possible.

Audience

As a speech, "The Present Relations of Labor and Capital" was given on April 20, 1886, to the Brooklyn Literary Union in Brooklyn, New York. This organization was originally founded by abolitionists as a youth self-help organization for African Americans. Established to promote literacy and spread knowledge, the group sought to be informed about the important literary and social issues of the day. Fortune printed his speech in his newspaper, the *New York Freeman*, on May 1, 1886. As with the literary union, the audience of the *Freeman* would have been an almost exclusively black audience. In both cases, Fortune conveyed a fairly straightforward Socialist analysis of labor and capital to an audience that probably had little familiarity with the works of Karl Marx and other Socialist thinkers.

Essential Quotes

"From the institution of feudalism to the present time the inspiration of all conflict has been that of capitalist, landowner and hereditary aristocracy against the larger masses of society the untitled, the disinherited proletariat of the world."

(Paragraph 6)

"Should we, therefore, be surprised that with the constantly growing intelligence and democratization of mankind labor should have grown discontented at the systematic robbery practiced upon it for centuries, and should now clamor for a more equitable basis of adjustment of the wealth it produces?"

(Paragraph 9)

Impact

The impact of Fortune's speech is difficult to determine. Many editorials and speeches like it were given on May 1, 1886, in the white newspapers, and they cumulatively inspired workers to demonstrate in New York and elsewhere on that day. Perhaps the Socialist militancy of these speeches also spread fear among opponents of the labor movement and heightened the fury of reactionaries. Since the Haymarket Riot occurred only days after "The Present Relations of Labor and Capital" was printed, the temper of the times subsequently changed drastically, and the essay's influence was short lived. Socialist ideas that might have been tolerated by many Americans in the days before Haymarket became intolerable afterward. The crackdown against labor radicals silenced many Socialists and drove opinions like those expressed in Fortune's speech underground. Fortune himself did not express Socialist views thereafter, turning his energies instead toward the founding of a black civil rights organization devoted to the protection of political and civil rights.

Within a few years of the Haymarket Riot, the Knights of Labor went defunct. Because the Knights had been one of the sponsors of the worker demonstration in Haymarket Square, the organization was unfairly depicted as a haven for Socialists, anarchists, and Communists who preached violent revolution—despite the fact that none of those accused of the bombing were members of the organization. Soon, the labor movement would be purged of its radical elements, and the more conservative American Federation of Labor—which excluded women, blacks, and unskilled labor—would become the mainstream voice of labor in the United States.

In general, black leaders turned away from radical ideas and civil rights protest movements by the mid-1890s. Concern for the labor movement was eclipsed by the rise of Jim Crow segregation as a new wave of white supremacist politics swept over the South in the 1890s. Partly in response to the growth of black agricultural labor organizations, a movement began among southern whites to legally disenfranchise African Americans and thus deprive them of power at the ballot box. This movement coincided with new segregation laws that enforced the separation of blacks and whites in public spaces and also with an outbreak of lynch mobs that victimized hundreds of southern blacks during this time. Confronted by this new tide of oppression, many black leaders sought a "truce" with white extremists by renouncing political agitation for equal rights.

Booker T. Washington epitomized what historians have called the "accommodationist" strategy in his speech before the Cotton States and International Exposition in Atlanta, Georgia, on September 18, 1895. Addressing an audience of white southerners—including political leaders—he suggested that racial harmony could be achieved if whites employed blacks as a faithful laboring class and blacks accepted a position of social inferiority for the time being. He proposed that blacks could improve themselves through hard work and financial thrift and eventually achieve middle-class status (though never social integration with whites). By accommodating white supremacy, Washington hoped to create economic opportunities that would enable blacks to build an independent economic base. In 1900 he founded the National Negro Business League, which promoted investment in black-owned businesses and sought to expand the black professional class of doctors, lawyers, and businessmen. By

this time, Fortune was a supporter of Washington and was likewise urging the development of a black middle class.

Washington exerted a powerful influence in the years following his Atlanta speech. Enjoying extensive financial backing—especially by whites—he gained a following by bestowing patronage on individuals and institutions that supported his views. Many blacks hoped that Washington's work would stem the tide of white violence and dampen white fears about black revolution. But critics of Washington's work within the black community increased their objections as lynch mobs and white oppression failed to abate. By 1903 opponents of Washington began to be heard. In 1905, W. E. B. Du Bois and William Monroe Trotter established the Niagara Movement, which openly rejected the "accommodationist" strategy and announced a return to agitation for equal rights for blacks.

See also Emancipation Proclamation (1863); Thirteenth Amendment to the U.S. Constitution (1865); Booker T. Washington's Atlanta Exposition Address (1895); Niagara Movement Declaration of Principles (1905).

Further Reading

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—Mark Elliott

Questions for Further Study

1. In what sense were Fortune's views considered "radical" in the late nineteenth century?

2. Describe the economic circumstances of black southern sharecroppers that impeded their economic development and that led to the kinds of views Fortune expressed.

3. Fortune did not restrict his analysis to black workers; his critique applied to workers of whatever race or color. Explain how Fortune's views transcended racial barriers.

4. Why do you believe Fortune and others who expressed similar views declined in popular acceptance in the late nineteenth and on into the twentieth centuries?

5. Compare this document with Booker T. Washington's Atlanta Exposition Address (1895). How did the economic views of the two writers differ?

Document Text

T. Thomas Fortune: "The Present Relations of Labor and Capital"

I do not exaggerate the gravity of the subject when I say that it is now the very first in importance not only in the United States but in every country in Europe. Indeed the wall of industrial discontent encircles the civilized globe.

The iniquity of privileged class and concentrated wealth has become so glaring and grievous to be borne that a thorough agitation and an early readjustment of the relation which they sustain to labor can no longer be delayed with safety to society.

It does not admit of argument that every man born into the world is justly entitled to so much of the produce of nature as will satisfy his physical necessities; it does not admit of argument that every man, by reason of his being, is justly entitled to the air he must breathe, the water he must drink, the food he must eat and the covering he must have to shield him from the inclemency of the weather. These are self evident propositions, not disputed by the most orthodox advocate of excessive wealth on the one hand and excessive poverty on the other. That nature intended these as the necessary correlations of physical being is abundantly proved in the primitive history of mankind and in the freedom and commonality of possession which now obtain everywhere among savage people. The moment you deny to a man the unrestricted enjoyment of all the elements upon which the breath he draws is dependent, that moment you deny to him the inheritance to which he was born.

I maintain that organized society, as it obtains today, based as it is upon feudal conditions, is an outrageous engine of torture and an odious tyranny; that it places in the hands of a few the prime elements of human existence, regardless of the great mass of mankind; that the whole aim and necessity of the extensive and costly machinery of the law we are compelled to maintain grows out of the fact that this fortunate or favored minority would otherwise be powerless to practice upon the masses of society the gross injustice which everywhere prevails.

For centuries the aim and scope of all law have been to more securely hedge about the capitalist and the landowner and to repress labor within a condition wherein bare subsistence was the point aimed at.

From the institution of feudalism to the present time the inspiration of all conflict has been that of capitalist, landowner and hereditary aristocracy against the larger masses of society the untitled, the disinherited proletariat of the world.

This species of oppression received its most memorable check in the great French Revolution, wherein a new doctrine became firmly rooted in the philosophy of civil government that is, that the toiling masses of society possessed certain inherent rights which kingcraft, hereditary aristocracy, landlordism and usury mongers must respect. As a result of the doctrine studiously inculcated by the philosophers of the French Revolution we had the revolt of the blacks of Haiti, under the heroic Toussaint L'Ouverture, the bloody Dessalines and the suave, diplomatic and courtly Christophe, by which the blacks secured forever their freedom as free men and their independence as a people; and our own great Revolution, wherein the leading complaint was taxation by the British government of the American colonies without conceding them proportionate representation. At bottom in each case, bread and butter was the main issue. So it has always been. So it will continue to be, until the scales of justice are made to strike a true balance between labor on the one hand and the interest on capital invested and the wages of superintendence on the other. Heretofore the interest on capital and the wages of superintendence have absorbed so much of the wealth produced as to leave barely nothing to the share of labor.

It should be borne in mind that of this trinity labor is the supreme potentiality. Capital, in the first instance, is the product of labor. If there had never been any labor there would not now be any capital to invest. Again, if a bonfire were made of all the so called wealth of the world it would only require a few years for labor to reproduce it; but destroy the brawn and muscle of the world and it could not be reproduced by all the gold ever delved from the mines of California and Australia and the fabulous gems from the diamond fields of Africa. In short, labor has been and is the producing agency, while capital has been and is the absorbing or parasitical agency.

Should we, therefore, be surprised that with the constantly growing intelligence and democratization of mankind labor should have grown discontented at the systematic robbery practiced upon it for cen-

Document Text

turies, and should now clamor for a more equitable basis of adjustment of the wealth it produces?

I could name you a dozen men who have in the last forty or fifty years amassed among them a billion dollars, so that a millionaire has become as common a thing almost as a pauper. How came they by their millions? Is it possible for a man in his lifetime, under the most favorable circumstances, to amass a million dollars? Not at all! The constitution of our laws must be such that they favor one as against the other to permit of such a glaring disparity.

I have outlined for you the past and present relations of capital and labor. The widespread discontent of the labor classes in our own country and in Europe gives emphasis to the position here taken.

I abhor injustice and oppression wherever they are to be found, and my best sympathies go out freely to the struggling poor and the tyranny ridden of all races and lands. I believe in the divine right of man, not of caste or class, and I believe that any law made to perpetuate or to give immunity to these as against the masses of mankind is an infamous and not to be borne infringement of the just laws of the Creator, who sends each of us into the world as naked as a newly fledged jay bird and crumbles us back into the elements of Mother Earth by the same processes of mutation and final dissolution.

The social and material differences which obtain in the relations of mankind are the creations of man, not of God. God never made such a spook as a king or a duke; he never made such an economic monstrosity as a millionaire; he never gave John Jones the right to own a thousand or a hundred thousand acres of land, with their complement of air and water. These are the conditions of man, who has sold his birthright to the Shylocks of the world and received not even a mess of pottage for his inheritance. The thing would really be laughable, if countless millions from the rice swamps of the Carolinas to the delvers in the mines of Russian Siberia, were not ground to powder to make a holiday for some selfish idler.

Everywhere labor and capital are in deadly conflict. The battle has been raging for centuries, but the opposing forces are just now in a position for that death struggle which it was inevitable must come before the end was. Nor is it within the scope of finite intelligence to forecast the lines upon which the settlement will be made. Capital is entrenched behind ten centuries of law and conservatism, and controlled withal by the wisest and coolest heads in the world. The inequality of the forces joined will appear very obvious. Yet the potentiality of labor will be able to force concessions from time to time, even as the commoners of England have through centuries been able to force from royalty relinquishment of prerogative after prerogative, until, from having been among the most despotic of governments under Elizabeth, the England of today under Queen Victoria is but a royal shadow. So the time may come when the forces of labor will stand upon absolute equality with those of capital, and that harmony between them obtain which has been sought for by wise men and fools for a thousand years.

Glossary

the bloody Dessalines	Jean-Jacques Dessalines, one of Toussaint-Louverture's lieutenants who eventually betrayed him and named himself emperor of Haiti
Christophe	Henri Christophe, who plotted against Dessalines and was later president and then king of Haiti
Elizabeth	Queen Elizabeth I of England
mess of pottage	something of little value; a reference to Genesis 25:29–34, in which Esau sells his birthright to his brother, Jacob, for a meal of lentil stew
Shylocks of the world	a reference to the fictional character Shylock, a moneylender, in Shakespeare's play *The Merchant of Venice*
Toussaint L'Ouverture	Toussaint-Louverture, leader of the successful Haitian Revolution (1791–1803) who became governor-general of Haiti

A 2009 postage stamp honoring Anna Julia Cooper (AP/Wide World Photos)

Anna Julia Cooper's "Womanhood: A Vital Element in the Regeneration and Progress of a Race"

1886

"'I am my Sister's keeper!' should be the hearty response of every man and woman of the race."

Overview

Taken from Anna Julia Cooper's essay collection *A Voice from the South* (1892), the speech "Womanhood: A Vital Element in the Regeneration and Progress of a Race" sums up the main arguments of one of the most important black feminists of the late nineteenth century. A former slave, Cooper attained advanced education–eventually earning a doctorate in Paris–and spoke in favor of women's empowerment in the field of education, the church, and the home. Her book successfully engaged the white public dialogue on race and gender in the later nineteenth century and testified to the social advancement of black women in the South.

Context

Most feminists of the nineteenth century believed that men and women had different "natures" and inherent qualities that best suited each gender to "separate spheres" in society. For women, these qualities included a heightened sympathy, purity, religiosity, a capacity for moral instruction, and a devotion to child rearing. Sometimes dubbed the cult of "true womanhood," these qualities were expected of all "true" women. This concept of "womanhood" or femininity was most influential among the northern white middle classes. Although they accepted the notions of "true womanhood," feminists broke from mainstream views about "women's sphere" in arguing that women's roles in society were as important as men's. Rejecting claims of women's inferiority, they insisted that women were the intellectual equals of men and argued for an "expanded women's sphere" that included a greater role in public life, higher education for women, greater professional roles in "feminine" fields such as education and nursing, and the right to vote. On the issue of suffrage, feminists argued that women's greater capacity for morality and virtue demanded that they have a voice in politics (albeit a passive one as voters, not leaders).

For black women, the ideology of "separate spheres" and "true womanhood" was fraught with complications. White abolitionists drew upon these ideas to criticize the institution of slavery before the Civil War. They argued that slavery corrupted both the white and black household by subverting the family and proper gender roles. Enslaved men were unable to perform the role of proper husbands to enslaved women, whose white masters provided for their sustenance and often exerted authority over their sexual life and relationships. The large numbers of children born to enslaved mothers whose fathers were unknown to them (often the children of white men) provided abolitionists with evidence of the damaging effects of slavery on "womanhood" and the family. In this scenario, the woman's purity was violated, the role of husband forsaken, and capacity of the mother to instill moral virtue compromised. Thus, while indicting slavery, abolitionists also brought attention to enslaved black women's inability to achieve the white middle-class ideal of womanhood.

During Reconstruction, in the aftermath of emancipation, white religious missionaries and teachers poured into the South to help former slaves establish schools and churches. These Protestant reformers preached the ideas of separate spheres and "true womanhood," and their ideas often received a warm reception among black women. Many black women felt that their dignity and self-worth, their relationships with men, and the sanctity of their home life would be protected by adherence to the principles of "true womanhood." They entered into teaching in large numbers and became active members of Protestant churches during this time. For many, the spread of "true womanhood" among black women became a measure of progress from the days of slavery and a means to counter negative racial stereotypes. By the late nineteenth century, it became common for black leaders to speak of the need for "uplift" of the black community into middle-class respectability.

Black women organized women's clubs to combat lynching and racism in the 1890s, just as white middle-class women organized reform groups to support causes such as suffrage and temperance. One factor in organizing their own clubs was that black women found themselves increasingly excluded from white women's organizations. Mary Church Terrell, who was a classmate of Anna Julia Cooper's at Oberlin College, established the National Association of Colored Women's Clubs in 1896, an umbrella organization

Time Line

1858

- Anna Julia Cooper is born.

1868

- Cooper attends Saint Augustine's Normal School and Collegiate Institute, fighting and winning the right to take the more rigorous classical coursework reserved for male students.

1883

- Dr. Alexander Crummell, an influential Episcopal priest, publishes the pamphlet *The Black Woman of the South, Her Neglects and Needs*.

1884

- Cooper earns her BA degree from Oberlin College.

1886

- Cooper gives a lecture titled "Womanhood: A Vital Element in the Regeneration and Progress of a Race" to a group of black clergymen of the Protestant Episcopal Church in Washington, D.C.

1887

- Cooper earns an MA degree in mathematics from Oberlin.
- Cooper begins teaching at the M Street High School in Washington, D.C., the nation's first public high school for African Americans.

1892

- *A Voice from the South* is published and includes the 1886 lecture "Womanhood."
- **June**
  Cooper is a cofounder of the Colored Woman's League of Washington, D.C.

1893

- **May 18**
  Cooper delivers a talk titled "Women's Cause Is One and Universal" during the World's Congress of Representative Women in Chicago, held in conjunction with the Columbian Exposition.

for black women's clubs, whose official slogan was "Lifting as We Climb." Of the many mutual benefit societies, settlement houses, and schools dominated by black women, the vast majority were associated with Protestant churches such as the Baptists, Methodists, and Congregationalists. These organizations straddled the line between women's and men's "spheres," because they were unapologetically political while at the same time remaining within the accepted woman's realm of religion and moral improvement.

Anna Julia Cooper's 1892 collection of essays, *A Voice from the South*, gave expression to the most progressive form of "true womanhood" ideology among southern black women of the time. The sociologist Charles Lemert remarks in chapter 1 of his edition of her selected writing, "Cooper's ideas, though simply put, were an important link in the more-than-a-century-long evolution of black feminist social theory from Sojourner Truth's legendary 'Arn't I a Woman' speech in the mid-nineteenth century to the full expression of black feminist thought in the 1980s."

About the Author

Born a slave in 1858 in North Carolina to Hannah Haywood and her slave owner, Anna Julia Cooper became one of the most prominent African American educators of her time. She received an elite classical education, first at Saint Augustine's Normal School and Collegiate Institute, an Episcopal school in Raleigh, North Carolina, of which she is critical in "Womanhood: A Vital Element in the Regeneration and Progress of a Race." She married George Cooper at age nineteen but was widowed two years later. Soon after her husband's death, she applied to Oberlin College in Ohio and was one of three black women to graduate from that school in 1884. After returning to teach at Saint Augustine's, she earned her master's degree in mathematics from Oberlin in 1887. During this time, she made the address titled "Womanhood" to the black clergy of the Protestant Episcopal Church in Washington, D.C.

In 1887, Cooper began teaching at M Street High School in Washington, D.C., eventually rising to the post of principal. She was dismissed from this post in 1906 amid scandalous allegations that played out in the Washington press, in which she was accused of having an improper relationship with a younger teacher and her former ward, John Love. The rumor was not substantiated, and historians have posited that Cooper's dismissal was political, related to the fact that she was a strong proponent of a rigorous curriculum that emphasized college preparedness rather than vocational training. In any case, Cooper eventually returned to M Street as a teacher in 1910.

In the late nineteenth century and early twentieth century, Cooper was very active in promoting the cause of African Americans, first with the publication of the landmark *Voice from the South*, of which "Womanhood" is part, and later through speeches around the world. She, along with W. E. B. Du Bois, was one of a few African Americans present at the first Pan-African Conference in London. Devoted

to education, Cooper also helped found organizations that helped further the education of African Americans, including the Colored Settlement House in Washington, D.C., and the D.C. branch of the Colored Young Women's Christian Association. In 1930 she became president of Frelinghuysen University, a black university in D.C.

Cooper is also notable as the fourth African-American woman to receive a doctorate. At the age of sixty-five, she earned her doctorate from the Sorbonne in Paris. Her dissertation examined French attitudes toward slavery. Cooper died in 1964 at the age of 105, having lived from the time of slavery to the height of the civil rights movement.

Explanation and Analysis of the Document

In "Womanhood: A Vital Element in the Regeneration and Progress of a Race," Anna Julia Cooper argues that black women are the key to the future success of African Americans, both male and female. Invoking the Victorian ideal of "true womanhood," Cooper stresses that women can exert influence through the home and that the most stable and progressive cultures share common values where women and home life are venerated. Originally delivered to an all-male audience of black clergy, this speech (later the first chapter in Cooper's book *Voice from the South*) is a call for support of African American women and the importance of their education.

♦ Opening

Cooper begins her essay by pointing to Christianity and the feudal system as the sources for the "noble and ennobling ideal of woman" that provides women with the agency to make a positive difference in their society. She contrasts this ideal of womanhood with the state of women in non-Western civilizations where women are oppressed. Cooper cites the state of women in China and under Muslim rule to make her point, arguing that a Chinese woman's spirit is as crushed as her foot (referring to the tradition of foot binding in China). Cooper is more expansive on the problems she sees with the state of Muslim women. Arguing that the home and home life lends strength to a people and society, Cooper decries the custom of the harem and quotes a writer who calls the "private life of the Turk … vilest of the vile, unprogressive, unambitious, and inconceivably low." In thriving societies, Cooper believes, women are revered as wives, mothers, and sisters, and in her view, in the East, "the homelife is impure."

Cooper moves quickly from her condemnation of the state of women in the East and the weakness of Eastern society to a celebration of Western civilization in Europe and America. While Cooper believes that America has yet to fulfill its promise, she has confidence that society is moving in the correct direction. Cooper's optimism for America rests on the "homelife and the influence of good women in those homes" who serve as a moral guide for the family. Positing the importance of home life, Cooper makes the argument for women's centrality to the success of a society.

Time Line

1894
- An important realization of Cooper's call for women's leadership, the *Woman's Era* is launched as the official organ of the National Association of Colored Women, with Josephine St. Pierre Ruffin as editor.

1895
- Cooper is active in the first meeting of the National Conference of Colored Women.

1900
- Cooper delivers an address, "The Negro Problem in America," at the Pan-African Conference in London, England.

1906
- Cooper is forced to resign as principal of M Street High School in Washington, D.C., in part because of her insistence on an academically rigorous curriculum as opposed to vocational training.

♦ Woman's Influence on Society

A good portion of Cooper's text is devoted to surveying the progress of women in Europe and describing the role of Christianity and feudal society in advancing women. Cooper was classically educated, and she supports her argument by citing an ancient Roman historian (Tacitus), an eminent nineteenth-century British historian and statesman (Thomas Macaulay), and a nineteenth-century American philosopher (Ralph Waldo Emerson). She is echoing their perspective that, as Macaulay wrote (and Cooper quotes), "You may judge a nation's rank in the scale of civilization from the way they treat their women."

The chivalry that sprouted from feudal society, Cooper explains, was significant in defining the idealized perspective of women. However, chivalry had its limits. Too often, Cooper argues, chivalry meant that men respected only the "elect few" among whom they might expect to socialize or marry. Cooper fears that this limitation still exists. Greater respect for women—respect that transcends class and culture—can be found in Christianity, though Cooper notes that the Christian church has also been limited. She points specifically to problems with the Catholic Church's treatment of women in the Middle Ages and the sexual transgressions of priests. However, Christianity, if not always the formal practices of religion, has led to the betterment of women's condition. Specifically, Cooper points to Christ's teaching that imparted the same ethical code and standards for both men and women. In her reading of the tenets of

Essential Quotes

"Now the fundamental agency under God in the regeneration, the retraining of the race, as well as the ground work and starting point of its progress upward, must be the black woman.*"*

(Vital Agency of Womanhood in the Regeneration and Progress of a Race)

"Only the Black Woman can say 'when and where I enter, in the quiet, undisputed dignity of my womanhood, without violence and without suing or special patronage, then and there the whole Negro race enters with me.*'"*

(Vital Agency of Womanhood in the Regeneration and Progress of a Race)

*"'*I am my Sister's keeper!*' should be the hearty response of every man and woman of the race, and this conviction should purify and exalt the narrow, selfish and petty personal aims of life into a noble and sacred purpose."*

(The Role for the Protestant Episcopal Church)

Christianity, men and women are equals, with the same moral responsibilities.

Cooper ends the first part of her argument by stating that now that she has shown examples from history that societies which venerate women are the same societies that have made the most advances, it is fair to state that "the position of woman in society determines the vital elements of its regeneration and progress." She then addresses women directly, emphasizing the importance of their position and the extent of their responsibility. The future of civilization rests on women's shoulders, and their education must be taken seriously.

♦ Vital Agency of Womanhood in the Regeneration and Progress of a Race

After making her historical survey and tracing the importance of women to the development of Western civilization, Cooper turns to the specific importance of her theory on African Americans. The address is being made to black clergymen, and Cooper explains that she is not simply engaging in an intellectual exercise. Rather, she is advocating for the better education of black women because in their social progress lies the progress of all African Americans. Cooper states that her task is doubly difficult both because her argument is obvious and because she is not the first to raise these points. Cooper acknowledges that her topic has been addressed previously by Dr. Alexander Crummell, a black Episcopal pastor who wrote a pamphlet, *The Black Woman in the South*, that argued that the plight of black women under slavery was worse than that of men and called for the education and training of the newly freed black women in the rural South. Crummell was extremely influential in his time—Cooper refers to him as the "king." If such an influential black clergyman has not succeeded in raising the urgency of bettering black women, Cooper demurs, what chance does she have?

To Crummell's argument, Cooper also wishes to advocate for black girls of the South. These girls are at special risk because they often have no father or brother to protect them. Cooper herself never knew her white father, who had been her mother's owner during slavery. Without protectors, black girls are at risk of sexual exploitation by white men. These girls need to be "saved" and educated because they represent the "foundation stones of our future as a race." Cooper is unimpressed by the growing number of professional black men, because black women and girls are "subject to taint and corruption in the enemy's camp." In other words, black women will foster the future success of African Americans, but not if they are exploited, dismissed, and left uneducated.

Cooper was writing twenty-one years after the end of slavery. In her view, slavery caused two centuries of "compression and degradation" of African Americans. Any "weaknesses" evident in African Americans, Cooper says, are attributable to slavery. However, in a hundred years' time, she believes that any "weaknesses" will lie solely as the fault of African Americans. To make sure that African Americans are strong and productive in the future, Cooper turns again to the importance of educating black women. To judge the race as a whole, she argues, one must look at the strength of black families and not at the accomplishments of individuals. The achievement of one man does not speak to the success of his race. It is not until the "homes, average homes, homes of the rank and file" are "lighted and cheered by the good, the beautiful, and the true" that the African-American race will "be lifted into the sunlight."

In the most-quoted passage from this piece, Cooper asserts: "Only the Black Woman can say 'when and where I enter, in the quiet, undisputed dignity of my womanhood, without violence and without suing or special patronage, then and there the whole *Negro race enters with me.*'" In other words, when black women are assured of their rightful role without argument, then the entire race will be assured in its progress and development.

♦ The Role for the Protestant Episcopal Church

After describing the importance of black women to the future of the African American race, Cooper points to some direct action that the Protestant Episcopal Church, whose clergy she was addressing, could take to improve the lives of black women in the South. Cooper, who was educated by the Protestant Episcopal Church, was a strong critic of its limitations and what she saw as a retreat from what should be its mission in the South.

She turns first to an example of the opportunities that exist for her white counterparts. White girls are supported, are free from racial prejudice, and can look to organizations such as the White Cross League in England, says Cooper. This reference is important because the White Cross League, founded by the Christian feminist Jane Ellice Hopkins, was specifically established as a "social purity" organization for working-class girls. Cooper also looks to ways in which the English Anglican Church (of which the Episcopal Church in the United States is an offshoot) supports their "wronged sisters"—fallen women. Cooper in her veiled references to the "snares and traps" waiting for black girls in the South, is speaking directly to the need both for protecting the virginity of these girls and for sustaining black women who have "fallen."

Cooper thinks that the Protestant Episcopal Church needs to "missionize" black southerners. The Episcopal Church makes a poor showing in the South and among blacks. Methodists, Baptists, and Congregationalists are active in the South, whereas the Episcopalians can boast of only one black congregation in the South and less than two dozen black clergy in the entire country. Younger black Christians who might naturally be Episcopalians are finding a calling instead among different sects.

The fault lies, Cooper believes, in the fact that the Episcopal Church has not rightly respected black men. When gathering to discuss the best ways to further the development of African Americans, the church has neglected to invite black men to participate as equal partners. Second, and more directly to the point of Cooper's larger argument, the church has not worked directly to develop black women or seen the possibilities of using black women to draw others to the church. The church, Cooper believes, is out of touch with the daily lives of black Americans and until it "provides a clergy that can come in touch with our life and have a fellow feeling for our woes … the good bishops are likely to continue 'perplexed' by the sparsity of colored Episcopalians." Cooper here gives an example of race prejudice still evident in the church—one black priest was asked by his bishop to sit in the back of a convention so as not to disturb the white clergymen.

Cooper is also disappointed that Dr. Alexander Crummell's call in his pamphlet for the formation of organizations specific to the education and training of black women was not heeded by the Episcopal Church and that no effort toward the establishment of church sisterhoods has been made. Other religions have gone further—founding colleges and universities, including Fisk, Hampton, Atlanta University, and Tuskegee. Cooper contrasts these schools with Saint Augustine's, the school she attended before moving to Oberlin, and the institution where the Episcopal "Church in the South … mainly looks for the training of her colored clergy and for help of the 'Black Woman' and 'Colored Girl' of the South." Rather than producing a crop of "missionaries" to evangelize their fellow southern blacks, as have Fisk, Hampton, Atlanta, and Tuskegee, Saint Augustine's has managed to graduate only five women since its founding in 1868. Young men are being trained by Saint Augustine's, but poor women are simply not being trained and supported in meaningful numbers. Rather, the school educates primarily women who can pay their own way. The Episcopal Church, Cooper believes, is neglecting its duty to prepare girls "for the duties and responsibilities that await the intelligent wife, the Christian mother, the earnest, virtuous, helpful woman, at once the lever and the fulcrum for uplifting the race."

Cooper ends the speech with a direct call to her audience to take up the work of educating and supporting women: "Is it too much to ask you to step forward and direct the work for your race along those lines which you know to be of first and vital importance?" In this piece, Cooper grows ever more specific, moving from the importance of women to the advance of civilization, to the importance of black women to the progress of the African American race, to the importance of black women to the vitality of the Episcopal Church in the South. Cooper places black women in a continuum with white women of Europe and America, articulating that the treatment of women defines a society, a race, and a religion.

Audience

Originally delivered as a speech to the all-male black clergy of the Protestant Episcopal Church, this article often speaks specifically to the failings of the Episcopal Church in offering opportunities to women. Later, when it was republished as the first chapter of *A Voice from the South*, Cooper aimed to reach a much broader audience by using it to frame a book-length analysis of race and gender in the South. Her book addresses both black and white intellectuals and engages in a broad national dialogue.

Impact

A Voice from the South is considered by critics today to be a foundational text of modern black feminism. Many of Cooper's insights into the nexus of race and gender have been elaborated upon by later writers. In its own time, the book also drew wide attention and praise. Charles Lemert quotes the author of *The Work of the Afro-American Woman* (1894), Gertrude Bustill Mossell, who called Cooper's book *A Voice from the South* "one of the strongest pleas for the race and sex of the writer that ha[d] ever appeared."

Cooper and other feminist black writers were ignored by their male counterparts: The year that *A Voice from the South* was published (1892) the former slave and antislavery advocate Frederick Douglass was asked to provide the names of important black women for inclusion in an anthology of black writing, and he replied, "I have thus far seen no book of importance written by a negro woman and I know of no one among us who can appropriately be called famous." Within a short time, however, Cooper would leap to the front ranks of black leadership. In 1900, she spoke along with the civil rights activist W. E. B. Du Bois at the Pan-African Congress in London as representatives of the United States. However, her legacy was forgotten for many years and not resurrected until the 1980s. *A Voice from the South* was republished in 1990.

See also Josephine St. Pierre Ruffin's "Address to the First National Conference of Colored Women" (1895); Mary Church Terrell: "The Progress of Colored Women" (1898).

Further Reading

■ Books

Carby, Hazel. *Reconstructing Womanhood: The Emergence of the Afro-American Woman Novelist*. New York: Oxford University Press, 1987.

Collins, Patricia Hill. *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*. 2nd ed. New York: Routledge, 2000.

Cooper, Anna Julia. *A Voice from the South*, ed. Mary Helen Washington. New York: Oxford University Press, 1990.

Questions for Further Study

1. How do Cooper and her work illustrate the intersections of race, gender, and social class in late-nineteenth-century America?

2. In what ways does Cooper's essay prefigure more modern feminist thought, particularly black feminist thought?

3. Many prominent black writers and leaders tended to be pessimistic about American society because of its legacy of slavery and ongoing racism. Did Cooper share that pessimism? Why or why not?

4. Cooper wrote, "But weaknesses and malformations, which to-day are attributable to a vicious schoolmaster and a pernicious system, will a century hence be rightly regarded as proofs of innate corruptness and radical incurability." Focusing on her use of the word *rightly*, what do you believe Cooper's reaction to racial realities would have been at the end of the twentieth century and in the first years of the twenty-first?

5. Compare this document with one or more written by other prominent black women during this era; possibilities include Josephine St. Pierre Ruffin's "Address to the First National Conference of Colored Women" (1895); Mary Church Terrell's "The Progress of Colored Women" (1898); and Mary McLeod Bethune's "What Does American Democracy Mean to Me?" What similar arguments do the writers make? How are their views different?

Giddings, Paula. *When and Where I Enter: The Impact of Black Women on Race and Sex in America*. New York: Bantam, 1984.

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■ Web Sites

"African American Women." Duke University Library "Digitized Collections" Web site.
http://library.duke.edu/specialcollections/collections/digitized/african-american-women/.

African American Women Writers of the 19th Century Schomburg Center for Research in Black Culture's "Digitial Schomburg African American Women Writers of the 19th Century" Web site.
http://digital.nypl.org/schomburg/writers_aa19/toc.html.

—Mark Elliott

Document Text

Anna Julia Cooper's "Womanhood: A Vital Element in the Regeneration and Progress of a Race"

The two sources from which, perhaps, modern civilization has derived its noble and ennobling ideal of woman are Christianity and the Feudal System.

In Oriental countries woman has been uniformly devoted to a life of ignorance, infamy, and complete stagnation. The Chinese shoe of to-day does not more entirely dwarf, cramp, and destroy her physical powers, than have the customs, laws, and social instincts, which from remotest ages have governed our Sister of the East, enervated and blighted her mental and moral life.

Mahomet makes no account of woman whatever in his polity. The Koran, which, unlike our Bible, was a product and not a growth, tried to address itself to the needs of Arabian civilization as Mahomet with his circumscribed powers saw them. The Arab was a nomad. Home to him meant his present camping place. That deity who, according to our western ideals, makes and sanctifies the home, was to him a transient bauble to be toyed with so long as it gave pleasure and then to be thrown aside for a new one. As a personality, an individual soul, capable of eternal growth and unlimited development, and destined to mould and shape the civilization of the future to an incalculable extent, Mahomet did not know woman. There was no hereafter, no paradise for her. The heaven of the Mussulman is peopled and made gladsome not by the departed wife, or sister, or mother, but by *houri*—a figment of Mahomet's brain, partaking of the ethereal qualities of angels, yet imbued with all the vices and inanity of Oriental women. The harem here, and—"dust to dust" hereafter, this was the hope, the inspiration, the *summum bonum* of the Eastern woman's life! With what result on the life of the nation, the "Unspeakable Turk," the "sick man" of modern Europe can to-day exemplify.

Says a certain writer: "The private life of the Turk is vilest of the vile, unprogressive, unambitious, and inconceivably low." And yet Turkey is not without her great men. She has produced most brilliant minds; men skilled in all the intricacies of diplomacy and statesmanship; men whose intellects could grapple with the deep problems of empire and manipulate the subtle agencies which check-mate kings. But these minds were not the normal outgrowth of a healthy trunk. They seemed rather ephemeral excrescencies which shoot far out with all the vigor and promise, apparently, of strong branches; but soon alas fall into decay and ugliness because there is no soundness in the root, no life-giving sap, permeating, strengthening and perpetuating the whole. There is a worm at the core! The homelife is impure! and when we look for fruit, like apples of Sodom, it crumbles within our grasp into dust and ashes.

It is pleasing to turn from this effete and immobile civilization to a society still fresh and vigorous, whose seed is in itself, and whose very name is synonymous with all that is progressive, elevating and inspiring, viz., the European bud and the American flower of modern civilization.

And here let me say parenthetically that our satisfaction in American institutions rests not on the fruition we now enjoy, but springs rather from the possibilities and promise that are inherent in the system, though as yet, perhaps, far in the future.

"Happiness," says Madame de Stael, "consists not in perfections attained, but in a sense of progress, the result of our own endeavor under conspiring circumstances *toward* a goal which continually advances and broadens and deepens till it is swallowed up in the Infinite." Such conditions in embryo are all that we claim for the land of the West. We have not yet reached our ideal in American civilization. The pessimists even declare that we are not marching in that direction. But there can be no doubt that here in America is the arena in which the next triumph of civilization is to be won; and here too we find promise abundant and possibilities infinite.

Now let us see on what basis this hope for our country primarily and fundamentally rests. Can any one doubt that it is chiefly on the homelife and on the influence of good women in those homes? Says Macaulay: "You may judge a nation's rank in the scale of civilization from the way they treat their women." And Emerson, "I have thought that a sufficient measure of civilization is the influence of good women." Now this high regard for woman, this germ of a prolific idea which in our own day is bearing such rich and varied fruit, was ingrafted into European civilization, we have said, from two sources, the Christian Church and the Feudal System. For although the Feudal System can in no sense be said to have origi-

nated the idea, yet there can be no doubt that the habits of life and modes of thought to which Feudalism gave rise, materially fostered and developed it; for they gave us chivalry, than which no institution has more sensibly magnified and elevated woman's position in society.

Tacitus dwells on the tender regard for woman entertained by these rugged barbarians before they left their northern homes to overrun Europe. Old Norse legends too, and primitive poems, all breathe the same spirit of love of home and veneration for the pure and noble influence there presiding—the wife, the sister, the mother.

And when later on we see the settled life of the Middle Ages "oozing out," as M. Guizot expresses it, from the plundering and pillaging life of barbarism and crystallizing into the Feudal System, the tiger of the field is brought once more within the charmed circle of the goddesses of his castle, and his imagination weaves around them a halo whose reflection possibly has not yet altogether vanished.

It is true the spirit of Christianity had not yet put the seal of catholicity on this sentiment. Chivalry, according to Bascom, was but the toning down and softening of a rough and lawless period. It gave a roseate glow to a bitter winter's day. Those who looked out from castle windows revelled in its "amethyst tints." But God's poor, the weak, the unlovely, the commonplace were still freezing and starving none the less, in unpitied, unrelieved loneliness.

Respect for woman, the much lauded chivalry of the Middle Ages, meant what I fear it still means to some men in our own day—respect for the elect few among whom they expect to consort.

The idea of the radical amelioration of womankind, reverence for woman as woman regardless of rank, wealth, or culture, was to come from that rich and bounteous fountain from which flow all our liberal and universal ideas—the Gospel of Jesus Christ.

And yet the Christian Church at the time of which we have been speaking would seem to have been doing even less to protect and elevate woman than the little done by secular society. The Church as an organization committed a double offense against woman in the Middle Ages. Making of marriage a sacrament and at the same time insisting on the celibacy of the clergy and other religious orders, she gave an inferior if not an impure character to the marriage relation, especially fitted to reflect discredit on woman. Would this were all or the worst! but the Church by the licentiousness of its chosen servants invaded the household and established too often as vicious connections those relations which it forbade to assume openly and in good faith. "Thus," to use the words of our authority, "the religious corps became as numerous, as searching, and as unclean as the frogs of Egypt, which penetrated into all quarters, into the ovens and kneading troughs, leaving their filthy trail wherever they went." Says Chaucer with characteristic satire, speaking of the Friars:

Women may now go safely up and doun,
In every bush, and under every tree,
Ther is non other incubus but he,
And he ne will don hem no dishonor.

It may help us under some of the perplexities which beset our way in "the one Catholic and Apostolic Church" to-day, to recall some of the corruptions and incongruities against which the Bride of Christ has had to struggle in her past history and in spite of which she has kept, through many vicissitudes, the faith once delivered to the saints. Individuals, organizations, whole sections of the Church militant may outrage the Christ whom they profess, may ruthlessly trample under foot both the spirit and the letter of his precepts, yet not till we hear the voices audibly saying "Come let us depart hence," shall we cease to believe and cling to the promise, "*I am with you to the end of the world*."

"Yet saints their watch are keeping,
The cry goes up 'How long!'
And soon the night of weeping
Shall be the morn of song."

However much then the facts of any particular period of history may seem to deny it, I for one do not doubt that the source of the vitalizing principle of woman's development and amelioration is the Christian Church, so far as that church is coincident with Christianity.

Christ gave ideals not formulae. The Gospel is a germ requiring millennia for its growth and ripening. It needs and at the same time helps to form around itself a soil enriched in civilization, and perfected in culture and insight without which the embryo can neither be unfolded or comprehended. With all the strides our civilization has made from the first to the nineteenth century, we can boast not an idea, not a principle of action, not a progressive social force but was already mutely foreshadowed, or directly enjoined in that simple tale of a meek and lowly life. The quiet face of the Nazarene is ever seen a little

way ahead, never too far to come down to and touch the life of the lowest in days the darkest, yet ever leading onward, still onward, the tottering childish feet of our strangely boastful civilization.

By laying down for woman the same code of morality, the same standard of purity, as for man; by refusing to countenance the shameless and equally guilty monsters who were gloating over her fall,—graciously stooping in all the majesty of his own spotlessness to wipe away the filth and grime of her guilty past and bid her go in peace and sin no more; and again in the moments of his own careworn and footsore dejection, turning trustfully and lovingly, away from the heartless snubbing and sneers, away from the cruel malignity of mobs and prelates in the dusty marts of Jerusalem to the ready sympathy, loving appreciation and unfaltering friendship of that quiet home at Bethany; and even at the last, by his dying bequest to the disciple whom he loved, signifying the protection and tender regard to be extended to that sorrowing mother and ever afterward to the sex she represented;—throughout his life and in his death he has given to men a rule and guide for the estimation of woman as an equal, as a helper, as a friend, and as a sacred charge to be sheltered and cared for with a brother's love and sympathy, lessons which nineteen centuries' gigantic strides in knowledge, arts, and sciences, in social and ethical principles have not been able to probe to their depth or to exhaust in practice.

It seems not too much to say then of the vitalizing, regenerating, and progressive influence of womanhood on the civilization of today, that, while it was foreshadowed among Germanic nations in the far away dawn of their history as a narrow, sickly and stunted growth, it yet owes its catholicity and power, the deepening of its roots and broadening of its branches to Christianity.

The union of these two forces, the Barbaric and the Christian, was not long delayed after the Fall of the Empire. The Church, which fell with Rome, finding herself in danger of being swallowed up by barbarism, with characteristic vigor and fertility of resources, addressed herself immediately to the task of conquering her conquerers. The means chosen does credit to her power of penetration and adaptability, as well as to her profound, unerring, all-compassing diplomacy; and makes us even now wonder if aught human can successfully and ultimately withstand her far-seeing designs and brilliant policy, or gainsay her well-earned claim to the word *Catholic*.

She saw the barbarian, little more developed than a wild beast. She forbore to antagonize and mystify his warlike nature by a full blaze of the heart searching and humanizing tenets of her great Head. She said little of the rule "If thy brother smite thee on one cheek, turn to him the other also;" but thought it sufficient for the needs of those times, to establish the so-called "Truce of God" under which men were bound to abstain from butchering one another for three days of each week and on Church festivals. In other words, she respected their individuality: nonresistance pure and simple being for them an utter impossibility, she contented herself with less radical measures calculated to lead up finally to the full measure of the benevolence of Christ.

Next she took advantage of the barbarian's sensuous love of gaudy display and put all her magnificent garments on. She could not capture him by physical force, she would dazzle him by gorgeous spectacles. It is said that Romanism gained more in pomp and ritual during this trying period of the Dark Ages than throughout all her former history.

The result was she carried her point. Once more Rome laid her ambitions hand on the temporal power, and allied with Charlemagne, aspired to rule the world through a civilization dominated by Christianity and permeated by the traditions and instincts of those sturdy barbarians.

Here was the confluence of the two streams we have been tracing, which, united now, stretch before us as a broad majestic river. In regard to woman it was the meeting of two noble and ennobling forces, two kindred ideas the resultant of which, we doubt not, is destined to be a potent force in the betterment of the world.

Now after our appeal to history comparing nations destitute of this force and so destitute also of the principle of progress, with other nations among whom the influence of woman is prominent coupled with a brisk, progressive, satisfying civilization,—if in addition we find this strong presumptive evidence corroborated by reason and experience, we may conclude that these two equally varying concomitants are linked as cause and effect; in other words, that the position of woman in society determines the vital elements of its regeneration and progress.

Now that this is so on *a priori* grounds all must admit. And this not because woman is better or stronger or wiser than man, but from the nature of the case, because it is she who must first form the man by directing the earliest impulses of his character.

Document Text

Byron and Wordsworth were both geniuses and would have stamped themselves on the thought of their age under any circumstances; and yet we find the one a savor of life unto life, the other of death unto death. "Byron, like a rocket, shot his way upward with scorn and repulsion, flamed out in wild, explosive, brilliant excesses and disappeared in darkness made all the more palpable."

Wordsworth lent of his gifts to reinforce that "power in the Universe which makes for righteousness" by taking the harp handed him from Heaven and using it to swell the strains of angelic choirs. Two locomotives equally mighty stand facing opposite tracks; the one to rush headlong to destruction with all its precious freight, the other to toil grandly and gloriously up the steep embattlements to Heaven and to God. Who—who can say what a world of consequences hung on the first placing and starting of these enormous forces!

Woman, Mother,—your responsibility is one that might make angels tremble and fear to take hold! To trifle with it, to ignore or misuse it, is to treat lightly the most sacred and solemn trust ever confided by God to human kind. The training of children is a task on which an infinity of weal or woe depends. Who does not covet it? Yet who does not stand awestruck before its momentous issues! It is a matter of small moment, it seems to me, whether that lovely girl in whose accomplishments you take such pride and delight, can enter the gay and crowded salon with the ease and elegance of this or that French or English gentlewoman, compared with the decision as to whether her individuality is going to reinforce the good or the evil elements of the world. The lace and the diamonds, the dance and the theater, gain a new significance when scanned in their bearings on such issues. Their influence on the individual personality, and through her on the society and civilization which she vitalizes and inspires—all this and more must be weighed in the balance before the jury call return a just and intelligent verdict as to the innocence or banefulness of these apparently simple amusements.

Now the fact of woman's influence on society being granted, what are its practical bearings on the work which brought together this conference of colored clergy and laymen in Washington? "We come not here to talk." Life is too busy, too pregnant with meaning and far reaching consequences to allow you to come this far for mere intellectual entertainment.

The vital agency of womanhood in the regeneration and progress of a race, as a general question, is conceded almost before it is fairly stated. I confess one of the difficulties for me in the subject assigned lay in its obviousness. The plea is taken away by the opposite attorney's granting the whole question.

"Woman's influence on social progress"—who in Christendom doubts or questions it? One may as well be called on to prove that, the sun is the source of light and heat and energy to this many-sided little world.

Nor, on the other hand, could it have been intended that I should apply the position when taken and proven, to the needs and responsibilities of the women of our race in the South. For is it not written, "Cursed is he that cometh after the king?" and has not the King already preceded me in "The Black Woman of the South"?

They have had both Moses and the Prophets in Dr. Crummell and if they hear not him, neither would they be persuaded though one came up from the South.

I would beg, however, with the Doctor's permission, to add my plea for the *Colored Girls* of the South:—that large, bright, promising fatally beautiful class that stand shivering like a delicate plantlet before the fury of tempestuous elements, so full of promise and possibilities, yet so sure of destruction; often without a father to whom they dare apply the loving term, often without a stronger brother to espouse their cause and defend their honor with his life's blood; in the midst of pitfalls and snares, waylaid by the lower classes of white men, with no shelter, no protection nearer than the great blue vault above, which half conceals and half reveals the one Care-Taker they know so little of. Oh, save them, help them, shield, train, develop, teach, inspire them! Snatch them, in God's name, as brands from the burning! There is material in them well worth your while, the hope in germ of a staunch, helpful, regenerating womanhood on which, primarily, rests the foundation stones of our future as a race.

It is absurd to quote statistics showing the Negro's bank account and rent rolls, to point to the hundreds of newspapers edited by colored men and lists of lawyers, doctors, professors, D. D's, LL D's, etc., etc., etc., while the source from which the life-blood of the race is to flow is subject to taint and corruption in the enemy's camp.

True progress is never made by spasms. Real progress is growth. It must begin in the seed. Then, "first the blade, then the ear, after that the full corn in the ear." There is something to encourage and inspire us in the advancement of individuals since their eman-

cipation from slavery. It at least proves that there is nothing irretrievably wrong in the shape of the black man's skull, and that under given circumstances his development, downward or upward, will be similar to that of other average human beings.

But there is no time to be wasted in mere felicitation. That the Negro has his niche in the infinite purposes of the Eternal, no one who has studied the history of the last fifty years in America will deny. That much depends on his own right comprehension of his responsibility and rising to the demands of the hour, it will be good for him to see; and how best to use his present so that the structure of the future shall be stronger and higher and brighter and nobler and holier than that of the past, is a question to be decided each day by every one of us.

The race is just twenty-one years removed from the conception and experience of a chattel, just at the age of ruddy manhood. It is well enough to pause a moment for retrospection, introspection, and prospection. We look back, not to become inflated with conceit because of the depths from which we have arisen, but that we may learn wisdom from experience. We look within that we may gather together once more our forces, and, by improved and more practical methods, address ourselves to the tasks before us. We look forward with hope and trust that the same God whose guiding hand led our fathers through and out of the gall and bitterness of oppression, will still lead and direct their children, to the honor of His name, and for their ultimate salvation.

But this survey of the failures or achievements of the past, the difficulties and embarrassments of the present, and the mingled hopes and fears for the future, must not degenerate into mere dreaming nor consume the time which belongs to the practical and effective handling of the crucial questions of the hour; and there can be no issue more vital and momentous than this of the womanhood of the race.

Here is the vulnerable point, not in the heel, but at the heart of the young Achilles; and here must the defenses be strengthened and the watch redoubled.

We are the heirs of a past which was not our fathers' moulding. "Every man the arbiter of his own destiny" was not true for the American Negro of the past: and it is no fault of his that he finds himself to-day the inheritor of a manhood and womanhood impoverished and debased by two centuries and more of compression and degradation.

But weaknesses and malformations, which to-day are attributable to a vicious schoolmaster and a pernicious system, will a century hence be rightly regarded as proofs of innate corruptness and radical incurability.

Now the fundamental agency under God in the regeneration, the re-training of the race, as well as the ground work and starting point of its progress upward, must be the *black woman*.

With all the wrongs and neglects of her past, with all the weakness, the debasement, the moral thralldom of her present, the black woman of to-day stands mute and wondering at the Herculean task devolving around her. But the cycles wait for her. No other hand can move the lever. She must be loosed from her bands and set to work.

Our meager and superficial results from past efforts prove their futility; and every effort to elevate the Negro, whether undertaken by himself or through the philanthropy of others, cannot but prove abortive unless so directed as to utilize the indispensable agency of an elevated and trained womanhood.

A race cannot be purified from without. Preachers and teachers are helps, and stimulants and conditions as necessary as the gracious rain and sunshine are to plant growth. But what are rain and dew and sunshine and cloud if there be no life in the plant germ? We must go to the root and see that it is sound and healthy and vigorous; and not deceive ourselves with waxen flowers and painted leaves of mock chlorophyll.

We too often mistake individuals' honor for race development and so are ready to substitute pretty accomplishments for sound sense and earnest purpose.

A stream cannot rise higher than its source. The atmosphere of homes is no rarer and purer and sweeter than are the mothers in those homes. A race is but a total of families. The nation is the aggregate of its homes. As the whole is sum of all its parts, so the character of the parts will determine the characteristics of the whole. These are all axioms and so evident that it seems gratuitous to remark it; and yet, unless I am greatly mistaken, most of the unsatisfaction from our past results arises from just such a radical and palpable error, as much almost on our own part as on that of our benevolent white friends.

The Negro is constitutionally hopeful and proverbially irrepressible; and naturally stands in danger of being dazzled by the shimmer and tinsel of superficials. We often mistake foliage for fruit and overestimate or wrongly estimate brilliant results.

The late Martin R. Delany, who was an unadulterated black man, used to say when honors of state fell upon him, that when he entered the council of kings

the black race entered with him; meaning, I suppose, that there was no discounting his race identity and attributing his achievements to some admixture of Saxon blood. But our present record of eminent men, when placed beside the actual status of the race in America to-day, proves that no man can represent the race. Whatever the attainments of the individual may be, unless his home has moved on *pari passu*, he can never be regarded as identical with or representative of the whole.

Not by pointing to sun-bathed mountain tops do we prove that Phoebus warms the valleys. We must point to homes, average homes, homes of the rank and file of horny handed toiling men and women of the South (where the masses are) lighted and cheered by the good, the beautiful, and the true,—then and not till then will the whole plateau be lifted into the sunlight.

Only the Black Woman can say "when and where I enter, in the quiet, undisputed dignity of my womanhood, without violence and without suing or special patronage, then and there the whole *Negro race enters with me*." Is it not evident then that as individual workers for this race we must address ourselves with no half-hearted zeal to this feature of our mission. The need is felt and must be recognized by all. There is a call for workers, for missionaries, for men and women with the double consecration of a fundamental love of humanity and a desire for its melioration through the Gospel; but superadded to this we demand an intelligent and sympathetic comprehension of the interests and special needs of the Negro.

I see not why there should not be an organized effort for the protection and elevation of our girls such as the White Cross League in England. English women are strengthened and protected by more than twelve centuries of Christian influences, freedom and civilization; English girls are dispirited and crushed down by no such all-levelling prejudice as that supercilious caste spirit in America which cynically assumes "A Negro woman cannot be a lady." English womanhood is beset by no such snares and traps as betray the unprotected, untrained colored girl of the South, whose only crime and dire destruction often is her unconscious and marvelous beauty. Surely then if English indignation is aroused and English manhood thrilled under the leadership of a Bishop of the English church to build up bulwarks around their wronged sisters, Negro sentiment cannot remain callous and Negro effort nerveless in view of the imminent peril of the mothers of the next generation. "*I am my Sister's keeper!*" should be the hearty response of every man and woman of the race, and this conviction should purify and exalt the narrow, selfish and petty personal aims of life into a noble and sacred purpose.

We need men who can let their interest and gallantry extend outside the circle of their aesthetic appreciation; men who can be a father, a brother, a friend to every weak, struggling unshielded girl. We need women who are so sure of their own social footing that they need not fear leaning to lend a hand to a fallen or falling sister. We need men and women who do not exhaust their genius splitting hairs on aristocratic distinctions and thanking God they are not as others; but earnest, unselfish souls, who can go into the highways and byways, lifting up and leading, advising and encouraging with the truly catholic benevolence of the Gospel of Christ.

As Church workers we must confess our path of duty is less obvious; or rather our ability to adapt our machinery to our conception of the peculiar exigencies of this work as taught by experience and our own consciousness of the needs of the Negro, is as yet not demonstrable. Flexibility and aggressiveness are not such strong characteristics of the Church to-day as in the Dark Ages.

As a Mission field for the Church the Southern Negro is in some aspects most promising; in others, perplexing. Aliens neither in language and customs, nor in associations and sympathies, naturally of deeply rooted religious instincts and taking most readily and kindly to the worship and teachings of the Church, surely the task of proselytizing the American Negro is infinitely less formidable than that which confronted the Church in the Barbarians of Europe. Besides, this people already look to the Church as the hope of their race. Thinking colored men almost uniformly admit that the Protestant Episcopal Church with its quiet, chaste dignity and decorous solemnity, its instructive and elevating ritual, its bright chanting and joyous hymning, is eminently fitted to correct the peculiar faults of worship—the rank exuberance and often ludicrous demonstrativeness of their people. Yet, strange to say, the Church, claiming to be missionary and Catholic, urging that schism is sin and denominationalism inexcusable, has made in all these years almost no inroads upon this semi-civilized religionism.

Harvests from this over ripe field of home missions have been gathered in by Methodists, Baptists, and not least by Congregationalists, who were unknown to the Freedmen before their emancipation.

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Our clergy numbers less than two dozen priests of Negro, blood and we have hardly more than one self-supporting colored congregation in the entire Southland. While the organization known as the A. M. E. Church has 14,063 ministers, itinerant and local, 4,069 self-supporting churches, churches, 4,2754,275 Sunday-schools, with property valued at $7,772,284, raising yearly for church purposes $1,427,000.

Stranger and more significant than all, the leading men of this race (I do not mean demagogues and politicians, but men of intellect, heart, and race devotion, men to whom the elevation of their people means more than personal ambition and sordid gain—and the men of that stamp have not all died yet) the Christian workers for the race, of younger and more cultured growth, are noticeably drifting into sectarian churches, many of them declaring all the time that they acknowledge the historic claims of the Church, believe her apostolicity, and would experience greater personal comfort, spiritual and intellectual, in her revered communion. It is a fact which any one may verify for himself, that representative colored men, professing that in their heart of hearts they are Episcopalians, are actually working in Methodist and Baptist pulpits; while the ranks of the Episcopal clergy are left to be filled largely by men who certainly suggest the propriety of a "*perpetual* Diaconate" if they cannot be said to have created the necessity for it.

Now where is the trouble? Something must be wrong. What is it?

A certain Southern Bishop of our Church reviewing the situation, whether in Godly anxiety or in "Gothic antipathy" I know not, deprecates the fact that the colored people do not seem *drawn* to the Episcopal Church, and comes to the sage conclusion that the Church is not adapted to the rude untutored minds of the Freedmen, and that they may be left to go to the Methodists and Baptists whither their racial proclivities undeniably tend. How the good Bishop can agree that all-foreseeing Wisdom, and Catholic Love would have framed his Church as typified in his seamless garment and unbroken body, and yet not leave it broad enough and deep enough and loving enough to seek and save and hold seven millions of God's poor, I cannot see.

But the doctors while discussing their scientifically conclusive diagnosis of the disease, will perhaps not think it presumptuous in the patient if he dares to suggest where at least the pain is. If this be allowed, *a Black woman of the South* would beg to point out two possible oversights in this southern work which may indicate in part both a cause and a remedy for some failure. The first is *not calculating for the Black man's personality*; not having respect, if I may so express it, to his manhood or deferring at all to his conceptions of the needs of his people. When colored persons have been employed it was too often as machines or as manikins. There has been no disposition, generally, to get the black man's ideal or to let his individuality work by its own gravity, as it were. A conference of earnest Christian men have met at regular intervals for some years past to discuss the best methods of promoting the welfare and development of colored people in this country. Yet, strange as it may seem, they have never invited a colored man or even intimated that one would be welcome to take part in their deliberations. Their remedial contrivances are purely theoretical or empirical, therefore, and the whole machinery devoid of soul.

The second important oversight in my judgment is closely allied to this and probably grows out of it, and that is not developing Negro womanhood as an essential fundamental for the elevation of the race, and utilizing this agency in extending the work of the Church.

Of the first I have possibly already presumed to say too much since it does not strictly come within the province of my subject. However, Macaulay somewhere criticises the Church of England as not knowing how to use fanatics, and declares that had Ignatius Loyola been in the Anglican instead of the Roman communion, the Jesuits would have been schismatics instead of Catholics; and if the religious awakenings of the Wesleys had been in Rome, she would have shaven their heads, tied ropes around their waists, and sent them out under her own banner and blessing. Whether this be true or not, there is certainly a vast amount of force potential for Negro evangelization rendered latent, or worse, antagonistic by the halting, uncertain, I had almost said, *trimming* policy of the Church in the South. This may sound both presumptuous and ungrateful. It is mortifying, I know, to benevolent wisdom, after having spent itself in the execution of well conned theories for the ideal development of a particular work, to hear perhaps the weakest and humblest element of that work: asking "what doest thou?"

Yet so it will be in life. The "thus far and no farther" pattern cannot be fitted to any growth in God's kingdom. The universal law of development is "onward and upward." It is God-given and inviolable. From the unfolding of the germ in the acorn to reach the sturdy oak, to the growth of a human soul into the full knowledge and likeness of its Creator, the

breadth and scope of the movement in each and all are too grand, too mysterious, too like God himself, to be encompassed and locked down in human molds.

After all the Southern slave owners were right: either the very alphabet of intellectual growth must be forbidden and the Negro dealt with absolutely as a chattel having neither rights nor sensibilities; or else the clamps and irons of mental and moral, as well as civil compression must be riven asunder and the truly enfranchised soul led to the entrance of that boundless vista through which it is to toil upwards to its beckoning God as the buried seed germ, to meet the sun.

A perpetual colored diaconate, carefully and kindly superintended by the white clergy; congregations of shiny faced peasants with their clean white aprons and sunbonnets catechised at regular intervals and taught to recite the creed, the Lord's prayer and the ten commandments—duty towards God and duty towards neighbor, surely such well tended sheep ought to be grateful to their shepherds and content in that station of life to which it pleased God to call them. True, like the old professor lecturing to his solitary student, we make no provision here for irregularities. "Questions must be kept till after class," or dispensed with altogether. That some do ask questions and insist on answers, in class too, must be both impertinent and annoying. Let not our spiritual pastors and masters however be grieved at such self-assertion as merely signifies we have a destiny to fulfill and as men and women we must *be about our Father's business*.

It is a mistake to suppose that the Negro is prejudiced against a white ministry. Naturally there is not a more kindly and implicit follower of a white man's guidance than the average colored peasant. What would to others be an ordinary act of friendly or pastoral interest he would be more inclined to regard gratefully as a condescension. And he never forgets such kindness.

Could the Negro be brought near to his white priest or bishop, he is not suspicious. He is not only willing but often longs to unburden his soul to this intelligent guide. There are no reservations when he is convinced that you are his friend. It is a saddening satire on American history and manners that it takes something to convince him.That our people are not "drawn" to a Church whose chief dignitaries they see only in the chancel, and whom they reverence as they would a painting or an angel, whose life never comes down to and touches theirs with the inspiration of an objective reality, may be "perplexing" truly (American caste and American Christianity both being facts) but it need not be surprising. There must be something of human nature in it, the same as that which brought about that "the Word was made flesh and dwelt among us" that He might "draw" us towards God.

Men are not "drawn" by abstractions. Only sympathy and love can draw, and until our Church in America realizes this and provides a clergy that can come in touch with our life and have a fellow feeling for our woes, without being imbedded and frozen up in their "Gothic antipathies," the good bishops are likely to continue "perplexed" by the sparsity of colored Episcopalians.

A colored priest of my acquaintance recently related to me, with tears in his eyes, how his reverend Father in God, the Bishop who had ordained him, had met him on the cars on his way to the diocesan convention and warned him, not unkindly, not to take a seat in the body of the convention with the white clergy. To avoid disturbance of their godly placidity he would of course please sit back and somewhat apart. I do not imagine that that clergyman had very much heart for the Christly (!) deliberations of that convention.

To return, however, it is not on this broader view of Church work, which I mentioned as a primary cause of its halting progress with the colored people, that I am to speak. My proper theme is the second oversight of which in my judgment our Christian propagandists have been guilty: or, the necessity of church training, protecting and uplifting our colored womanhood as indispensable to the evangelization of the race.

Apelles did not disdain even that criticism of his lofty art which came from an uncouth cobbler; and may I not hope that the writer's oneness with her subject both in feeling and in being may palliate undue obtrusiveness of opinions here. That the race cannot be effectually lifted up till its women are truly elevated we take as proven. It is not for us to dwell on the needs, the neglects, and the ways of succor, pertaining to the black woman of the South. The ground has been ably discussed and an admirable and practical plan proposed by the oldest Negro priest in America, advising and urging that special organizations such as Church Sisterhoods and industrial schools be devised to meet her pressing needs in the Southland. That some such movements are vital to the life of this people and the extension of the Church among them, is not hard to see. Yet the pamphlet fell still-born from the press. So far

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as I am informed the Church has made no motion towards carrying out Dr. Crummell's suggestion.

The denomination which comes next our own in opposing the proverbial emotionalism of Negro worship in the South, and which in consequence like ours receives the cold shoulder from the old heads, resting as we do under the charge of not "having religion" and not believing in conversion—the Congregationalists—have quietly gone to work on the young, have established industrial and training schools, and now almost every community in the South is yearly enriched by a fresh infusion of vigorous young hearts, cultivated heads, and helpful hands that have been trained at Fisk, at Hampton, in Atlanta University, and in Tuskegee, Alabama.

These young people are missionaries actual or virtual both here and in Africa. They have learned to love the methods and doctrines of the Church which trained and educated them; and so Congregationalism surely and steadily progresses.

Need I compare these well known facts with results shown by the Church in the same field and during the same or even a longer time.

The institution of the Church in the South to which she mainly looks for the training of her colored clergy and for the help of the "Black Woman" and "Colored Girl" of the South, has graduated since the year 1868, when the school was founded, *five young women*; and while yearly numerous young men have been kept and trained for the ministry by the charities of the Church, the number of indigent females who have here been supported, sheltered and trained, is phenomenally small. Indeed, to my mind, the attitude of the Church toward this feature of her work, is as if the solution of the problem of Negro missions depended solely on sending a quota of deacons and priests into the field, girls being a sort of *tertium quid* whose development may be promoted if they can pay their way and fall in with the plans mapped out for the training of the other sex.

Now I would ask in all earnestness, does not this force potential deserve by education and stimulus to be made dynamic? Is it not a solemn duty incumbent on all colored churchmen to make it so? Will not the aid of the Church be given to prepare our girls in head, heart, and hand for the duties and responsibilities that await the intelligent wife, the Christian

Glossary

Achilles	a hero of the ancient Trojan War
A. M. E. Church	the African Methodist Episcopal Church
Apelles	an ancient Greek painter
Bascom	probably Henry Bidleman Bascom, an early-nineteenth-century American Congregationalist minister
Bethany	a biblical village near Jerusalem
Byron and Wordsworth	George Gordon, Lord Byron and William Wordsworth, prominent English Romantic poets in the early nineteenth century
"Byron, like a rocket, shot his way upward …"	from Henry Bidleman Bascom's *Lectures on Mental and Moral Philosophy*
Catholic	traditionally, a reference to the universality of the Christian church, not to the Catholic denomination
Charlemagne	king of France and Holy Roman Emperor during the eighth and ninth centuries
Chaucer	Geoffrey Chaucer, a fourteenth-century British poet, author of *The Canterbury Tales*; the quotation is from the "Wife of Bath's Tale."
Chinese shoe	the Chinese practice of binding the feet of girls to prevent the feet from growing
Dr. Crummell	Alexander Crummell, a nineteenth-century pastor and abolitionist

Document Text

mother, the earnest, virtuous, helpful woman, at once both the lever and the fulcrum for uplifting the race.

As Negroes and churchmen we cannot be indifferent to these questions. They touch us most vitally on both sides. We believe in the Holy Catholic Church. We believe that however gigantic and apparently remote the consummation, the Church will go on conquering and to conquer till the kingdoms of this world, not excepting the black man and the black woman of the South, shall have become the kingdoms of the Lord and of his Christ.

That past work in this direction has been unsatisfactory we must admit. That without a change of policy results in the future will be as meagre, we greatly fear. Our life as a race is at stake. The dearest interests of our hearts are in the scales. We must either break away from dear old landmarks and plunge out in any line and every line that enables us to meet the pressing need of our people, or we must ask the Church to allow and help us, untrammelled by the prejudices and theories of individuals, to work aggressively under her direction as we alone can, with God's help, for the salvation of our people.

The time is ripe for action. Self-seeking and ambition must be laid on the altar. The battle is one of sacrifice and hardship, but our duty is plain. We have been recipients of missionary bounty in some sort for twenty-one years. Not even the senseless vegetable is content to be a mere reservoir. Receiving without giving is an anomaly in nature. Nature's cells are all little workshops for manufacturing sunbeams, the product to be *given out* to earth's inhabitants in warmth, energy, thought, action. Inanimate creation always pays back an equivalent.

Now, *How much owest thou my Lord*? Will his account be overdrawn if he call for singleness of purpose and self-sacrificing labor for your brethren? Having passed through your drill school, will you refuse a general's commission even if it entail responsibility, risk and anxiety, with possibly some adverse criticism? Is it too much to ask you to step forward and direct the work for your race along those lines which you know to be of first and vital importance?

Will you allow these words of Ralph Waldo Emerson? "In ordinary," says he, "we have a snappish criticism which watches and contradicts the opposite party. We want the will which advances and dictates

Glossary

Emerson	Ralph Waldo Emerson, nineteenth-century American essayist and poet
Feudal System	the medieval social and economic system based on the relationship between landowners and their vassals
"first the blade, then the ear, after that the full corn in the ear"	from the biblical book of Mark, chapter 4, verse 28
houri	beautiful maidens who, in Islamic belief, live in Paradise
"How much owest thou my Lord?"	from the biblical book of Luke, chapter 16, verse 5
"I am with you to the end of the world"	loosely quoted from the biblical book of Matthew, chapter 28, verse 20
"If thy brother smite thee on one cheek …"	from the biblical book of Matthew, chapter 5, verse 39
Ignatius Loyola	sixteenth-century Spanish saint and founder of the Jesuit order of Catholic priests
"In ordinary …"	from Ralph Waldo Emerson's 1870 essay "Courage"
Koran	the sacred scripture of Islam; often spelled Qur'an
M. Guizot	François Guizot, a nineteenth-century French historian; "M" means "monsieur"

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[acts]. Nature has made up her mind that what cannot defend itself, shall not be defended. Complaining never so loud and with never so much reason, is of no use. What cannot stand must fall; *and the measure of our sincerity and therefore of the respect of men is the amount of health and wealth we will hazard in the defense of our right*."

Glossary

Macaulay	Thomas Babington Macaulay, a nineteenth-century British historian
Madame de Stael	a Swiss author who lived in Paris and had a marked influence on French literature at the turn of the nineteenth century
Mahomet	an antique spelling of Muhammad, the prophet of Islam
Martin R. Delany	a black military officer in the Civil War
Mussulman	an antique variant of Muslim
Nazarene	Jesus Christ, from his birthplace at Nazareth
pari passu	Latin for "with equal step," often used to mean "hand in hand" or "part and parcel"
Phoebus	the sun
Sodom	an ancient biblical city believed to have been destroyed by God; often used as a metaphor for vice
summum bonum	Latin for "highest good"
Tacitus	Publius Cornelius Tacitus, an ancient Roman senator and historian
Wesleys	John and Charles Wesley, founders of Methodism in the eighteenth century
"Yet saints their watch are keeping …"	from a hymn by Samuel John Stone

Illustration of Jim Crow (Library of Congress)

John Edward Bruce's "Organized Resistance Is Our Best Remedy"

1889

"There is no just reason why manly men of any race should allow themselves to be continually outraged and oppressed by their equals."

Overview

"Organized Resistance Is Our Best Remedy" may not be one of John Edward Bruce's most recognized works, but it is considered his most militant. The speech, which was delivered to an all-black audience on October 5, 1889, in Washington, D.C., directly addresses the violence against African Americans that was rampant in the southern United States in the late nineteenth century. Bruce, a longtime journalist and black rights activist, took it upon himself to directly confront the issues of racial inequality and violence facing African Americans.

Bruce's "Organized Resistance" speech identifies aggression and force against African Americans as the white solution to the so-called Negro problem. He argues that the only way African Americans can combat southern white aggression is with organized resistance. The address was given in the fall of 1889 in the nation's capital, but little else is known about its origins. Bruce's speech stands alone as a work of confrontational oratory, calling upon those in the African American community to assert themselves and defend their basic human rights against the violence inflicted by whites in the South. "Organized Resistance Is Our Best Remedy" is part of a collection of Bruce's manuscripts housed at the New York Public Library's Schomburg Center for Research in Black Culture.

Context

The end of the nineteenth century was a time of heightened racial tensions between blacks and whites, especially in the southern United States. Violence against African Americans was a daily occurrence, and the overwhelming tone of the time was for blacks to adopt an accommodationist philosophy, that is, to accept their fate as second-class citizens, learn to live with it, and find a way to fit into a white society. The four decades prior to 1889 set the stage for increased racial animosity and in turn paved the way for African American activists such as Bruce to empower the black community and promote racial pride.

By the middle of the nineteenth century, the United States was teetering on the brink of civil war. The Mexican-American War, fought between 1846 and 1848, had ended with the acquisition of a large amount of land by the United States. The North and the South clashed over whether the new land should outlaw slavery or allow it. Staunch opposition by the South to the exclusion of slavery in new territories led to the Compromise of 1850, which established something of a middle ground on the slavery issue and delayed the war between the states for another decade. The legislation bundled into the Compromise of 1850 allowed California to enter the Union as a free state and ended the slave trade in Washington, D.C. To pacify the South, however, the compromise left the decision on whether to allow slavery in the territory that would later become the states of New Mexico, Nevada, Arizona, and Utah to the people who lived there. Another attempt to appease the southern states was the passage of the Fugitive Slave Act as part of the Compromise of 1850. The Fugitive Slave Act required the return of runaway slaves to their owners and imposed stiff punishments on antislavery advocates who harbored or assisted fugitives.

In 1852 the white abolitionist Harriet Beecher Stowe published her controversial novel *Uncle Tom's Cabin*, which promoted abolitionist thought, primarily in the North, and angered supporters of slavery in the South. The book only increased tensions between the two regions, adding momentum to the conflict that would ultimately become the Civil War. Two years later, in May 1854, the Kansas-Nebraska Act was passed. Similar in spirit to parts of the Compromise of 1850, the act allowed popular sovereignty to determine whether or not a territory would allow the practice of slavery within its borders. Settlers flooded the territories to sway the vote, and violence ensued. The decision for Kansas to be admitted to the Union as a free state did not come easily. The North and antislavery supporters were desperate to keep slavery out of any new states, while the South was determined to expand slavery north of the 40th parallel (previously considered, by the repealed Missouri Compromise, a border that slavery could not cross). At least three elections took place to determine the fate of Kansas. The first election was won by proslavery supporters, but the election was considered fraudulent by antislavery advocates. Antislavery supporters called for another election, again with no viable

Time Line

1850

■ **September**
The Compromise of 1850 is passed in the hope of quelling tensions between the North and the South.

1852

■ Harriet Beecher Stowe publishes *Uncle Tom's Cabin*, an antislavery novel that helps bring the abolitionist movement to the forefront of American society.

1854

■ **May 30**
The Kansas-Nebraska Act is passed by Congress, allowing settlers to decide by popular vote if a territory is to allow slavery within its borders.

1856

■ **February 22**
John Edward Bruce is born to slave parents in Maryland.

1857

■ **March 6**
The decision in *Dred Scott v. Sandford* is handed down by the U.S. Supreme Court, stating that slaves are not citizens and therefore are not guaranteed any freedoms or protection under the Constitution.

1861

■ **April 12**
The first shots of the Civil War ring out over Fort Sumter at Charleston Harbor, South Carolina, signaling the start of a war that will have lasting effects on African American rights in the United States.

1865

■ **January 31**
The Thirteenth Amendment to the U.S. Constitution is passed by Congress, outlawing slavery in the United States; however, it is not ratified by all the states until December 6.

■ **April 9**
The Civil War ends with Confederate general Robert E. Lee's surrender to General Ulysses S. Grant at Appomattox Court House, Virginia.

outcome as no proslavery supporters voted. Another election was called, ending much like the first; it was not until 1861 that an antislavery population became the majority in the territory, admitting Kansas as a free state. Nebraska would not be admitted into the Union as a free state until after the close of the Civil War. The Kansas-Nebraska Act exacerbated the increasingly growing split between the supporters of abolition and the proponents of slavery.

Throughout the mid-1800s the rights of African Americans were hazy at best. On March 6, 1857, the questionable status of blacks in the United States was clarified temporarily by U.S. Chief Justice Roger Taney's decision in the case of *Dred Scott v. Sandford*—a decision that served as a major setback for every person of color living in the United States at the time. Dred Scott was a slave who had traveled extensively with his owner and lived for nine years in free territory. Scott argued that his freedom was ensured throughout the country, even in slave states, after those nine years, based on the "once free, always free" philosophy. Much to the dismay of antislavery advocates throughout the nation, Taney declared that Scott had never been free and that he was not and never would be a citizen of the United States; thus, he had no protection under federal law. The opinion further stated that Congress did not have the power to outlaw slavery in newly acquired American territories.

It is important to note that Chief Justice Taney was a former slaveholder from Maryland and that five of the nine justices on the Supreme Court in 1857 were slave owners. Following Taney's decision, abolitionist sentiment swelled. Northerners questioned the validity of a decision handed down by a predominantly southern court said to represent the entire United States. The majority of Americans at the time lived in the northern states and territories, but the Supreme Court's decision makers hailed mainly from the South. Taney's opinion sparked public outcries against the Supreme Court and called into question the constitutionality of decisions made by a court that represented the interests of the minority in America at the time—the slaveholders. Many historians consider *Dred Scott v. Sandford* a pivotal case in race relations that virtually guaranteed the outbreak of the Civil War four years later.

The Civil War was among the bloodiest wars in American history, with enormous losses on both sides. In all, more than two hundred thousand soldiers died in combat; another four hundred thousand lost their lives to disease. The postwar South was devastated both by battle and by the realization that slavery was no longer an acceptable practice for the Union. Southern states that had originally seceded from the Union were required to create new state constitutions in order to qualify for readmission. The new constitutions mandated, among other things, clauses granting civil liberties to former slaves. John Edward Bruce made his "Organized Resistance Is Our Best Remedy" speech in 1889, nearly twenty-five years after the Civil War ended. By that time, the decision in *Dred Scott v. Sandford* had been overturned by the passage of the Thirteenth and Fourteenth Amendments to the U.S. Constitution. The former, passed in 1865, made slavery

illegal in the United States; the latter, ratified in 1868, guaranteed that any person born in the United States, regardless of color, was a natural American citizen whose rights could not be taken away—meaning that individual states in the South could no longer deny African Americans their freedom. Although the basic rights of freedom and citizenship seemed to be spelled out by these amendments, their impact was minimal.

The Reconstruction era, which lasted from the end of the war until 1877, brought several changes to the postwar South, including organizations such as the Freedmen's Bureau, with the intention of bettering the situation of formerly enslaved African Americans by providing basic necessities, health care, education, and work opportunities. Reconstruction was a relatively brief era in American history, and its conclusion was disastrous for African Americans, as it signaled the end of many social, political, and economic gains made by the black community. The presence of northern troops in the South after the Civil War was commonplace. It was the duty of Union troops to protect the rights of newly freed blacks and to suppress violence against blacks when local authorities failed to act.

In 1870 the Fifteenth Amendment was ratified, granting all men, regardless of race, the right to vote. Unfortunately, by the late 1890s states like Louisiana had created grandfather clauses that took away the voting rights of blacks who were not lineal descendants of men who had voting rights prior to 1867. The rights of blacks would experience another blow with the abolishment of the Freedmen's Bureau in 1872 and again five years later when federal troops began their withdrawal from the South. With the departure of northern troops, freed men and women no longer had federal protection of their civil rights or protection from race-motivated violence. With the exit of the last Union troops from the South, white supremacist leaders began their ruinous rise, taking over key political positions and influencing southern policies. It appeared as though the stigma of *Dred Scott v. Sandford* lingered in the South despite the passage of constitutional amendments to the contrary

The year 1877 ushered in the era of Jim Crow in the South, which would last until the 1960s. Jim Crow laws made up a discriminatory social code, backed up by legislation, through which blacks were deemed second-class citizens and racial segregation was considered necessary to maintain order. By the early 1880s documented violence against African Americans was becoming common, as Jim Crow laws were generally enforced by violence or the threat thereof by white authorities. Lynchings, burnings, and other random acts of terror were perpetrated against African Americans, and the number of these documented attacks increased into the twentieth century, with many more abuses never reported. It was against this backdrop of seemingly dashed hopes that John Edward Bruce gave his "Organized Resistance Is Our Best Remedy" speech. His goal was to rally African Americans toward self-defense and dispel the notion that people of color would always be second-class citizens in the United States.

Time Line

1868

■ **July 9**
The Fourteenth Amendment to the U.S. Constitution declares anyone of any color born in the United States to be an American citizen; along with the Thirteenth Amendment, this reverses the decision in the *Dred Scott* case.

1889

■ **October 5**
Bruce gives his speech "Organized Resistance Is Our Best Remedy" in Washington, D.C.

1897

■ **March 5**
Bruce cofounds the American Negro Academy (ANA) to protest accommodationism.

1901

■ Bruce publishes *The Blood Red Record: A Review of the Horrible Lynchings and Burning of Negroes by Civilized White Men in the United States*.

1911

■ In his greatest and most lasting achievement, Bruce cofounds the Negro Society for Historical Research with Arthur Schomburg.

1916

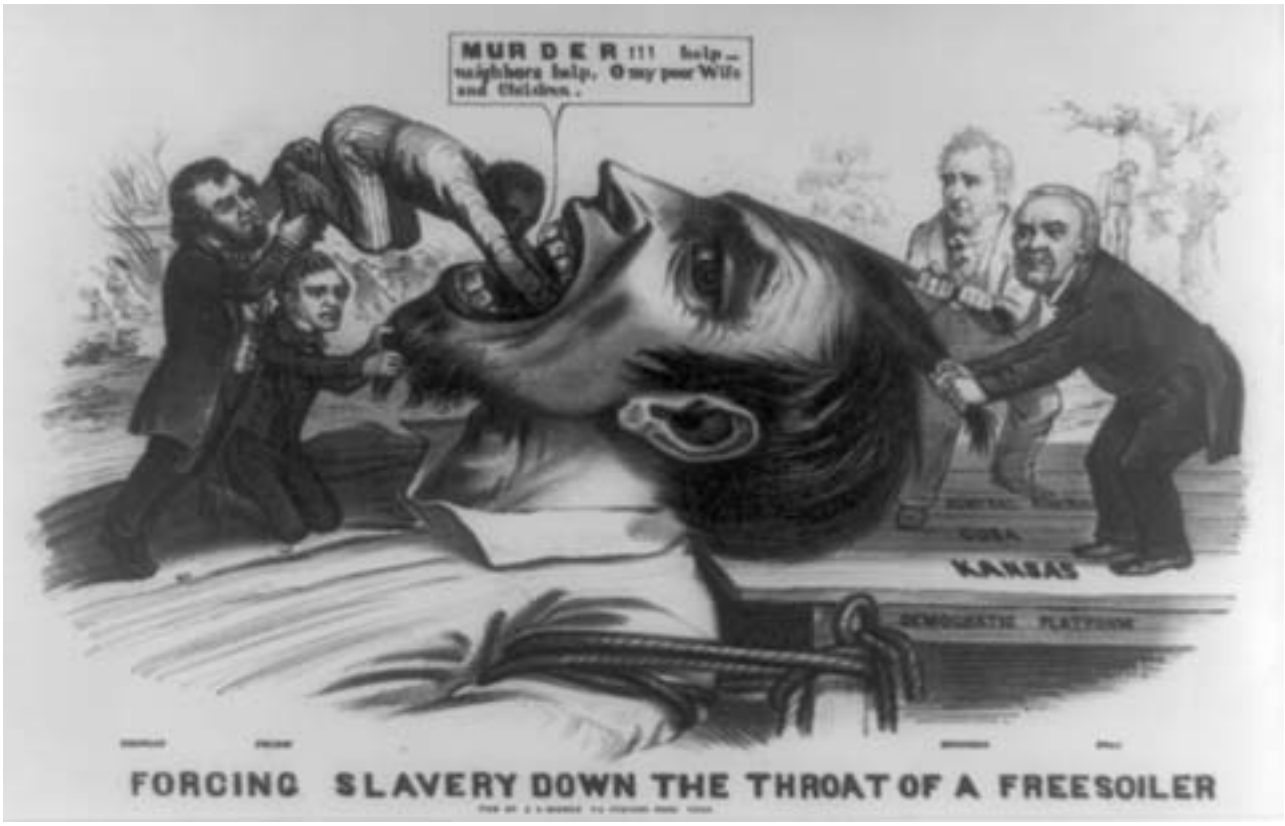
■ The Jamaican activist Marcus Garvey moves to the United States and establishes the Back to Africa movement and the Universal Negro Improvement Association; Bruce soon becomes one of Garvey's closest followers.

1924

■ **August 7**
Bruce dies.

About the Author

John Edward Bruce was born a slave on a plantation in Piscataway, Maryland, on February 22, 1856. His parents, Martha and Robert Bruce, were both slaves, and Robert was sold off to another owner when John was just a toddler, leaving a void in his son's life. Young Bruce, his mother, and his brother remained in bondage until 1861, when they moved to Washington, D.C. His brother died shortly thereafter. Bruce and his mother then lived for a short time in



Politicians forcing slavery down the throat of a Free-Soiler (Library of Congress)

Connecticut, where Bruce attended an integrated school for approximately two years. The two returned to Washington sometime between 1867 and 1868. Upon their return, Bruce attended the Free Library School and other schools funded by two post–Civil War agencies: the Freedman's Aid Society and the Freedmen's Bureau. While in Washington, Bruce took on odd jobs to help support his mother. He worked variously in a café, as a doorman, and as a utility worker for the father-in-law of the Union general Ulysses S. Grant. It was in Washington that Bruce first developed his hatred of racism and condemned those who failed to confront the problem directly.

In 1874 Bruce began his journalism career as a messenger at the Washington, D.C., bureau of the *New York Times*. A year later he published his first piece in *Progressive American*. Between 1879 and 1882, Bruce started up a number of newspapers, including the *Argus Weekly*, the *Sunday Item*, and the *Republican*. Throughout his fifty-year-long career as a journalist, he wrote for more than forty periodicals; he also served as editor of the Baltimore, Maryland–based newspaper the *Commonwealth*. The influential black civil rights activist and *New York Globe* editor Timothy Thomas Fortune gave him the nickname "Bruce Grit" because of the tenacity and courage displayed in his writings. The new pen name stuck, and as "Bruce Grit," Bruce contributed a regular column to Fortune's *Globe* and in 1887 became a special correspondent for a later incarnation of the *Globe* called the *New York Age*.

Throughout his adult life Bruce Grit used his writings to advance African American interests; he also joined organizations—the first Afro-American League, founded by Fortune in 1887, among them—that promoted the interests of black Americans. Unable to agree with the widely circulated stance of accommodation (a philosophy advocating patience with the very slow and gradual assimilation of free black Americans into the white world rather than overt resistance to racial oppression), Bruce often found himself in opposition to other leading African American activists of the time, including Booker T. Washington, the renowned black educator and founder of Alabama's Tuskegee Institute.

In the fall of 1889 Bruce delivered the speech "Organized Resistance Is Our Best Remedy" to an unknown audience in Washington, D.C. A little more than two decades later, in 1911, Bruce and his close friend Arthur Schomburg established the Negro Society for Historical Research in Bruce's New York home. Bruce and Schomburg's goal for the society was to promote African achievement and create an intellectual center for African Americans.

Bruce's belief and zeal in improving the lives of blacks led him to follow the ideas of the Jamaican-born black activist Marcus Garvey. Although he was at first apprehensive regarding Garvey's true motives for settling in the United States, Bruce was swayed by a 1919 speech Garvey gave in Harlem, a predominantly black section of New York City known for its vibrant literary, artistic, and intellectual atmosphere. Bruce be-

Essential Quotes

"Agitation is a good thing, organization is a better thing."

(Paragraph 1)

"The man who will not fight for the protection of his wife and children is a coward *and deserves to be ill treated. The man who takes his life in his hand and stands up for what he knows to be right will always command the respect of his enemy."*

(Paragraph 1)

"Submission to the dicta *of the Southern bulldozers is the basest cowardice, and there is no just reason why manly men of any race should allow themselves to be continually outraged and oppressed by their equals before the law."*

(Paragraph 2)

"The Negro must not be rash and indiscreet either in action or in words but he must be very determined and terribly in earnest, and of one mind to bring order out of chaos and to convince Southern rowdies and cutthroats that more than two can play at the game with which they have amused their fellow conspirators in crime for nearly a quarter of a century."

(Paragraph 4)

"Organized resistance to organized resistance is the best remedy for the solution of the vexed problem of the century."

(Paragraph 4)

came a part of the Garvey movement and later became known by Garveyites as the "Duke of Uganda." The title was given to Bruce by Garvey, who had referred to himself within his own movement as "President" and gave titles to those who were closest to the inner workings of the movement and those he felt made worthy contributions to furthering the black race. Garvey is probably best known for establishing the Back to Africa movement and founding the Universal Negro Improvement Association; Bruce aligned himself with both and remained an active supporter of Garvey until his death in 1924. Upon his death, the Universal Negro Improvement Association honored Bruce for his contributions to their cause by knighting him the Duke of Uganda. Bruce's funeral consisted of three ceremonies and was attended by over five thousand people, including Garvey, who gave the eulogy.

A militant African American journalist, Bruce left his mark on the literary world with his sharp, direct, and unapologetic writings and speeches on race in America. However, few people know about his speech titled "Organized Resistance Is Our Best Remedy"; it was delivered at an unspecified location in Washington, D.C., to what is believed to have been an all-black audience.

Explanation and Analysis of the Document

The speech "Organized Resistance Is Our Best Remedy" is brief but powerful. Historians note that Bruce's ideas on the practice of self-defense by African Americans were well thought out and his vocabulary carefully chosen. Delivered on October 5, 1889, at an unknown venue in Washington, D.C., the speech directly identifies the problem of violence against African Americans by southern aggressors and encourages the black community to fight organized resistance with organized resistance. Bruce acknowledges that there is strength in numbers among African Americans and foresees tangible progress in the movement for self-defense under the proper leadership. After arguing that force is a justified method of defense under ancient law, Bruce concludes his speech with great sincerity, stepping back from his impassioned plea to his audience and closing instead with a simple appeal to their rational side: "I submit this view of the question, ladies and gentleman, for your careful consideration."

By this time in his journalistic career, Bruce was well aware of the influence he wielded in the African American community. In the opening of his "Organized Resistance" speech, he tries to prepare his audience for the bold and shocking nature of what he is about to propose. He explains that the use of force, or "organized resistance," is justified in light of the white response to the "Negro problem." The term *Negro problem* refers to the dehumanizing and degrading view of freed blacks as nothing more than an ongoing source of difficulty for whites—a view shared by many of the nation's southern whites after the Civil War. Antiblack sentiment festered among parts of the white population in the South, leading especially violent whites to "deal" with the "Negro problem" by launching unprovoked attacks on African Americans. Barbaric terrorist tactics such as burnings and lynchings were continually perpetrated against black Americans to keep them from asserting their rights as full citizens of the United States. Bruce would take on the subject of lynching in his book *The Blood Red Record: A Review of the Horrible Lynchings and Burning of Negroes by Civilized White Men in the United States*, published in 1901.

Bruce anticipates opposition to his ideas by the audience. He notes that slaves were trained to be submissive; consequently, they often gave in to oppression from their owners, hoping for the situation to resolve itself. To these people, Bruce argues that African Americans have already tried the patient approach, to no avail. He then unveils his plan of organized resistance based on the concept of strength in numbers, pointing out that there must be millions of African Americans across the South, some known by government record and some unknown, since the southern states did not keep careful records of the numbers of African Americans within their borders. If millions of African Americans could be brought together under strong, well-directed leadership, explains Bruce, then black organized force against white organized force would produce "most beneficial results" for African Americans.

Beginning with the end of the first paragraph, Bruce addresses any naysayers opposed to the idea of using force to assert the natural rights of African Americans. Using language that almost chastises those who would fail to stand tall against their southern white aggressors, he states that those who are not willing to fight for their families are "cowards" who deserve harsh treatment. Bruce then appeals to the pride and honor of the men to whom he is speaking, stating that those who are willing to risk their lives for their beliefs will undoubtedly be respected. Bruce is calling upon blacks to stand united against southern hostilities, to risk death for their natural rights, and to bravely oppose their aggressors. This position is in direct defiance to the accommodationist stance taken by other African American activists of the time, most notably Booker T. Washington. Bruce is promoting aggressive action to achieve racial respect, rather than the widely circulated notion of merely accepting the circumstances that African Americans were forced to live with at this point in history.

The following two shorter paragraphs continue to provide justification for organized force as the only remaining option for African Americans. Bruce refers to the perpetrators of white oppression as "bulldozers" who use their self-proclaimed edicts to mow down people of color. He asserts that the very idea of African Americans being intimidated by southern attempts at coercion are ludicrous and reminds the audience that blacks and whites are equals under the law. The speech takes on a religious tone when Bruce states that "salvation" will be found only when African Americans come to terms with the idea of resistance. He notes that prospective leaders of the organized resistance must be "wise and discreet" and refers to the body of African Americans as one person, most likely to emphasize the unity inherent in an organized resistance movement.

In the last paragraph of the speech, Bruce gives his most tangible advice on implementing the call for resistance and provokes the audience with a plea for immediacy. Once again he emphasizes that African Americans must think and act as one in order to accomplish this most serious task of organized force. He also refers to the white antagonists in the speech as "rowdies and cutthroats." There is no doubt that these adjectives were chosen specifically to incite fury and disdain among the members of the audience, especially those who had been directly affected by white brutality. Bruce empowers his listeners by arguing that an organized African American resistance would be a formidable opponent to southern white aggressors who resort to terror and violence against law-abiding blacks.

Bruce includes additional justification in this last paragraph for the use of force against force. He cites the precedent of the biblical law of retribution, "an eye for an eye and a tooth for a tooth," stating that these laws were used in similar circumstances throughout history. It is at this point in the speech that Bruce's militant ideals become undeniable. According to Bruce, African Americans should demand equal justice for every wrong southern whites inflict upon them. The speech reaches its climax when he asserts that his formula for resistance will no doubt result in some

bloodshed. Bruce then concludes "Organized Resistance Is Our Best Remedy" by asking his audience to carefully consider his proposition.

Audience

Bruce's speech was delivered to an unidentified audience—most likely all African American and predominantly male—at an undisclosed meeting place in the nation's capital. In keeping with the majority of his writings, the speech was geared solely toward the black community in an effort to discourage their acceptance of accommodationist thought. It is likely that some members of the audience were former slaves who had been inculcated with the notion that they would never be able to reach social equality with whites and instead should be content to be tolerated by the white world. Bruce's message was that oppression and violence against African Americans could no longer be tolerated in the United States and that it was up to the black community to assert itself through organized resistance against southern whites.

Impact

Bruce's speech did not have a direct or immediate documented impact at the time it was delivered; however, it stands as a testament to the fearlessness the speaker exemplified in his pursuit of African American interests. He did not cower at the notion of resistance against brutality; rather, he brought the reality of white oppression and violence against African Americans to the fore. Shortly after this speech, Bruce published *The Blood Red Record*, a pamphlet providing detailed accounts of brutality against African Americans, including names of lynching victims and the methods of violence used against them. Some historians argue that Bruce's writings were overlooked because he did not write for the white community; his works, it has been noted, had "little to do with white history." This is quite evident in Bruce's speech: He clearly addresses the issue of violence against African Americans, but he acknowledges the "white" southerner only at the very end of his speech. By minimizing the use of the word *white* and making the role of the white southerner secondary, Bruce does indeed keep his speech out of "white history." His revolutionary call to resistance can be viewed as an inspiration to future black activists and as a precursor to the civil rights movement that began in the United States in the mid-1950s.

See also Slavery Clauses in the U.S. Constitution (1787); Fugitive Slave Act of 1850; *Dred Scott v. Sandford* (1857); Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870).

Further Reading

■ Books

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Gilbert, Peter. *The Selected Writings of John Edward Bruce: Militant Black Journalist*. New York: Arno Press, 1971.

Seraile, William. *Bruce Grit: The Black Nationalist Writings of John Edward Bruce*. Knoxville: University of Tennessee Press, 2003.

■ Web Sites

"Compromise of 1850." National Archives "Our Documents" Web site. http://www.ourdocuments.gov/doc.php?doc=27.

Questions for Further Study

1. Compare Bruce's proposals with the outlooks expressed by other African American writers of this era, such as Booker T. Washington, T. Thomas Fortune, John L. Moore, and, at the turn of the twentieth century, W. E. B. Du Bois.

2. Compare this document with the entry titled Ku Klux Klan Act. In what ways does the latter document reinforce Bruce's views?

3. In what ways did Bruce's speech foreshadow black militancy and the Black Power movement of the 1960s and 1970s (as represented, for example, by Stokely Carmichael's speech on Black Power at Berkeley or Eldridge Cleaver's "Education and Revolution")? What goals and methods did the movement share with Bruce?

"Dred Scott v. Sanford (1857)." National Archives "Our Documents" Web site.
http://www.ourdocuments.gov/doc.php?flash=false&doc=29.

"Kansas-Nebraska Act." National Archives "Our Documents" Web site.
http://www.ourdocuments.gov/doc.php?flash=false&doc=28.

—Kimberly R. Cook

Document Text

John Edward Bruce's "Organized Resistance Is Our Best Remedy"

I fully realize the delicacy of the position I occupy in this discussion and know too well that those who are to follow me will largely benefit by what I shall have to say in respect to the application of force as one of the means to the solution of the problem known as the Negro problem. I am not unmindful of that fact that there are those living who have faith in the efficacy of submission, who are impregnated with the slavish fear which had its origin in oppression and the peculiar environments of the slave period. Those who are thus minded will advise a pacific policy in order, as they believe, to effect a settlement of this question, with which the statesmanship of a century has grappled without any particularly gratifying results. Agitation is a good thing, organization is a better thing. The million Negro voters of Georgia, and the undiscovered millions in other Southern states—undiscovered so far as our knowledge of their number exists—could with proper organization and intelligent leadership meet force with force with most beneficial results. The issue upon us cannot be misunderstood by those who are watching current events.… The man who will not fight for the protection of his wife and children is a *coward* and deserves to be ill treated. The man who takes his life in his hand and stands up for what he knows to be right will always command the respect of his enemy.

Submission to the *dicta* of the Southern bulldozers is the basest cowardice, and there is no just reason why manly men of any race should allow themselves to be continually outraged and oppressed by their equals before the law.…

Under the present conditions of affairs the only hope, the only salvation for the Negro is to be found in a resort to force under wise and discreet leaders. He must sooner or later come to this in order to set at rest for all time to come the charge that he is a moral coward ….

The Negro must not be rash and indiscreet either in action or in words but he must be very determined and terribly in earnest, and of one mind to bring order out of chaos and to convince Southern rowdies and cutthroats that more than two can play at the game with which they have amused their fellow conspirators in crime for nearly a quarter of a century. Under the Mosaic dispensation it was the custom to require an eye for an eye and a tooth for a tooth under no less barbarous civilization than that which existed at that period of the world's history; let the Negro require at the hands of every white murderer in the South or elsewhere a life for a life. If they burn our houses, burn theirs, if they kill our wives and children, kill theirs, pursue them relentlessly, meet force with force everywhere it is offered. If they demand blood, exchange it with them, until they are satiated. By a vigorous adherence to this course the shedding of human blood by white men will soon become a thing of the past. Wherever and whenever the Negro shows himself to be a man he can always command the respect even of a cutthroat. Organized resistance to organized resistance is the best remedy for the solution of the vexed problem of the century, which to me seems practical and feasible, and I submit this view of the question, ladies and gentleman, for your careful consideration.

Glossary

Mosaic dispensation	the law of Moses

A caricature of Henry Cabot Lodge as a hedgehog with swords and bayonets labeled "U.S." replacing some of his bristles. (Library of Congress)

John L. Moore's "In the Lion's Mouth"

1891

"We want protection at the ballot box, so that the laboring man may have an equal showing."

Overview

A letter to the editor written by the Reverend John L. Moore of the Colored Farmers' National Alliance and Cooperative Union appeared in the *National Economist* newspaper, published in Washington, D.C., on March 7, 1891. It was reprinted from a newspaper in Jacksonville, Florida, that had featured an attack on leaders of the Colored Farmers' National Alliance for its support of the Lodge election bill—a proposed congressional bill that would provide for the federal supervision of elections in the South. Moore's letter is a testament to independent black leadership in the South during the post-Reconstruction period, a period often portrayed as a time of political inaction among southern African Americans. The letter, referred to here as "In the Lion's Mouth" (usually noted as simply "Moore's letter" in documents), is in reference to a metaphor used by Moore in which he saw African Americans and white independents increasingly placing themselves in a politically vulnerable situation by allowing professional politicians to represent their interests instead of fielding candidates of their own.

On June 26, 1890, the U.S. representative Henry Cabot Lodge of Massachusetts had introduced into Congress a federal elections bill that detractors quickly called the "force bill." Lodge's proposed legislation would allow federal authorities to oversee national elections if, in a district with at least five hundred people, fifty people signed a petition attesting to electoral fraud—such as tampering of ballot boxes, deliberately miscounting votes, or adding the votes of fictitious persons—all strategies regularly employed by officials to favor Democratic outcomes. Although the legislation technically applied only to federal elections, the bill would have also impinged upon state and local election practices. Given the history of Reconstruction in the South—in particular the strong federal control that white southerners felt they had been subjected to during that period of political and social recovery from the Civil War—the Lodge bill ignited fierce opposition among southern white Democrats, those most threatened by such federal supervision. Political opposition to the proposed bill included the Jacksonville newspaper editor to whom Moore addressed his letter. The House of Representatives passed the bill on July 2, 1890, but Democrats in the U.S. Senate, along with eight Republicans, would wind up defeating it the following year.

Context

The end of Reconstruction in 1877, marked by the withdrawal of a federal military presence in the South, saw black and white Republican legislators and officeholders systematically, sometimes brutally removed from office by white Democrats who sought to "redeem" the South from Republican authority. These "Redeemers," as they came to be known, also terrorized local black populations through paramilitary organizations such as the White Leagues and the Red Shirts, which served as adjuncts of the Democratic Party. Led by white planters, Democrats took office and reasserted their antebellum privileges and prerogatives. They would do so as the "Southern Democracy"—the network of courts, militias, sheriffs, and newspapers supporting redemption. Helping to ensure their control over black labor and much of the southern political economy was the system of sharecropping, a new economic arrangement in the region. Under this system, sharecroppers owed a share of their crop to landlords after each harvest, although cash rents were sometimes collected; in practice, the system led to debt peonage, de facto forced labor owing to the exorbitant interest rates applied to loans made by landowners to sharecroppers and tenants.

African Americans in the South would respond to their economic plight in various ways. Some sought to migrate to the West in search of new opportunities, while others attempted to fight back politically. Between 1886 and 1900—within a decade following the end of Reconstruction and before the consolidation of Jim Crow laws, which disenfranchised and segregated African Americans—tens of thousands of black farmers, sharecroppers, and agrarian workers mobilized to action. They demanded higher wages, debt relief, government regulation of railroads, a farmer subsidy program, the protection of civil and political rights, and electoral reform. The movement grew out

Time Line

1877

- Reconstruction ends with the removal from the South of the last federal troops stationed to enforce the era's legislation.

1883

- The Civil Rights Act of 1875, which guaranteed equal treatment in public accommodations, is ruled unconstitutional by the U.S. Supreme Court.

1886

- The Colored Farmers' National Alliance and Cooperative Union is formed in Houston County, Texas.

1890

- Several prolabor and profarmer Populist-oriented parties are established in the nation to compete against one or both of the major parties.
- **July 2**
  The Lodge election bill is passed in the House of Representatives.

1891

- **January**
  The Lodge bill is defeated in the Senate after a southern Democratic filibuster.
- **March 7**
  The *National Economist* reprints a letter from the Reverend John L. Moore to the editor of a newspaper in Jacksonville, Florida, in which he responds to criticisms of the Colored Farmers' National; Alliance for its support of federal oversight of national elections.

1892

- **November**
  In the presidential election, the People's (or Populist) Party candidate James B. Weaver receives over one million votes.

1894

- A Republican-Populist coalition wins control of the North Carolina state legislature.

of established networks of black benevolent associations, fraternal orders, and churches that served as centers for the recruitment, education, and leadership training of African Americans in the years following Reconstruction. Black Populism—a broad-based independent political movement that took shape to combat Jim Crow—gained more definitive organizational form with the creation of various mutual aid societies and labor unions, including the Colored Agricultural Wheels, the Knights of Labor, the Cooperative Workers of America, the Farmers Union, and the Colored Farmers' National Alliance.

In 1890 the movement began to shift toward the electoral arena as it became clear that electoral action was necessary to make the policy changes that were sought. African Americans helped to establish and then grow the People's (or Populist) Party in coalition with white independents in order to challenge Democratic Party domination in the South. African Americans also ran insurgent and independent candidates for office and participated in "fusion" campaigns with the Republican Party, whereby two parties would share a slate of candidates. Most African Americans were loyal to the Republican Party at this time; it was Abraham Lincoln's party, the party of emancipation. Some candidates backed by Black Populists won; certain concessions and reforms were even briefly put into place, including election reforms and greater funding for public education, as in North Carolina and eastern Texas.

Lodge, a conservative northern Republican, saw federal election oversight as a way for Republicans to compete more effectively against Democrats in the South. Leaders of the Colored Farmers' National Alliance saw the bill as an important way for African Americans to regain a political voice in the South. The *National Economist*, interested in disseminating reform-oriented press by republishing articles that appeared in newspapers with smaller circulations or by highlighting certain articles, would help spread one among these black leaders' views on the importance of the bill.

About the Author

The Reverend John L. Moore was an African Methodist Episcopal minister from Crescent City, in Putnam County, northern Florida. While Moore's date of birth is unknown, he states in his letter to the editor that he had lived in various parts of the South since 1863. He may have come from the North as a young man as part of Union army efforts to defeat the Confederacy during the Civil War. Moore may have been named after the American Revolutionary War veteran John Moore, who served as skipper of the sloop *Roebuck*. The skipper famously struck a British officer for insolent treatment and, as a result, served an eighteen-month prison sentence. The Black Populist Moore may have captured some of this same rebellious spirit in his letter.

Moore eventually settled in Crescent City, about sixty miles south of Jacksonville, where his letter first appeared. Crescent

City is notable for being the birthplace of the well-known black labor organizer and civil rights leader A. Philip Randolph, founder of the Brotherhood of Sleeping Car Porters—the first African American union chartered by the American Federation of Labor. Given the small size of the Crescent City black community, it is likely that Moore personally knew Randolph's parents and extended family. According to census records, there were 554 people living in Crescent City in 1890. Of the city's total population, over one-third, or approximately 190 people, were African American.

Like other key black leaders of the era, Moore cultivated his skills as an organizer, orator, and writer via the black church. Southern black churches not only served as seedbeds of African American political activity from the antebellum era through Reconstruction but also provided much of the organizational impetus and leadership training in political movements thereafter. In his time, Moore was joined by a number of other black ministers in the Black Populist movement, including the Reverends Walter A. Pattillo of North Carolina, Henry S. Doyle of Georgia, and John B. Rayner of Texas. Moore thus formed part of a post-Reconstruction black leadership that continued the struggle for black civil and political rights that had begun with the dispersion of Africans to North America since the early seventeenth century.

Moore was elected superintendent of the Putnam County Colored Farmers' Alliance in 1889, became a member of the Florida People's Party statewide executive committee, and served as a national delegate to the series of conventions leading up to the formation of the national People's Party in July 1892. As late as 1899, Moore served as secretary of the African Methodist Episcopal Church's conference held in Orlando, Florida. His political activities following the collapse of Black Populism and the advent of Jim Crow are unknown.

Time Line

1896	■ **May 18** The U.S. Supreme Court ruling in *Plessy v. Ferguson* establishes the "separate but equal" doctrine.
1898	■ **November 10** In the Wilmington Insurrection, the North Carolina legislature is overtaken by white supremacist Democrats; other attacks of blacks by whites follow.
1900	■ Jim Crow policies are put into effect across much of the South to legally disfranchise and segregate African Americans.

Explanation and Analysis of the Document

In this letter to the editor, Moore expresses his indignation at an electoral process in the South so fraudulent that federal supervision of elections is necessary. The proposed Lodge bill strongly united African Americans—black leaders of the Colored Farmers' National Alliance in particular—in opposition to southern Democrats, who largely controlled the electoral process in the region.

♦ Paragraph 1

Moore rejects the idea that the Colored Farmers' National Alliance (known as the "black Alliance") is seeking to perpetuate national "Republican rule"; rather, he emphasizes the need for election supervision across the nation. Moore uses an example provided by the national executive committee member Alonzo Wardall of the South Dakota white-led Southern Farmers' Alliance (termed the "white Alliance"). Wardall reported to the Colored Farmers' National Alliance at the separate meetings of black and white Alliances held in Ocala, Florida, in December 1890 on the kinds of election fraud taking place in his Republican-majority state. If the Republicans, Moore suggests, were willing to carry out such egregious forms of vote miscounting in South Dakota with the advent of the People's Party (an excess of ten thousand votes counted in favor of Republicans over the number of people actually registered in the state), what kind of fraud would the Democratic Party commit in the South? Moore notes specific kinds of election manipulation already used by Democrats in the South, including the refusal by party-appointed election registrars to permit the inspection of ballot boxes and the notorious "eight-ballot box system," which required separately marked ballot boxes at the polls for each office. The eight-box law was designed to induce illiterate voters to cast their ballots incorrectly, thereby providing a legal pretext for invalidating many black votes.

Moore goes on to challenge the idea that federal supervision would not benefit African Americans. While he makes clear that the proposed bill is "not satisfactory to us throughout as it reads," he also asserts that black leaders are seeking "something guaranteeing every man a free vote and an honest count." Alliance delegates unanimously supported the bill at their Ocala conference. Meanwhile, Southern Farmers' Alliance delegates went on record strongly opposing the proposed bill. It was ultimately defeated in the Senate in January 1891.

♦ Paragraph 2

Moore raises an objection to the characterization that the Colored Farmers' National Alliance's support for the Lodge bill is an instance of their "antagonizing the races"—that is, creating animosity between black and white people. Here Moore turns the tables on white newspaper editors and accuses them of not speaking out against the provocative actions of southern white people who seek to create discord among black and white people: "I never hear you, Mr.

Thomas E. Watson of Georgia (Library of Congress)

Editor, nor any of the other leading journals, once criticise their action." Contrary to the accusation that he and other black leaders were provoking discord, Moore had actually been making overtures to white alliance delegates on the basis of shared economic concerns. As the minister notes, "We are aware of the fact that the laboring colored man's interests and the laboring white man's interests are one and the same." Black and white farmers shared concerns over high interest rates and transportation costs, while black and white agrarian laborers shared concerns over low wages.

The theme of shared economic interests between black and white southerners expressed by Colored Farmers' National Alliance leaders such as Moore prefigured the famous statement made by the white Georgia Populist Thomas E. Watson regarding the shared plight of black and white farmers. In October 1892 Watson would publish in the progressive monthly *Arena* an article titled "The Negro Question in the South," in which he declared, "You are kept apart that you may be separately fleeced of your earnings. You are made to hate each other because upon that hatred is rested the keystone of the arch of financial despotism which enslaves you both."

Making note of the significant number of African Americans who constitute the nation's workforce, especially those involved in "agricultural pursuits," Moore offers an independent political perspective, one which is distinctly nonpartisan: Black Populists will vote for whoever will advance the interests of farmers and laborers, be they Republicans, Democrats, or People's Party candidates. He offers here a substantially nuanced view of black political intent and action, one which runs counter to the notion that African Americans solely supported Republican candidates. It is a more tactically sophisticated view than the one presupposed of African Americans reflexively following the Republican Party.

♦ Paragraph 3

In this paragraph Moore locates the contemporary struggles of African Americans within the larger historical framework. He notes the long struggle for black liberation, reminding his readers that Africans were initially brought to North America as slaves in the early seventeenth century, but is careful not to speak of violent forms of resistance to slavery. Instead, he uses more passive language and phrasing, stating, for instance, how four million African Americans were freed from the "yoke of bondage" by 1865, and discusses the ways in which black men and women cared for white southerners during the course of the Civil War. His emphasis is on African Americans' seeking or exercising their rights as citizens, and he takes a jab at those who labeled African Americans who asserted their rights during Reconstruction "desperadoes"—that is, criminals.

While Moore states that Reconstruction was a failure, he does so not merely for pragmatic purposes—to appeal to delicate southern white sensibilities—but to make the point that in Reconstruction's wake African Americans have become fully capable of the duties and responsibilities that come with rights such as to vote and to hold public office. In other words, Moore is not just appealing to white readers by calling Reconstruction a failure; he is pointing to the subsequent progress made by African Americans through black churches and education toward the end of creating an independent citizenry. He underscores the fact that "political advantages"—such as the privilege to vote—count for little "where the ballot is unprotected." In making this last point, he demonstrates the often fine line southern black leaders had to navigate between two very different worlds: one black and poor, the other white and rich.

♦ Paragraph 4

Moore's reference to Governor Benjamin Tillman of South Carolina speaks to the often contradictory position that black leaders of the Colored Farmers' National Alliance faced in dealing with political forces in the South. Although Tillman was an open opponent of black political rights—having himself led physical attacks on African Americans during Reconstruction—he nevertheless publicly spoke out against the lynching of African Americans in 1890. For this public condemnation of lynching, the Colored Farmers' National Alliance in South Carolina endorsed his gubernatorial candidacy, even as they sought other electoral options. Tillman won the election that year with the black Alliance's support; for a time, the governor even used his authority to curb lynching. However, as Moore notes, Tillman also spoke of the "natural and inevitable" nature of white supremacist violence.

Almost as a way of assuaging white fears of potential black interest in social equality, Moore makes plain that "we are not clamoring for social relations with the whites either. We do not want to eat at their tables, sleep in their beds, neither ride in the cars with them; but we do want as good fare as the whites receive for the same consideration." In other words, the minister, reflecting the wider views of Black Populists, sought political equality while leaving social equality aside.

Moore proceeds to present the words of the Missouri white Alliance leader R. M. Hawley to articulate the shared position between the Colored Farmers' National Alliance and the midwestern white Alliance on issues of election reform. The abolishment of party primaries was viewed as a key way of ridding "politics of party strife and all its concomitant evils" in order to "let in the clear light of the science of economical government." The language highlights the need to move toward a more transparent system of elections, one that not only accurately represents voters' interests but also poses a more efficient way of governing. For Moore, "non-partisanism"—where neither "party favorites" are protected nor "secret caucuses by members of Congress or members of the legislatures" permitted—was, in essence, the "natural" goal.

♦ Paragraph 5

Moore's religious outlook explicitly fuses with political commentary in the penultimate paragraph of his letter with his metaphor of "the lion's mouth." The reference is a biblical one, to the pastoral epistles. These epistles are addressed to the disciples and helpers of Paul, in this case, Timothy. The passage in question (2 Timothy 4:17–18) deals with the running of the Christian church and the care of the religion's faithful. Here, Paul conveys to Timothy that one should hold firmly to one's faith in order to endure suffering—to be "rescued from the lion's mouth" by the Lord.

While the metaphor Moore uses is directed at the Southern Farmers' Alliance's intransigence—specifically, their allowing exiting politicians to speak on behalf of the alliances (a form of political co-optation on the part of the major parties)—he is also warning of what could happen if reformers do not carve out a more independent political path. By conceding further to the Democratic Party in the South, in particular, Moore suggests, political reformers and their vision of a more democratic electoral process are likely to be destroyed.

♦ Paragraph 6

The final paragraph is a call for unity with those white Alliance members who may be open to working in political cooperation with Black Populists. Moore notes the numeric strength of the Colored Farmers' National Alliance in the South and its potential force at the ballot box should it be joined with the votes of white independents. Moore's tone turns decidedly reconciliatory here as he writes, "We are willing and ready to lay down the past." He ends by invoking a sweeping image of political reform for those across not only the South but the North and West as well. For Moore, at stake is nothing short of a more participatory and representative electoral process in the South and in the nation as a whole. Only with such an open and equitable system can African Americans ultimately enjoy the achievement of "equal rights to all and special privileges to none"—that is, not only as a motto but, indeed, as a reality.

Henry Cabot Lodge (Library of Congress)

Audience

Moore's letter to the editor reached both black and white reading and listening audiences (as newspapers were often read aloud in both black and white communities for the benefit of the illiterate). The letter was circulated first through the Jacksonville newspaper in which it originally appeared and then through the more widely circulating *National Economist*, which variously featured articles written by Black Populist leaders. Sections of the letter were then picked up by other publications, including in book form, as in the chapter "The Race Problem" by J. H. Turner, the national secretary and treasurer of the National Farmers' Alliance and Industrial Union, in *The Farmers' Alliance History and Agricultural Digest*, edited by Nelson A. Dunning. It is likely that parts of Moore's letter were also published in one or more of the Colored Farmers' Alliance's newspapers, including the *Texas National Alliance*, the *South Carolina Alliance Light*, or the *North Carolina Alliance Advocate*. However, none of these local papers has survived.

Essential Quotes

"In all the discussions of the whites … I never hear you, Mr. Editor, nor any of the other leading journals, once criticise their action or say they are antagonizing the races …. But let the negro speak once, and what do we hear? Antagonizing races, negro uprising, negro domination, etc. Anything to keep the reading public hostile toward the negro."

(Paragraph 2)

"As members of the Colored Farmers Alliance we avowed that we were going to vote with and for the man or party that will secure for the farmer or laboring man his just rights.… We want protection at the ballot box, so that the laboring man may have an equal showing.… We are aware of the fact that the laboring colored man's interests and the laboring white man's interests are one and the same."

(Paragraph 2)

"I for one have fully decided to vote with and work for that party, or those who favor the workingmen, let them belong to the Democratic or Republican, or the People's party. I know I speak the sentiment of that convention, representing as we do one-fifth of the laborers of this country, seven-eighths of our race in this country being engaged in agricultural pursuits."

(Paragraph 2)

"We know and you know that neither of the now existing parties is going to legislate in the interest of the farmers or laboring men except so far as it does not conflict with their interest to do so."

(Paragraph 2)

"The action of the Alliance in this reminds me of the man who first put his hand in the lion's mouth and the lion finally bit it off; and then he changed to make the matter better and put his head in the lion's mouth, and, therefore, lost his head. Now, the farmers and laboring men … lost their hands, so to speak; now organized in one body or head, if they give themselves over to the same power that took their hand, it will likewise take their head."

(Paragraph 5)

Impact

While it is unclear the extent to which Moore's letter had an impact on political circumstances at the time, his letter is an indication of the kind of forthright support that existed among African Americans for the Lodge bill. The Colored Farmers' National Alliance's support for the bill may have swayed some northern white Alliance members to lend their endorsement to the bill, while it likely antagonized southern white Alliance members further, as the latter came out strongly against endorsing the bill. Outside black and white Alliance circles, the letter may be best seen as one among a number of voices for and against the notion of federal supervision of elections in the South. Not until the Voting Rights Act of 1965 would such a federal measure be enacted.

Moore's letter demonstrates how African Americans demanded civil and political rights in the decades following the collapse of Reconstruction; it also shows the ways in which Black Populists reached out to their white counterparts based on mutual economic and political interests to carve out an independent political course of action. In the final decade of the nineteenth century, by voting for third-party candidates or insurgent candidates or by supporting individual independent candidates, Black Populists challenged political convention, which looked at African Americans in the South as passive bystanders or victims of white men (either white Democrats or white independents) struggling among themselves to gain or retain power in the region.

Moore's letter to the editor was expressive of, if not a key factor in, African Americans' continuing to build a movement of their own—that is, one separate yet tactically connected to the white-led Populist movement. Moore was among several leading Black Populists, including Pattillo of North Carolina, Doyle of Georgia, Rayner of Texas, and William H. Warwick of Virginia, who figured prominently in establishing and helping to advance an independent political strategy. The concept of a national people's party had been forged at a meeting of black and white Alliances in St. Louis in December 1889. A series of national meetings followed over the next two and a half years, which included a number of reform-oriented and labor organizations. Meetings, most of which were attended by Moore, were held in Ocala in December 1890 as well as in Washington, D.C., in January 1891; Cincinnati, Ohio, in May 1891; and St. Louis again in February 1892. The series culminated in a national nominating convention for the newly established People's Party held in Omaha, Nebraska, on July 4, 1892.

Although historians have tended to view African Americans as a subcomponent of the white-led Populist movement of the same era, there is increasing consensus that black leaders formed their own movement, with its own organizations, particular tactics, and leadership, coming out of the experiences of African Americans in postemancipation society. However, by the late 1890s, and mostly under Democratic-led attacks—from propaganda campaigns that warned of "negro domination," as noted in Moore's letter to the editor, to outright physical attacks on and murder of black leaders—Black Populism would collapse. Among scholars of Populism, Moore's letter to the editor was initially seen (if at all) as an instance of African Americans' complaining about their mistreatment, albeit with an eye toward alliance making; it is now more readily seen as a letter that establishes the extent to which black leaders asserted their own independent voices in promoting the interests of African Americans in the South.

See also *Plessy v. Ferguson* (1896).

Questions for Further Study

1. Why were southern Democrats so vehemently opposed to the election bill introduced by Henry Cabot Lodge?

2. Summarize the conflict between Democrats and Republicans in the post-Reconstruction era. What impact did this conflict have on African Americans?

3. How did African Americans respond to the economic difficulties they faced in the post-Reconstruction era? What specific actions did they take? What role did the Colored Farmers' National Alliance play in fostering African American aspirations?

4. Moore wrote: "We are aware of the fact that the laboring colored man's interests and the laboring white man's interests are one and the same." To what extent is this view similar to that expressed by T. Thomas Fortune in "The Present Relations of Labor and Capital" (1886)? Do the views of the two writers differ in any significant ways?

5. Why did the Colored Farmers' National Alliance support the candidacy of Benjamin Tillman as governor of South Carolina despite Tillman's open racism?

Further Reading

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—Omar H. Ali

Document Text

John L. Moore's "In the Lion's Mouth"

March 7, 1891

Upon perusing said article I found it to be an attack upon the National Colored Farmers Alliance and Co-operative Union on their action while in session at Ocala, Fla., in passing resolutions asking Congress to pass the federal election bill now pending before the Senate of the United States. Now, as I was a member of that body, and you have taken us to task because of our action, I hereby reply and only ask that you will do me the kindness of publishing my reply, as it may be the means of you and others seeing us just as we are. I notice you, as others, call it the force bill, and you remarked, "How the force bill could benefit the negro even in the slightest degree passes comprehension. All its advocates expect of it is to help perpetuate Republican rule in this country." I can say you or any one else are sadly mistaken if you think the object of the National Colored Farmers Alliance was to perpetuate Republican rule in this country if that rule is to be as it has been in this county for several years. But our object was to have protection of the ballot boxes, because none sees the need of reform more than we do. How is that reform to be brought about while the present parties have control of the ballot boxes (unless it comes through the now existing parties, which is not likely if their past history argues anything)? The Hon. Alonzo Wardall, of Huron, South Dakota, informed us while at Ocala, that in his State the Republicans were 22,000 majority, but when the independent party sprang up and votes were counted at the last election there were 10,000 more votes than registered voters, which, of course, called for a contest, and when a contest comes up under those circumstances those who are in sympathy with their kind, and the other fellows must stay out. That was in a State largely Republican; and should the reformist begin to operate in our own sunny land of flowers, or in any State that can boast of her Democratic fidelity, they would meet with the eight-ballot box system and tickets spread on top at their proper places for the Democratic voters, and the other fellows would have to do the best they could; and if they voted right they would not be allowed a chance as inspectors at the ballot box, and the result would be increased Democratic majorities. And while the federal election bill is not satisfactory to us throughout as it reads, yet we want something guaranteeing every man a free vote and an honest count. The federal election bill being the only thing that ever emanated from our halls of legislation that pointed in that direction, we, in body assembled as representatives of our race, asked Congress to pass it.

In all the discussions of the whites in all the various meetings they attend and the different resolutions, remarks and speeches they make against the negro, I never hear you, Mr. Editor, nor any of the other leading journals, once criticise their action or say they are antagonizing the races, neither do you ever call a halt. But let the negro speak once, and what do we hear? Antagonizing races, negro uprising, negro domination, etc. Anything to keep the reading public hostile toward the negro, not allowing him the privilege to speak his opinion, and if that opinion be wrong show him by argument, and not at once make it a race issue. As to the race question, I do not care a fig. I work and attend to my own business. I desire, with the rest of my race who do the same, to have some rule to go upon (and I am quite colored), which is something many of my white brethren can not say, to which my race can easily testify from the number of tramps of the dominant race that frequent our doors. I can not say if many of the Republican members of Congress may be expecting to perpetuate their rule; we do not know; but as members of the Colored Farmers Alliance we avowed that we were going to vote with and for the man or party that will secure for the farmer or laboring man his just rights and privileges, and in order that he may enjoy them without experiencing a burden. We want protection at the ballot box, so that the laboring man may have an equal showing, and the various labor organizations to secure their just rights, we will join hands with them irrespective of party, "and those fellows will have to walk." We are aware of the fact that the laboring colored man's interests and the laboring white man's interests are one and the same. Especially is this true at the South. Anything that can be brought about to benefit the workingman, will also benefit the negro more than any other legislation that can be enacted. The Democratic party may get in power; the negroes may all vote with them; they may mete out to them offices according to representation (which I know they would not do). The educated and better living

among the colored class would not only get favors (this would be right, as an ignoramus, white or black, has no business with an office). The majority would not be benefited. Or, if the Republican party remains in power and should come to do the same (which they never have, and I know never will do), the result would be the same. So I for one have fully decided to vote with and work for that party, or those who favor the workingmen, let them belong to the Democratic or Republican, or the People's party. I know I speak the sentiment of that convention, representing as we do one-fifth of the laborers of this country, seven-eighths of our race in this country being engaged in agricultural pursuits. Can you wonder why we have turned our attention from the few pitful offices a few of our members could secure, and turned our attention toward benefiting the mass of our race, and why we are willing to join our forces with those who are willing to legislate that this mass may be benefited? And we ask Congress to protect the ballot-box, so they may be justly dealt with in their effort to gain that power. We know and you know that neither of the now existing parties is going to legislate in the interest of the farmers or laboring men except so far as it does not conflict with their interest to do so.

I see, Mr. Editor, where you speak of negro domination in our Southland. I can say that I have been in the South for twenty-eight years and have lived in *six* different Southern States, and I have never found the negro in the majority, but the same docile creature, ready to bow to his old master under most every circumstance. The few who did claim rights as citizens of the United States under existing laws, were treated by the Southern white and the Northern white men who settled in the South, in too many instances, as desperadoes. Another question many Southern white men are forever agitating is that their wives and daughters are in danger in the South among the negroes. To this I say, Bah! Who looked after the white man's family in the South before the war when he was absent? Who was left at home to raise the product, do the affairs of the home and look after the families, while the master senior or master junior were battling to hold those rights which entitled them to keep those same obedient servants as bondsmen, to educate their children, cultivate their land, and do their bidding? Look, for instance, we were brought here. I want you to mark that point. "Brought here," never came of ourselves. In 1620 made slaves, and continued in that condition without a stroke of national legislation against it until 1863, and when the matter was finally settled in 1865 there were 4,000,000 of us turned loose from under the yoke of bondage, for which we give God praise. Yet we acknowledge that the reconstruction act was a failure. You might ask, why do I say so? Simply because it brought about an unnatural condition of things. Political influence placed weakness on the top of power, and power did what it always will do-shook it off. Now, we are procee[d]ing the right way. Starting at the bottom, we are laying a foundation in moral, intellectual and financial strength, and so sure as God is God and law is law—I mean natural law—whenever these come to the top we will have come to stay. According to my observation the church and the schoolhouse have the true solution of the destiny of our people, at least for present. There is never any trouble about recognizing and respecting those who, by proper acts, command recognition and respect. However long it requires to do this, it is the only way out of the difficulty. Political advantages can not count for much when the people are weak and dependent, and where the ballot is unprotected.

As to Governor Tillman's inaugural address, to which you referred, we have heard the like for years; yet we find the party in sympathy with the negroes from both parties always ends with the last sound of the inaugural address, while the hostile portion always remains in force. You further quoted Governor Tillman as saying, "retaliation and injustice had been practiced on the blacks by the whites; but said it was natural and inevitable," and that is the expression of our white brethren everywhere. Whatever is done to the negro is "natural and inevitable." Again in your editorial of the same issue headed, "The Last Struggle," your quotation reads: "The negroes North and South should be taught that this is always to be a country ruled by white men." We will never have anything against the white men for that; for according to our privileges I think we have helped the white men all they could expect under our condition; and we are not clamoring for social relations with the whites either. We do not want to eat at their tables, sleep in their beds, neither ride in the cars with them; but we do want as good fare as the whites receive for the same consideration. As to the Alliance, in the language of Hon. R. M. Hawley, of Missouri, we believe this to be its mission:

"No protection to party favorites; no force bills to keep up party and sectional prejudices; no secret caucuses by members of Congress or members of the legislatures to consider matters of legislation. Let these be abolished by law. Also abolish all party primary elections and party conventions for nominating

Document Text

candidates, and provide for a people's primary election, where every voter can write on his ticket the name of any person he prefers for any office from president down to constable. Let the proper county. State, and national officers, who shall be designated by law, receive the returns, count up and authorize the result, which shall be that the candidate receiving the highest number of votes and the one receiving the next highest number for each office shall be declared the contending candidates for final election. This would empty politics of party strife and all its concomitant evils, and lead to the representation of the leading industry of each district in Congress, and county in the State legislatures. Party blindness would be removed and let in the clear light of the science of economical government. I believe that nonpartisanism will not reach its full and natural results till these things are accomplished; and this I believe to be the mission of the Alliance."

But, Mr. Editor, can we do anything while the present parties have control of the ballot box, and we (the Alliance) have no protection? The greatest mistake, I see, the farmers are now making, is this: The wily politicians see and know that they have to do something, therefore they are slipping into the Alliance, and the farmers, in many instances, are accepting them as leaders; and if we are to have the same leaders, we need not expect anything else but the same results. The action of the Alliance in this reminds me of the man who first put his hand in the lion's mouth and the lion finally bit it off; and then he changed to make the matter better and put his head in the lion's mouth, and, therefore, lost his head. Now, the farmers and laboring men know in the manner they were standing before they organized; they lost their hands, so to speak; now organized in one body or head, if they give themselves over to the same power that took their hand, it will likewise take their head.

Now, Mr. Editor, I wish to say, if the laboring men of the United States will lay down party issues and combine to enact laws for the benefit of the laboring man, I, as county superintendent of Putman county colored Farmers' Alliance, and member of the National Colored Farmers, know that I voice the sentiment of that body, representing as we did 750,000 votes, when I say we are willing and ready to lay down the past, take hold with them irrespective of party, race, or creed, until the cry shall be heard from the Heights of Abraham of the North, to the Everglades of Florida, and from the rock-bound coast of the East, to the Golden Eldorado of the West, that we can heartily endorse the motto, "Equal rights to all and special privileges to none."

Glossary

Golden Eldorado of the West	a metaphor for a place where wealth, such as gold, could be acquired easily and quickly
Governor Tillman	Benjamin Tillman, the openly racist governor of South Carolina in the early 1890s and, later, a U.S. senator
Heights of Abraham of the North	a landform near Quebec, Canada
Hon. Alonzo Wardall	a member of the National Executive Committee of the Farmers' Alliance
"in the lion's mouth"	an allusion to 2 Timothy 4:17–18, where Paul conveys to Timothy that one should hold firmly to one's faith in order to endure suffering—to be "rescued from the lion's mouth" by the Lord
People's party	also known as the Populist Party, a short-lived political party in the late nineteenth century

Josephine St. Pierre Ruffin's "Address to the First National Conference of Colored Women"

1895

"We are women, American women, as intensely interested in all that pertains to us as such as all other American women."

Overview

Josephine St. Pierre Ruffin's "Address to the First National Conference of Colored Women" opened the proceedings for a group of one hundred African American women who met in Boston at the Charles Street African Methodist Episcopal Church in July 1895. Ruffin was the president of the Women's Era Club in Boston, founded two years previously, and it was her work with this group that inspired her to found the National Federation of Afro-American Women. She organized and convened the Boston conference with a view to bringing together African American club women from across the nation to join with her in that effort. Attending the conference as representatives from clubs around the nation, the participants convened to assert their position as a critical component of the women's movement, to discuss the issues and challenges facing black women, and to debate how best to move forward in light of those challenges. The "Address to the First National Conference of Colored Women" was a call to action. Ruffin's remarks were brief, but they served to inspire a generation of African American women to active involvement in the women's movement and as a challenge to women everywhere to "bring in a new era to the colored women of America."

Context

The decades following the Civil War were a time of major social transformation. This was the period of the labor movement, rapid industrialization, large influxes of immigrants from Europe and Asia, and sweeping sentiments for social reforms. The U.S. government had devised a plan for "reconstructing" the South that set in motion a series of events that would propagate segregation for another hundred years. Women saw an opportunity to continue the work of the 1848 Seneca Falls Convention for women's rights, and, in doing so, African American women saw their chance to improve their own condition. It was against this backdrop that Josephine St. Pierre Ruffin spoke to the National Conference of Colored Women.

The U.S. government's Reconstruction program created policies and procedures intended to rebuild a bitterly divided nation. These policies addressed reintegrating southern states into the political system, dealing with former Confederate leaders, and, most important, defining the status of millions of newly freed slaves. Opinions varied on how best to resolve these matters. Abraham Lincoln had favored a policy of conciliation with the defeated South, but strong dissent arose during the troubled administration of Andrew Johnson (1865–1869), and the policies of the ensuing administration of Ulysses S. Grant (1869–1887) were dominated by the Radical Republican faction that stood for strong military enforcement of equal rights for the former slaves. These "radical" policies allowed for the passage of the Thirteenth (1865), Fourteenth (1868), and Fifteenth (1870) Amendments to the U.S. Constitution and created military jurisdictions over former Confederate states. With full citizenship, African Americans during this period began participating in the political process, ushering in a few years of widespread black representation, including fifteen representatives and two senators in Congress. However, Reconstruction met with a backlash in the South, as political parties fractured, white supremacy grew, and federal military power was gradually withdrawn. Reconstruction was dealt a fatal blow with the election of Rutherford B. Hayes in 1876, whose hands-off policy included the withdrawal of federal troops from the South. Reconstruction and the progress made for African Americans had ended.

As the postwar economy improved, a period of rapid industrialization, fueled by the growing numbers of immigrants, served as the catalyst for the growth of the labor movement. Advances in iron and steel production, the invention of the Morse telegraph (1837) and the telephone (1876), and the completion of the transcontinental railroad (1869) improved the nation's infrastructure and connected distant parts of the country. The growing immigrant population found work in many of these industries. Between the 1840s and World War I, approximately thirty-seven million people migrated to the United States in search of land, fortune, and opportunity. As immigrant populations soared, cities and factories became overcrowded, and living and working conditions grew dire. The Progressive movement of the 1890s and early 1900s sought to improve these con-

Time Line

1869

■ **November**
The American Woman Suffrage Association is founded in Boston as a result of a schism in the equal rights movement over the proposal to include woman suffrage in the proposed Fifteenth Amendment.

1875

■ **March 1**
The Civil Rights Act of 1875 grants everyone the same treatment in public accommodations, regardless of race, color, or previous condition of servitude.

1883

■ **October 15**
The Supreme Court declares the Civil Rights Act of 1875 unconstitutional on the grounds that Congress lacks the authority to legislate in issues relating to racial discrimination at the state level.

1884

■ Josephine St. Pierre Ruffin founds *Women's Era,* the first newspaper of its kind published by and for African American women.

1895

■ **July 29**
Ruffin offers the opening address at the First National Conference of Colored Women, where the National Federation of Afro-American Women is born.

1896

■ The National Federation of Afro-American Women merges with the Colored Women's League of Washington to form the National Association of Colored Women (later the National Association of Colored Women's Clubs).

■ **May 18**
In *Plessy v. Ferguson* the Supreme Court effectively legitimizes racial segregation under the doctrine of "separate but equal" treatment.

ditions as well as to break up corrupt political machines. The labor movement also saw rapid expansion at this time, as unions fought for improved working conditions, regulation of work hours and pay, and prohibition of child labor.

This swell of sentiment for social reform was also taken up by the emerging women's movement. After the 1848 Seneca Falls (New York) Convention, the movement grew in supporters, strength, and influence. Women like Elizabeth Cady Stanton, Susan B. Anthony, and Lucretia Mott were speaking, writing, and engaging people in conversation to further equality for women in education, employment, family life, religion, and public life. By 1869 the American Woman Suffrage Association had begun to include black women in the conversation, including Josephine St. Pierre Ruffin, an early member in Boston. When the Civil Rights Act passed in 1875, preventing discrimination in "public accommodation" on the basis of "race, color, or previous condition of servitude"—with no mention of gender—women in the club movement began to fragment. A division formed in the suffrage community, with many women refusing to support black men's voting rights at the expense of their own and preferring instead to focus solely on voting rights for women. Feeling isolated by this position from the white women's club movement, African American women formed their own clubs, such as the National Federation of Afro-American Women (1895) and, later, the National Association of Colored Women (NACW, 1896). African American women's clubs worked not only for women's rights but also for the rights and welfare of black men and children. The desire for social reform that characterized the Progressive era helped further the influence of many of these clubs, as they sought political gain and a general improvement of black women's social standing.

About the Author

Josephine St. Pierre was born on August 31, 1842, in Boston, to well-to-do parents of (white) English and Martinican-African descent. Her parents were highly respected in the African American community. Because they opposed Boston's segregated school system, they sent their daughter to several schools during her childhood, two just outside Boston and one in New York City. She completed her education at the Bowdoin School, a coeducational institution then located on Derne Street in the Beacon Hill section of Boston.

In 1858, at the age of sixteen, Josephine St. Pierre married George Lewis Ruffin, a prominent attorney from Richmond, Virginia, and the first African American to graduate from Harvard Law School. George Ruffin, the first African American man elected to Boston's City Council, also served in the Massachusetts state legislature during the early 1870s. In 1883 he would became the first black judge in the United States. The Ruffins settled in the elite Beacon Hill neighborhood and eventually had five children. During the Civil War, they participated in the war effort, serving with the Sanitary Commission. It was during this

period that Josephine became involved with suffrage and the women's movement.

After the war, St. Pierre Ruffin began working with several leaders of the suffrage movement, including Elizabeth Cady Stanton, Susan B. Anthony, and Julia Ward Howe. In 1869, together with Howe and Lucy Stone, she helped form the American Women Suffrage Association. By this time, she had begun writing for the black weekly newspaper in Boston, the *Courant*, which involved her in another organization, the New England Women's Press Association. Later, Ruffin integrated the New England Women's Club, and in 1894 she organized the Women's Era Club, specifically for African American women. Her work in these clubs focused specifically on how African American women could work to improve the conditions of all African Americans.

When George Ruffin died in 1886, Josephine's experience at the *Courant* prompted her to start her own newspaper with money from her husband's estate. The *Women's Era* newspaper became the first paper published for and by African American women. Financial stability allowed her to increase her involvement with the women's club movement, and in 1895 Ruffin organized the First National Conference of Colored Women, with a view to forming a national organization to unite the African American women's clubs of America. Delegates from clubs all across the United States attended. It was to these women that Ruffin spoke. Within the year, the National Federation of Afro-American Women was a reality and, in 1896, merged with the Colored Women's League of Washington to form the NACW, an organization that is still active today as the National Association of Colored Women's Clubs. Ruffin continued in community service and was especially involved in advancing African American women's rights. By 1910 she had helped to found the National Association for the Advancement of Colored People. Upon her death on March 13, 1924, Josephine St. Pierre Ruffin was widely honored for her skills as a journalist, activist, and pioneer in the African American women's rights movement.

Time Line

1900

■ **June 4–9**
Ruffin, representing three separate organizations, is denied admittance to the General Federation of Women's Clubs' national meeting in Milwaukee, Wisconsin, because one of the groups (the New Era Club) is all black.

1918

■ Membership in the NACW numbers almost one hundred thousand.

Explanation and Analysis of the Document

Although the "Address to the First National Conference of Colored Women" is quite short, it had a resounding impact on the future of the African American women's movement. The address had one primary purpose: to convince black women of the necessity of creating their own national organization. Ruffin saw an opportunity for black women's groups to coalesce in the hope of creating a strong national voice for women everywhere. It is this point that makes Ruffin's address singular: She spoke not only to African American women but also to black men and white women. It was her hope to improve the lives of African Americans through their own efforts and through the efforts of white people as well. Ruffin's speech was widely celebrated, and only a year later Ruffin and Mary Church Terrell, founder of the Colored Women's League of Washington and a well-known suffragist and journalist, combined their organizations to form the NACW.

Ruffin's address falls into three distinct sections. The first paragraph concerns the meeting itself—how the various groups came together, the rise of women's clubs, and the message that such a meeting would send to society. The main section (paragraphs 2–5) deals with the reasons for holding the conference. This is the lengthiest section, and it is where the heart of her argument lies. The last section is a very brief call to action, wherein Ruffin firmly states "the absolute necessity of a national organization of our women."

Ruffin opens by citing the need for black women to meet for a "good talk." With no national organization representing black women, this would be the opportunity to come together, regardless of geography, and discuss important issues. To Ruffin, the particular situation of black women, the hardships they faced, and the deprivations they endured because of their race and gender spoke to this need. Although the conference was put together rather rapidly, the leaders had been thinking for some time about convening all the regional women's clubs. Such clubs had been appearing all across the country, for both white and black women. Ruffin credits their work as the inspiration for the conference and for the desired creation of a national organization. Five years prior to the conference, there had been no clubs for African American women. By 1895 representatives from twenty such clubs were in attendance. Ruffin cites their history and their willingness to do their part as evidence that they, too, are "truly American women."

Ruffin turns next to the reasons for convening. First, she mentions how much courage and inspiration would be drawn from women meeting other women who shared the same goals. Next, she lays out the practical matters they should discuss, including the education of their children, the mental and intellectual elevation of all black people, and the ways in which to make the best of their situations, given their limited resources and social standing. Ruffin also speaks of the need to discuss the issues of the day, such as temperance, higher education, and domesticity. The end of the second paragraph sums up these initial reasons for meeting: "Surely we, with everything to pull

Julia Ward Howe (Library of Congress)

us back, to hinder us in developing, need to take every opportunity and means for the thoughtful consideration which shall lead to wise action."

Ruffin then notes the unfortunate prevailing belief regarding the general nature of black women, which, she says, is that they are "for the most part, ignorant and immoral, some exceptions, of course, but these don't count." She considers this attitude—that progressive black women of considerable talent, morals, education, and skill were being regarded nationwide as second-rate—to be the strongest reason for coming together. Women's opportunities were limited, even foreclosed, by this blatant racism. If such women were given even a small chance to improve the conditions of their lives, Ruffin believed they could create improvements in the lives of all other African Americans.

How, then, could this small chance be created? Ruffin's answer in paragraph 4 is one of the most passionate sections of her address. She understood that the women to whom she was speaking were some of the most affluent, educated, and privileged African Americans in the country. The changes Ruffin here envisions for African Americans were already in progress among her peers. It was for those less fortunate—the large body of African Americans—that opportunities needed to be created. To Ruffin, the issues were not merely improved education, rewarding employment, and the chance to travel. She viewed the matter in broader terms: The dignity of the race demanded that she and women like her "stand forth and declare ourselves and our principles." To be seen as good, intelligent, hardworking people, these women had to show the world collective, and not merely individual, action. This was a platform from which black women could act as paragons, opening the eyes of the world to their shining example.

Central to this argument is a point that provides a good deal of insight into the mind-set from which these women were operating. Ruffin implies that up to this point black women had fallen silent when bearing witness to the hardships they all faced. They were also silent in the face of the "unholy charges" made against them. Her call to speak out represented a tangible shift in policy for African American social action. Ruffin admits that she herself had yielded to prevailing attitudes, first by publicly accepting her circumstances and then by simply joining individual women's clubs and attempting to leverage their resources to make headway. However, as the larger women's movement increasingly came to focus on the issue of suffrage, the unfortunate side effect was neglect for the broader rights of African American women. Black women like Ruffin therefore began to push for their own representation, their own groups. The 1895 Boston conference declared that black women, at the expense of their dignity, could no longer accept this disparity of treatment. However, in stepping into the public forum, these women recognized that their actions, words, and deeds would be scrutinized. As Ruffin put it, "Now with an army of organized women standing for purity and mental worth, we … open the eyes of the world." Serving as the standard for all African Americans weighed heavily on their minds, and this understanding informed the decisions and actions of the expanding African American women's club movement. Certainly the importance of their decisions was apparent throughout Ruffin's address.

At this point in her speech, Ruffin makes some interesting rhetorical choices, which for modern readers should serve as clues to the particular circumstances of black women at the time. The first is her refusal to discuss certain claims made against African American women by the white women's organizations. She alludes to situations where southern women had protested the admission of black women into historically white women's clubs, thus propagating racist stereotypes of the "immoral" black woman. Yet Ruffin declines to mention any of these protestations specifically. She says, in paragraph 4, that many of the claims of white women were so humiliating that they moved black women to "mortified silence." Her refusal to discuss this slander in her address points to the degrading nature of the allegations as well as to a desire to elevate the discourse above nasty rhetoric. By meeting the protestations with dignity and respect, Ruffin hoped that the character of these African American club women would attest to their virtue. In what would henceforth become the tone of the language of African American women's clubs, the struggle to overcome humiliation and exclusion would always depend on virtue and strength of character.

The second rhetorical choice that Ruffin makes in this latter part of her address is to assign the challenge specifi-

cally to black women: "For many and apparent reasons it is especially fitting that the *women* of the race take the lead in this movement." Nothing further needed to be said for those present that afternoon, but modern readers may benefit from a brief discussion of her remarks. Ruffin's choice relates to the complete subjugation of African American males during this period. Black males were seen by much of the white population in terms of stereotypes—"lazy," "violent," "insolent," and "stupid." This was the period when lynchings were becoming a common response to any black assertiveness. While black women were not much better off than their men folk, they were more able to step onto a public platform without being perceived as a threat to the structure of white society.

Ruffin makes it clear that it would be African American women's strength of character that would help all African Americans persevere and flourish, and this sentiment pervades the end of the address. Her closing words are poignant. Here she moves beyond the bounds of the room and addresses the wider women's movement. She acknowledges the desire to include women and men, regardless of color. The idea of creating a universal movement had divided white women working toward suffrage in the 1870s. But for Ruffin, a movement for one was already a movement for all. She demonstrated her commitment to this universal principle at the conference most clearly at the start of her final paragraph, which she begins by calling for "union and earnestness."

In her final paragraph, Ruffin lays out her paramount hope for the outcome of the conference: to see the creation of a national all-black women's organization. She believed that in order for African American women to achieve the hoped-for change, women from all areas of the country, in all walks of life, would have to band together: "From this will spring an organization that will in truth bring in a new era to the colored woman of America."

General Federation of Women's Clubs headquarters
(Library of Congress)

Audience

Josephine St. Pierre Ruffin's address was given in front of a group of one hundred African American women who wanted to come together as a strong voice of encouragement, inspiration, and guidance to the country and yet were deliberately excluded from the national scene of white women's clubs specifically because of their race. These women were an elite group, highly educated and fairly well off, being the wives and daughters of some of the most prominent men in the black community. In addition to this immediate audience, Ruffin addressed both black men and white women, asking that everyone avoid drawing the color line, an indication that she recognized the importance of working together to effect change.

Impact

The impact of Ruffin's address was felt immediately by the African American community. Her newly established National Federation of Afro-American Women was paralleled by organizations such as the Colored Women's League of Washington, which had been founded two years earlier by Helen Cook.The year following the conference saw the organization of the NACW, which merged Ruffin's federation and the Colored Women's League of Washington. It became clear after this address that the only way African American women were going to be able to achieve any measure of standing was by banding together as one cohesive group. Indeed, the 1933 publication of *Lifting as They Climb* by the NACW member Elizabeth Lindsay Davis included a direct reprinting of the "Call to Conference," the list of attendees, the conference program schedule, and Ruffin's address in their entirety, owing to their significance in the formation of the first national club for African American women.

In the years and months after her remarks, Ruffin held the position of vice president of the NACW while maintaining her membership in the New England Women's Club and the New Era Club, desegregating both clubs. In 1900 Ruffin attended a meeting of the General Federation of Women's Clubs, where she was denied a seat on the floor after refusing to renounce her membership in the NACW. Ruffin was promptly excused from the meeting proceedings. This event became known as the "Ruffin incident," gaining national notoriety for both Ruffin and the NACW national.

Not all African Americans were pleased with this attention. Several well-respected people offered Ruffin their support following the incident, but the black orator Booker

Essential Quotes

"Five years ago we had no colored women's club outside of those formed for special work; today, with little over a month's notice, we are able to call representatives from more than twenty clubs. It is a good showing. It stands for much. It shows that we are truly American women, with all the adaptability, readiness to seize and possess our opportunities, willingness to do our part for good as other American women."

(Paragraph 1)

"For the sake of our own dignity, the dignity of our race, and the future good name of our children, it is 'mete, right and our bounden duty' to stand forth and declare ourselves and principles, to teach an ignorant and suspicious world that our aims and interests are identical with those of all good aspiring women."

(Paragraph 4)

"It is to break this silence, not by noisy protestations of what we are not, but by a dignified showing of what we are and hope to become that we are impelled to take this step, to make of this gathering an object lesson to the world."

(Paragraph 4)

"We want, we ask the active interest of our men, and, too, we are not drawing the color line; we are women, American women, as intensely interested in all that pertains to us as such as all other American women; we are not alienating or withdrawing, we are only coming to the front, willing to join any others in the same work and cordially inviting and welcoming any others to join us."

(Paragraph 5)

T. Washington was not one of them. In September of 1895, speaking just a few months after Ruffin gave her address, the Tuskegee Institute educator addressed an audience at the Cotton States and International Exposition in Atlanta, Georgia. Recognizing the social realities of his day, Washington felt that the only way for African Americans to succeed was through accommodation and industrial education, instead of focusing on immediately achieving civil rights. In his Atlanta Exposition Address, he proposed a compromise between asking for civil rights and receiving education and skills.

The differing viewpoints within the African American community began to come to a head, with those advocating for equality and civil rights and those advocating accommodation standing in stark contrast to each other. A few years later, an organization arose to work for civil rights and justice for all people of color. Founded in 1909, the National Association for the Advancement of Colored People,

headed by the Harvard-trained historian and sociologist, W. E. B. Du Bois, was formed in opposition to the accommodationist viewpoints of Washington. Josephine St. Pierre Ruffin was an early member and leader within this organization.

See also Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); Booker T. Washington's Atlanta Exposition Address (1895); *Plessy v. Ferguson* (1896); Mary Church Terrell: "The Progress of Colored Women" (1898); W. E. B. Du Bois: *The Souls of Black Folk* (1903).

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http://www.masshumanities.org/shwlp/honorees/ruffin.html.

"Josephine St. Pierre Ruffin." National Women's Hall of Fame "Women of the Hall" Web Site.
http://www.greatwomen.org/women.php?action=viewone&id=132.

—Katherine M. Johnson

Questions for Further Study

1. What factors caused the women's movement to fragment in the later decades of the nineteenth century?

2. Ruffin's address bears obvious comparison with Mary Church Terrell's address "The Progress of Colored Women," delivered three years later. How were the women's backgrounds similar? What vision did the two share? Were there any marked differences in their views or outlook?

3. During the last decade of the nineteenth century, there was a flurry of activity by women that bore on women's rights and on the condition of African Americans. What social, economic, and political developments do you think may have contributed to this swell of activity?

4. In what ways, if any, do you think the women's club movement of the late nineteenth century was a precursor of the modern feminist movement?

5. What was the "Ruffin incident," and what implications did it have for African Americans at the time? How did others respond to the incident?

Josephine St. Pierre Ruffin's "Address to the First National Conference of Colored Women"

It is with especial joy and pride that I welcome you all to this, our first conference. It is only recently that women have waked up to the importance of meeting in council, and great as has been the advantage to women *generally*, and important as it is and has been that they should confer, the necessity has not been nearly so great, matters at stake not nearly so vital, as that *we*, bearing peculiar blunders, suffering under especial hardships, enduring peculiar privations, should meet for a "good talk" among ourselves. Although rather hastily called, you as well as I can testify how long and how earnestly a conference has been thought of and hoped for and even prepared for. These women's clubs, which have sprung up all over the country, built and run upon broad and strong lines, have all been a preparation, small conferences in themselves, and their spontaneous birth and enthusiastic support have been little less than inspirational on the part of our women and a general preparation for a large union such as it is hoped this conference will lead to. Five years ago we had no colored women's clubs outside of those formed for special work; today, with little over a month's notice, we are able to call representatives from more than twenty clubs. It is a good showing. It stands for much. It shows that we are truly American women, with all the adaptability, readiness to seize and possess our opportunities, willingness to do our part for good as other American women.

The reasons why we should confer are so apparent that it would seem hardly necessary to enumerate them, and yet there are none of them but demand our serious consideration. In the first place we need to feel the cheer and inspiration of meeting each other; we need to gain the courage and fresh life that comes from the mingling of congenial souls, of those working for the same ends. Next, we need to talk over those things that are of especial interest to us as *colored women*, the training of our children, openings for our boys and girls, how they can be prepared for occupations and occupations may be found or opened for them, what *we* especially can do in the moral education and physical development, the home training it is necessary to give our children in order to prepare them to meet the peculiar conditions in which they shall find themselves, how to make the most of our own, to some extent, limited opportunities. Besides these are the general questions of the day, which we cannot afford to be indifferent to: temperance, morality, the higher education, hygienic and domestic questions. If these things need the serious consideration of women more advantageously placed by reason of all the aid to right thinking and living with which they are surrounded, surely we, with everything to pull us back, to hinder us in developing, need to take every opportunity and means for the thoughtful consideration which shall lead to wise action.

I have left the strongest reason for our conferring together until the last. All over America there is to be found a large and growing class of earnest, intelligent, progressive colored women, women who, if not leading full, useful lives, are only waiting for the opportunity to do so, many of them warped and cramped for lack of opportunity, not only to do more but to *be* more; and yet, if an estimate of the colored women of America is called for, the inevitable reply, glibly given is, "For the most part ignorant and immoral, some exceptions of course, but these don't count."

Now for the sake of the thousands of self-sacrificing young women teaching and preaching in lonely southern backwoods for the noble army of mothers who have given birth to these girls, mothers whose intelligence is only limited by their opportunity to get at books, for the sake of the fine cultured women who have carried off the honors in school here and often abroad, for the sake of our own dignity, the dignity of our race, and the future good name of our children, it is "meet, right and our bounden duty" to stand forth and declare ourselves and principles, to teach an ignorant and suspicious world that our aims and interests are identical with those of all good aspiring women. Too long have we been silent under unjust and unholy charges; we cannot expect to have them removed until we disprove them through *ourselves*. It is not enough to try to disprove unjust charges through individual effort, that never goes any further. Year after year southern women have protested against the admission of colored women into any national organization on the ground of the immorality of these women, and because all refutation has only been tried by individual work the charge has never been crushed, as it could and should have been at the first. Now with an army of organized women standing

Document Text

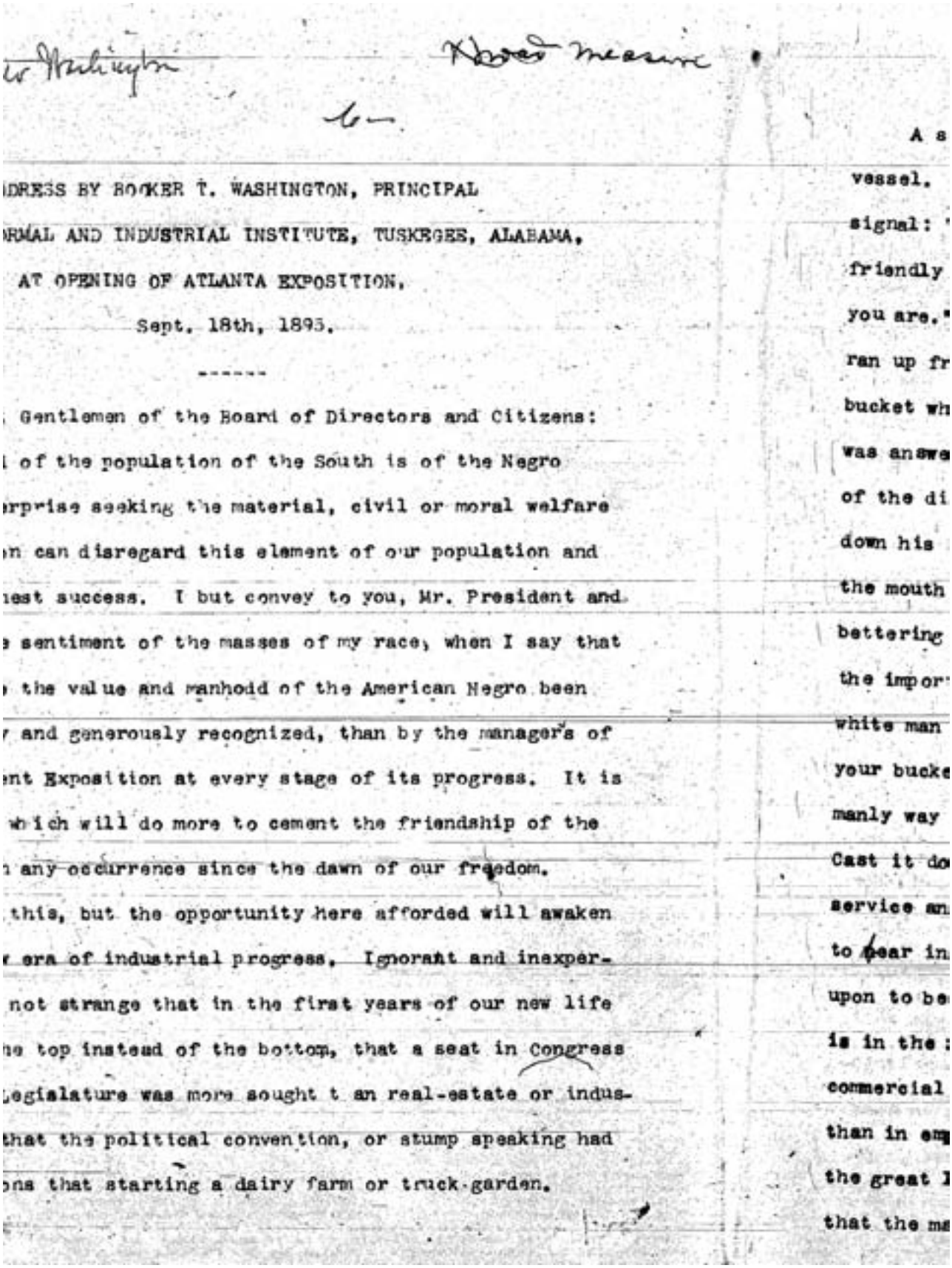
for purity and mental worth, we in ourselves deny the charge and open the eyes of the world to a state of affairs to which they have been blind, often willfully so, and the very fact that the charges, audaciously and flippantly made, as they often are, are of so humiliating and delicate a nature, serves to protect the accuser by driving the helpless accused into mortified silence. It is to break this silence, not by noisy protestations of what we are not, but by a dignified showing of what we are and hope to become that we are impelled to take this step, to make of this gathering an object lesson to the world. For many and apparent reasons it is especially fitting that the *women* of the race take the lead in this movement, but for all this we recognize the necessity of the sympathy of our husbands, brothers and fathers.

Our woman's movement is woman's movement in that it is led and directed by women for the good of women and men, for the benefit of *all* humanity, which is more than any one branch or section of it. We want, we ask the active interest of our men, and, too, we are not drawing the color line; we are women, American women, as intensely interested in all that pertains to us as such as all other American women; we are not alienating or withdrawing, we are only coming to the front, willing to join any others in the same work and cordially inviting and welcoming any others to join us.

If there is any one thing I would especially enjoin upon this conference it is union and earnestness. The questions that are to come before us are of too much import to be weakened by any trivialities or personalities. If any differences arise let them be quickly settled, with the feeling that we are all workers to the same end, to elevate and dignify colored American womanhood. This conference will not be what I expect if it does not show the wisdom, indeed the absolute necessity of a national organization of our women. Every year new questions coming up will prove it to us. This hurried, almost informal convention does not begin to meet our needs, it is only a beginning, made here in dear old Boston, where the scales of justice and generosity hang evenly balanced, and where the people "dare be true" to their best instincts and stand ready to lend aid and sympathy to worthy struggles. It is hoped and believed that from this will spring an organization that will in truth bring in a new era to the colored women of America.

Glossary

"meet, right and our bounden duty" a quote from a Christian prayer, "It is very meet, right, and our bounden duty, that we should at all times, and in all places, give thanks unto thee, O Lord, Holy Father, Almighty, Everlasting God."



DRESS BY BOOKER T. WASHINGTON, PRINCIPAL
RMAL AND INDUSTRIAL INSTITUTE, TUSKEGEE, ALABAMA,
AT OPENING OF ATLANTA EXPOSITION,
Sept. 18th, 1895.

Gentlemen of the Board of Directors and Citizens:
of the population of the South is of the Negro
rprise seeking the material, civil or moral welfare
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Booker T. Washington's Speech at the Atlanta Exposition (Library of Congress)

Booker T. Washington's Atlanta Exposition Address

1895

"In all things that are purely social we can be as separate as the fingers, yet one as the hand in all things essential to mutual progress."

Overview

Late on an unseasonably hot mid-September afternoon in 1895, Booker T. Washington delivered a short speech to a standing-room-only crowd packed into the auditorium in Atlanta's Exposition Park during the opening ceremonies of the Cotton States and International Exposition. The address, which ran a little over ten minutes, propelled the previously unknown principal of Tuskegee Institute, a small black college in rural Alabama, into the national spotlight. By almost any measure, it (along with Martin Luther King, Jr.'s, 1963 "I Have a Dream" Speech) was one of the most important speeches presented by an African American. The immediate response, both in Atlanta and across the country, was overwhelmingly positive, but over time both Washington and his address have been sharply criticized, especially by other African American intellectuals and leaders. These critics termed the Atlanta address the "Atlanta Compromise" and made Washington a symbol of accommodation and acquiescence to southern racism, segregation, and the political disenfranchisement of African Americans. Throughout much of the twentieth century Washington and his famous (or infamous) address were a defining element in the African American political debate.

The assessment of Washington's Atlanta Exposition Address is clouded by the problem that Washington's actual words are less known than the responses and the analysis of those words by Washington's allies and especially by his opponents. As soon as the news of Washington's triumph at Atlanta spread across the country, friends and foes began to dissect his words and to interpret various phrases or images that he utilized. As a result, the speech itself quickly faded from memory, while discrete segments of the speech became permanently imbedded in American racial discourse, both within the African American community and among white Americans. The original context of the address, as well as its complex and nuanced arguments, gave way to the overly simplified and largely inaccurate view that Washington had surrendered the rights that African Americans had won during the Civil War and Reconstruction. By the time of Washington's death twenty years later, African American leadership was divided into Bookerite (pro-Washington) and anti-Bookerite factions, and Washington's opponents increasingly dominated the debate.

Context

The 1890s was a difficult decade for African Americans. Many of the gains they had achieved in securing their political and civil rights and in attaining a measure of physical security gave way to an assault on their rights as citizens and on their personal safety. During Reconstruction three constitutional amendments (the Thirteenth, Fourteenth, and Fifteenth Amendments) and the Civil Rights Acts of 1866 and 1875 had secured African American freedom and equal rights. The military occupation of the former Confederate States and federal legislation like the Civil Rights Act of 1871 (also known as the Ku Klux Klan Act) greatly diminished organized violence against blacks and their white political allies. In the late 1870s and 1880s these gains began to unravel. In the aftermath of the disputed presidential election of 1876, the last federal troops were withdrawn from the South. In 1883 the Supreme Court ruled in the Civil Rights Cases that the Fourteenth Amendment did not protect against discrimination by individuals or businesses, and three years later, for the first time in U.S. history, more blacks than whites were the victims of lynching.

In the 1890s racial conditions in the United States continued to deteriorate. In *Plessy v. Ferguson*, the Supreme Court legitimized state-sponsored segregation as long as "separate but equal" facilities were provided for blacks, and in 1898 the Court ruled that literacy tests and other similar methods of restricting the right to vote did not violate the Fifteenth Amendment. The 1890s witnessed more lynchings of blacks than any other decade in U.S. history. As the decade came to an end, race riots broke out in Wilmington, North Carolina (1898); New Orleans, Louisiana (1900); and New York (1900) as violence against blacks escalated. African Americans struggled to respond to this new wave of discrimination and violence without much success. The federal government, on which African Americans had depended during Reconstruction, was no longer a reliable ally. The Democrats had regained control of southern state

Time Line

1856

■ **April 5**
Booker T. Washington is born into slavery on the farm of James Burroughs near Hale's Ford in the foothills of the Blue Ridge Mountains in Franklin County, Virginia.

1865

■ **August**
Freed by the defeat of the South in the Civil War, Washington and his family move to Malden, West Virginia.

1872

■ **October 5**
Washington leaves home and enrolls in Hampton Institute.

1881

■ **July 4**
Washington opens the Tuskegee Institute in Tuskegee, Alabama, modeling the school's curriculum on that of the Hampton Institute.

1895

■ **February 20**
Frederick Douglass, the most prominent African American leader of his generation, dies in Washington, D.C.

■ **September 18**
Washington delivers his Atlanta Exposition Address during the opening ceremonies of the Cotton States and International Exposition.

1896

■ **May 18**
In *Plessy v. Ferguson*, the Supreme Court rules that a Louisiana law segregating passengers on railroads is legal because it provides "separate but equal" facilities; this ruling validates a number of laws that segregate African Americans.

1898

■ **April 25**
In *Williams v. State of Mississippi*, the Supreme Court rules that a Mississippi law allowing poll taxes and literacy tests to be used as voter qualifications is legal, legitimizing the tactics used by southern states to deny African Americans the right to vote.

governments in the 1870s and won the presidency in 1884 and again in 1892. The Republican Party's commitment to civil rights also had waned. Frederick Douglass, who led the struggle against slavery and was an outspoken advocate of equal rights, died in February 1895, depriving African Americans of their best-known and most effective leader at this very crucial time.

Against this background Atlanta businessmen conceived of an international exposition, a small-scale world's fair, which would highlight the emergence of a "New South," promote the city and the entire region as a progressive area, and attract new business and investment capital. They hoped to capture some of the positive press coverage and economic benefits that Chicago had received with the 1893 Columbian Exposition. In the spring of 1894 Washington and several other African Americans were asked to join a delegation of prominent southerners to lobby Congress for an appropriation to support the Atlanta Exposition. Congress appropriated the funding, and as planning for the event proceeded, Washington was consulted again on the issue of the "Negro" exhibits. At some point, and after some controversy, exposition officials decided to involve African Americans in the opening ceremonies. On August 23, 1895, about three weeks before opening day, organizers of the exposition asked Washington to represent African Americans at this event.

The decision to involve African Americans so prominently in the exposition was interesting. Two years earlier black leaders had been unhappy with the way they were treated at the World's Columbian Exposition in Chicago. Their exhibits were segregated in Negro buildings, and blacks felt that as exhibitors at and visitors to the fair they had faced broken promises and discrimination. Consequently, a number of African American leaders were reluctant to support the Negro exhibits at this much smaller provincial event. Washington, however, cooperated with the organizers and urged others to do likewise, even though blacks had to fund their own exhibits and these exhibits would be housed in a separate building. Appreciation of Washington's assistance with Congress and his support of the event brought him to the podium on opening day.

About the Author

Booker Taliaferro Washington was born on a farm near Hale's Ford in the foothills of the Blue Ridge Mountains in Franklin County, Virginia. While his exact birth date is not clear, most authorities place it on April 5, 1856. Washington spent the first eight years of his childhood as a slave. Following emancipation he moved with his mother, brother, and sister to join his stepfather, who had found employment in the saltworks in Malden, West Virginia. Emancipation did not significantly raise the economic well-being of the family. The young Washington alternated between working in the saltworks and attending school. In 1867 his situation improved dramatically when he took a job in the home of General Lewis Ruffner, one of Malden's wealthi-

est citizens, serving as houseboy and companion for Viola Ruffner, the general's New England wife. Washington later credited Mrs. Ruffner for much of his early education and especially with preparing him for college.

At age sixteen Washington left home to further his education at Hampton Institute, which allowed impoverished black students to work at the school to pay the costs of their education. Three years later he graduated as one of its top students. After a short stint as a schoolteacher in Malden, he returned to Hampton to teach and to acquire additional education. During his time as a student and then as a teacher at Hampton, Washington became a protégé of General Samuel C. Armstrong and a student of Armstrong's theory of industrial education. In May 1881 the board of a recently authorized Alabama state normal school for black students asked Armstrong to recommend a white educator to serve as its principal. Armstrong recommended his prize student. After hesitation and with reluctance, the board accepted Washington to head the school.

When Washington arrived in Tuskegee, he discovered that the school existed only on paper—he had to find land, build buildings, and recruit faculty. It is to Washington's credit that despite his youth and inexperience, he mastered the political, administrative, and financial skills he needed to create a black institution in the inhospitable hills of northern Alabama. By the early 1890s Tuskegee had become a success, and Washington was beginning to address the broader political and economic issues that confronted African Americans.

The Atlanta Exposition Address transformed Washington from a southern educator to the most influential and powerful African American in the United States. He consulted with presidents and corporate leaders, and headed a political machine that dispersed funds from white philanthropists and political patronage throughout the black community. In the early twentieth century opposition to Washington's leadership increased, especially that organized around Du Bois. The founding of the National Association for the Advancement of Colored People in 1910 and Du Bois's prominent role in that organization deflected some white support from Washington. During the last years of Washington's life the African American leadership was increasingly divided into pro-Washington and pro–Du Bois/National Association for the Advancement of Colored People camps. Nevertheless, at the time of his death in November 1915, Washington was still the most widely known and respected African American leader in the United States.

Explanation and Analysis of the Document

Washington's Atlanta Exposition Address was presented in the auditorium on the exposition grounds. The auditorium was packed, mostly with whites, but there was also a segregated Negro section. Washington was one of two blacks seated on the stage, but he was the only one to speak. The speech itself was brief. In written form it is eleven paragraphs; Washington delivered it in about ten minutes.

Time Line

1901

- **March** Washington publishes his best-known autobiography, *Up from Slavery*.
- **July 16** Controversy arises after Washington dines at the White House while consulting President Theodore Roosevelt about political appointments in the South.

1903

- **April 18** W. E. B. Du Bois begins his criticism of Washington's leadership with the publication of the essay "Of Mr. Booker T. Washington and Others" in his book *The Souls of Black Folk*.

1905

- **July 10** Twenty-nine African Americans, including Du Bois, meet in Fort Erie, Ontario, to create a civil rights organization. The resulting Niagara Movement directly challenges Washington's leadership and policies.

1910

- **May 14** The biracial National Negro Conference officially gives birth to the National Association for the Advancement of Colored People, the oldest civil rights organization in the United States.

1915

- **November 14** Washington dies at home in Tuskegee.

In the first paragraph Washington notes the significance of the occasion. First, he emphasizes the significance of African Americans to the South—"One-third of the population of the South is of the Negro race"—and observes that no enterprise for the development of the South that ignores that element of the population will "reach the highest success." In this sentence, Washington introduces the major theme of his address: that the destinies and well-being of African American southerners and white southerners are inextricably linked. He returns to this theme again and again. Washington concludes this paragraph by praising the leaders of the exposition for recognizing the "value and manhood of the American Negro" throughout the planning and staging of the event. This statement is often viewed as obsequious; however, the role afforded African Ameri-

Booker T. Washington (Library of Congress)

cans, from the lobbying efforts, the planning of the black exhibits, and Washington's participation in the opening ceremonies, contrasted considerably with blacks' roles in the World's Columbian Exposition of 1893 as well as other previous expositions.

The second paragraph contains the type of language that most irritated Washington's critics. After the rather serious opening, Washington feeds negative racial stereotypes when he essentially apologizes for the ignorance and inexperience that led newly emancipated blacks to make unwise choices, seeking political office rather than land or industrial skills and prizing political activity over entrepreneurship. Critics cite this paragraph as evidence that Washington acquiesced to white efforts to deprive blacks of their political rights. In truth, Washington consistently opposed both publicly and privately the disenfranchisement of southern blacks. However, Washington did feel that blacks should place greater emphasis on their economic betterment.

The third paragraph centers on one of Washington's best-known homilies. This is the story of the ship lost at sea, its crew dying of thirst and sending out a desperate cry for water, only to be told, "Cast down your bucket where you are." Washington uses this story to admonish the blacks in his audience to "cast down your bucket where you are," that is, to remain in the South rather than attempt to better their condition in a "foreign land." Washington consistently advised African Americans not to follow the Exodusters west, join the trickle to northern cities that twenty years later became the black migration, or follow those who advocated immigration to a black-governed country, such as Haiti or Liberia. As discrimination and racial violence intensified, many considered Washington's advice to be misguided, binding blacks to a new slavery. Washington, however, argued that African Americans must work with their white neighbors—but without surrendering their dignity: "'Cast down your bucket where you are'—cast it down in making friends *in every manly way* of all the people of all races by whom we are surrounded" (emphasis added).

The next paragraph continues this argument. Still addressing the African Americans in the audience, Washington continues: "Cast it down in agriculture, mechanics, in commerce, in domestic service, and in the professions." Here Washington is laying out his economic agenda. While he is usually cited for promoting only low-skilled, working-class, and agricultural labor for blacks, here he is quite specific—his list of occupations includes commerce and the professions. Washington acknowledges that initially, lacking skills, capital, and education, most blacks will survive by the labor "of [their] hands," and he warns blacks not to denigrate the dignity and importance of this type of work. He also warns blacks not to sacrifice the habits of thrift and the accumulation of property and real wealth by conspicuous consumption and the superficial trappings of opulence. He notes that "there is as much dignity in tilling a field as in writing a poem," not to criticize poets but to recognize the importance of farmers. Finally, he warns blacks not to let discrimination and injustice blind them to the opportunities that surround them. In other words, if they focus only on their victimization, they will not succeed.

In paragraph 5, Washington shifts his focus to the white portion of his audience. Very carefully he lays out what white southerners must do, always recognizing that if he pushes too hard or too far he will fail and that failure would jeopardize Tuskegee and possibly his own safety. He begins with the very gentle phrase, "were I permitted I would repeat what I say to my own race"; then he tells white southerners to "'Cast down your bucket where you are.' Cast it down among the eight millions of Negroes whose habits you know, whose fidelity and love you have tested in days when to have proved treacherous meant the ruin of your firesides." Washington is telling white southerners to employ African Americans, not the immigrants who are pouring into the country from southern and eastern Europe; his reference to "strikes and labour wars" refers to the turmoil of recent clashes between unions and factory owners, such as the Homestead strike (1892) among steelworkers and the Pullman strike (1894) of factory workers. In his reference to the testing of black fidelity and love, he is referring to the Civil War and reminding whites that at the time they were most vulnerable, with most men off at war, blacks did not strike down the families they left behind. In discussing the contributions of blacks to the development of the South, Washington refers to both tilling the fields and building the cities, and

The Cotton States and International Exposition (Library of Congress)

for the future he depicts blacks buying land, making waste areas blossom, and running factories. Throughout this section Washington softens his message with references to the African American people as law-abiding, unresentful, loyal, and faithful, and he reminds his audience that blacks have nursed whites' children, cared for their aged, and mourned their dead.

Washington concludes paragraph 5 with his most famous statement: "In all things that are purely social we can be as separate as the fingers, yet one as the hand in all things essential to mutual progress." This sentence is at the heart of the criticism of Washington and the Atlanta Exposition Address. Looked at out of context, it seems to acquiesce to "separate but equal" segregation. However, the sentence was spoken in a context that leaves the meaning less clear. Immediately preceding it, Washington spoke of blacks "interlacing our industrial, commercial, civil, and religious life with yours in a way that shall make the interests of both races one," picking up the theme introduced in the first paragraph that the destinies of black and white southerners are intertwined.

In the very short sixth paragraph, Washington continues to discuss the connectedness of blacks and whites, observing that the security of both races requires the "highest intelligence and development of all" and urging whites to invest in the advancement of African Americans for the betterment of all.

In paragraph 7, Washington breaks the narrative and quotes from the poem "At Port Royal," written by the abolitionist poet John Greenleaf Whittier in 1862 to celebrate the November 1861 Union victory over the South and the occupation of the Port Royal area on the Georgia and South Carolina coasts. This battle was significant because the Union army liberated a number of slaves. It was one of the earliest steps toward emancipation. Quoting the most celebrated abolitionist poet to a largely white audience in Atlanta was very daring of Washington. Washington's message is one of oppressor and oppressed, bound together,

Essential Quotes

"'Cast down your bucket where you are.' Cast it down among the eight millions of Negroes whose habits you know, whose fidelity and love you have tested in days when to have proved treacherous meant the ruin of your firesides."

(Paragraph 5)

"In all things that are purely social we can be as separate as the fingers, yet one as the hand in all things essential to mutual progress."

(Paragraph 5)

"We shall contribute one-third to the business and industrial prosperity of the South, or we shall prove a veritable body of death, stagnating, depressing, retarding every effort to advance the body politic."

(Paragraph 8)

"The wisest among my race understand that the agitation of questions of social equality is the extremest folly, and that progress in the enjoyment of all the privileges that will come to us must be the result of severe and constant struggle rather than of artificial forcing."

(Paragraph 10)

"No race that has anything to contribute to the markets of the world is long in any degree ostracized."

(Paragraph 10)

"The opportunity to earn a dollar in a factory just now is worth infinitely more than the opportunity to spend a dollar in an opera-house."

(Paragraph 10)

confronting one fate. It is very likely that most whites in the audience knew the poem.

For those in the audience who might not know the poem or understand its message, Washington repeats it in very clear, unambiguous language in paragraph 8. Either blacks and whites cooperate for the betterment of the South, or blacks will work against whites and retard progress; either blacks will constitute one-third of the South's "intelligence and progress" and one-third of its "business and industrial prosperity," or "we shall prove a veritable body of death, stagnating, depressing, retarding every effort to advance the body politic." Washington threatens white southerners with economic and social catastrophe unless they are willing to work with blacks and allow blacks to share appropriately in southern progress and development.

After stating this grim warning, Washington turns to humor to defuse the tension. He begins paragraph 9 with a reference that caters to the white stereotype of blacks as petty thieves—much to the dismay of his critics. The rest of the paragraph is conciliatory. Washington describes the advances and accomplishments that African Americans had made in the thirty years since emancipation and the assistance from southern states and northern philanthropists that made this progress possible.

Paragraph 10 consists of three often-quoted sentences. In the first Washington asserts that "agitation of questions of social equality is the extremest folly" but that progress toward equality will result from "severe and constant struggle" rather than from "artificial forcing." Here again Washington is ambiguous, on the one hand denouncing agitation and on the other advocating prolonged struggle. The difference may lie in the term *social equality*, which some scholars suggest southerners equated with intermarriage. The second sentence reflects Washington's conviction that economic prosperity would erase racial prejudice. Washington ends this paragraph by asserting that at the current time, it is more important that blacks achieve the right to work in a factory than to buy a seat in the opera house. Again Washington expresses his belief that in the short term, economic prosperity should be the highest priority for African Americans. His critics accused him of again accepting segregation.

In the final paragraph, Washington ends where he began, praising the organizers of the exhibition and observing the tremendous progress blacks and whites have made, the former starting as slaves with nothing and the latter coming out of a war in which they lost everything. He again links the destiny of the two races and adds a religious component. It is God who has laid before the South the task of creating a just society, free of "sectional differences and racial animosities and suspicions." If whites, with the support of blacks, resolve this problem, they will bring into the South a "new heaven and a new earth," a reference drawn from Revelation 21:1. Left unspoken is the alternative described in Revelation 21:8 and known to most listeners. The failure to create a just society (a new heaven and a new earth) will be a fate shared by all southerners—the "lake which burneth with fire and brimstone: which is the second death."

Audience

The initial audience that Washington addressed was a few thousand southerners gathered in Atlanta for the opening of the exposition. Louis Harlan, Washington's principal biographer, describes the auditorium as "packed with humanity from bottom to top"; outside were "thousands more … unable to get in." Still, this was a relatively small but important audience. The majority were white southerners, a very difficult audience for Washington to face. In 1895 few white southerners would have tolerated being lectured to by a black man. Washington had to make his points both gently and diplomatically without surrendering his dignity or his convictions. Also present in the audience were black southerners, fewer in number, attracted to the auditorium by the unusual opportunity to see a black man address an audience of prominent whites. Washington could also expect that his words, at least in part, would be reported throughout the black community. What Washington did not anticipate was the much larger national audience that his speech would reach. Within a few days his Atlanta Exposition Address was reported in whole or in part in newspapers across the land. Washington would quickly become the most widely known African American in the country, and passages from his speech would become fixed in popular culture and American memory.

Impact

The immediate response to the speech was phenomenal. In the auditorium the audience burst into thunderous applause the moment Washington finished speaking; the former governor of Georgia, who had presided over the proceedings, rushed forward to congratulate Washington. Newspapers around the country reported the address and reprinted the speech. Perhaps none did so as effusively as Joseph Pulitzer's *New York World*, with headlines announcing that "A Negro Moses Spoke for a Race." The reporter described Washington facing the crowd with the sun in his eyes, his "whole face lit up with the fire of prophecy.… It electrified the audience, and the response was as if it had come from the throat of a whirlwind." Within days, letters and telegrams poured in praising Washington and his speech, anointing Washington as the successor to the recently deceased Frederick Douglass, and comparing the speech to Lincoln's Gettysburg Address. One who sent his congratulations was Du Bois, who telegraphed, "Let me heartily congratulate you on your phenomenal success in Atlanta—it was a word fitly spoken." He followed it up with a letter to the *New York Age*, praising the Atlanta speech as a basis for a real settlement of the racial problems in the South. There was also some opposition, especially among northern blacks. The *Washington Bee* published a very critical editorial depicting the speech as a surrender to whites. Others rejected the comparison of Washington to Douglass, while still others cringed at Washington's use of stereotyped images of blacks as a source of humor. On the

whole, however, public comment, black and white, was very favorable. The real criticism would come later.

The Atlanta Exposition Address made Washington a national figure and the most influential and powerful African American in the United States. In 1898 President William McKinley visited Tuskegee, affirming Washington's new prominence, and in 1901 Washington dined with President Roosevelt in the White House. Less publicly but even more significantly, President McKinley, President Roosevelt, and President William Taft regularly consulted with Washington on issues of significance to African Americans and on their appointments of both blacks and many white southerners to federal positions. Washington, in turn, developed a powerful political machine with allies among most prominent black Republicans and many black newspaper editors. Parallel to his expanding political power, Washington established close contacts among many of the most powerful white business leaders. In the process, he expanded his already effective fund-raising operation for Tuskegee into an economic machine that effectively controlled the distribution of white philanthropy into the black community.

History, however, has not been kind to Washington or his Atlanta address. By 1910 Du Bois and most northern black intellectuals either viewed the Atlanta speech as a surrender to white racism or blamed Washington and the policies enunciated in Atlanta for the deterioration of African American rights and the rise in racial violence. Within the black community this negative view persisted throughout most of the twentieth century. Finally, the Atlanta address, accurately or inaccurately, has become a symbol of a dichotomy in African American political thought—the division between those advocating a nonconfrontational economic and community-building approach to America's racial problems and those who push a more militant program of integration and immediate civil and political rights.

See also Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); Ku Klux Klan Act (1871); Civil Rights Cases (1883); *Plessy v. Ferguson* (1896); Martin Luther King, Jr.: "I Have a Dream" (1963).

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Questions for Further Study

1. Critics of Washington and his Atlanta Exposition Address have accused him of betraying African Americans by giving in to southern perceptions of the racial inferiority of African Americans and accepting segregation and the loss of the African American political rights and the right to vote. To what extent is this criticism valid? To what extent is it not valid?

2. What rights does Washington assert for African Americans in the Atlanta address? How do these rights differ from those championed by the organizers of the Niagara Movement in their 1905 Declaration of Principles?

3. Washington delivered this speech in Atlanta, Georgia, in 1895. How did the location of the speech affect what Washington said? How might the speech have been different had Washington delivered it in New York rather than Atlanta?

4. One theme that Washington develops in this speech is the concept that the destinies of black southerners and white southerners are intertwined. How does Washington argue this point? What is the significance of this argument? Explain whether this argument is an effective basis for resolving racial problems in the South.

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—Cary D. Wintz

Document Text

Booker T. Washington's Atlanta Exposition Address

Mr. President and Gentlemen of the Board of Directors and Citizens:

One-third of the population of the South is of the Negro race. No enterprise seeking the material, civil, or moral welfare of this section can disregard this element of our population and reach the highest success. I but convey to you, Mr. President and Directors, the sentiment of the masses of my race when I say that in no way have the value and manhood of the American Negro been more fittingly and generously recognized than by the managers of this magnificent Exposition at every stage of its progress. It is a recognition that will do more to cement the friendship of the two races than any occurrence since the dawn of our freedom.

Not only this, but the opportunity here afforded will awaken among us a new era of industrial progress. Ignorant and inexperienced, it is not strange that in the first years of our new life we began at the top instead of at the bottom; that a seat in Congress or the state legislature was more sought than real estate or industrial skill; that the political convention or stump speaking had more attractions than starting a dairy farm or truck garden.

A ship lost at sea for many days suddenly sighted a friendly vessel. From the mast of the unfortunate vessel was seen a signal, "Water, water; we die of thirst!" The answer from the friendly vessel at once came back, "Cast down your bucket where you are." A second time the signal, "Water, water; send us water!" ran up from the distressed vessel, and was answered, "Cast down your bucket where you are." And a third and fourth signal for water was answered, "Cast down your bucket where you are." The captain of the distressed vessel, at last heeding the injunction, cast down his bucket, and it came up full of fresh, sparkling water from the mouth of the Amazon River. To those of my race who depend on bettering their condition in a foreign land or who underestimate the importance of cultivating friendly relations with the Southern white man, who is their next-door neighbor, I would say: "Cast down your bucket where you are"—cast it down in making friends in every manly way of the people of all races by whom we are surrounded.

Cast it down in agriculture, mechanics, in commerce, in domestic service, and in the professions. And in this connection it is well to bear in mind that whatever other sins the South may be called to bear, when it comes to business, pure and simple, it is in the South that the Negro is given a man's chance in the commercial world, and in nothing is this Exposition more eloquent than in emphasizing this chance. Our greatest danger is that in the great leap from slavery to freedom we may overlook the fact that the masses of us are to live by the productions of our hands, and fail to keep in mind that we shall prosper in proportion as we learn to dignify and glorify common labour, and put brains and skill into the common occupations of life; shall prosper in proportion as we learn to draw the line between the superficial and the substantial, the ornamental gewgaws of life and the useful. No race can prosper till it learns that there is as much dignity in tilling a field as in writing a poem. It is at the bottom of life we must begin, and not at the top. Nor should we permit our grievances to overshadow our opportunities.

To those of the white race who look to the incoming of those of foreign birth and strange tongue and habits for the prosperity of the South, were I permitted I would repeat what I say to my own race, "Cast down your bucket where you are." Cast it down among the eight millions of Negroes whose habits you know, whose fidelity and love you have tested in days when to have proved treacherous meant the ruin of your firesides. Cast down your bucket among these people who have, without strikes and labour wars, tilled your fields, cleared your forests, builded your railroads and cities, and brought forth treasures from the bowels of the earth, and helped make possible this magnificent representation of the progress of the South. Casting down your bucket among my people, helping and encouraging them as you are doing on these grounds, and to education of head, hand, and heart, you will find that they will buy your surplus land, make blossom the waste places in your fields, and run your factories. While doing this, you can be sure in the future, as in the past, that you and your families will be surrounded by the most patient, faithful, law-abiding, and unresentful people that the world has seen. As we have proved our loyalty to you in the past, in nursing your children, watching by the sick-bed of your mothers and fathers, and often following them with tear-dimmed eyes to their graves, so in the future, in

Document Text

our humble way, we shall stand by you with a devotion that no foreigner can approach, ready to lay down our lives, if need be, in defense of yours, interlacing our industrial, commercial, civil, and religious life with yours in a way that shall make the interests of both races one. In all things that are purely social we can be as separate as the fingers, yet one as the hand in all things essential to mutual progress.

There is no defense or security for any of us except in the highest intelligence and development of all. If anywhere there are efforts tending to curtail the fullest growth of the Negro, let these efforts be turned into stimulating, encouraging, and making him the most useful and intelligent citizen. Effort or means so invested will pay a thousand per cent interest. These efforts will be twice blessed—blessing him that gives and him that takes. There is no escape through law of man or God from the inevitable:

> The laws of changeless justice bind
> Oppressor with oppressed;
> And close as sin and suffering joined
> We march to fate abreast...

Nearly sixteen millions of hands will aid you in pulling the load upward, or they will pull against you the load downward. We shall constitute one-third and more of the ignorance and crime of the South, or one-third [of] its intelligence and progress; we shall contribute one-third to the business and industrial prosperity of the South, or we shall prove a veritable body of death, stagnating, depressing, retarding every effort to advance the body politic.

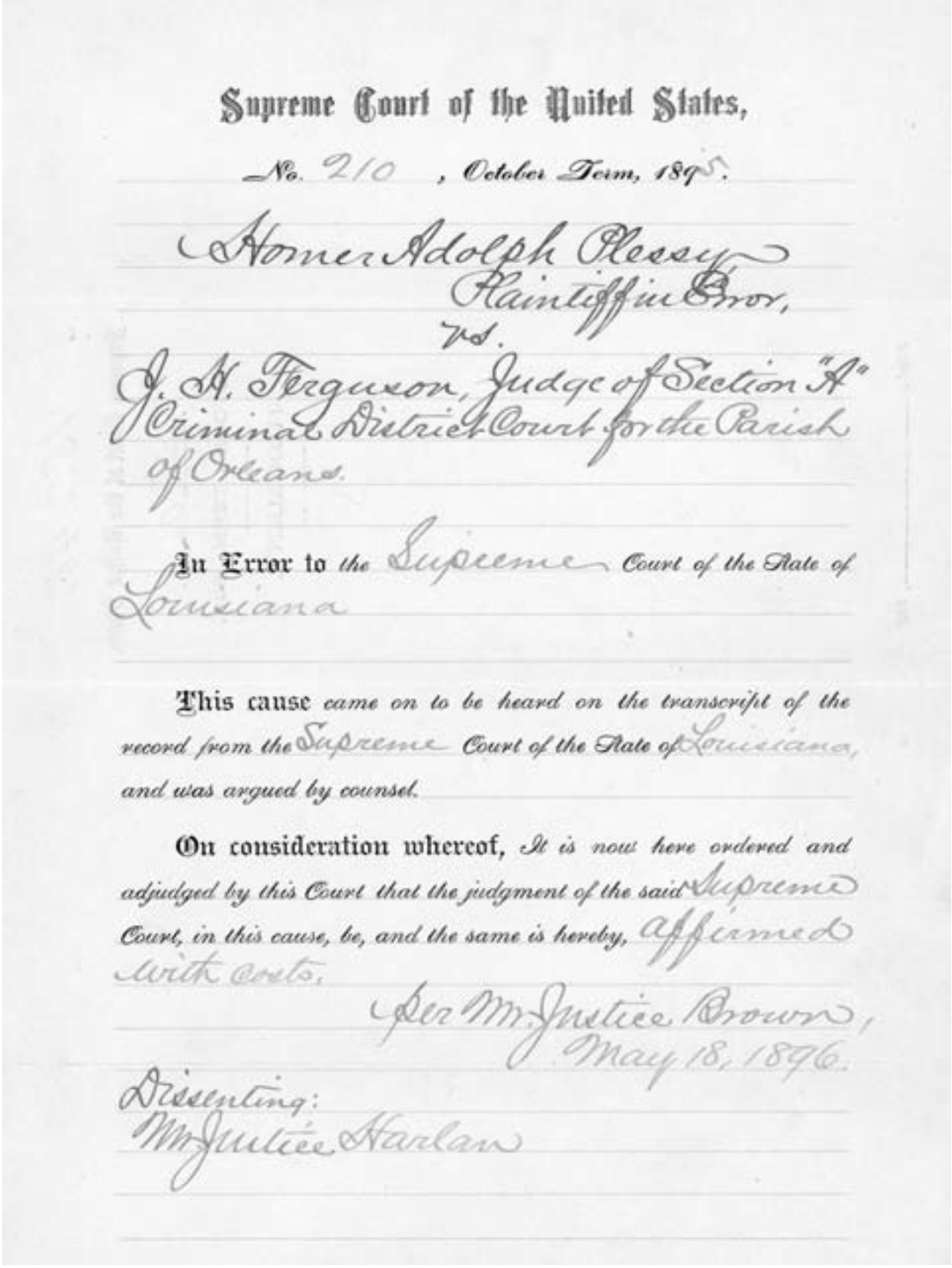
Gentlemen of the Exposition, as we present to you our humble effort at an exhibition of our progress, you must not expect overmuch. Starting thirty years ago with ownership here and there in a few quilts and pumpkins and chickens (gathered from miscellaneous sources), remember the path that has led from these to the inventions and production of agricultural implements, buggies, steam-engines, newspapers, books, statuary, carving, paintings, the management of drug stores and banks, has not been trodden without contact with thorns and thistles. While we take pride in what we exhibit as a result of our independent efforts, we do not for a moment forget that our part in this exhibition would fall far short of your expectations but for the constant help that has come to our educational life, not only from the Southern states, but especially from Northern philanthropists, who have made their gifts a constant stream of blessing and encouragement.

The wisest among my race understand that the agitation of questions of social equality is the extremest folly, and that progress in the enjoyment of all the privileges that will come to us must be the result of severe and constant struggle rather than of artificial forcing. No race that has anything to contribute to the markets of the world is long in any degree ostracized. It is important and right that all privileges of the law be ours, but it is vastly more important that we be prepared for the exercise of these privileges. The opportunity to earn a dollar in a factory just now is worth infinitely more than the opportunity to spend a dollar in an opera-house.

In conclusion, may I repeat that nothing in thirty years has given us more hope and encouragement, and drawn us so near to you of the white race, as this opportunity offered by the Exposition; and here bending, as it were, over the altar that represents the results of the struggles of your race and mine, both starting practically empty-handed three decades ago, I pledge that in your effort to work out the great and intricate problem which God has laid at the doors of the South, you shall have at all times the patient, sympathetic help of my race; only let this be constantly in mind, that, while from representations in these buildings of the product of field, of forest, of mine, of factory, letters, and art, much good will come, yet far above and beyond material benefits will be that higher good, that, let us pray God, will come, in a blotting out of sectional differences and racial animosities and suspicions, in a determination to administer absolute justice, in a willing obedience among all classes to the mandates of law. This, coupled with our material prosperity, will bring into our beloved South a new heaven and a new earth.

Glossary

body politic	the people as a whole in a state or a nation
letters	literature
mandates	authoritative demands or requirements
sectional	related to one part or state of a country over another



Supreme Court of the United States,

No. 210, October Term, 1895.

Homer Adolph Plessy
Plaintiff in Error,
vs.
J. H. Ferguson, Judge of Section "A"
Criminal District Court for the Parish
of Orleans.

In Error to the Supreme Court of the State of
Louisiana

This cause came on to be heard on the transcript of the record from the Supreme Court of the State of Louisiana, and was argued by counsel.

On consideration whereof, It is now here ordered and adjudged by this Court that the judgment of the said Supreme Court, in this cause, be, and the same is hereby, Affirmed with costs.

Per Mr. Justice Brown,
May 18, 1896.

Dissenting:
Mr. Justice Harlan

Plessy v. Ferguson (National Archieves and Records Administration)

Plessy v. Ferguson

1896

"If one race be inferior to the other socially, the constitution of the United States cannot put them upon the same plane."

Overview

Plessy v. Ferguson, argued on April 13, 1896, and decided on May 18, 1896, is probably best known for giving the United States the "separate but equal" doctrine. The case probably ranks close to *Dred Scott v. Sandford* (1857) as one of the most influential and thoroughly repudiated cases the Supreme Court has ever decided. The majority opinion was written by Justice Henry Billings Brown of Massachusetts, and it gained the assent of six additional justices. That opinion provided a legal imprimatur to segregation and the Jim Crow system of laws that flourished from the late nineteenth century through much of the twentieth century. *Plessy* held that notwithstanding the Reconstruction Amendments (the Thirteenth, Fourteenth, and Fifteenth Amendments), which were passed in the wake of the Civil War to grant equal citizenship to African Americans and promised the equal protection of the laws to all persons, the United States Constitution allowed states to segregate their black and white citizens when traveling on intrastate railroads. The separate but equal doctrine was applied to more than just railroads and supported segregation until it was largely repudiated, though not explicitly overruled, in *Brown v. Board of Education of Topeka* (1954).

Justice John Marshall Harlan of Kentucky wrote the sole dissent in *Plessy*, which provided much of the rhetorical support for the twentieth-century civil rights movement. Justice Harlan argued that the Reconstruction Amendments' guarantees of equality were so incompatible with segregation that segregation was unconstitutional. Justice David Brewer did not participate in the case.

Context

Although the Civil War ended just over thirty years before *Plessy v. Ferguson* was decided, the case was yet a result of the lingering conflict that existed after the war. During the decade following the Civil War, known as the Reconstruction era, America was a place of great change with respect to race relations. During the five years following the end of the war, the Thirteenth, Fourteenth, and Fifteenth Amendments (collectively known as the Civil War or Reconstruction Amendments) were passed. The Thirteenth Amendment outlawed slavery. The Fourteenth Amendment was passed after it became clear that the Thirteenth Amendment could not guarantee that individual states would grant the full equality that many had believed would result from the end of slavery. The Fifteenth Amendment, which stated that voting rights could not be abridged based on race, color, or previous condition of servitude, was ratified to guarantee political equality for African American men. Taken together, these amendments were designed to make African Americans (former slaves and free blacks) full and equal participants in American society. In addition, Congress passed a number of laws designed to protect the newly won civil rights of black citizens and allow the full enjoyment of equal citizenship. For example, Congress passed the Civil Rights Act of 1875, which required that black citizens be provided the same access to public accommodations, such as railroads, theaters, and inns, as white citizens.

Although race relations were hardly smooth after the Civil War, Congress made clear that equality under the law was to be the order of the day. However, the presidential election of 1876 changed the course of the country. Rutherford Hayes and Samuel Tilden ran a very close election that had to be decided in the House of Representatives. In exchange for support to become president, Hayes agreed to end the Reconstruction era in the South and withdraw the remaining federal troops there. The withdrawal of troops signaled the psychological end to Reconstruction and the coming of a Jim Crow society based on racial separation and racial caste.

Louisiana's story tracks that of the South, though New Orleans had always enjoyed more racial mixing than other parts of the South. For example, just after the end of the Civil War, Louisiana enacted its Black Code. However, in 1868 Louisiana ratified a state constitution that provided equal rights to African Americans. Around this time, Louisiana also desegregated its schools. As with the rest of the South, however, the end of Reconstruction triggered the arrival of Jim Crow laws. Both Louisiana and New Orleans slid toward state-mandated segregation.

The segregationists consolidated power through the 1870s and the 1880s. In the 1880s many southern states

Time Line

1875

■ **March 1**
The Civil Rights Act of 1875 is passed, barring racial discrimination in public accommodations, including public conveyances.

1877

■ The Compromise of 1877 allows Rutherford B. Hayes to become president on the condition that Hayes remove remaining federal troops from the South.

1880s

■ Some southern states begin to require segregated railroad cars.

1883

■ **October 16**
The Supreme Court decides that the Civil Rights Cases deeming the Civil Rights Act of 1875 unconstitutional are outside congressional scope of power.

1890s

■ Southern states revise constitutions in large part to disenfranchise African Americans and limit other civil rights.

1890

■ The Supreme Court decides *Louisville, New Orleans & Texas Railway Co. v. Mississippi*, which denies an interstate commerce–based challenge to Mississippi's Separate Car Act.

■ **July 10**
Louisiana passes the Separate Car Act, which Home Plessy eventually challenges.

1892

■ **June 7**
Homer Plessy is arrested after boarding a train and refusing to sit in the car assigned for colored people.

1893

■ The Panic of 1893 triggers an economic depression in the United States.

1895

■ **September 18**
Booker T. Washington gives his Atlanta Exposition Address, arguing for accommodation to segregation and urging focus on economic self-determination rather than on integration.

began to pass laws requiring the segregation of railroad cars. In 1890 Louisiana joined those states in passing the Separate Car Act of 1890. As a result of the legislation, a number of African Americans created the Citizens' Committee to Test the Constitutionality of the Separate Car Act to challenge the law and to attempt to protect the gains won for African Americans during the Reconstruction era. Homer Plessy's case was a test case designed specifically to challenge the Separate Car Act and the coming of the Jim Crow laws. The case had the potential to either stem the tide of racial separatism or drive a nail in the coffin of racial equality and reconciliation.

About the Author

Justice Henry Billings Brown wrote the majority opinion in *Plessy v. Ferguson*. Brown was born on March 2, 1836, in South Lee, Massachusetts. After graduating from Yale College, he studied law at Yale Law School and Harvard Law School. He served as a U.S. deputy marshal, assistant U.S. attorney, and federal judge of the Eastern District of Michigan for fifteen years before being confirmed to the U.S. Supreme Court in 1890. He retired from the Court in 1906 and died on September 4, 1913.

Justice John Marshall Harlan wrote the sole dissenting opinion in *Plessy v. Ferguson*. Harlan was born on June 1, 1833, in Boyle County, Kentucky. After graduating from Centre College, he studied law at Transylvania University. Although he was a former slaveholder, Harlan fought for the Union army in the Civil War. Harlan opposed abolition before the war and full equality for blacks just after the war. However, in the wake of the Civil War, Harlan joined the Republican Party and reversed his view of slavery and many racial equality issues. Harlan was confirmed to the Court on November 29, 1877. In addition to the *Plessy* dissent, he dissented in the Civil Rights Cases (1883), arguing that the Civil Rights Act of 1875 was constitutional and should have been held to legally require equal public accommodations for those of all races. Harlan served on the Court until his death on October 14, 1911.

Explanation and Analysis of the Document

♦ Statement of the Case

The case begins with a recitation of the facts of the case and its legal posture. On June 7, 1892, Plessy, the defendant also known as the plaintiff in error, paid for a first-class train ticket on the East Louisiana Railway headed from New Orleans to Covington, Louisiana, and sat down in an empty seat in the railroad car reserved for whites. He was "of seven-eighths Caucasian and one-eighth African blood" and had such a light complexion that one could not tell that he had any African ancestry. However, Plessy had already decided to challenge the law before boarding the train. Thus, after sitting down, Plessy informed the conductor that he was of mixed blood. He was told he had to move

to the section for nonwhites or get off the train. Plessy was "forcibly ejected from said coach" and taken to jail after he refused to move.

Plessy was charged with violating an act of the Louisiana legislature commonly known as the Separate Car Act of 1890. In response to the charge, Plessy asserted that the act violated the U.S. Constitution. The Louisiana trial court disagreed and, according to the statement of the case as noted in the *Plessy* decision, stated that unless "the judge of the said court be enjoined by a writ of prohibition from further proceeding in such case, the court will proceed to fine and sentence petitioner to imprisonment." Plessy sought a writ of prohibition that would stop the court from enforcing the act. The Louisiana Supreme Court determined that the Separate Car Act was constitutional and denied the writ of prohibition. Consequently, Plessy "prayed for a writ of error from this court" and the case came to the U.S. Supreme Court.

Time Line

1896	■ **May 18** *Plessy v. Ferguson* is decided.
1897	■ **January 11** Plessy pleads guilty to violating the Separate Car Act and pays a $25 fine.
1898	■ Louisiana holds a constitutional convention that effectively disenfranchises its African American citizens.
1909	■ **February 12** The National Association for the Advancement of Colored People is formed.

♦ Majority Opinion of Justice Henry Billings Brown

Brown's opinion for the Court follows the recitation of facts. It begins by noting that the key issue is "the constitutionality of an act of the general assembly of the state of Louisiana, passed in 1890, providing for separate railway carriages for the white and colored races." The opinion then describes the content of the statute. The first section of the statute requires that railway companies other than street railroads provide "equal but separate accommodations for the white, and colored races," either by providing separate train cars or by erecting partitions in a single railcar that separates the races. The second section of the statute requires that the companies segregate their passengers by race. Train conductors and other company employees were required to assign passengers to respective accommodations by race. Passengers who refused to go to their assigned accommodations and train employees who intentionally assigned passengers to the wrong accommodations were liable for a fine of $25 or up to twenty days in jail. A railway company could refuse to carry a passenger who refused to sit in his or her assigned car, and no damages would arise based on the refusal. The third section of the act provides penalties for employees of the railway company who refuse to comply with the act, but it excepts "nurses attending children of the other race." According to Brown, the fourth section of the act is immaterial.

The opinion repeats facts from the statement of the case: that Plessy was of seven-eighths Caucasian and one-eighth African blood, that one could not tell that he was part African by looking at him, that he sat down in a vacant seat in the coach assigned for whites, that he did not move when he was told to move, that he was removed from the train, and that he was taken to the parish jail. Brown notes that Plessy claims that the Separate Car Act is unconstitutional under both the Thirteenth and Fourteenth Amendments. Brown quickly addresses the Thirteenth Amendment claim and then spends the rest of the opinion addressing the Fourteenth Amendment claim.

Brown explains that the Thirteenth Amendment addresses slavery and like conditions such as "Mexican peonage or the Chinese coolie trade." In addition, the amendment applies to attempts to place people into involuntary servitude or to place badges of slavery on former slaves. However, says Brown, the Thirteenth Amendment is not applicable to this case. The statute at issue makes a distinction between the races based on color but does not seek to "destroy the legal equality of the two races, or re-establish a state of involuntary servitude." Brown notes that in cases like this one where a law allows or requires discrimination, if any amendment were to apply, it would be the Fourteenth, not the Thirteenth. This is because the Fourteenth Amendment was passed to address race-based distinctions that some believed effectively devalued the freedom given by the Thirteenth Amendment.

Brown begins his explanation of the applicability of the Fourteenth Amendment with an elucidation of its scope and limitations. He notes that the purpose of the amendment is "to establish the citizenship of the negro, to given definitions of citizenship of the United States and of the states, and to protect from the hostile legislation of the states the privileges and immunities of citizens of the United States, as distinguished from those of citizens of the states." Simply, the amendment provides equality of the races before the law. Equality before the law is not necessarily inconsistent with making race-based distinctions or even segregating the races, however. Brown notes that school segregation was allowed even in jurisdictions that scrupulously provided equal political rights between the races, citing Justice Lemuel Shaw's opinion in the 1849 case *Roberts v. City of Boston*. Although that case was decided before the Civil War and the passage of the Fourteenth Amendment and could not be deemed binding on any construction of the Fourteenth Amendment, Brown's point appears to be that there is a distinction between requiring equality before the law and requiring what he believes constituted social equality. In making his point, Brown previews an argument, which he would use later in the opinion, that enforced separation of the races does not suggest the inferiority of either race.

Supreme Court Justices in 1896 (Library of Congress)

Brown argues that the Fourteenth Amendment is a limitation on states when political or civil equality is at stake, rather than a mandate to allow Congress to grant positive rights to support notions of equality. For example, the Fourteenth Amendment requires that blacks and whites be treated equally when civil rights such as the ability to serve on a jury are at issue. Conversely, when social equality issues are at stake, such as conditions of travel, the Fourteenth Amendment leaves those matters to the states to regulate so long as no other constitutional provisions are violated. For example, when Louisiana sought to regulate racial aspects of how passengers were to be treated when traveling through the state in interstate travel, it would have been able to do so had the law not been related to interstate commerce, the regulation of which is left to Congress under the Constitution. That the Fourteenth Amendment generally leaves state prerogatives to regulate intact was made clear when the Court passed on the Civil Rights Act of 1875 in the Civil Rights Cases. There, the Court indicated that the Fourteenth Amendment does not give Congress the power to pass legislation that provides positive rights in areas of state prerogative such as the public accommodation of the races with respect to private businesses. Simply, the Fourteenth Amendment does not provide positive rights; it merely limits the kind of legislation states can pass.

Brown then directly addresses the constitutionality of the Separate Car Act. Although the act forced segregation, Brown finds that it does not harm the rights of African Americans because it "neither abridges the privileges or immunities of the colored man, deprives him of his property without due process of law, nor denies him the equal protection of the laws, within the meaning of the fourteenth amendment." The act had the potential to harm the rights of whites, however. If, as Plessy argues in the claim, the reputation of being a white person in a mixed-race community is like property, the act may have gone too far in protecting a conductor who improperly assigns whites to the black car and therefore damages the property value of the white person. Brown notes that this problem is of no moment to Plessy's claim, because a black man like Plessy loses no property value in his reputation by being improperly categorized as a white person.

In response to the argument that allowing racial separation opens the door to allowing the state to create other arbitrary distinctions based on race, Brown answers that the exercise of the state's police power itself has to be reasonable. The question is whether the Separate Car Act is reasonable based on "the established usages, customs, and traditions of the people, and with a view to the promotion of their comfort, and the preservation of the public peace and good order." Based on that standard, it is unclear that the segregation here is any worse than school segregation that, according to Brown, most courts appear to agree is constitutional.

After determining that the act is constitutional, Brown attempts to explain why the rule itself treats the races equally. He reprises his argument that forced segregation does not suggest the inferiority of either race and states that any inferiority that black citizens may feel comes from the spin blacks give to the act and not from the act itself. Indeed, he suggests that if a majority-black legislature had passed the act, whites would not feel inferior to blacks. Oddly, Brown then explains that voluntary mingling between the races is acceptable, but forced mingling by the state is not required. Given that the statute at issue stops voluntary mingling, Brown's argument is somewhat nonsensical. Brown ends the argument by suggesting that formal civil and political equality is as far as the Constitution does and can go. If the races are social unequals, the Constitution cannot remedy that situation. Brown ends his opinion by noting that it is unclear how much African blood makes one black for purposes of segregation statutes, but he leaves that issue to the individual states to decide.

♦ Dissenting Opinion of Justice John Marshall Harlan

Harlan begins by highlighting a few of the statute's salient points. He notes that the statute requires strict separation of the races with the exception of a nurse caring for a child of a different race. Indeed, a personal attendant could not attend to the needs of her employer if the attendant and employer were of different races unless the attendant wished to be held criminally liable. However, he notes, regardless of the fairness of the statute, the question for the Court is whether the statute's explicit regulation based on race is constitutional.

Essential Quotes

"We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it."

(Justice Henry Billings Brown, Majority Opinion)

"If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits, and a voluntary consent of individuals."

(Justice Henry Billings Brown, Majority Opinion)

"If the civil and political rights of both races be equal, one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the constitution of the United States cannot put them upon the same plane."

(Justice Henry Billings Brown, Majority Opinion)

"The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth, and in power. So, I doubt not, it will continue to be for all time.… But in view of the constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens.… Our constitution is color-blind, and neither knows nor tolerates classes among citizens."

(Justice John Marshall Harlan, Dissenting Opinion)

"In my opinion, the judgment this day rendered will, in time, prove to be quite as pernicious as the decision made by this tribunal in the Dred Scott Case."

(Justice John Marshall Harlan, Dissenting Opinion)

"What can more certainly arouse race hate … than state enactments which, in fact, proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens?"

(Justice John Marshall Harlan, Dissenting Opinion)

Harlan provides the general structure of his argument. The civil rights of all citizens are to be protected equally. Consequently, there is no reason for the government to consider the race of any person when regulating civil rights. When a government considers race when legislating regarding civil rights, not only does it improperly provide civil rights, it also improperly affects the liberty of all U.S. residents.

Harlan then indicates the purpose of the Reconstruction Amendments The Reconstruction Amendments provide a broad protection for the rights of all citizens. The Thirteenth Amendment abolishes slavery, "prevents the imposition of any burdens or disabilities that constitute badges of slavery or servitude," and "decreed universal civil freedom in this country." But the Thirteenth Amendment was not strong enough to fully protect the rights of former slaves. Consequently, the Fourteenth Amendment was ratified to ensure that the freedom provided by the Thirteenth Amendment could be fully exercised. By explicitly making African Americans citizens and by stopping states from regulating rights based on race, the Fourteenth Amendment "added greatly to the dignity and glory of American citizenship, and to the security of personal liberty." In combination, the Thirteenth and Fourteenth Amendments were supposed to guarantee that "all the civil rights that pertain to freedom and citizenship" would be protected. The Fifteenth Amendment, which states that the right to vote is not provided on the basis of race, color, or previous condition of servitude, was added to guarantee that all citizens could participate "in the political control of his country." As a group, the Reconstruction Amendments were designed to guarantee that African Americans enjoyed the same rights as whites in the eyes of the law.

The Reconstruction Amendments were meant to ensure that blacks and former slaves were to be equal with whites and would enjoy the same rights. Even though the Fourteenth Amendment does not give positive rights, it does stop state governments from treating blacks badly merely because of their skin color. Indeed, the Supreme Court has made clear that with respect to civil and political rights, "all citizens are equal before the law." In concrete terms, this means that blacks cannot, for example, be kept from serving on juries. Harlan notes that the Supreme Court had decided so in *Strauder v. West Virginia* (1880)

Harlan then begins his attack on the majority's opinion by noting that the statute is clearly designed to keep blacks away from whites and that anyone who claims otherwise is lacking in candor. Then, rather than focusing directly on the equality issue, he suggests that the statute imperils liberty interests. That is, if people of different races want to sit together on a train, they are not allowed to do so under the statute without breaking the law. Harlan next suggests that allowing the law to stand could lead to ludicrous results, such as requiring that blacks use one side of the street and whites use the other side or requiring that blacks use one side of the courtroom and whites use the other side. Harlan's suggestion that blacks and whites might be segregated in the jury box is particularly biting, given that the Court had made clear in prior cases that blacks had a right to serve on integrated juries. How an integrated jury in a segregated jury box might work is anyone's guess.

Harlan then challenges the majority's notion that reasonableness is a ground on which to determine the constitutionality of a statute. He suggests that reasonableness is an issue for the legislature when passing a law. Constitutionality is an issue for the Court when reviewing legislation. It may be acceptable to consider reasonableness when determining how a statute will be interpreted consistent with legislative intent, but it is not acceptable to consider it when determining whether the legislature is allowed to pass a certain statute under the Constitution.

Harlan next begins a discussion that, through the years, would overtake the majority opinion in significance. First, he asserts that the Constitution is color-blind. Harlan, making his point in terms that are harsh to twenty-first-century ears, notes that the white race is dominant in America and that it likely would continue to be so. However, he states that the dominance of the white race does not mean that there is a caste system in America. Indeed, he argues that notwithstanding the relative position of the races, individuals must be treated as equals under the law. He states that the most powerful has no greater rights than the least powerful has and that the Court does a disservice when it claims otherwise. Harlan suggests, in fact, that the Court's vision is so troubling and antithetical to equality that the *Plessy* decision would become as nettlesome as the *Dred Scott* decision.

The effect of the *Plessy* decision, so suggests Harlan, would be to encourage some to create a caste system that would be antithetical to the Reconstruction Amendments. The decision is likely to cause great harm, given that blacks and whites need to learn to live together. Harlan suggests that laws like Louisiana's, which imply that blacks are "so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens," would elicit discord, distrust, and hate between the races.

Harlan then attacks the notion that the case is about social equality. The statute at issue relates to allowing people to sit in the same train car. Social equality is no more relevant to that issue than it is to the issue of having citizens of different races share the same street, share the same ballot box, or stand together at a political assembly. Indeed, Harlan notes, it is odd that one would raise the social equality issue in this context, given that the Chinese are considered so different from Americans that they are not allowed to become citizens. Although the Chinese cannot become citizens, they are allowed to ride in the same car as whites. Given that blacks are supposed to have equal rights as citizens, that they have fought in wars to preserve the Union, and that they have the right to share political control of the country, it is odd that they would not be allowed to share the same railway car with whites. In fact, Harlan argues, "the arbitrary separation of citizens, on the basis of race, while they are on a public highway, is a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the constitution. It cannot be justified upon any legal grounds."

Harlan suggests that any harm that might come from having blacks and whites share railcars pales in comparison to the problems that would arise from denying civil rights by separating the races. If separation is appropriate, it is unclear why separation would not be appropriate when blacks are exercising rights that the Court agrees they must be allowed to exercise. He again suggests that, under the reasoning of *Plessy*, there would be nothing unconstitutional in a state's forcing jury boxes to be partitioned on the basis of race.

As he moves toward the conclusion of the dissent, Harlan argues that the cases that Brown cites to support segregation are from a bygone, pre–Civil War era during which inequality and slavery ruled. Given the mind-set of those who passed the laws and the absence of the Reconstruction Amendments, such cases are inapplicable to this situation and should be ignored. The question is not how to think about rights in an era of admitted inequality but what to do in an era when free blacks and former slaves are citizens and must be provided equal rights.

Harlan finishes by arguing that the law at issue is an affront to the liberty of all citizens and is inconsistent with the Constitution. He notes that if similar laws were passed by states and localities, trouble would ensue. Last, he indicates that if the right to provide rights unequally to citizens is allowed, black citizens who are full members in society would be placed "in a condition of legal inferiority." For the aforementioned reasons, Harlan notes, he is required to dissent.

Audience

Although the *Plessy* opinion was of particular use to Congress and the state legislatures that were beginning to impose the Jim Crow laws, the intended audience for the case was the country as a whole. Given that this was a decision of the Supreme Court, it is unclear that it should be taken as a call to action. Rather, it can be taken as an exposition on the meaning of the U.S. Constitution that might have the effect of emboldening state legislatures or cowing Congress but probably not as a case that was intended to have that effect.

Impact

The effect of *Plessy v. Ferguson* on the first half of the twentieth century cannot be overstated. Although the *Plessy* Court was not the first Court to provide a cramped reading of the Fourteenth Amendment, the context in which the reading occurred was important. Before *Plessy*, the Supreme Court decided that the Reconstruction Amendments could not be used to allow Congress to provide many positive rights to African Americans, notwithstanding the enforcement power provided to Congress in Section 5 of the amendment. However, *Plessy* limited the use of the Reconstruction Amendments by the courts to block state legislation that provided unequal rights to African Americans. Given the Fourteenth Amendment's equal protection clause, the blocking function was arguably the narrowest and most essential function the Reconstruction Amendments could have had. Without the broad availability of the Reconstruction Amendments to stop attempts to limit participation of African Americans in as much of American life as possible, the proponents of Jim Crow laws had a largely open field. *Plessy* simply helped extend and legitimize the Jim Crow era, during which blacks would lose many of the gains made in the South since the end of the Civil War. It allowed for years of poor treatment of blacks at the hands of state legislatures rather than merely at the hands of private actors.

The separate but equal doctrine was the *Plessy* Court's lasting legacy. The doctrine was simple and effective. It provided segregationists with a simple tool and a constitutional imprimatur to regulate out of existence many rights thought to be protected by the Fourteenth Amendment. That doctrine provided constitutional protection to those who sought to limit the equality of African Americans. Segregationists were not simply allowed to make black citizens somewhat invisible through segregation; they were also emboldened to push the envelope of disenfranchisement and inequality as far as possible, knowing that the Supreme Court likely would not act to protect the equality of African Americans. Indeed, a number of southern states, including Louisiana, reworked their constitutions in the late nineteenth century to implicitly or explicitly take rights away from African Americans. Although some of these attempts predated *Plessy*, the results of some of those actions were effectively immunized by *Plessy*. *Plessy* simply made a caste system legally enforceable under a Constitution that guaranteed due process and equal protection.

Plessy was not a radical decision that took the country in a shockingly new direction. However, it did confirm a type of legislation that had been of questionable constitutionality in light of the Fourteenth Amendment. At the time of its passage, *Plessy* was not overly controversial to any of the justices save Harlan and possibly Brewer, who took no part in the decision. Indeed, the decision was not a widely cited constitutional case at its time or for a number of ensuing decades. Until the notion of separate but equal was challenged through cases brought by the National Association for the Advancement of Colored People and others, *Plessy* was standard constitutional law fare.

Over time, the majority opinion in *Plessy* fell out of favor, though many held on to the notion that separate but equal was a reasonable goal. The doctrine was the touchstone for segregationists for years. Segregationists, however, tended to adhere to the separate part of the doctrine but not the equal part. The claims of separate but equal facilities rang hollow when various groups documented the separate and unequal conditions that tended to exist in the South. The arguments eventually became too strong for the doctrine to resist. The doctrine was discarded in a string of Supreme Court cases throughout the middle part of the twentieth century, including *Brown v. Board of Education of Topeka*.

The eventual discarding of the majority opinion means that Harlan's dissent is far more well known and arguably

more important than the majority opinion is today. The dissent not only predicted the racial discord that would follow *Plessy*; it also gave us the notion of a color-blind Constitution. The phrase *color-blind Constitution* was a slogan used to argue for an end to segregation and other racist laws. However, it has been used recently by some to argue that affirmative action and other race-conscious laws and remedies are inconsistent with constitutional doctrine. That battle continues to rage and is unlikely to be resolved any time soon.

See also *Roberts v. City of Boston* (1850); *Dred Scott v. Sandford* (1857); Black Code of Mississippi (1865); Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); Civil Rights Cases (1883); *Brown v. Board of Education* (1954).

Further Reading

■ Books

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—Henry L. Chambers, Jr.

Questions for Further Study

1. Compare the majority opinions in *Plessy v. Ferguson* and *Dred Scott v. Sandford*. Many claim that both were riddled with factual and logical errors. However, taking the facts as the authors of the majority opinions claimed them to be, were either, both, or neither consistent with the Constitution as it was then written?

2. Compare *Plessy v. Ferguson* with *Brown v. Board of Education of Topeka*. Is the key distinction between them that the *Brown* Court took the harms of segregation seriously while the *Plessy* Court did not, or are there other distinctions that explain why the cases were decided so differently? How could each opinion have garnered such large majorities of the Court's justices? How could both cases be consistent with the Constitution?

3. Did *Plessy v. Ferguson* effectively gut the Reconstruction Amendments in general or the Fourteenth Amendment in particular?

4. Should the legacy of Jim Crow laws be placed at Justice Brown's feet, as he was the writer of the *Plessy v. Ferguson* majority opinion?

5. What would a world governed by Harlan's dissent in *Plessy v. Ferguson* have looked like twenty years after the case was decided?

Document Text

Plessy v. Ferguson

This was a petition for writs of prohibition and certiorari originally filed in the supreme court of the state by Plessy, the plaintiff in error, against the Hon. John H. Ferguson, judge of the criminal district court for the parish of Orleans, and setting forth, in substance, the following facts:

That petitioner was a citizen of the United States and a resident of the state of Louisiana, of mixed descent, in the proportion of seven-eighths Caucasian and one-eighth African blood; that the mixture of colored blood was not discernible in him, and that he was entitled to every recognition, right, privilege, and immunity secured to the citizens of the United States of the white race by its constitution and laws; that on June 7, 1892, he engaged and paid for a first-class passage on the East Louisiana Railway, from New Orleans to Covington, in the same state, and thereupon entered a passenger train, and took possession of a vacant seat in a coach where passengers of the white race were accommodated; that such railroad company was incorporated by the laws of Louisiana as a common carrier, and was not authorized to distinguish between citizens according to their race, but, notwithstanding this, petitioner was required by the conductor, under penalty of ejection from said train and imprisonment, to vacate said coach, and occupy another seat, in a coach assigned by said company for persons not of the white race, and for no other reason than that petitioner was of the colored race; that, upon petitioner's refusal to comply with such order, he was, with the aid of a police officer, forcibly ejected from said coach, and hurried off to, and imprisoned in, the parish jail of New Orleans, and there held to answer a charge made by such officer to the effect that he was guilty of having criminally violated an act of the general assembly of the state, approved July 10, 1890, in such case made and provided.

The petitioner was subsequently brought before the recorder of the city for preliminary examination, and committed for trial to the criminal district court for the parish of Orleans, where an information was filed against him in the matter above set forth, for a violation of the above act, which act the petitioner affirmed to be null and void, because in conflict with the constitution of the United States; that petitioner interposed a plea to such information, based upon the unconstitutionality of the act of the general assembly, to which the district attorney, on behalf of the state, filed a demurrer; that, upon issue being joined upon such demurrer and plea, the court sustained the demurrer, overruled the plea, and ordered petitioner to plead over to the facts set forth in the information, and that, unless the judge of the said court be enjoined by a writ of prohibition from further proceeding in such case, the court will proceed to fine and sentence petitioner to imprisonment, and thus deprive him of his constitutional rights set forth in his said plea, notwithstanding the unconstitutionality of the act under which he was being prosecuted; that no appeal lay from such sentence, and petitioner was without relief or remedy except by writs of prohibition and certiorari. Copies of the information and other proceedings in the criminal district court were annexed to the petition as an exhibit.

Upon the filing of this petition, an order was issued upon the respondent to show cause why a writ of prohibition should not issue, and be made perpetual, and a further order that the record of the proceedings had in the criminal cause be certified and transmitted to the supreme court.

To this order the respondent made answer, transmitting a certified copy of the proceedings, asserting the constitutionality of the law, and averring that, instead of pleading or admitting that he belonged to the colored race, the said Plessy declined and refused, either by pleading or otherwise, to admit that he was in any sense or in any proportion a colored man.

The case coming on for hearing before the supreme court, that court was of opinion that the law under which the prosecution was had was constitutional and denied the relief prayed for by the petitioner (Ex parte Plessy, 45 La. Ann. 80, 11 South. 948); whereupon petitioner prayed for a writ of error from this court, which was allowed by the chief justice of the supreme court of Louisiana.

Mr. Justice Harlan dissenting.

A. W. Tourgee and S. F. Phillips, for plaintiff in error.

Alex. Porter Morse, for defendant in error.

Justice Brown's Opinion of the Court

This case turns upon the constitutionality of an act of the general assembly of the state of Louisi-

ana, passed in 1890, providing for separate railway carriages for the white and colored races. Acts 1890, No. 111, p. 152.

The first section of the statute enacts "that all railway companies carrying passengers in their coaches in this state, shall provide equal but separate accommodations for the white, and colored races, by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations: provided, that this section shall not be construed to apply to street railroads. No person or persons shall be permitted to occupy seats in coaches, other than the ones assigned to them, on account of the race they belong to."

By the second section it was enacted "that the officers of such passenger trains shall have power and are hereby required to assign each passenger to the coach or compartment used for the race to which such passenger belongs; any passenger insisting on going into a coach or compartment to which by race he does not belong, shall be liable to a fine of twenty-five dollars, or in lieu thereof to imprisonment for a period of not more than twenty days in the parish prison, and any officer of any railroad insisting on assigning a passenger to a coach or compartment other than the one set aside for the race to which said passenger belongs, shall be liable to a fine of twenty-five dollars, or in lieu thereof to imprisonment for a period of not more than twenty days in the parish prison; and should any passenger refuse to occupy the coach or compartment to which he or she is assigned by the officer of such railway, said officer shall have power to refuse to carry such passenger on his train, and for such refusal neither he nor the railway company which he represents shall be liable for damages in any of the courts of this state."

The third section provides penalties for the refusal or neglect of the officers, directors, conductors, and employees of railway companies to comply with the act, with a proviso that "nothing in this act shall be construed as applying to nurses attending children of the other race." The fourth section is immaterial.

The information filed in the criminal district court charged, in substance, that Plessy, being a passenger between two stations within the state of Louisiana, was assigned by officers of the company to the coach used for the race to which he belonged, but he insisted upon going into a coach used by the race to which he did not belong. Neither in the information nor plea was his particular race or color averred.

The petition for the writ of prohibition averred that petitioner was seven-eighths Caucasian and one-eighth African blood; that the mixture of colored blood was not discernible in him; and that he was entitled to every right, privilege, and immunity secured to citizens of the United States of the white race; and that, upon such theory, he took possession of a vacant seat in a coach where passengers of the white race were accommodated, and was ordered by the conductor to vacate said coach, and take a seat in another, assigned to persons of the colored race, and, having refused to comply with such demand, he was forcibly ejected, with the aid of a police officer, and imprisoned in the parish jail to answer a charge of having violated the above act.

The constitutionality of this act is attacked upon the ground that it conflicts both with the thirteenth amendment of the constitution, abolishing slavery, and the fourteenth amendment, which prohibits certain restrictive legislation on the part of the states.

1. That it does not conflict with the thirteenth amendment, which abolished slavery and involuntary servitude, except a punishment for crime, is too clear for argument. Slavery implies involuntary servitude, a state of bondage; the ownership of mankind as a chattel, or, at least, the control of the labor and services of one man for the benefit of another, and the absence of a legal right to the disposal of his own person, property, and services. This amendment was said in the Slaughter-House Cases, 16 Wall. 36, to have been intended primarily to abolish slavery, as it had been previously known in this country, and that it equally forbade Mexican peonage or the Chinese coolie trade, when they amounted to slavery or involuntary servitude, and that the use of the word "servitude" was intended to prohibit the use of all forms of involuntary slavery, of whatever class or name. It was intimated, however, in that case, that this amendment was regarded by the statesmen of that day as insufficient to protect the colored race from certain laws which had been enacted in the Southern states, imposing upon the colored race onerous disabilities and burdens, and curtailing their rights in the pursuit of life, liberty, and property to such an extent that their freedom was of little value; and that the fourteenth amendment was devised to meet this exigency.

So, too, in the Civil Rights Cases, 109 U.S. 3, 3 Sup. Ct. 18, it was said that the act of a mere individual, the owner of an inn, a public conveyance or place of amusement, refusing accommodations to colored people, cannot be justly regarded as imposing any badge of slavery or servitude upon the applicant, but only as involving an ordinary civil injury, properly cognizable by the laws of the state, and presumably

subject to redress by those laws until the contrary appears. "It would be running the slavery question into the ground," said Mr. Justice Bradley, "to make it apply to every act of discrimination which a person may see fit to make as to the guests he will entertain, or as to the people he will take into his coach or cab or car, or admit to his concert or theater, or deal with in other matters of intercourse or business."

A statute which implies merely a legal distinction between the white and colored races—a distinction which is founded in the color of the two races, and which must always exist so long as white men are distinguished from the other race by color—has no tendency to destroy the legal equality of the two races, or re-establish a state of involuntary servitude. Indeed, we do not understand that the thirteenth amendment is strenuously relied upon by the plaintiff in error in this connection.

2. By the fourteenth amendment, all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are made citizens of the United States and of the state wherein they reside; and the states are forbidden from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States, or shall deprive any person of life, liberty, or property without due process of law, or deny to any person within their jurisdiction the equal protection of the laws.

The proper construction of this amendment was first called to the attention of this court in the Slaughter-House Cases, 16 Wall. 36, which involved, however, not a question of race, but one of exclusive privileges. The case did not call for any expression of opinion as to the exact rights it was intended to secure to the colored race, but it was said generally that its main purpose was to establish the citizenship of the negro, to give definitions of citizenship of the United States and of the states, and to protect from the hostile legislation of the states the privileges and immunities of citizens of the United States, as distinguished from those of citizens of the states. The object of the amendment was undoubtedly to enforce the absolute equality of the two races before the law, but, in the nature of things, it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, their separation, in places where they are liable to be brought into contact, do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which have been held to be a valid exercise of the legislative power even by courts of states where the political rights of the colored race have been longest and most earnestly enforced.

One of the earliest of these cases is that of *Roberts v. City of Boston*, 5 Cush. 198, in which the supreme judicial court of Massachusetts held that the general school committee of Boston had power to make provision for the instruction of colored children in separate schools established exclusively for them, and to prohibit their attendance upon the other schools. "The great principle," said Chief Justice Shaw, "advanced by the learned and eloquent advocate for the plaintiff [Mr. Charles Sumner], is that, by the constitution and laws of Massachusetts, all persons, without distinction of age or sex, birth or color, origin or condition, are equal before the law.… But, when this great principle comes to be applied to the actual and various conditions of persons in society, it will not warrant the assertion that men and women are legally clothed with the same civil and political powers, and that children and adults are legally to have the same functions and be subject to the same treatment; but only that the rights of all, as they are settled and regulated by law, are equally entitled to the paternal consideration and protection of the law for their maintenance and security." It was held that the powers of the committee extended to the establishment of separate schools for children of different ages, sexes and colors, and that they might also establish special schools for poor and neglected children, who have become too old to attend the primary school, and yet have not acquired the rudiments of learning, to enable them to enter the ordinary schools. Similar laws have been enacted by congress under its general power of legislation over the District of Columbia (sections 281–283, 310, 319, Rev. St. D. C.), as well as by the legislatures of many of the states, and have been generally, if not uniformly, sustained by the courts. *State v. McCann*, 21 Ohio St. 210; *Lehew v. Brummell* (Mo. Sup.) 15 S. W. 765; *Ward v. Flood*, 48 Cal. 36; *Bertonneau v. Directors of City Schools*, 3 Woods, 177, Fed. Cas. No. 1,361; *People v. Gallagher*, 93 N. Y. 438; *Cory v. Carter*, 48 Ind. 337; *Dawson v. Lee*, 83 Ky. 49.

Laws forbidding the intermarriage of the two races may be said in a technical sense to interfere with the freedom of contract, and yet have been uni-

versally recognized as within the police power of the state. *State v. Gibson*, 36 Ind. 389.

The distinction between laws interfering with the political equality of the negro and those requiring the separation of the two races in schools, theaters, and railway carriages has been frequently drawn by this court. Thus, in *Strauder v. West Virginia*, 100 U.S. 303, it was held that a law of West Virginia limiting to white male persons 21 years of age, and citizens of the state, the right to sit upon juries, was a discrimination which implied a legal inferiority in civil society, which lessened the security of the right of the colored race, and was a step towards reducing them to a condition of servility. Indeed, the right of a colored man that, in the selection of jurors to pass upon his life, liberty, and property, there shall be no exclusion of his race, and no discrimination against them because of color, has been asserted in a number of cases. *Virginia v. Rivers*, 100 U.S. 313; *Neal v. Delaware*, 103 U.S. 370; *Bush v. Com.*, 107 U.S. 110, 1 Sup. Ct. 625; *Gibson v. Mississippi*, 162 U.S. 565, 16 Sup. Ct. 904. So, where the laws of a particular locality or the charter of a particular railway corporation has provided that no person shall be excluded from the cars on account of color, we have held that this meant that persons of color should travel in the same car as white ones, and that the enactment was not satisfied by the company providing cars assigned exclusively to people of color, though they were as good as those which they assigned exclusively to white persons. *Railroad Co. v. Brown*, 17 Wall. 445.

Upon the other hand, where a statute of Louisiana required those engaged in the transportation of passengers among the states to give to all persons traveling within that state, upon vessels employed in that business, equal rights and privileges in all parts of the vessel, without distinction on account of race or color, and subjected to an action for damages the owner of such a vessel who excluded colored passengers on account of their color from the cabin set aside by him for the use of whites, it was held to be, so far as it applied to interstate commerce, unconstitutional and void. *Hall v. De Cuir*, 95 U.S. 485. The court in this case, however, expressly disclaimed that it had anything whatever to do with the statute as a regulation of internal commerce, or affecting anything else than commerce among the states.

In the Civil Rights Cases, 109 U.S. 3, 3 Sup. Ct. 18, it was held that an act of congress entitling all persons within the jurisdiction of the United States to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances, on land or water, theaters, and other places of public amusement, and made applicable to citizens of every race and color, regardless of any previous condition of servitude, was unconstitutional and void, upon the ground that the fourteenth amendment was prohibitory upon the states only, and the legislation authorized to be adopted by congress for enforcing it was not direct legislation on matters respecting which the states were prohibited from making or enforcing certain laws, or doing certain acts, but was corrective legislation, such as might be necessary or proper for counter-acting and redressing the effect of such laws or acts. In delivering the opinion of the court, Mr. Justice Bradley observed that the fourteenth amendment "does not invest congress with power to legislate upon subjects that are within the domain of state legislation, but to provide modes of relief against state legislation or state action of the kind referred to. It does not authorize congress to create a code of municipal law for the regulation of private rights, but to provide modes of redress against the operation of state laws, and the action of state officers, executive or judicial, when these are subversive of the fundamental rights specified in the amendment. Positive rights and privileges are undoubtedly secured by the fourteenth amendment; but they are secured by way of prohibition against state laws and state proceedings affecting those rights and privileges, and by power given to congress to legislate for the purpose of carrying such prohibition into effect; and such legislation must necessarily be predicated upon such supposed state laws or state proceedings, and be directed to the correction of their operation and effect."

Much nearer, and, indeed, almost directly in point, is the case of the Louisville, *N. O. & T. Ry. Co. v. State*, 133 U.S. 587, 10 Sup. Ct. 348, wherein the railway company was indicted for a violation of a statute of Mississippi, enacting that all railroads carrying passengers should provide equal, but separate, accommodations for the white and colored races, by providing two or more passenger cars for each passenger train, or by dividing the passenger cars by a partition, so as to secure separate accommodations. The case was presented in a different aspect from the one under consideration, inasmuch as it was an indictment against the railway company for failing to provide the separate accommodations, but the question considered was the constitutionality of the law. In that case, the supreme court of Mississippi (66 Miss. 662, 6 South. 203) had held that the statute applied solely to commerce within the state, and, that being the construction of the state statute by its highest court, was accepted as con-

clusive. "If it be a matter," said the court (page 591, 133 U. S., and page 348, 10 Sup. Ct.), "respecting commerce wholly within a state, and not interfering with commerce between the states, then, obviously, there is no violation of the commerce clause of the federal constitution. ... No question arises under this section as to the power of the state to separate in different compartments interstate passengers, or affect, in any manner, the privileges and rights of such passengers. All that we can consider is whether the state has the power to require that railroad trains within her limits shall have separate accommodations for the two races. That affecting only commerce within the state is no invasion of the power given to congress by the commerce clause."

A like course of reasoning applies to the case under consideration, since the supreme court of Louisiana, in the case of *State v. Judge*, 44 La. Ann. 770, 11 South. 74, held that the statute in question did not apply to interstate passengers, but was confined in its application to passengers traveling exclusively within the borders of the state. The case was decided largely upon the authority of Louisville, *N. O. & T. Ry. Co. v. State*, 66 Miss. 662, 6 South, 203, and affirmed by this court in 133 U.S. 587, 10 Sup. Ct. 348. In the present case no question of interference with interstate commerce can possibly arise, since the East Louisiana Railway appears to have been purely a local line, with both its termini within the state of Louisiana. Similar statutes for the separation of the two races upon public conveyances were held to be constitutional in *Railroad v. Miles*, 55 Pa. St. 209; *Day v. Owen* 5 Mich. 520; *Railway Co. v. Williams*, 55 Ill. 185; *Railroad Co. v. Wells*, 85 Tenn. 613; 4 S. W. 5; *Railroad Co. v. Benson*, 85 Tenn. 627, 4 S. W. 5; The Sue, 22 Fed. 843; *Logwood v. Railroad Co.*, 23 Fed. 318; *McGuinn v. Forbes*, 37 Fed. 639; *People v. King* (N. Y. App.) 18 N. E. 245; *Houck v. Railway Co.*, 38 Fed. 226; *Heard v. Railroad Co.*, 3 Inter St. Commerce Com. R. 111, 1 Inter St. Commerce Com. R. 428.

While we think the enforced separation of the races, as applied to the internal commerce of the state, neither abridges the privileges or immunities of the colored man, deprives him of his property without due process of law, nor denies him the equal protection of the laws, within the meaning of the fourteenth amendment, we are not prepared to say that the conductor, in assigning passengers to the coaches according to their race, does not act at his peril, or that the provision of the second section of the act that denies to the passenger compensation in damages for a refusal to receive him into the coach in which he properly belongs is a valid exercise of the legislative power. Indeed, we understand it to be conceded by the state's attorney that such part of the act as exempts from liability the railway company and its officers is unconstitutional. The power to assign to a particular coach obviously implies the power to determine to which race the passenger belongs, as well as the power to determine who, under the laws of the particular state, is to be deemed a white, and who a colored, person. This question, though indicated in the brief of the plaintiff in error, does not properly arise upon the record in this case, since the only issue made is as to the unconstitutionality of the act, so far as it requires the railway to provide separate accommodations, and the conductor to assign passengers according to their race.

It is claimed by the plaintiff in error that, in an mixed community, the reputation of belonging to the dominant race, in this instance the white race, is "property," in the same sense that a right of action or of inheritance is property. Conceding this to be so, for the purposes of this case, we are unable to see how this statute deprives him of, or in any way affects his right to, such property. If he be a white man, and assigned to a colored coach, he may have his action for damages against the company for being deprived of his so-called "property." Upon the other hand, if he be a colored man, and be so assigned, he has been deprived of no property, since he is not lawfully entitled to the reputation of being a white man.

In this connection, it is also suggested by the learned counsel for the plaintiff in error that the same argument that will justify the state legislature in requiring railways to provide separate accommodations for the two races will also authorize them to require separate cars to be provided for people whose hair is of a certain color, or who are aliens, or who belong to certain nationalities, or to enact laws requiring colored people to walk upon one side of the street, and white people upon the other, or requiring white men's houses to be painted white, and colored men's black, or their vehicles or business signs to be of different colors, upon the theory that one side of the street is as good as the other, or that a house or vehicle of one color is as good as one of another color. The reply to all this is that every exercise of the police power must be reasonable, and extend only to such laws as are enacted in good faith for the promotion of the public good, and not for the annoyance or oppression of a particular class. Thus, in *Yick Wo v. Hopkins*, 118 U.S. 356, 6 Sup. Ct. 1064, it was held by this court that a municipal ordinance of the city of San Francisco,

to regulate the carrying on of public laundries within the limits of the municipality, violated the provisions of the constitution of the United States, if it conferred upon the municipal authorities arbitrary power, at their own will, and without regard to discretion, in the legal sense of the term, to give or withhold consent as to persons or places, without regard to the competency of the persons applying or the propriety of the places selected for the carrying on of the business. It was held to be a covert attempt on the part of the municipality to make an arbitrary and unjust discrimination against the Chinese race. While this was the case of a municipal ordinance, a like principle has been held to apply to acts of a state legislature passed in the exercise of the police power. *Railroad Co. v. Husen*, 95 U.S. 465; *Louisville & N. R. Co. v. Kentucky*, 161 U.S. 677, 16 Sup. Ct. 714, and cases cited on page 700, 161 U. S., and page 714, 16 Sup. Ct.; *Daggett v. Hudson*, 43 Ohio St. 548, 3 N. E. 538; *Capen v. Foster*, 12 Pick. 485; *State v. Baker*, 38 Wis. 71; *Monroe v. Collins*, 17 Ohio St. 665; *Hulseman v. Rems*, 41 Pa. St. 396; *Osman v. Riley*, 15 Cal. 48.

So far, then, as a conflict with the fourteenth amendment is concerned, the case reduces itself to the question whether the statute of Louisiana is a reasonable regulation, and with respect to this there must necessarily be a large discretion on the part of the legislature. In determining the question of reasonableness, it is at liberty to act with reference to the established usages, customs, and traditions of the people, and with a view to the promotion of their comfort, and the preservation of the public peace and good order. Gauged by this standard, we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the fourteenth amendment than the acts of congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of state legislatures.

We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it. The argument necessarily assumes that if, as has been more than once the case, and is not unlikely to be so again, the colored race should become the dominant power in the state legislature, and should enact a law in precisely similar terms, it would thereby relegate the white race to an inferior position. We imagine that the white race, at least, would not acquiesce in this assumption. The argument also assumes that social prejudices may be overcome by legislation, and that equal rights cannot be secured to the negro except by an enforced commingling of the two races. We cannot accept this proposition. If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits, and a voluntary consent of individuals. As was said by the court of appeals of New York in *People v. Gallagher*, 93 N. Y. 438, 448: "This end can neither be accomplished nor promoted by laws which conflict with the general sentiment of the community upon whom they are designed to operate. When the government, therefore, has secured to each of its citizens equal rights before the law, and equal opportunities for improvement and progress, it has accomplished the end for which it was organized, and performed all of the functions respecting social advantages with which it is endowed." Legislation is powerless to eradicate racial instincts, or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation. If the civil and political rights of both races be equal, one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the constitution of the United States cannot put them upon the same plane.

It is true that the question of the proportion of colored blood necessary to constitute a colored person, as distinguished from a white person, is one upon which there is a difference of opinion in the different states; some holding that any visible admixture of black blood stamps the person as belonging to the colored race (*State v. Chavers*, 5 Jones [N. C.] 1); others, that it depends upon the preponderance of blood (*Gray v. State*, 4 Ohio, 354; *Monroe v. Collins*, 17 Ohio St. 665); and still others, that the predominance of white blood must only be in the proportion of three-fourths (*People v. Dean*, 14 Mich. 406; *Jones v. Com.*, 80 Va. 544). But these are questions to be determined under the laws of each state, and are not properly put in issue in this case. Under the allegations of his petition, it may undoubtedly become a question of importance whether, under the laws of Louisiana, the petitioner belongs to the white or colored race.

The judgment of the court below is therefore affirmed.

Mr. Justice BREWER did not hear the argument or participate in the decision of this case.

Mr. Justice Harlan Dissenting

By the Louisiana statute the validity of which is here involved, all railway companies (other than street-railroad companies) that carry passengers in that state are required to have separate but equal accommodations for white and colored persons, "by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations." Under this statute, no colored person is permitted to occupy a seat in a coach assigned to white persons; nor any white person to occupy a seat in a coach assigned to colored persons. The managers of the railroad are not allowed to exercise any discretion in the premises, but are required to assign each passenger to some coach or compartment set apart for the exclusive use of is race. If a passenger insists upon going into a coach or compartment not set apart for persons of his race, he is subject to be fined, or to be imprisoned in the parish jail. Penalties are prescribed for the refusal or neglect of the officers, directors, conductors, and employees of railroad companies to comply with the provisions of the act.

Only "nurses attending children of the other race" are excepted from the operation of the statute. No exception is made of colored attendants traveling with adults. A white man is not permitted to have his colored servant with him in the same coach, even if his condition of health requires the constant personal assistance of such servant. If a colored maid insists upon riding in the same coach with a white woman whom she has been employed to serve, and who may need her personal attention while traveling, she is subject to be fined or imprisoned for such an exhibition of zeal in the discharge of duty.

While there may be in Louisiana persons of different races who are not citizens of the United States, the words in the act "white and colored races" necessarily include all citizens of the United States of both races residing in that state. So that we have before us a state enactment that compels, under penalties, the separation of the two races in railroad passenger coaches, and makes it a crime for a citizen of either race to enter a coach that has been assigned to citizens of the other race.

Thus, the state regulates the use of a public highway by citizens of the United States solely upon the basis of race.

However apparent the injustice of such legislation may be, we have only to consider whether it is consistent with the constitution of the United States.

That a railroad is a public highway, and that the corporation which owns or operates it is in the exercise of public functions, is not, at this day, to be disputed. Mr. Justice Nelson, speaking for this court in *New Jersey Steam Nav. Co. v. Merchants' Bank*, 6 How. 344, 382, said that a common carrier was in the exercise "of a sort of public office, and has public duties to perform, from which he should not be permitted to exonerate himself without the assent of the parties concerned." Mr. Justice Strong, delivering the judgment of this court in *Olcott v. Supervisors*, 16 Wall. 678, 694, said: "That railroads, though constructed by private corporations, and owned by them, are public highways, has been the doctrine of nearly all the courts ever since such conveniences for passage and transportation have had any existence. Very early the question arose whether a state's right of eminent domain could be exercised by a private corporation created for the purpose of constructing a railroad. Clearly, it could not, unless taking land for such a purpose by such an agency is taking land for public use. The right of eminent domain nowhere justifies taking property for a private use. Yet it is a doctrine universally accepted that a state legislature may authorize a private corporation to take land for the construction of such a road, making compensation to the owner. What else does this doctrine mean if not that building a railroad, though it be built by a private corporation, is an act done for a public use?" So, in *Township of Pine Grove v. Talcott*, 19 Wall. 666, 676: "Though the corporation [a railroad company] was private, its work was public, as much so as if it were to be constructed by the state." So, in *Inhabitants of Worcester v. Western R. Corp.,* 4 Metc. (Mass.) 564: "The establishment of that great thoroughfare is regarded as a public work, established by public authority, intended for the public use and benefit, the use of which is secured to the whole community, and constitutes, therefore, like a canal, turnpike, or highway, a public easement." "It is true that the real and personal property, necessary to the establishment and management of the railroad, is vested in the corporation; but it is in trust for the public."

In respect of civil rghts, common to all citizens, the constitution of the United States does not, I think, permit any public authority to know the race of those

entitled to be protected in the enjoyment of such rights. Every true man has pride of race, and under appropriate circumstances, when the rights of others, his equals before the law, are not to be affected, it is his privilege to express such pride and to take such action based upon it as to him seems proper. But I deny that any legislative body or judicial tribunal may have regard to the race of citizens when the civil rights of those citizens are involved. Indeed, such legislation as that here in question is inconsistent not only with that equality of rights which pertains to citizenship, national and state, but with the personal liberty enjoyed by every one within the United States.

The thirteenth amendment does not permit the withholding or the deprivation of any right necessarily inhering in freedom. It not only struck down the institution of slavery as previously existing in the United States, but it prevents the imposition of any burdens or disabilities that constitute badges of slavery or servitude. It decreed universal civil freedom in this country. This court has so adjudged. But, that amendment having been found inadequate to the protection of the rights of those who had been in slavery, it was followed by the fourteenth amendment, which added greatly to the dignity and glory of American citizenship, and to the security of personal liberty, by declaring that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside," and that "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." These two amendments, if enforced according to their true intent and meaning, will protect all the civil rights that pertain to freedom and citizenship. Finally, and to the end that no citizen should be denied, on account of his race, the privilege of participating in the political control of his country, it was declared by the fifteenth amendment that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude."

These notable additions to the fundamental law were welcomed by the friends of liberty throughout the world. They removed the race line from our governmental systems. They had, as this court has said, a common purpose, namely, to secure "to a race recently emancipated, a race that through many generations have been held in slavery, all the civil rights that the superior race enjoy." They declared, in legal effect, this court has further said, "that the law in the states shall be the same for the black as for the white; that all persons, whether colored or white, shall stand equal before the laws of the states; and in regard to the colored race, for whose protection the amendment was primarily designed, that no discrimination shall be made against them by law because of their color." We also said: "The words of the amendment, it is true, are prohibitory, but they contain a necessary implication of a positive immunity or right, most valuable to the colored race, the right to exemption from unfriendly legislation against them distinctively as colored; exemption from legal discriminations, implying inferiority in civil society, lessening the security of their enjoyment of the rights which others enjoy; and discriminations which are steps towards reducing them to the condition of a subject race." It was, consequently, adjudged that a state law that excluded citizens of the colored race from juries, because of their race, however well qualified in other respects to discharge the duties of jurymen, was repugnant to the fourteenth amendment. *Strauder v. West Virginia*, 100 U.S. 303, 306, 307 S.; *Virginia v. Rives*, Id. 313; Ex parte Virginia, Id. 339; *Neal v. Delaware*, 103 U.S. 370, 386; *Bush v. Com.*, 107 U.S. 110, 116, 1 S. Sup. Ct. 625. At the present term, referring to the previous adjudications, this court declared that "underlying all of those decisions is the principle that the constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the general government or the states against any citizen because of his race. All citizens are equal before the law." *Gibson v. State*, 162 U.S. 565, 16 Sup. Ct. 904.

The decisions referred to show the scope of the recent amendments of the constitution. They also show that it is not within the power of a state to prohibit colored citizens, because of their race, from participating as jurors in the administration of justice.

It was said in argument that the statute of Louisiana does not discriminate against either race, but prescribes a rule applicable alike to white and colored citizens. But this argument does not meet the difficulty. Every one knows that the statute in question had its origin in the purpose, not so much to exclude white persons from railroad cars occupied by blacks, as to exclude colored people from coaches occupied by or assigned to white persons. Railroad corporations of Louisiana did not make discrimination among whites in the matter of acommodation

for travelers. The thing to accomplish was, under the guise of giving equal accommodation for whites and blacks, to compel the latter to keep to themselves while traveling in railroad passenger coaches. No one would be so wanting in candor as to assert the contrary. The fundamental objection, therefore, to the statute, is that it interferes with the personal freedom of citizens. "Personal liberty," it has been well said, "consists in the power of locomotion, of changing situation, or removing one's person to whatsoever places one's own inclination may direct, without imprisonment or restraint, unless by due course of law." 1 Bl. Comm. 134. If a white man and a black man choose to occupy the same public conveyance on a public highway, it is their right to do so; and no government, proceeding alone on grounds of race, can prevent it without infringing the personal liberty of each.

It is one thing for railroad carriers to furnish, or to be required by law to furnish, equal accommodations for all whom they are under a legal duty to carry. It is quite another thing for government to forbid citizens of the white and black races from traveling in the same public conveyance, and to punish officers of railroad companies for permitting persons of the two races to occupy the same passenger coach. If a state can prescribe, as a rule of civil conduct, that whites and blacks shall not travel as passengers in the same railroad coach, why may it not so regulate the use of the streets of its cities and towns as to compel white citizens to keep on one side of a street, and black citizens to keep on the other? Why may it not, upon like grounds, punish whites and blacks who ride together in street cars or in open vehicles on a public road or street? Why may it not require sheriffs to assign whites to one side of a court room, and blacks to the other? And why may it not also prohibit the commingling of the two races in the galleries of legislative halls or in public assemblages convened for the consideration of the political questions of the day? Further, if this statute of Louisiana is consistent with the personal liberty of citizens, why may not the state require the separation in railroad coaches of native and naturalized citizens of the United States, or of Protestants and Roman Catholics?

The answer given at the argument to these questions was that regulations of the kind they suggest would be unreasonable, and could not, therefore, stand before the law. Is it meant that the determination of questions of legislative power depends upon the inquiry whether the statute whose validity is questioned is, in the judgment of the courts, a reasonable one, taking all the circumstances into consideration? A statute may be unreasonable merely because a sound public policy forbade its enactment. But I do not understand that the courts have anything to do with the policy or expediency of legislation. A statute may be valid, and yet, upon grounds of public policy, may well be characterized as unreasonable. Mr. Sedgwick correctly states the rule when he says that, the legislative intention being clearly ascertained, "the courts have no other duty to perform than to execute the legislative will, without any regard to their views as to the wisdom or justice of the particular enactment." Sedg. St. & Const. Law, 324. There is a dangerous tendency in these latter days to enlarge the functions of the courts, by means of judicial interference with the will of the people as expressed by the legislature. Our institutions have the distinguishing characteristic that the three departments of government are co-ordinate and separate. Each must keep within the limits defined by the constitution. And the courts best discharge their duty by executing the will of the law-making power, constitutionally expressed, leaving the results of legislation to be dealt with by the people through their representatives. Statutes must always have a reasonable construction. Sometimes they are to be construed strictly, sometimes literally, in order to carry out the legislative will. But, however construed, the intent of the legislature is to be respected if the particular statute in question is valid, although the courts, looking at the public interests, may conceive the statute to be both unreasonable and impolitic. If the power exists to enact a statute, that ends the matter so far as the courts are concerned. The adjudged cases in which statutes have been held to be void, because unreasonable, are those in which the means employed by the legislature were not at all germane to the end to which the legislature was competent.

The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth, and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage, and holds fast to the principles of constitutional liberty. But in view of the constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme

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law of the land are involved. It is therefore to be regretted that this high tribunal, the final expositor of the fundamental law of the land, has reached the conclusion that it is competent for a state to regulate the enjoyment by citizens of their civil rights solely upon the basis of race.

In my opinion, the judgment this day rendered will, in time, prove to be quite as pernicious as the decision made by this tribunal in the Dred Scott Case.

It was adjudged in that case that the descendants of Africans who were imported into this country, and sold as slaves, were not included nor intended to be included under the word "citizens" in the constitution, and could not claim any of the rights and privileges which that instrument provided for and secured to citizens of the United States; that, at time of the adoption of the constitution, they were "considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the government might choose to grant them." 17 How. 393, 404. The recent amendments of the constitution, it was supposed, had eradicated these principles from our institutions. But it seems that we have yet, in some of the states, a dominant race—a superior class of citizens—which assumes to regulate the enjoyment of civil rights, common to all citizens, upon the basis of race. The present decision, it may well be apprehended, will not only stimulate aggressions, more or less brutal and irritating, upon the admitted rights of colored citizens, but will encourage the belief that it is possible, by means of state enactments, to defeat the beneficent purposes which the people of the United States had in view when they adopted the recent amendments of the constitution, by one of which the blacks of this country were made citizens of the United States and of the states in which they respectively reside, and whose privileges and immunities, as citizens, the states are forbidden to abridge. Sixty millions of whites are in no danger from the presence here of eight millions of blacks. The destinies of the two races, in this country, are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law. What can more certainly arouse race hate, what more certainly create and perpetuate a feeling of distrust between these races, than state enactments which, in fact, proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens? That, as all will admit, is the real meaning of such legislation as was enacted in Louisiana.

The sure guaranty of the peace and security of each race is the clear, distinct, unconditional recognition by our governments, national and state, of every right that inheres in civil freedom, and of the equality before the law of all citizens of the United States,

Glossary

averring	asserting
chattel	property
coolie	manual laborer, usually of Chinese descent, who was brought to United States to help build railroads (now considered a racial slur)
damages	monies paid for harm caused
defendant in error	the party that is defending the lower court's ruling
demurrer	contention by the defendant that although the facts put forward by the plaintiff may be true, they do not entitle the plaintiff to prevail in the lawsuit
due process	the appropriate procedures that are necessary to affect a person's right to life, liberty, or property
eminent domain	the right of a jurisdiction to take property for a public purpose if adequate compensation is paid
equal protection of the laws	the requirement that all persons be provided the same rights under the law and be granted equal treatment by the laws

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without regard to race. State enactments regulating the enjoyment of civil rights upon the basis of race, and cunningly devised to defeat legitimate results of the war, under the pretense of recognizing equality of rights, can have no other result than to render permanent peace impossible, and to keep alive a conflict of races, the continuance of which must do harm to all concerned. This question is not met by the suggestion that social equality cannot exist between the white and black races in this country. That argument, if it can be properly regarded as one, is scarcely worthy of consideration; for social equality no more exists between two races when traveling in a passenger coach or a public highway than when members of the same races sit by each other in a street car or in the jury box, or stand or sit with each other in a political assembly, or when they use in common the streets of a city or town, or when they are in the same room for the purpose of having their names placed on the registry of voters, or when they approach the ballot box in order to exercise the high privilege of voting.

There is a race so different from our own that we do not permit those belonging to it to become citizens of the United States. Persons belonging to it are, with few exceptions, absolutely excluded from our country. I allude to the Chinese race. But, by the statute in question, a Chinaman can ride in the same passenger coach with white citizens of the United States, while citizens of the black race in Louisiana, many of whom, perhaps, risked their lives for the preservation of the Union, who are entitled, by law, to participate in the political control of the state and nation, who are not excluded, by law or by reason of their race, from public stations of any kind, and who have all the legal rights that belong to white citizens, are yet declared to be criminals, liable to imprisonment, if they ride in a public coach occupied by citizens of the white race. It is scarcely just to say that a colored citizen should not object to occupying a public coach assigned to his own race. He does not object, nor, perhaps, would he object to separate coaches for his race if his rights under the law were recognized. But he does object, and he ought never to cease objecting, that citizens of the white and black races can be adjudged criminals because they sit, or claim the right to sit, in the same public coach on a public highway. The arbitrary separation of citizens, on the basis of race, while they are on a public highway, is a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the constitution. It cannot be justified upon any legal grounds.

If evils will result from the commingling of the two races upon public highways established for the

Glossary

immunity	exemption
information	a substitute for a grand jury indictment issued directly by a prosecutor
intermarriage	interracial marriage
liability	responsibility for causing harm
naturalized	made a citizen without being born a citizen
parish	in some regions, a political subdivision or county
peonage	a style of forced labor generally associated with Mexico
petitioner	the party filing for relief in court
plaintiff in error	the party that has appealed a lower court's ruling
prayed	asked
respondent	party defending against a suit
writ of error	an order of an appellate court requesting the records of a lower court so the appellate court can examine the record for mistakes that may affect the lower court's judgment
writ of prohibition	an order from a court directing a lower court to refrain from prosecuting a case

benefit of all, they will be infinitely less than those that will surely come from state legislation regulating the enjoyment of civil rights upon the basis of race. We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with a state of the law which, practically, puts the brand of servitude and degradation upon a large class of our fellow citizens, our equals before the law. The thin disguise of "equal" accommodations for passengers in railroad coaches will not mislead any one, nor atone for the wrong this day done.

The result of the whole matter is that while this court has frequently adjudged, and at the present term has recognized the doctrine, that a state cannot, consistently with the constitution of the United States, prevent white and black citizens, having the required qualifications for jury service, from sitting in the same jury box, it is now solemnly held that a state may prohibit white and black citizens from sitting in the same passenger coach on a public highway, or may require that they be separated by a "partition" when in the same passenger coach. May it not now be reasonably expected that astute men of the dominant race, who affect to be disturbed at the possibility that the integrity of the white race may be corrupted, or that its supremacy will be imperiled, by contact on public highways with black people, will endeavor to procure statutes requiring white and black jurors to be separated in the jury box by a "partition," and that, upon retiring from the court room to consult as to their verdict, such partition, if it be a movable one, shall be taken to their consultation room, and set up in such way as to prevent black jurors from coming too close to their brother jurors of the white race. If the "partition" used in the court room happens to be stationary, provision could be made for screens with openings through which jurors of the two races could confer as to their verdict without coming into personal contact with each other. I cannot see but that, according to the principles this day announced, such state legislation, although conceived in hostility to, and enacted for the purpose of humiliating, citizens of the United States of a particular race, would be held to be consistent with the constitution.

I do not deem it necessary to review the decisions of state courts to which reference was made in argument. Some, and the most important, of them, are wholly inapplicable, because rendered prior to the adoption of the last amendments of the constitution, when colored people had very few rights which the dominant race felt obliged to respect. Others were made at a time when public opinion, in many localities, was dominated by the institution of slavery; when it would not have been safe to do justice to the black man; and when, so far as the rights of blacks were concerned, race prejudice was, practically, the supreme law of the land. Those decisions cannot be guides in the era introduced by the recent amendments of the supreme law, which established universal civil freedom, gave citizenship to all born or naturalized in the United States, and residing here, obliterated the race line from our systems of governments, national and state, and placed our free institutions upon the broad and sure foundation of the equality of all men before the law.

I am of opinion that the [law of the] state of Louisiana is inconsistent with the personal liberty of citizens, white and black, in that state, and hostile to both the spirit and letter of the constitution of the United States. If laws of like character should be enacted in the several states of the Union, the effect would be in the highest degree mischievous. Slavery, as an institution tolerated by law, would, it is true, have disappeared from our country; but there would remain a power in the states, by sinister legislation, to interfere with the full enjoyment of the blessings of freedom, to regulate civil rights, common to all citizens, upon the basis of race, and to place in a condition of legal inferiority a large body of American citizens, now constituting a part of the political community, called the "People of the United States," for whom, and by whom through representatives, our government is administered. Such a system is inconsistent with the guaranty given by the constitution to each state of a republican form of government, and may be stricken down by congressional action, or by the courts in the discharge of their solemn duty to maintain the supreme law of the land, anything in the constitution or laws of any state to the contrary notwithstanding.

For the reason stated, I am constrained to withhold my assent from the opinion and judgment of the majority.

Phillis Wheatley (Library of Congress)

Mary Church Terrell: "The Progress of Colored Women"

1898

"Colored women ... are everywhere baffled and mocked on account of their race."

Overview

On February 18, 1898, at a meeting of the National American Woman Suffrage Association (NAWSA), Mary Church Terrell delivered an address titled "The Progress of Colored Women." She states in the address that the occasion marks the fiftieth anniversary of the NAWSA, but this is only partly true. This meeting of the association was held in conjunction with the fiftieth anniversary of the Seneca Falls Convention of 1848 in New York, which many historians regard as the official start of the women's suffrage movement in the United States. In part as a result of the Seneca Falls Convention, various suffrage organizations were formed, including the National Woman Suffrage Association and the American Woman Suffrage Association. The NAWSA in turn had been formed in 1890 as a merger of the two organizations. Terrell, one of the nation's first African American women to earn a college degree, was active in the NAWSA and numerous other organizations. In 1896, for example, she had cofounded the National Association of College Women, which later became the National Association of University Women, an organization that has continued to this day. That year, too, she was named as the first president of the National Association of Colored Women's Clubs (NACWC). This group, known more simply as the National Association of Colored Women (the name Terrell uses in her address), united the National Federation of Afro-American Women, the Women's Era Club of Boston, and the Colored Women's League of Washington, D.C., as well as other groups that had taken part in the African American women's club movement. Thus, she was eminently qualified to speak about the status of African American women, and her speech was later published as a pamphlet.

Context

In the early decades of the nineteenth century, the issue of slavery dominated political discussion. While entrenched economic interests in the South labored to preserve the institution of slavery, numerous abolitionist organizations arose, primarily in the North, with the goal of driving a stake through the heart of the slave system. At the same time, the issue of rights for women, particularly the right to vote, began to simmer, especially after the Seneca Falls Convention, held in 1848 in upstate New York, published its Declaration of Sentiments, which called for equal rights for women. The women's rights and antislavery movements had overlapping concerns. Both represented a class of Americans who were being denied fundamental civil rights, and both believed that there was a synergy in the two movements that was mutually beneficial.

The Civil War put an end to the issue of slavery but not to the issue of equal rights for African Americans. At the same time, women were still denied the right to vote. In response to these concerns, Susan B. Anthony, Lucy Stone, Elizabeth Cady Stanton, and others formed the American Equal Rights Association in 1866, believing that such an organization could harness the energies of both the women's suffrage movement and the abolitionist movement. Almost immediately, though, tensions began to surface in the association. Those whose primary concern was women's suffrage were coming to reject the American political party system, believing that neither Democrats nor Republicans were interested in women's issues. In contrast, those whose primary concern was equal rights for African Americans were coming to ally themselves more firmly with the Republican Party, the party of Abraham Lincoln and the Emancipation Proclamation and also the party that was enforcing Reconstruction in the South after the war. Suffragist leaders were hopeful that the Fifteenth Amendment to the U.S. Constitution, which granted voting rights to African Americans, would extend the same rights to women—and were bitterly disappointed that it did not. Lucretia Mott, in particular, was outspoken about her resentment that black men were getting the vote but white women were not. She expressed the belief that black men would be every bit as oppressive in their attitudes toward women as white men were.

The result of these tensions was a split in the association in 1869. Those who supported the Fifteenth Amendment, believing that it would not be ratified if it included a provision for universal suffrage, formed the American Woman Suffrage Association under the leadership of Lucy Stone. This organization would continue to focus its energies en-

Time Line

1863

■ **September 23**
Mary Eliza Church, known after her marriage to Robert Terrell in 1891 as Mary Church Terrell, is born in Memphis, Tennessee.

1866

■ **May 10**
Susan B. Anthony, Lucy Stone, Elizabeth Cady Stanton, and others form the American Equal Rights Association.

1869

■ **May 15**
Susan B. Anthony and Elizabeth Cady Stanton found the National Woman Suffrage Association.

■ **November**
Lucy Stone and Henry Blackwell found the American Woman Suffrage Association.

1884

■ Terrell earns a bachelor's degree from Oberlin College in Ohio, one of the first African American women to earn a college degree.

1888

■ Terrell earns a master's degree from Oberlin College.

1890

■ The National American Woman Suffrage Association is formed from a merger of the National Woman Suffrage Organization and the American Woman Suffrage Association.

1896

■ Terrell becomes the first president of the National Association of Colored Women's Clubs; that same year, she also cofounds the National Association of College Women, later known as the National Association of University Women.

1897

■ **February 17**
The National Congress of Mothers, forerunner of the Parent-Teacher Association, is founded.

1898

■ **February 18**
Terrell delivers the address "The Progress of Colored Women" at a meeting of the National American Woman Suffrage Association.

tirely on the issue of women's suffrage. Anthony and Stanton, dubbed the "irreconcilables," opposed the Fifteenth Amendment precisely because it did not provide universal suffrage. They formed the more militant National Woman Suffrage Association, which, unlike the American Woman Suffrage Association, admitted only women and focused attention on other social issues—though even this was a source of some tension, for Anthony wanted to focus entirely on women's suffrage while others in the organization preferred to devote attention to other issues affecting women.

Throughout the 1870s and 1880s, the two rival organizations worked separately and often at cross-purposes. During the 1880s, however, it was becoming apparent to both organizations that a united front would be more effective. After protracted negotiations, the two organizations merged in 1890 to form the NAWSA. For the next two decades, the NAWSA was the preeminent women's rights organization in the country. The efforts of this and other organizations finally bore fruit in 1920 with the ratification of the Nineteenth Amendment, which extended suffrage to women.

Mary Church Terrell, as an African American woman, in effect bridged the concerns of the two streams of thought. Although she had enjoyed a comfortable, affluent upbringing, she came of age at the end of the Reconstruction era and was witness to the collapse of the hopes of African Americans after the Civil War as the Democratic Party regained ascendancy in the South, the Civil Rights Act of 1875 was declared unconstitutional, and state legislatures passed Jim Crow laws mandating segregation. Just two years before her speech, in 1896, the U.S. Supreme Court had issued its landmark ruling in *Plessy v. Ferguson*, which entrenched racial segregation by establishing the separate-but-equal doctrine. African American women were in a double bind, for they experienced discrimination and slights because of both their race and gender.

Terrell had come to believe that the best hope for progress among African American women was the women's club movement, particularly because of the emergence of a black middle class that had acquired some measure of education and wealth and thus was able to help the less fortunate. In 1893 the journalist and antilynching activist Ida B. Wells-Barnett formed one of the first such clubs. During the years from 1890 to 1920 the number of these clubs exploded; Chicago, for example, was home to over one hundred fifty black women's clubs. Throughout the nation African American women's clubs established kindergartens, day nurseries, reading rooms, settlement houses, youth clubs, children's camps, and homes for dependent and orphaned children, the elderly, and young working women. For example, in 1890 Emma Frances Grayson Merritt established the first U.S. kindergarten for African American students, and that same year Janie Porter Barrett founded the Locust Street Settlement House in Hampton, Virginia. In alliance with other black community institutions, African American clubwomen were deeply involved in politics and municipal reform. Women's clubs pressed for women's suffrage, fought discrimination in movie theaters and other public facilities, and promoted the passage of antilynching laws. They also raised money to support community institu-

tions by sponsoring theatrical presentations, concerts, picnics, raffles, charity balls, and dances. It was from this background that Mary Church Terrell rose to address the NAWSA on "The Progress of Colored Women" in 1898.

About the Author

Mary Eliza Church was born in Memphis, Tennessee, on September 23, 1863. Her mother was Louisa Ayres Church; her father was Robert Church. Both were former slaves, but in the years after the Civil War the family was upwardly mobile. Robert Church was the owner of a successful saloon, and in the late 1870s he purchased enough land and property to become the first black millionaire in Memphis. Meanwhile, Louisa Church operated a successful hair salon. Although the couple divorced when Mary was three years old, her father continued to support the family and worked to ensure that Mary received the best education possible for a black girl at that time. She attended Antioch College's Model School in Yellow Springs, Ohio, and then went on to earn a bachelor's degree in 1884 from Ohio's Oberlin College, an institution that had been in the forefront of the abolition movement and had admitted African Americans as far back as 1835.

At Oberlin, she refused to take what was often called the "ladies' course," a two-year degree in literary studies. Instead, she opted for the more challenging classical or "gentlemen's course," that is, a four-year degree. In 1885 she taught at Wilberforce College (now Wilberforce University) in Ohio, and in 1886 she taught at what was then called M Street High School, or the Preparatory High School for Colored Youth (now Dunbar High School), in Washington, D.C. During this period she also fulfilled the master of arts requirements for Oberlin College, earning the degree in 1888. She then went on a two-year tour from 1888 to 1890, during which she visited major European cities. While in Europe, she became fluent in German, Italian, and French; her language skills would later enable her to speak at European suffrage meetings. In 1891 Church married Robert Terrell, a lawyer she had met while teaching at M Street High School who would become the first black judge for the District of Columbia. They had one surviving child, Phillis, whom they named after the eighteenth-century poet Phillis Wheatley. At the time of her marriage, she had considered abandoning social activism. It was her good friend Frederick Douglass who persuaded her otherwise.

In the 1890s Terrell started a lifelong career as a social activist. In 1895 she was appointed to the board of education in the District of Columbia, the first African American woman to hold such as position. In 1895 she was one of the founding members of the National Federation of Afro-American Women, an umbrella organization for black women's clubs. In 1896 the federation merged with the Women's Era Club of Boston, the Colored Women's League of Washington, D.C., and several other groups to form the NACWC, and Terrell served as that organization's first president. That same year, she also cofounded the National Association of College Women (later renamed the National Association of University Women). Additionally, she pursued a career as a journalist, writing under the pen name Euphemia Kirk for a number of newspapers, both white and black, about the African American women's club movement. Later, in 1909, she was one of only two black women asked to sign the "Call" inviting people to take part in the organizational meeting of the National Association for the Advancement of Colored People, making her a founding member of that organization.

Time Line

1909	■ Terrell takes part in the organizational meeting that leads to the founding of the National Association for the Advancement of Colored People on February 12.
1954	■ **July 24** Terrell dies in Annapolis, Maryland.

For the next forty years, Terrell remained active in the fight for justice and equality. She published her autobiography, *A Colored Woman in a White World*, in 1940. In 1950 she led a successful effort to desegregate restaurants and retail stores in the District of Columbia, working in tandem with a group that had mounted a legal challenge forcing the district to enforce antidiscrimination laws. Even past the age of eighty, she continued to take part in boycotts, picket lines, and sit-ins to protest segregation. She died on July 24, 1954, after having lived just long enough to witness the U.S. Supreme Court's landmark ruling in *Brown v. Board of Education* just two months earlier.

Explanation and Analysis of the Document

Terrell begins by noting that fifty years earlier, at the time of the Seneca Falls Convention, it would have been regarded as an impossibility that a national women's organization would convene in the nation's capital, let alone that someone such as she, the descendant of a former slave, would be addressing the gathering. She looks forward not only to the enfranchisement of women but also to the emancipation of her race through the efforts of such notables in the women's rights movement as Ernestine Rose, Lucretia Mott, Elizabeth Cady Stanton, Lucy Stone, and, of course, Susan B. Anthony. Terrell makes reference to the opening of colleges to women who, earlier in their lives, lived under a system where in many states it had been a crime to teach a black person to read. She points to the many ways in which blacks and women were fettered, unable to own property and lacking any control over their own bodies. She calls attention, though, to the number of African American women who have been able to surmount such obstacles through education, despite the "cruel, unreasonable prejudice which neither their merit

Elizabeth Cady Stanton (seated) and Susan B. Anthony (standing) (Library of Congress)

nor their necessity seems able to subdue." She notes that the number of professional avocations open to African American women have remained few, and those that have been open paid low wages because of the sheer number of people competing for similar or the same jobs. In spite of these obstacles, women have made "herculean" efforts that have led to progress. She pays tribute to her alma mater, Oberlin College in north-central Ohio, the first college to admit African Americans. She also pays tribute to eastern women's colleges such as Vassar and Wellesley as well as to Cornell University and the University of Michigan at Ann Arbor (called Ann Arbor in the address). During the late nineteenth century, the University of Chicago (called Chicago University in the address) was in the forefront of providing opportunities in higher education to African Americans.

With the second paragraph, Terrell turns to the efforts of black women's clubs born of an "ardent desire to do good in the world." Many African American women who have been able to ameliorate their condition through education, she says, have "hastened to dispense these blessings to the less fortunate of their race." She notes that probably 90 percent of the teachers of black youth are women. It is noteworthy that Terrell emphasizes morality as much as education as a path to elevation of the race. She makes reference to the NACWC, pointing out that "homes, more homes, better homes, purer homes is the text upon which our sermons have been and will be preached." She then states that one of the most useful activities of the NACWC has been instruction in the art of raising children. She makes reference to the "Mothers' Congress"—that is, the National Congress of Mothers. This organization, formed in 1897, would later become the Parent-Teacher Association, commonly referred to by the initials PTA.

In the third paragraph, Terrell begins to point to specific examples of the work of women. She refers to the Tuskegee, Alabama, branch of the NACWC, where, in the shadow of Booker T. Washington's Tuskegee Institute, "the work of bringing the light of knowledge and the gospel of cleanliness to their benighted sisters on the plantations has been conducted with signal success." In the fourth paragraph, she turns to the matter of domestic arts, noting that NACWC clubs have been teaching women to maintain standards of cleanliness and have also sponsored "talks on social purity and the proper method of rearing children." She notes that the crowded conditions of African American homes have made "maidenly youth and innocence" difficult, but she also argues that statistics have shown immorality among African American women to have been less prevalent than among women of various European countries.

With the fifth paragraph, Terrell becomes even more specific, pointing to a mission that had been established in New York City and was offering a kindergarten, classes for women, meetings for mothers as well as for men, and manual training for boys. She also points to similar successful organizations in Washington, D.C., Kansas City, Missouri, and Boston. She praises the contributions of the Phyllis Wheatley Club in New Orleans, named in honor of the eighteenth-century slave poet, Phillis Wheatley (Phyllis is a common misspelling of the name; later in the address, Terrell makes specific reference to Wheatley and her 1773 book of poems). In fact, there were numerous Phyllis Wheatley Clubs throughout the United States. The one in New Orleans operated a sanatorium and a training school for nurses.

In the sixth paragraph Terrell describes some of the successes of the medical facilities in New Orleans, which provided treatment for poor people and whose nurses had been in constant requisition during a yellow fever epidemic the year before. (Yellow fever had been a scourge throughout the nineteenth century, killing up to one hundred fifty thousand Americans.) In light of today's onerous health care costs, it is striking that this facility in New Orleans could operate for its first eight months on donations amounting to $1,000 and an appropriation from the city of $240. Terrell goes on to call attention to other charitable organizations throughout the country in such places as Montgomery, Alabama; Atlanta, Covington, and Augusta, Georgia; Boston; Memphis, Tennessee; and Lexington, Kentucky. In the seventh paragraph, Terrell calls attention to another example of an organization working to improve the lives of African Americans, the Mount Meigs Institute in rural Alabama. The Mount Meigs Institute was founded in 1888 by E. N. Pierce, of Plainfield, Connecticut. He had acquired a large plantation in Alabama and wanted to provide a school for blacks. He contacted Booker T. Washington at the nearby Tuskegee Institute and asked him to recommend a teacher. Washington recommended Cornelia Bowen, who formerly had taught at the Tuskegee Institute—the "one good woman" to whom Terrell refers.

Essential Quotes

"Nothing, in short, that could degrade or brutalize the womanhood of the race was lacking in that system from which colored women then had little hope of escape."

(Paragraph 1)

"Not only are colored women with ambition and aspiration handicapped on account of their sex, but they are everywhere baffled and mocked on account of their race."

(Paragraph 1)

"With tireless energy and eager zeal, colored women have, since their emancipation, been continuously prosecuting the work of educating and elevating their race, as though upon themselves alone devolved the accomplishment of this great task."

(Paragraph 2)

"Homes, more homes, better homes, purer homes is the text upon which our sermons have been and will be preached."

(Paragraph 2)

"And so, lifting as we climb, onward and upward we go, struggling and striving, and hoping that the buds and blossoms of our desires will burst into glorious fruition ere long.… Seeking no favors because of our color, nor patronage because of our needs, we knock at the bar of justice, asking an equal chance."

(Paragraph 11)

Terrell touches on the legal status of African Americans in the eighth paragraph. She notes that women's clubs have petitioned state legislatures to repeal "Jim Crow Car" laws, which required separate passenger cars for blacks and whites on railroads. Additionally, she observes that black women have tried to end the "Convict Lease System" in Georgia, a program by which the state of Georgia leased out prisoners, most of them black, to perform labor for private companies. At the same time, black women have been active in the cause of the Woman's Christian Temperance Union, an organization whose goal was to moderate the use of alcohol.

In addition to efforts on the legal front, black women have enjoyed successes in business. Terrell cites the example of a "milling and cotton business" in Alabama that was owned by a black woman and employed seventy-five men. Similarly in the arts, black women had been gaining respect. She makes reference to a black sculptor, though it is unclear whom she means. One possibility was Edmonia Lewis, an artist of African American and Native American descent who achieved considerable prominence as a sculptor in the late nineteenth and early twentieth centuries. She refers to the sculptor as "Bougerean's pupil." Bougerean is a misspelling of the name of Adolphe-William Bouguereau, a French academic painter (that is, a traditionalist rather than an innovator). Bouguereau took on numerous American students during his career.

Terrell then turns to education, particularly to the need for kindergartens, many of which already had been estab-

lished to "counteract baleful influences on innocent victims." She notes the high incidence of crime in black communities and attributes it to poverty, lack of positive role models, ignorance, and the "pernicious example" of elders. Indeed, Terrell makes an impassioned argument for early childhood education and states that the "special mission" of the NACWC was to be the establishment of kindergartens. Terrell ends her speech on a note of soaring rhetoric. "Lifting as we climb, onward and upward we go." She looks forward with optimism to the day when "our desires will burst into glorious fruition." Black women, she says, seek neither special favors nor patronage but they "knock at the bar of justice, asking an equal chance."

Audience

The audience for "The Progress of Colored Women" consisted of those attending the meeting of the NAWSA held at the Columbia Theatre in Washington, D.C., from February 13 to 19, 1898. In attendance would have been such luminaries of the women's suffrage movement as the NAWSA's honorary president, Elizabeth Cady Stanton; its president, Susan B. Anthony; its vice president, the Reverend Anna Howard Shaw; various state presidents, who had come from as far away as California; and others who chaired or worked with the organization's various committees, most notably Carrie Chapman Catt. The conference included reports from various organizational officials on concerns such as the progress of legislative efforts to achieve suffrage both on the federal and state levels, civil rights, the economic status of women, marriage, fund-raising, and the progress of women in such fields as law and the church. Terrell was scheduled to give her address sometime after eight o'clock in the evening on February 18. In the NAWSA's published proceedings, the following notice was included:

> "The Progress of Colored Women" was set forth in an eloquent address by Mary Church Terrell, of the District, the President of the National Association of Colored Women. Mrs. Terrell has the orator's gift and interested her audience deeply. Though so impassioned in manner, the matter of her address was temperate and kindly in spirit.

Impact

Gauging the impact of a particular speech given to an audience of like-minded people is a difficult undertaking. Terrell's address to the NAWSA is of interest less for any particular impact it had at the time and more for the window it opens into race relations and racial progress at the end of the nineteenth century. On the one hand, while Terrell was the daughter of former slaves, she herself had grown up in affluent surroundings, received a college education, and continued to enjoy a comfortable life in Washington, D.C., with her attorney husband, who himself had graduated from the prestigious Groton Academy, Harvard University, and the Howard University Law School, where he had been class valedictorian. She had come to know the abolitionist Frederick Douglass largely because they both had summer homes in Highland Beach, Maryland, and were neighbors there. Thus, Terrell had not experienced firsthand the privations to which many African Americans had been subjected. On the other hand, she used her talents and time to work tirelessly to improve the condition of women and African Americans. For her efforts, she was the recipient of many awards, including an honorary doctorate in 1948 from Oberlin College, which named her one of the college's one hundred most distinguished alumni. Her house in the nation's capital was named a National Historic Landmark in 1975, and as recently as 2009 she was one of just twelve civil rights pioneers featured on a series of U.S. Postal Service stamps.

Terrell's viewpoint was very much in the tradition of Booker T. Washington, whom she knew personally. Washington's stance on the advancement of African Americans presented a sharp contrast with that of W. E. B. Du Bois, whose landmark book, *The Souls of Black Folk*, would come out just five years after her address. During these years, differing strains of the early civil rights movement contended for the soul of African Americans. At the Tuskegee Institute, which he founded, Washington developed a program emphasizing industrial education. He trained brick masons, carpenters, and other artisans, who constructed several of Tuskegee's buildings while they were still students. Women were trained in the domestic arts. Tuskegee's program was based on Washington's belief that black students would be served best by training for vocations rather than professions, a view that he expressed in his famous and controversial Atlanta Exposition Address in 1895. On the other side of the divide was Du Bois, who argued that Washington's program amounted to submission and, in essence, accepted that blacks were inferior. Washington, in Du Bois's view, had abrogated the demands of African Americans for equality as citizens, political power, civil rights, and higher education to instead concentrate on industrial education and the accumulation of wealth. The third chapter of Du Bois's *The Souls of Black Folk* was given over to a refutation of Washington's views.

Terrell's address steered clear of these political considerations, yet it was clear that she was less interested in the political abstractions of Du Bois, the intellectual, and more interested in the day-to-day lives of African American women. She hoped that these women would be able, through their own efforts, to ameliorate their condition. In her address, she expressed this hope in her statement that "colored women are everywhere reaching out after the waifs and strays, who without their aid may be doomed to lives of evil and shame." While Du Bois was interested in universities, Terrell was interested in kindergartens, as well as "waifs and strays." Du Bois's approach was one of manly assertion of rights, while Terrell worked for women's suffrage. While Du Bois was interested in abstract political rights, Terrell was content with concrete steps along the path of advancement, such as the Mount Meigs Institute in Alabama, where "instruction … is of the kind best suited to the needs of those people for whom it was established. Along with their scholastic training, girls are taught everything per-

taining to the management of a home, while boys learn practical farming, carpentering, wheel-wrighting, blacksmithing, and have some military training." Both Terrell and Du Bois had an impact on the early civil rights movement, and both were founding members of the National Association for the Advancement of Colored People, which suggests that the tent was big enough for widely differing views and approaches to issues of importance to African Americans.

See also Emancipation Proclamation (1863); Fifteenth Amendment to the U.S. Constitution (1870); Booker T. Washington's Atlanta Exposition Address (1895); *Plessy v. Ferguson* (1896); Ida B. Wells-Barnett's "Lynch Law in America" (1900); W. E. B. Du Bois: *The Souls of Black Folk* (1903); *Brown v. Board of Education* (1954).

Further Reading

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—Michael J. O'Neal

Questions for Further Study

1. The abolitionist movement and the women's rights movement at times collaborated and at other times were at odds with each other. What goals did the two movements share? Why did the movements fall out with each other after the Civil War?

2. Shirley Chisholm, who in 1968 became the first African American woman elected to Congress, was known to say that she experienced more discrimination from being a woman than from being black. Do you think that Terrell would have agreed? Why or why not?

3. What was the women's club movement? What were its goals? How successful do you imagine the club movement was?

4. Read the excerpt from W. E. B. Du Bois: *The Souls of Black Folk*. Now imagine a meeting between Terrell and Du Bois, perhaps over a cup of coffee, at the organizational meeting that led to the founding of the National Association for the Advancement of Colored People in 1909. Script an imaginary conversation that you think might have taken place.

5. Terrell came from a comfortable, even affluent background. She was a college graduate, and her attorney husband was a graduate of Harvard University. Comment on how you think these factors may have influenced Terrell's thinking about the issues she discussed. Do you think they may have somehow disqualified her to discuss the poverty of black communities? Explain.

Document Text

Mary Church Terrell: "The Progress of Colored Women"

Fifty years ago a meeting such as this, planned, conducted and addressed by women would have been an impossibility. Less than forty years ago, few sane men would have predicted that either a slave or one of his descendants would in this century at least, address such an audience in the Nation's Capital at the invitation of women representing the highest, broadest, best type of womanhood, that can be found anywhere in the world. Thus to me this semi-centennial of the National American Woman Suffrage Association is a double jubilee, rejoicing as I do, not only in the prospective enfranchisement of my sex but in the emancipation of my race. When Ernestine Rose, Lucretia Mott, Elizabeth Cady Stanton, Lucy Stone and Susan B. Anthony began that agitation by which colleges were opened to women and the numerous reforms inaugurated for the amelioration of their condition along all lines, their sisters who groaned in bondage had little reason to hope that these blessings would ever brighten their crushed and blighted lives, for during those days of oppression and despair, colored women were not only refused admittance to institutions of learning, but the law of the States in which the majority lived made it a crime to teach them to read. Not only could they possess no property, but even their bodies were not their own. Nothing, in short, that could degrade or brutalize the womanhood of the race was lacking in that system from which colored women then had little hope of escape. So gloomy were their prospects, so fatal the laws, so pernicious the customs, only fifty years ago. But, from the day their fetters were broken and their minds released from the darkness of ignorance to which for more than two hundred years they had been doomed, from the day they could stand erect in the dignity of womanhood, no longer bond but free, till tonight, colored women have forged steadily ahead in the acquisition of knowledge and in the cultivation of those virtues which make for good. To use a thought of the illustrious Frederick Douglass, if judged by the depths from which they have come, rather than by the heights to which those blessed with centuries of opportunities have attained, colored women need not hang their heads in shame. Consider if you will, the almost insurmountable obstacles which have confronted colored women in their efforts to educate and cultivate themselves since their emancipation, and I dare assert, not boastfully, but with pardonable pride, I hope, that the progress they have made and the work they have accomplished, will bear a favorable comparison at least with that of their more fortunate sisters, from whom the opportunity of acquiring knowledge and the means of self-culture have never been entirely withheld. For, not only are colored women with ambition and aspiration handicapped on account of their sex, but they are everywhere baffled and mocked on account of their race. Desperately and continuously they are forced to fight that opposition, born of a cruel, unreasonable prejudice which neither their merit nor their necessity seems able to subdue. Not only because they are women, but because they are colored women, are discouragement and disappointment meeting them at every turn. Avocations opened and opportunities offered to their more favored sisters have been and are tonight closed and barred against them. While those of the dominant race have a variety of trades and pursuits from which they may choose, the woman through whose veins one drop of African blood is known to flow is limited to a pitiful few. So overcrowded are the avocations in which colored women may engage and so poor is the pay in consequence, that only the barest livelihood can be eked out by the rank and file. And yet, in spite of the opposition encountered, and the obstacles opposed to their acquisition of knowledge and their accumulation of property, the progress made by colored women along these lines has never been surpassed by that of any people in the history of the world. Though the slaves were liberated less than forty years ago, penniless, and ignorant, with neither shelter nor food, so great was their thirst for knowledge and so herculean were their efforts to secure it, that there are today hundreds of negroes, many of them women, who are graduates, some of them having taken degrees from the best institutions of the land. From Oberlin, that friend of the oppressed, Oberlin, my dear alma mater, whose name will always be loved and whose praise will ever be sung as the first college in the country which was just, broad and benevolent enough to open its doors to negroes and to women on an equal footing with men; from Wellesley and Vassar, from Cornell and Ann Arbor, from the best

high schools throughout the North, East and West, colored girls have been graduated with honors, and have thus forever settled the question of their capacity and worth. But a few years ago in an examination in which a large number of young women and men competed for a scholarship, entitling the successful competitor to an entire course through the Chicago University, the only colored girl among them stood first and captured this great prize. And so, wherever colored girls have studied, their instructors bear testimony to their intelligence, diligence and success.

With this increase of wisdom there has sprung up in the hearts of colored women an ardent desire to do good in the world. No sooner had the favored few availed themselves of such advantages as they could secure than they hastened to dispense these blessings to the less fortunate of their race. With tireless energy and eager zeal, colored women have, since their emancipation, been continuously prosecuting the work of educating and elevating their race, as though upon themselves alone devolved the accomplishment of this great task. Of the teachers engaged in instructing colored youth, it is perhaps no exaggeration to say that fully ninety per cent are women. In the back-woods, remote from the civilization and comforts of the city and town, on the plantations, reeking with ignorance and vice, our colored women may be found battling with evils which such conditions always entail. Many a heroine, of whom the world will never hear, has thus sacrificed her life to her race, amid surroundings and in the face of privations which only martyrs can tolerate and bear. Shirking responsibility has never been a fault with which colored women might be truthfully charged. Indefatigably and conscientiously, in public work of all kinds they engage, that they may benefit and elevate their race. The result of this labor has been prodigious indeed. By banding themselves together in the interest of education and morality, by adopting the most practical and useful means to this end, colored women have in thirty short years become a great power for good. Through the National Association of Colored Women, which was formed by the union of two large organizations in July, 1896, and which is now the only national body among colored women, much good has been done in the past, and more will be accomplished in the future, we hope. Believing that it is only through the home that a people can become really good and truly great, the National Association of Colored Women has entered that sacred domain. Homes, more homes, better homes, purer homes is the text upon which our sermons have been and will be preached. Through mothers' meetings, which are a special feature of the work planned by the Association, much useful information in everything pertaining to the home will be disseminated. We would have heart-to-heart talks with our women, that we may strike at the root of evils, many of which lie, alas, at the fireside. If the women of the dominant race with all the centuries of education, culture and refinement back of them, with all their wealth of opportunity ever present with them—if these women feel the need of a Mothers' Congress that they may be enlightened as to the best methods of rearing children and conducting their homes, how much more do our women, from whom shackles have but yesterday fallen, need information on the same vital subjects? And so throughout the country we are working vigorously and conscientiously to establish Mothers' Congresses in every community in which our women may be found.

Under the direction of the Tuskegee, Alabama branch of the National Association, the work of bringing the light of knowledge and the gospel of cleanliness to their benighted sisters on the plantations has been conducted with signal success. Their efforts have thus far been confined to four estates, comprising thousands of acres of land, on which live hundreds of colored people, yet in the darkness of ignorance and the grip of sin, miles away from churches and schools. Under the evil influences of plantation owners, and through no fault of their own, the condition of the colored people is, in some sections to-day no better than it was at the close of the war. Feeling the great responsibility resting upon them, therefore, colored women, both in organizations under the National Association, and as individuals are working with might and main to afford their unfortunate sisters opportunities of civilization and education, which without them, they would be unable to secure.

By the Tuskegee club and many others all over the country, object lessons are given in the best way to sweep, dust, cook, wash and iron, together with other information concerning household affairs. Talks on social purity and the proper method of rearing children are made for the benefit of those mothers, who in many instances fall short of their duty, not because they are vicious and depraved, but because they are ignorant and poor. Against the one-room cabin so common in the rural settlements in the South, we have inaugurated a vigorous crusade. When families of eight or ten, consisting of men, women and children, are all huddled together in a single apartment, a condition of things found not only in the South, but among our poor all over the land, there is little

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hope of inculcating morality or modesty. And yet, in spite of these environments which are so destructive of virtue, and though the safeguards usually thrown around maidenly youth and innocence are in some sections withheld from colored girls, statistics compiled by men, not inclined to falsify in favor of my race, show that immorality among *colored women* is *not* so great as among women in countries like Austria, Italy, Germany, Sweden and France.

In New York City a mission has been established and is entirely supported by colored women under supervision of the New York City Board. It has in operation a kindergarten, classes in cooking and sewing, mothers' meetings, mens' meetings, a reading circle and a manual training school for boys. Much the same kind of work is done by the Colored Woman's League and the Ladies Auxiliary of this city, the Kansas City League of Missouri, the Woman's Era Club of Boston, the Woman's Loyal Union of New York, and other organizations representing almost every State in the Union. The Phyllis Wheatley Club of New Orleans, another daughter of the National Association, has in two short years succeeded in establishing a Sanatorium and a Training School for nurses. The conditions which caused the colored women of New Orleans to choose this special field in which to operate are such as exist in many other sections of our land. From the city hospitals colored doctors are excluded altogether, not even being allowed to practice in the colored wards, and colored patients—no matter how wealthy they are—are not received at all, unless they are willing to go into the charity wards. Thus the establishment of a Sanatorium answers a variety of purposes. It affords colored medical students an opportunity of gaining a practical knowledge of their profession, and it furnishes a well-equipped establishment for colored patients who do not care to go into the charity wards of the public hospitals.

The daily clinics have been a great blessing to the colored poor. In the operating department, supplied with all the modern appliances, two hundred operations have been performed, all of which have resulted successfully under the colored surgeon-in-chief. Of the eight nurses who have registered, one has already passed an examination before the State Medical Board of Louisiana, and is now practicing her profession. During the yellow fever epidemic in New Orleans last summer, there was a constant demand for Phyllis Wheatley nurses. By indefatigable energy and heroic sacrifice of both money and time, these noble women raised nearly one thousand dollars, with which to defray the expenses of the Sanatorium for the first eight months of its existence. They have recently succeeded in securing from the city of New Orleans an annual appropriation of two hundred and forty dollars, which they hope will soon be

Glossary

Ann Arbor	the University of Michigan in the city of Ann Arbor
Bougerean	a misspelling of the name of Adolphe-William Bouguereau, a French painter who took on numerous American students during his career
Convict Lease System	a program by which the state of Georgia leased out prisoners, most of them black, to perform labor for private companies
Ernestine Rose, Lucretia Mott, Elizabeth Cady Stanton, Lucy Stone and Susan B. Anthony	all prominent leaders of the women's rights and women's suffragist movement; Stanton was the NAWSA's honorary president, and Anthony was president.
Frederick Douglass	a former slave and the most prominent nineteenth-century American abolitionist
Great Teacher	Jesus Christ
"Jim Crow Car" laws	laws that required separate passenger cars for blacks and whites on railroads
Mothers' Congress	the National Congress of Mothers, the organization formed in 1897 that would later become the Parent-Teacher Association, or PTA

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increased. Dotted all over the country are charitable organizations for the aged, orphaned and poor, which have been established by colored women; just how many, it is difficult to state. Since there is such an imperative need of statistics, bearing on the progress, possessions, and prowess of colored women, the National Association has undertaken to secure this data of such value and importance to the race. Among the charitable institutions, either founded, conducted or supported by colored women, may be mentioned the Hale Infirmary of Montgomery, Alabama; the Carrie Steel Orphanage of Atlanta; the Reed Orphan Home of Covington; the Haines Industrial School of Augusta in the State of Georgia; a Home for the Aged of both races at New Bedford and St. Monica's Home of Boston in Massachusetts; Old Folks' Home of Memphis, Tenn.; Colored Orphan's Home, Lexington, Ky., together with others of which time forbids me to speak.

Mt. Meigs Institute is an excellent example of a work originated and carried into successful execution by a colored woman. The school was established for the benefit of colored people on the plantations in the black belt of Alabama, because of the 700,000 negroes living in that State, probably 90 per cent are outside of the cities; and Waugh was selected because in the township of Mt. Meigs, the population is practically all colored. Instruction given in this school is of the kind best suited to the needs of those people for whom it was established. Along with their scholastic training, girls are taught everything pertaining to the management of a home, while boys learn practical farming, carpentering, wheel-wrighting, blacksmithing, and have some military training. Having started with almost nothing, only eight years ago, the trustees of the school now own nine acres of land, and five buildings, in which two thousand pupils have received instruction—all through the courage, the industry and sacrifice of one good woman. The Chicago clubs and several others engage in rescue work among fallen women and tempted girls.

Questions affecting our legal status as a race are also constantly agitated by our women. In Louisiana and Tennessee, colored women have several times petitioned the legislatures of their respective States to repeal the obnoxious "Jim Crow Car" laws, nor will any stone be left unturned until this iniquitous and unjust enactment against respectable American citizens be forever wiped from the statutes of the South. Against the barbarous Convict Lease System of Georgia, of which negroes, especially the female prisoners, are the principal victims, colored women are waging a ceaseless war. By two lecturers, each of whom, under the Woman's Christian Temperance Union has been National Superintendent of work among colored people, the cause of temperance has for many years been eloquently espoused.

Glossary

Mt. Meigs Institute	a school for blacks in Alabama founded in 1888 by E. N. Pierce, of Plainfield, Connecticut
National Association of Colored Women	more formally, the National Association of Colored Women's Clubs
Oberlin	Oberlin College in north-central Ohio, the first college to admit African Americans
one good woman	Cornelia Bowen, who taught at Booker T. Washington's Tuskegee Institute before joining Mount Meigs Institute
Phyllis Wheatley	Phillis Wheatley, a Boston slave who published *Poems on Various Subjects, Religious and Moral* in 1773
semi-centennial of the National American Woman Suffrage Association	a reference to the fiftieth anniversary of the Seneca Falls Convention of 1848 in New York; the National American Woman Suffrage Association was formed from the merger of the National Woman Suffrage Association and the American Woman Suffrage Association in 1890
woman upon whose chisel	possibly Edmonia Lewis, a prominent sculptor of African American and Native American descent in the late nineteenth and early twentieth centuries
Woman's Christian Temperance Union	an organization whose goal was to moderate the consumption of alcohol

Document Text

In business, colored women have had signal success. There is in Alabama a large milling and cotton business belonging to and controlled entirely by a colored woman who has sometimes as many as seventy-five men in her employ. In Halifax, Nova Scotia, the principal ice plant of the city is owned and managed by one of our women. In the professions we have dentists and doctors, whose practice is lucrative and large. Ever since the publication, in 1773, of a book entitled "Poems on Various Subjects, Religious and Moral," by Phyllis Wheatley, negro servant of Mr. John Wheatley of Boston, colored women have from time to time given abundant evidence of literary ability. In sculpture we are represented by a woman upon whose chisel Italy has set her seal of approval; in painting, by Bougerean's pupil, whose work was exhibited in the last Paris Salon, and in Music by young women holding diplomas from the first conservatories in the land.

And, finally, as an organization of women nothing lies nearer the heart of the National Association than the children, many of whose lives, so sad and dark, we might brighten and bless. It is the kindergarten we need. Free kindergartens in every city and hamlet of this broad land we must have, if the children are to receive from us what it is our duty to give. Already during the past year kindergartens have been established and successfully maintained by several organizations, from which most encouraging reports have come. May their worthy example be emulated, till in no branch of the Association shall the children of the poor, at least, be deprived of the blessings which flow from the kindergarten alone. The more unfavorable the environments of children, the more necessary is it that steps be taken to counteract baleful influences on innocent victims. How imperative is it then that as colored women, we inculcate correct principles and set good examples for our own youth, whose little feet will have so many thorny paths of prejudice temptation, and injustice to tread. The colored youth is vicious we are told, and statistics showing the multitudes of our boys and girls who crowd the penitentiaries and fill the jails appall and dishearten us. But side by side with these facts and figures of crime I would have presented and pictured the miserable hovels from which these youthful criminals come. Make a tour of the settlements of colored people, who in many cities are relegated to the most noisome sections permitted by the municipal government, and behold the mites of humanity who infest them. Here are our little ones, the future representatives of the race, fairly drinking in the pernicious example of their elders, coming in contact with nothing but ignorance and vice, till at the age of six, evil habits are formed which no amount of civilizing or Christianizing can ever completely break. Listen to the cry of our children. In imitation of the example set by the Great Teacher of men, who could not offer himself as a sacrifice, until he had made an eternal plea for the innocence and helplessness of childhood, colored women are everywhere reaching out after the waifs and strays, who without their aid may be doomed to lives of evil and shame. As an organization, the National Association of Colored Women feels that the establishment of kindergartens is the special mission which we are called to fulfill. So keenly alive are we to the necessity of rescuing our little ones, whose noble qualities are deadened and dwarfed by the very atmosphere which they breathe, that the officers of the Association are now trying to secure means by which to send out a kindergarten organizer, whose duty it shall be both to arouse the conscience of our women, and to establish kindergartens, wherever the means therefore can be secured.

And so, lifting as we climb, onward and upward we go, struggling and striving, and hoping that the buds and blossoms of our desires will burst into glorious fruition ere long. With courage, born of success achieved in the past, with a keen sense of the responsibility which we shall continue to assume, we look forward to a future large with promise and hope. Seeking no favors because of our color, nor patronage because of our needs, we knock at the bar of justice, asking an equal chance.

An illustration showing a man representing the White League shaking hands with a Ku Klux Klan member over an African American couple with a dead baby. In the background, a lynched man hangs from tree. (Library of Congress)

Ida B. Wells-Barnett's "Lynch Law in America"

1900

"Brave men do not gather by thousands to torture and murder a single individual."

Overview

"Lynch Law in America" appeared in the January 1900 issue of *Arena*, a Boston-based magazine with a broad audience of white Progressives and former abolitionists. "Lynch Law in America" sums up the arguments of the nation's leading antilynching activist of the late nineteenth century, Ida B. Wells-Barnett. In this article, she discusses the misinformation about lynching that has deceived the public, and she provides counterevidence that reveals the real motivations and gruesome practices that lynching entails. Her article makes an urgent appeal for white Americans to reassess the wave of antiblack violence across the country and consider its implications for America's international standing and devotion to the rule of law.

Context

Organized white violence against African Americans has had a long history in the United States. Slavery involved systematic violence against blacks on many levels. During the era of slavery, nonslaveholding whites often belonged to "slave patrols" that were called out to track down fugitive slaves and put down slave revolts. Organized like militias, these patrols fostered white solidarity and maintained the institution of slavery through community action. Community participation in slave patrols was a precursor to the organized violence against blacks in the postslavery period.

At the same time, white mob violence was also common in northern cities, particularly in the form of antiabolitionist riots. Mobs that attacked abolitionists and broke up abolitionist meetings beginning in the 1830s often targeted blacks individually. It was not uncommon for northern whites to lynch or beat an innocent African American to death. One of the worst incidents of U.S. racial violence came during the Civil War, when draft riots broke out in 1863 in northern cities, including New York, and turned into race riots, with dozens of blacks being murdered in the streets.

With emancipation, a new era of racial violence was inaugurated. The congressional policy of Reconstruction of the former Confederate states instituted new constitutional rights for black Americans, including the guarantee of equality before the law and the rights to hold political office, to serve on juries, and to vote. The majority of white southerners vigorously opposed these policies, and some resorted to organized violence and terrorism to prevent blacks from exercising them. White militias were formed—such as the Red Shirts of South Carolina or the White Leagues of Louisiana and Mississippi—and used force and intimidation to prevent blacks from voting or attending political meetings. These groups were often responsible for atrocities like the slaughter of between seventy and one hundred fifty black men, women, and children in Colfax, Louisiana, in 1873. Secret societies like the Ku Klux Klan and the Knights of the White Camellia pursued similar goals but operated in disguise and undertook a variety of misdeeds under the cover of darkness. Mutilation, torture, and sexual assault were common by such groups. Over four hundred lynchings of blacks in the South are estimated to have occurred between 1868 and 1871 alone.

With the collapse of the Reconstruction governments in the late 1870s, the political incentive for white violence diminished, but the violence itself persisted, taking on new forms. White supremacist governments were firmly entrenched in each of the former Confederate states, and relatively few blacks attempted to exercise political power in the post-Reconstruction period. Southern white violence against blacks began to fade as an issue of national concern, with major incidents becoming less frequent for a few years. Incidents of white mob lynchings of individual black victims, however, began to rise again steadily in the mid- to late 1880s. The word *lynching* itself, which once had no racial connotations, began to refer strictly to white mob actions directed against blacks. Prior to the late 1880s, lynching had usually been practiced as a form of vigilante justice in isolated, typically rural regions of the country against accused criminals of all races. In these cases, victims most often stood accused of a serious crime, especially rape or murder, that had aroused the ire of the community. Community anger, coupled with isolation from legal institutions, overrode the constitutional rights of the accused to a fair trial. But 1885 was the last year in which more whites than blacks were executed by lynch mobs. After that, the "lynch law" came to apply primarily against blacks accused of a

Time Line

1862

■ **July 16**
Ida Bell Wells is born in Holly Springs, Mississippi.

1866

■ The Ku Klux Klan is formed in Tennessee and begins its campaign of political violence against blacks in the former Confederate states.

1868

■ The Fourteenth Amendment is ratified, guaranteeing all citizens, regardless of race, equal protection of the laws and the right to due process.

1870

■ The Fifteenth Amendment is ratified, guaranteeing that the right to vote will not be infringed because of race, color, or previous condition of servitude.

1884

■ Wells sues a Tennessee railroad company for denying her service in the "Ladies Car" and wins (but the Tennessee Supreme Court later overturns the decision).

1888

■ The white radical Albion W. Tourgée begins to address the crime of lynching in his weekly editorial for the white-owned Radical Republican newspaper *Chicago Daily Inter-Ocean*.

1889

■ Wells becomes co-owner and editor of the Memphis *Free Speech and Headlight*.

1892

■ Three of Wells's close friends are murdered by a white mob, and she is forced to flee Memphis after publishing an editorial titled "Eight Men Lynched."

■ Wells publishes a series of articles about lynching in the *New York Age* and a pamphlet titled *Southern Horrors: Lynch Law in All Its Phases*.

crime in the South, and these incidents occurred often with the approval and assistance of police and legal authorities.

The peak year for lynchings in the United States came in 1892, with over 230 incidents documented nationwide, 161 of which involved black victims. The lynching of blacks also took on increasingly ritualized, predictable forms. Once a lynch mob was raised, police authorities would hand the accused over to the mob and disclaim responsibility for the victim's fate. The victim would often be tortured and mutilated—castration was common—before being shot or hung. The body was often burned, and pieces were taken as souvenirs. Authorities never brought charges against participants in lynch mobs, and these murders were invariably classified as having been carried out "by persons unknown."

At first, there was little outcry over these acts and scant press coverage. It was widely rumored that such acts were done exclusively in response to the crime of rape, or attempted rape, of white women by black men (although, in fact, these accusations were present in only one-quarter of all cases of lynching). Because of the sensitive nature of rape—euphemistically known as the "nameless" or "unspeakable" crime—few black leaders or newspaper editors were willing to defend the victims who had been accused of it. Beginning in 1889, however, a white novelist and Radical Republican, Albion W. Tourgée, began denouncing lynchings in his weekly column in the *Chicago Daily Inter-Ocean*, and he detailed incidents of lynchings in which rape was not an issue and the "crimes" of the accused were based on flimsy accusations. The journalist Ida B. Wells-Barnett became the first black writer to systematically address the issue of lynching, in her articles for the *New York Age* in 1892.

Led by Wells, the campaign against lynching grew in prominence in the 1890s. Antilynching activists demanded that due process and the right to a fair trial be respected, no matter what the nature of the crimes alleged. Beginning in 1896 in Ohio, a few states began to adopt antilynching laws that brought punishment to the perpetrators of lynchings and the communities in which they occurred. Nevertheless, lynching continued to occur with impunity, especially in the southern states, and this became a major factor in the "great migration" of blacks out of the South beginning in the 1890s.

After the *Plessy v. Ferguson* case of 1896, in which the U.S. Supreme Court ruled segregation to be consistent with the Fourteenth Amendment and the U.S. Constitution generally, the movement for protection of African American rights suffered a devastating setback. The decade that followed has been described by historians as the "nadir" of the black experience in America because of the sense of hopelessness and despair. In 1898 the whites of Wilmington, North Carolina, massacred black leaders and publicists in a violent overthrow of the local government that had previously respected black voting rights. Allegations that black leaders had encouraged the rape of white women served as the primary cause for the white violence. Everywhere in the South, whites moved to disenfranchise black voters by law or by force. Some black leaders, such as Booker T. Washington, appeared ready to give up on political protest in favor of equal rights, while others, such as Wells-Barnett, continued the struggle.

In 1908 a bloody race riot in Springfield, Illinois, began when a police sheriff refused to turn over two black prisoners to a lynch mob. The event became the catalyst for a new civil rights organization: An alliance of black and white radicals—including Wells-Barnett—formed the National Association for the Advancement of Colored People (NAACP) with a mission to reverse the spread of racism and antiblack violence in the country.

In 1919 the NAACP published *Thirty Years of Lynching in the United States, 1889–1918*, which publicized many incidents of lynching and investigated the truth behind them. The NAACP also sponsored a national antilynching law—the Dyer bill—that would make lynching a federal crime and allow federal investigation and prosecution of its perpetrators. Although the Dyer bill was blocked by filibuster in the Senate, its proposal marked the beginning of a sharp decline in lynching across the nation. Total national lynchings dropped into the single digits, with eight incidents in 1936, and remained at that level for the next thirty years. Effective publication and condemnation of the practice by the NAACP and other groups were a major factor in turning the tide.

About the Author

Ida B. Wells was born in 1862 in Holly Springs, Mississippi, to a carpenter, James Wells, and a cook, Elizabeth Wells. Her parents were active supporters of the Republican Party during Reconstruction in Mississippi. When she was sixteen, her parents and a younger sibling died in an epidemic of yellow fever that swept through the community. To prevent the breakup of her remaining family, Wells dropped out of school to obtain a teaching position and became the primary provider for her five younger siblings.

In 1880, Wells accepted an aunt's invitation and moved to Memphis, Tennessee, with two of her younger sisters. Continuing to work as a schoolteacher, she became involved in politics after she was forcibly removed from the "Ladies Car" on a Tennessee rail line and was ordered to move to the smoking car. She sued the company and wrote her first newspaper editorial, for the *Living Way*, about her case, which she won in the local court. The Tennessee Supreme Court later overturned the ruling. Wells soon published a regular column in the *Living Way* under the pen name "Iola." In 1889 she launched her own newspaper, which she edited and co-owned, titled the Memphis *Free Speech and Headlight*.

On March 9, 1892, Wells's life changed dramatically when three of her close friends were found murdered, rumored to be the victims of a lynch mob. Wells was shocked when she determined that the cause of their murder derived from the business rivalry between a white-owned grocery store and the store jointly owned by the three black murder victims. She began to publish investigative journalist articles about the causes of lynching. Her editorial of May 21, 1892, titled "Eight Men Lynched," prompted angry whites to attack her newspaper office and destroy her printing equipment. Wells learned of the attack and of a threat made on her life while she was out of town on business, and she determined never to return to Memphis.

In New York, Wells was hired to write editorials for T. Thomas Fortune's *New York Age*, the leading black newspaper of the day. Her sensational antilynching editorials led to a pamphlet, *Southern Horrors: Lynch Law in All of Its Phases*, published later in 1892. A testimonial dinner was held in her honor in June, announcing her arrival as a leading national voice for civil rights.

In 1893, Wells joined with Frederick Douglass and other prominent leaders to protest the exclusion and demeaning portrayal of blacks at the Chicago World's Fair. Wells took the lead in preparing a pamphlet titled *Why the Colored American*

Time Line

1893
- Wells undertakes a speaking tour of Great Britain and joins with Frederick Douglass in a protest against the exclusion of blacks from the Chicago World's Fair.

1894
- Wells undertakes a second speaking tour of Great Britain and publishes a serial account of her trip in the *Chicago Daily Inter-Ocean*.

1895
- Wells publishes *A Red Record* and marries the *Chicago Conservator* editor, Ferdinand L. Barnett.

1900
- **January** Wells-Barnett publishes "Lynch Law in America" in the journal *Arena* and later in her pamphlet *Mob Rule in New Orleans*.

1909
- Wells-Barnett is a founding member of the National Association for the Advancement of Colored People (NAACP).

1931
- **March 25** Wells-Barnett dies in Chicago.

1970
Wells-Barnett's autobiography, *A Crusade for Justice: The Autobiography of Ida B. Wells*, is published posthumously by her daughter Alfreda M. Duster.

An African-American orphanage is destroyed in the New York draft riots of 1863 (AP/Wide World Photos)

Is Not in the World's Columbian Exposition, which discussed a variety of racial injustices facing black Americans, from lynching to convict labor. Two thousand copies of the pamphlet were distributed at the fair. That same year, Wells received an invitation from British activists to speak on the subject of lynching in Great Britain. Her first tour brought international pressure upon the white community of the South, particularly in Memphis, where white newspapers were forced to respond to Wells's accusations and disclaim the practice of lynching. A second tour of Great Britain in 1894 was sponsored by the *Chicago Daily Inter-Ocean*, a leading Republican newspaper, which published Wells's accounts of her stay in a regular column titled "Ida B. Wells Abroad." By enlisting the international community to condemn lynching, Wells helped bring about a more honest public discourse on lynching in America, and her claims began to be taken more seriously.

In 1895, Wells married the Chicago lawyer and newspaper editor Ferdinand L. Barnett. Wells made the bold and unusual decision to keep her maiden name but to hyphenate it with Barnett's. The newly rechristened "Wells-Barnett" and her husband had four children; like her decision about her name, her approach to motherhood was equally unusual for the time: She continued to work and often brought her children along on speaking engagements. Wells-Barnett also became deeply involved in editing and writing for Barnett's paper, the *Chicago Conservator*. Wells-Barnett published two more antilynching pamphlets: *A Red Record* (1895) and *Mob Rule in New Orleans* (1900). She was also active in many civil rights organizations and women's clubs. The Ida B. Wells Club, for women, was named in her honor in Chicago in 1893. In 1909 she became a founding member of the NAACP. Her antilynching work continued for the rest of her life. She left an autobiography incomplete at her death in 1931, which her daughter later edited and published posthumously.

Explanation and Analysis of the Document

In "Lynch Law in America," Wells-Barnett declares that lynching has become a national crime to which all sections of the country have contributed and must bear responsibility. She begins the article by discussing the origin and evolution of lynching in the United States and the transformation of the practice into a tool of racist terror in the South. She describes the current situation with respect to the widespread incidents of lynching and the various excuses offered for it. Finally, she urges Americans to take action against the crime of lynching.

Lynching, according to Wells-Barnett, began in the far West, where settlers had no access to courts or the legal system. She refers to the communal justice of the frontier as following the "unwritten law." This custom, as she describes it, was harsh and severe and usually resulted in immediate hanging from the nearest tree. Facing hardships of a rough existence, there was little time to give prison-

Essential Quotes

"The negro has suffered far more from the commission of this crime [rape] against the women of his race by white men than the white race has ever suffered through his *crimes. Very scant notice is taken of the matter when this is the condition of affairs. What becomes a crime deserving capital punishment when the tables are turned is a matter of small moment when the negro woman is the accusing party."*

(Paragraph 13)

"Our watchword has been 'the land of the free and the home of the brave.' Brave men do not gather by thousands to torture and murder a single individual, so gagged and bound he cannot make even feeble resistance or defense."

(Paragraph 15)

ers constitutionally guaranteed rights, such as trial by jury, sworn testimony, right to a defense, or the right of appeal. Verdicts were immediately carried out (for the lack of jails perhaps), and judgments were final. But as "civilization spread into the Territories," and the apparatus of administered law became available, the practice of lynching "gradually disappeared from the West."

In its next phase, Wells-Barnett argues, the practice of lynching arose in the southern states and reflected a spirit of lawlessness that infected southerners during Reconstruction. When the Fourteenth and Fifteenth Amendments conferred equal citizenship and the right of suffrage on the former slaves in the South, many white southerners refused to accept those changes. In defiance of the law, and the constitutional rights of blacks, unreconstructed Confederates began to form into vigilante groups. Secret societies such as the Red Shirts and the Ku Klux Klan inaugurated a campaign of violence that aimed to "beat, exile, and kill negroes" in opposition to the Reconstruction laws. The excuse for this outbreak of racist violence was that black suffrage would result in "negro domination"—a term that southerners used to refer to a government in which blacks made up an important constituency of the majority party and thus possessed political power. During this time, the excuse for killing blacks derived from the assertion of their rights, whether voting rights or contract rights or the right of self-defense.

After Reconstruction collapsed in the face of white violence, a new excuse for antiblack violence in the South appeared: the protection of white women. Wells-Barnett calls this justification a new "statute in the unwritten law." Wells-Barnett argues that when a white women accuses a black man of improper behavior toward her, including a mere insult, it has become accepted that a white mob must be raised and the man put to death. Unlike the violence of the Ku Klux Klan during Reconstruction, the practice of lynching has achieved, as Wells-Barnett shows, universal acceptance and approval by whites throughout the country. The theory that white womanhood is in imminent danger from the uncontrollable urges of black men is an unproven accusation, in Wells-Barnett's estimation, since it has not been subjected to the rule of law or proper criminal investigation. By connecting the "justified" racist violence of lynching to the widely reviled, politically motivated violence of Reconstruction, Wells-Barnett not only shows the continuity of this behavior of white southerners but also casts suspicion on the new excuse for it.

Wells-Barnett goes on to describe the kinds of violence that have become ritually incorporated into the act of "lynching." Great publicity and offers of rewards usually precede the act itself. When the accused is caught, a public ceremony is held. A holiday is sometimes declared by local authorities so that schoolchildren can witness the event and onlookers from afar can be given time to travel by rail to it. Without any trial or testimony, the accused is tortured and often burned alive. Dismemberment of the body is common, with the mob taking home souvenirs in the form of fingers, toes, and ears. Wells-Barnett compares these barbarities to the tortures of the Middle Ages and the Spanish Inquisition. The word *lynching* hardly encompasses all of the kinds of violence perpetrated by white mobs in these brutal events.

In the next section of the article, Wells-Barnett discusses some of the misconceptions about lynching and points to

facts about the accused that have been ignored. First, she says that lynching has not been confined to the southern states but that it has begun to spread into the North and West as well. Second, she remarks that the widespread belief that lynchings have been enacted only in cases of threats or assaults on white women is untrue. Less than one-third of all cases of lynching involved accusations by white women against black men. In many of those cases, the accusations were later recanted or shown to have no merit. Some cases involved the lynching of women and children, rather than men. Statistics also show that a wide variety of accused crimes have resulted in lynchings, and, in some cases, no accusation at all had been leveled at the victims. Wells-Barnett cites the case of Sam Hose, who was burned alive in Georgia. The charge of rape was falsely proclaimed in the press in the days leading up to the lynching, but afterward it was shown to have been an unfounded rumor and that Hose's "crime" was, in fact, an act of self-defense against his employer.

Wells-Barnett concludes her article by offering four reasons to oppose the practice of lynching: consistency, economy, national honor, and patriotism. Her four reasons have a common theme: Each refers to America's reputation in the eyes of the world. First, she points out that the practice of lynching conflicts with the democratic traditions of the nation. Throughout the article, she has referred to the violation of the rule of law and the Constitution. She goes further and alludes to the fact that the United States has presented itself to the world as a beacon of freedom. Indeed, Americans have denounced the injustices of other nations around the world to their oppressed minorities. She cites Turkish oppression of the Armenian Christians, Russian oppression of the Jews, English oppression of the Irish, Indian oppression of women, and Spanish oppression of Cubans as examples of causes Americans have taken up. Unless Americans confront their own oppression of blacks in tolerating the practice of lynching, she suggests, their criticism of other nations will appear as rank hypocrisy to the rest of the world.

Second, she points out that several instances of foreign nationals being lynched have caused the United States to pay hefty indemnities to other nations. By admitting that the U.S. government cannot protect "said subjects" of other nations or bring the participants of a mob to justice, these payments are "humiliating in the extreme." Third, and related to this point, America's inability to maintain the rule of law puts its government on a par with the least "civilized" and respected nations of the world. She compares the triumph of "savagery" in the American South with the cannibalism of the South Sea Islands and the brutality of American Indian warriors. Their acts, Wells-Barnett suggests, can be explained by the lack of familiarity of these nations with Christianity, but the United States cannot use that excuse. National honor, therefore, demands that America reject lynching so as to live up to its own laws and moral principles.

Finally, Wells-Barnett appeals to American patriotism. If the world does not respect the United States, no American citizen can expect to travel abroad or participate in discussions on international affairs without inviting ridicule. The pride of the country is at stake, she implies. She concludes by citing a French newspaper that scoffed at American criticism of the French judicial system (which had been criticized widely for anti-Semitism in the treason case of Captain Alfred Dreyfus) by suggesting that Americans attend to their own lynching problem before criticizing others.

Perhaps the most interesting aspect of Wells-Barnett's article is her use of the concept of "civilization" and her invocation of world opinion and America's international standing to support her case. In her use of "civilization," Wells-Barnett turns the tables on racists who insist upon the "savagery" of black men. Control of primal urges (sexual ones especially) were considered a mark of "civilized" people in the nineteenth century. White women were in peril, supposedly, because black men could not control their sexual urges. Wells-Barnett, however, points out that white men have sexually transgressed the color line far more often than black men. But the crime of rape or sexual assault against a black woman by a white man has never been punished. Furthermore, the orgy of blood and murder that she describes in the practice of lynching suggests that white men have given in to the most primal forms of bloodlust and revenge. By the standards of "civilization," southern whites have more to answer for than blacks, as they seem unable to control their basest passions.

In 1893 and 1894, Wells-Barnett had undertaken two speaking tours of the British Isles to publicize her investigations into the practice of lynching. These extremely successful tours managed to create greater international awareness of the situation for southern blacks and initiate an international dialogue about it. British criticism stung Americans and put apologists for lynching on the defensive in the United States. Wells-Barnett clearly intends to press this strategy in the conclusion of "Lynch Law in America." By emphasizing the negative consequences of lynching on America's reputation on the world stage, she hits upon an effective strategy that puts pressure on white Americans regardless of their sympathy for black victims of lynching. It is in America's best interest to curb these embarrassing episodes and to follow the rule of law for all citizens, regardless of race, she maintains. Wells-Barnett takes every opportunity to remind her readers that America's response to lynching is being observed from abroad.

Audience

Wells-Barnett published "Lynch Law in America" in the January 1900 issue of *Arena*, a Progressive Boston-based magazine devoted to raising awareness of injustices against the poor and powerless. Through this magazine she reached an influential white audience that was not likely to read her pamphlets or newspaper articles.

Impact

Although she was one of the few black leaders who made lynching a top focus for concern in the 1890s—a decade in which blacks also faced the imposition of disenfranchisement and Jim Crow segregation—Wells-Barnett's antilynching cam-

paign succeeded in bringing the issue to national attention. Heightened awareness outside the South about the pervasiveness of this practice and the dubiousness of the public excuses for it eventually flowered into broad public disapproval. The response to mob violence in Springfield, Illinois, in 1908 that launched the NAACP reflected a changed opinion among Progressive northerners, who saw the spread of lynching as a moral concern of the first order. No doubt Wells-Barnett's campaign deserves a great deal of credit for this change in opinion.

See also Emancipation Proclamation (1863); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); *Plessy v. Ferguson* (1896); Walter F. White: "The Eruption of Tulsa" (1921).

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http://www.pbs.org/wnet/jimcrow/index.html.

—Mark Elliott

Questions for Further Study

1. To what extent did the conditions Wells-Barnett described contribute to the race riot in Tulsa, Oklahoma, detailed in Walter White's "The Eruption of Tulsa"?

2. Summarize the arguments Wells-Barnett makes in opposition to lynching. How, in her view, did it conflict with Christianity and with the democratic traditions of the country? What impact did the prevalence of lynching have on America's reputation abroad?

3. In the decades that followed, efforts to pass a federal antilynching bill were unsuccessful. Does this mean that Wells-Barnett's article was in some sense a failure by not influencing public opinion?

4. What role did the Ku Klux Klan and other white supremacist and paramilitary organizations play in the growth of lynching?

5. In what way did her personal experience contribute to Wells-Barnett's campaign against lynching?

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Ida B. Wells-Barnett's "Lynch Law in America"

Our country's national crime is *lynching*. It is not the creature of an hour, the sudden outburst of uncontrolled fury, or the unspeakable brutality of an insane mob. It represents the cool, calculating deliberation of intelligent people who openly avow that there is an "unwritten law" that justifies them in putting human beings to death without complaint under oath, without trial by jury, without opportunity to make defense, and without right of appeal. The "unwritten law" first found excuse with the rough, rugged, and determined man who left the civilized centers of eastern States to seek for quick returns in the gold-fields of the far West. Following in uncertain pursuit of continually eluding fortune, they dared the savagery of the Indians, the hardships of mountain travel, and the constant terror of border State outlaws. Naturally, they felt slight toleration for traitors in their own ranks. It was enough to fight the enemies from without; woe to the foe within! Far removed from and entirely without protection of the courts of civilized life, these fortune-seekers made laws to meet their varying emergencies. The thief who stole a horse, the bully who "jumped" a claim, was a common enemy. If caught he was promptly tried, and if found guilty was hanged to the tree under which the court convened.

Those were busy days of busy men. They had no time to give the prisoner a bill of exception or stay of execution. The only way a man had to secure a stay of execution was to behave himself. Judge Lynch was original in methods but exceedingly effective in procedure. He made the charge, impaneled the jurors, and directed the execution. When the court adjourned, the prisoner was dead. Thus lynch law held sway in the far West until civilization spread into the Territories and the orderly processes of law took its place. The emergency no longer existing, lynching gradually disappeared from the West.

But the spirit of mob procedure seemed to have fastened itself upon the lawless classes, and the grim process that at first was invoked to declare justice was made the excuse to wreak vengeance and cover crime. It next appeared in the South, where centuries of Anglo-Saxon civilization had made effective all the safeguards of court procedure. No emergency called for lynch law. It asserted its sway in defiance of law and in favor of anarchy. There it has flourished ever since, marking the thirty years of its existence with the inhuman butchery of more than ten thousand men, women, and children by shooting, drowning, hanging, and burning them alive. Not only this, but so potent is the force of example that the lynching mania has spread throughout the North and middle West. It is now no uncommon thing to read of lynchings north of Mason and Dixon's line, and those most responsible for this fashion gleefully point to these instances and assert that the North is no better than the South.

This is the work of the "unwritten law" about which so much is said, and in whose behest butchery is made a pastime and national savagery condoned. The first statute of this "unwritten law" was written in the blood of thousands of brave men who thought that a government that was good enough to create a citizenship was strong enough to protect it. Under the authority of a national law that gave every citizen the right to vote, the newly-made citizens chose to exercise their suffrage. But the reign of the national law was short-lived and illusionary. Hardly had the sentences dried upon the statute-books before one Southern State after another raised the cry against "negro domination" and proclaimed there was an "unwritten law" that justified any means to resist it.

The method then inaugurated was the outrages by the "red-shirt" bands of Louisiana, South Carolina, and other Southern States, which were succeeded by the Ku-Klux Klans. These advocates of the "unwritten law" boldly avowed their purpose to intimidate, suppress, and nullify the negro's right to vote. In support of its plans the Ku-Klux Klans, the "red-shirt" and similar organizations proceeded to beat, exile, and kill negroes until the purpose of their organization was accomplished and the supremacy of the "unwritten law" was effected. Thus lynchings began in the South, rapidly spreading into the various States until the national law was nullified and the reign of the "unwritten law" was supreme. Men were taken from their homes by "red-shirt" bands and stripped, beaten, and exiled; others were assassinated when their political prominence made them obnoxious to their political opponents; while the Ku-Klux barbarism of election days, reveling in the butchery of thousands of colored voters,

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furnished records in Congressional investigations that are a disgrace to civilization.

The alleged menace of universal suffrage having been avoided by the absolute suppression of the negro vote, the spirit of mob murder should have been satisfied and the butchery of negroes should have ceased. But men, women, and children were the victims of murder by individuals and murder by mobs, just as they had been when killed at the demands of the "unwritten law" to prevent "negro domination." Negroes were killed for disputing over terms of contracts with their employers. If a few barns were burned some colored man was killed to stop it. If a colored man resented the imposition of a white man and the two came to blows, the colored man had to die, either at the hands of the white man then and there or later at the hands of a mob that speedily gathered. If he showed a spirit of courageous manhood he was hanged for his pains, and the killing was justified by the declaration that he was a "saucy nigger." Colored women have been murdered because they refused to tell the mobs where relatives could be found for "lynching bees." Boys of fourteen years have been lynched by white representatives of American civilization. In fact, for all kinds of offenses—and, for no offenses—from murders to misdemeanors, men and women are put to death without judge or jury; so that, although the political excuse was no longer necessary, the wholesale murder of human beings went on just the same. A new name was given to the killings and a new excuse was invented for so doing.

Again the aid of the "unwritten law" is invoked, and again it comes to the rescue. During the last ten years a new statute has been added to the "unwritten law." This statute proclaims that for certain crimes or alleged crimes no negro shall be allowed a trial; that no white woman shall be compelled to charge an assault under oath or to submit any such charge to the investigation of a court of law. The result is that many men have been put to death whose innocence was afterward established; and to-day, under this reign of the "unwritten law," no colored man, no matter what his reputation, is safe from lynching if a white woman, no matter what her standing or motive, cares to charge him with insult or assault.

It is considered a sufficient excuse and reasonable justification to put a prisoner to death under this "unwritten law" for the frequently repeated charge that these lynching horrors are necessary to prevent crimes against women. The sentiment of the country has been appealed to, in describing the isolated condition of white families in thickly populated negro districts; and the charge is made that these homes are in as great danger as if they were surrounded by wild beasts. And the world has accepted this theory without let or hindrance. In many cases there has been open expression that the fate meted out to the victim was only what he deserved. In many other instances there has been a silence that says more forcibly than words can proclaim it that it is right and proper that a human being should be seized by a mob and burned to death upon the unsworn and the uncorroborated charge of his accuser. No matter that our laws presume every man innocent until he is proved guilty; no matter that it leaves a certain class of individuals completely at the mercy of another class; no matter that it encourages those criminally disposed to blacken their faces and commit any crime in the calendar so long as they can throw suspicion on some negro, as is frequently done, and then lead a mob to take his life; no matter that mobs make a farce of the law and a mockery of justice; no matter that hundreds of boys are being hardened in crime and schooled in vice by the repetition of such scenes before their eyes—if a white woman declares herself insulted or assaulted, some life must pay the penalty, with all the horrors of the Spanish Inquisition and all the barbarism of the Middle Ages. The world looks on and says it is well.

Not only are two hundred men and women put to death annually, on the average, in this country by mobs, but these lives are taken with the greatest publicity. In many instances the leading citizens aid and abet by their presence when they do not participate, and the leading journals inflame the public mind to the lynching point with scare-head articles and offers of rewards. Whenever a burning is advertised to take place, the railroads run excursions, photographs are taken, and the same jubilee is indulged in that characterized the public hangings of one hundred years ago. There is, however, this difference: in those old days the multitude that stood by was permitted only to guy or jeer. The nineteenth century lynching mob cuts off ears, toes, and fingers, strips off flesh, and distributes portions of the body as souvenirs among the crowd. If the leaders of the mob are so minded, coal-oil is poured over the body and the victim is then roasted to death. This has been done in Texarkana and Paris, Tex., in Bardswell, Ky., and in Newman, Ga. In Paris the officers of the law delivered the prisoner to the mob. The mayor gave the school children a holiday and the railroads ran excursion trains so that the people might see a human being burned to death. In Texarkana, the year before, men and boys amused themselves by cutting off strips of flesh and thrusting

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knives into their helpless victim. At Newman, Ga., of the present year, the mob tried every conceivable torture to compel the victim to cry out and confess, before they set fire to the faggots that burned him. But their trouble was all in vain—he never uttered a cry, and they could not make him confess.

This condition of affairs were brutal enough and horrible enough if it were true that lynchings occurred only because of the commission of crimes against women—as is constantly declared by ministers, editors, lawyers, teachers, statesmen, and even by women themselves. It has been to the interest of those who did the lynching to blacken the good name of the helpless and defenseless victims of their hate. For this reason they publish at every possible opportunity this excuse for lynching, hoping thereby not only to palliate their own crime but at the same time to prove the negro a moral monster and unworthy of the respect and sympathy of the civilized world. But this alleged reason adds to the deliberate injustice of the mob's work. Instead of lynchings being caused by assaults upon women, the statistics show that not one-third of the victims of lynchings are even charged with such crimes. The Chicago *Tribune*, which publishes annually lynching statistics, is authority for the following:

In 1892, when lynching reached high-water mark, there were 241 persons lynched. The entire number is divided among the following States:

Alabama: 22
Arkansas: 25
California: 3
Florida: 11
Georgia: 17
Idaho: 8
Illinois: 1
Kansas: 3
Kentucky: 9
Louisiana: 29
Maryland: 1
Mississippi: 16
Missouri: 6
Montana: 4
New York: 1
North Carolina: 5
North Dakota: 1
Ohio: 3
South Carolina: 5
Tennessee: 28
Texas: 15
Virginia: 7
West Virginia: 5
Wyoming: 9
Arizona Ter[ritory]: 3
Oklahoma: 2

Of this number, 160 were of negro descent. Four of them were lynched in New York, Ohio, and Kansas; the remainder were murdered in the South. Five of this number were females. The charges for which they were lynched cover a wide range. They are as follows:

Rape: 46
Murder: 58
Rioting: 3
Race Prejudice: 6
No cause given: 4
Incendiarism: 6
Robbery: 6
Assault and battery: 1
Attempted rape: 11
Suspected robbery: 4
Larceny: 1
Self-defense: 1
Insulting women: 2
Desperadoes: 6
Fraud: 1
Attempted murder: 2
No offense stated, boy and girl: 4

In the case of the boy and girl above referred to, their father, named Hastings, was accused of the murder of a white man. His fourteen-year-old daughter and sixteen-year-old son were hanged and their bodies filled with bullets; then the father was also lynched. This occurred in November, 1892, at Jonesville, La.

Indeed, the record for the last twenty years shows exactly the same or a smaller proportion who have been charged with this horrible crime. Quite a number of the one-third alleged cases of assault that have been personally investigated by the writer have shown that there was no foundation in fact for the charges; yet the claim is not made that there were no real culprits among them. The negro has been too long associated with the white man not to have copied his vices as well as his virtues. But the negro resents and utterly repudiates the efforts to blacken his good name by asserting that assaults upon women are peculiar to his race. The negro has suffered far more from the commission of this crime against the women of his race by white men than the white race has ever suffered through *his* crimes. Very scant notice is taken of the matter when this is the condition of affairs. What be-

Document Text

comes a crime deserving capital punishment when the tables are turned is a matter of small moment when the negro woman is the accusing party.

But since the world has accepted this false and unjust statement, and the burden of proof has been placed upon the negro to vindicate his race, he is taking steps to do so. The Anti-Lynching Bureau of the National Afro-American Council is arranging to have every lynching investigated and publish the facts to the world, as has been done in the case of Sam Hose, who was burned alive last April at Newman, Ga. The detective's report showed that Hose killed Cranford, his employer, in self-defense, and that, while a mob was organizing to hunt Hose to punish him for killing a white man, not till twenty-four hours after the murder was the charge of rape, embellished with psychological and physical impossibilities, circulated. That gave an impetus to the hunt, and the Atlanta *Constitution's* reward of $500 keyed the mob to the necessary burning and roasting pitch. Of five hundred newspaper clippings of that horrible affair, nine-tenths of them assumed Hose's guilt—simply because his murderers said so, and because it is the fashion to believe the negro peculiarly addicted to this species of crime. All the negro asks is justice—a fair and impartial trial in the courts of the country. That given, he will abide the result.

But this question affects the entire American nation, and from several points of view: First, on the ground of consistency. Our watchword has been "the land of the free and the home of the brave." Brave men do not gather by thousands to torture and murder a single individual, so gagged and bound he cannot make even feeble resistance or defense. Neither do brave men or women stand by and see such things done without compunction of conscience, nor read of them without protest. Our nation has been active and outspoken in its endeavors to right the wrongs of the Armenian Christian, the Russian Jew, the Irish Home Ruler, the native women of India, the Siberian exile, and the Cuban patriot. Surely it should be the nation's duty to correct its own evils!

Second, on the ground of economy. To those who fail to be convinced from any other point of view touching this momentous question, a consideration of the economic phase might not be amiss. It is generally known that mobs in Louisiana, Colorado, Wyoming, and other States have lynched subjects of other countries. When their different governments demanded satisfaction, our country was forced to confess her inability to protect said subjects in the several States because of our State-rights doctrines, or in turn demand punishment of the lynchers. This confession, while humiliating in the extreme, was not satisfactory; and, while the United States cannot protect, she can pay. This she has done, and it is certain will have to do again in the case of the recent lynching of Italians in Louisiana. The United States already has paid in indemnities for lynching nearly a half million dollars, as follows:

Paid China for Rock Springs (Wyo.) massacre: $147,748.74
Paid China for outrages on Pacific Coast: 276,619.75
Paid Italy for massacre of Italian prisoners at New Orleans: 24,330.90
Paid Italy for lynchings at Walsenburg, Col[orado]: 10,000.00
Paid Great Britain for outrages on James Bain and Frederick Dawson: 2,800.00

Third, for the honor of Anglo-Saxon civilization. No scoffer at our boasted American civilization could say anything more harsh of it than does the American white man himself who says he is unable to protect the honor of his women without resort to such brutal, inhuman, and degrading exhibitions as characterize "lynching bees." The cannibals of the South Sea Islands roast human beings alive to satisfy hunger. The red Indian of the Western plains tied his prisoner to the stake, tortured him, and danced in fiendish glee while his victim writhed in the flames. His savage, untutored mind suggested no better way than that of wreaking vengeance upon those who had wronged him. These people knew nothing about Christianity and did not profess to follow its teachings; but such primary laws as they had they lived up to. No nation, savage or civilized, save only the United States of America, has confessed its inability to protect its women save by hanging, shooting, and burning alleged offenders.

Finally, for love of country. No American travels abroad without blushing for shame for his country on this subject. And whatever the excuse that passes current in the United States, it avails nothing abroad. With all the powers of government in control; with all laws made by white men, administered by white judges, jurors, prosecuting attorneys, and sheriffs; with every office of the executive department filled by white men—no excuse can be offered for exchanging the orderly administration of justice for barbarous lynchings and "unwritten laws." Our country should be placed speedily above the plane of confessing herself a failure at self-government. This cannot be until Americans of every section, of broadest patriotism

Document Text

and best and wisest citizenship, not only see the defect in our country's armor but take the necessary steps to remedy it. Although lynchings have steadily increased in number and barbarity during the last twenty years, there has been no single effort put forth by the many moral and philanthropic forces of the country to put a stop to this wholesale slaughter. Indeed, the silence and seeming condonation grow more marked as the years go by.

A few months ago the conscience of this country was shocked because, after a two-weeks trial, a French judicial tribunal pronounced Captain Dreyfus guilty. And yet, in our own land and under our own flag, the writer can give day and detail of one thousand men, women, and children who during the last six years were put to death without trial before any tribunal on earth. Humiliating indeed, but altogether unanswerable, was the reply of the French press to our protest: "Stop your lynchings at home before you send your protests abroad."

Glossary

Anglo-Saxon	a reference to the Germanic tribes that invaded and settled Great Britain; more generally, Anglo-American civilization
Captain Dreyfus	Alfred Dreyfus, a Jewish French military officer who was at the center of a scandal that divided France in the 1890s after he was falsely convicted of treason
Irish Home Ruler	an Irish person who wanted an Ireland independent from the United Kingdom
"jumped" a claim	the practice of stealing someone's mining property
Mason and Dixon's line	a line surveyed in the eighteenth century to settle border disputes in the American colonies, more generally referring to the boundary between the North and the South in the United States
Spanish Inquisition	a tribunal established in fifteenth-century Spain to enforce Catholic orthodoxy; used often as a symbol of cruelty because of its use of torture and extreme punishments

1901 - 1964

George H. White's Farewell Address to Congress

1901

"You may tie us and then taunt us for a lack of bravery, but one day we will break the bonds."

Overview

George Henry White's Farewell Address to Congress was delivered to the House of Representatives on January 29, 1901. White was a two-term Republican congressman from North Carolina's Second Congressional District (known as the Black Second because of its large African American majority). During his years in the Fifty-fifth and Fifty-sixth Congresses, he had been the only black man among 357 representatives and 84 senators from 42 states. On the day White spoke, his legislative service was drawing to a close because he had chosen not to run for a third term in the November 1900 election, a decision he had made known in a speech on June 30 of that year. In consequence, he would leave the House of Representatives on March 4, 1901, the last African American to serve in Congress in the three and a half decades following the Civil War. Because of changes in the southern political landscape, there was little likelihood that another African American would soon succeed him.

White was a proud and stubborn man, and his four years in the House had been contentious and far from satisfying. He was the twenty-second African American since 1870 to hold congressional office, and like most of his predecessors (nineteen of them in the House, two in the Senate, and all of them Republicans), he was subjected to the institutional bias of white representatives and senators, who openly denigrated African Americans as ignorant, inferior, and incompetent; mocked them with "darky stories"; and mimicked them with an affected "plantation" dialect. In the weeks before his farewell speech, White had attempted on several occasions to call his white colleagues to account for such behavior but had been denied the opportunity. His efforts, for example, to introduce legislation on behalf of African Americans who, in the late 1890s, faced disenfranchisement by state legislatures and mob violence from white supremacy groups, brought immediate objection from southern Democrats that effectively left his proposals stillborn. When he boldly proposed reducing southern representation in Congress proportionate to the number of African Americans denied the vote, Democratic newspapers in North Carolina accused him of inciting racial unrest. These were matters that weighed heavily on White's mind as he prepared his valedictory address.

Context

White was the last of twenty African Americans elected to the House of Representatives in the nineteenth century, who collectively served thirty-eight two-year terms between 1870 and 1901. (The two African Americans elected to the Senate in the 1870s served a total of seven years.) They were all among the most visible beneficiaries of Radical Reconstruction policies that extended the suffrage to black males and other civil rights to the African American population in the South in the aftermath of the Civil War. That extension of rights generated opposition from powerful forces in the defeated South, and by the end of the century the personal freedoms of African Americans had been reduced or replaced by Jim Crow laws that, in turn, created a harsh segregated world in the American South.

The Civil War ended with the question of how to return the southern states to the Union unresolved and a matter of some confusion as a result of President Abraham Lincoln's assassination. Lincoln in 1862 had used his executive authority to appoint provisional military governors for the southern states recaptured by the Union army. His plan for Reconstruction was simplicity itself: States would be readmitted when at least 10 percent of the voters in 1860 took an oath of allegiance to the United States. After Lincoln's death, a struggle emerged in Congress between those who urged a continuation of the 10 percent plan and the antislavery wing of the Republican Party, who demanded a program of black civil rights to protect African Americans throughout the South. The Radicals, as they came to be known, gained control of the Congress and immediately clashed with President Andrew Johnson, whose policies seemed to support white supremacy.

In the 1866 congressional elections the Radical Republicans gained two-thirds of the seats in Congress and immediately passed, over President Johnson's veto, the Reconstruction Acts of 1867 that divided the old Confederacy into five military districts. To secure readmission, each state had to accept the Thirteenth Amendment to the Constitution, which outlawed slavery, and the Fourteenth Amendment, which extended a broad range of civil and political rights to African Americans. A key provision required the states to revise their constitutions to include

Time Line

1852

- **December 18**
  George Herbert White is born in Rosindale, North Carolina.

1865

- **December 6**
  The Thirteenth Amendment to the U.S. Constitution ends slavery.

1868

- **April**
  North Carolina voters approve the constitution of 1868, which grants African Americans the right to vote.
- **July 9**
  The Fourteenth Amendment grants African Americans full citizenship in the United States.

1869

- **November**
  Voters in Tennessee replace their Republican biracial Reconstruction state government with a white-only Democratic "redeemer" government.

1870

- **February 3**
  The Fifteenth Amendment gives the vote to African American males.
- **February 25**
  Hiram Rhodes Revels, Republican of Mississippi, is elected by the state legislature to fill a one-year vacancy in the U.S. Senate, becoming the first African American to serve in Congress.
- **December 12**
  Joseph Rainey, Republican from South Carolina, becomes the first African American to serve in the U.S. House of Representatives.

1877

- **March 4**
  Rutherford B. Hayes is inaugurated president of the United States following a disputed election, settled by the Compromise of 1877.

extending the vote to black males. The Freedmen's Bureau was authorized to oversee the implementation of the new laws and ensure that the rights of African Americans were protected. In 1868 most of southern states revised their constitutions to include, among other rights, the franchise (the vote) for blacks. They eliminated the earlier legislatures' Black Codes, which restricted or denied the postwar civil rights of the newly freed African Americans and controlled a broad range of personal freedoms, including employment, education, housing, and the right to move about freely after dark. In the fall elections Republican-dominated legislatures comprising a loose coalition of African Americans and whites emerged. The whites, if from the North, were called carpetbaggers, and if from the South they were labeled scalawags by their Democratic opposition. In due course they enacted major civil rights programs in their states, including universal public education and revisions to the judicial system that included placing blacks on trial juries.

Beginning in 1870, Congress passed the Enforcement Acts, a series of laws that protected black voting rights, office holding, and jury service and (in 1871) outlawed the Ku Klux Klan, which had waged a campaign of violence and death against African Americans in the rural South. (Although the Klan disbanded in 1872 to be revived in 1915 white violence in the form of lynchings continued against blacks through the remainder of the nineteenth century and into the next.) The Radical Republicans passed the Civil Rights Act of 1875, prohibiting discrimination in hotels, trains, and other public spaces. By then, there was a growing movement among southern whites opposed to racial equality that sought to restore southern white rule in the old Confederacy. Known as the "Redeemers," they enjoyed a major success with the election of Wade Hampton, a former Confederate general dedicated to white supremacy, to the governorship of South Carolina in 1876. Another victory came with the formal end of Reconstruction starting in April 1877 with the withdrawal of federal troops from South Carolina and Louisiana, fulfilling the terms of the Compromise of 1877 that settled the disputed presidential election of 1876. In that election the winner of the popular vote, Samuel J. Tilden, a Democrat, fell one vote short of a majority in the Electoral College because of confusing ballot counts from three southern states. After days of wrangling, the Democrats in Congress (most of them southerners) agreed to make the Republican Rutherford B. Hayes president. In return, Hayes promised to restore civilian rule in the two states still under military control. Shortly after his swearing-in, Hayes ordered all remaining federal troops out of the South.

During the next two decades, the largely Democratic Redeemers replaced the biracial Republican governments throughout the South and gradually stripped away the hard-won rights of African Americans. In consequence, Jim Crow laws, which in time denied blacks access to transportation, housing, employment, recreation, and education, created a racially segregated society that lasted until the middle of the next century. The laws were given legal sanction by the U.S.

Supreme Court in 1883 when it declared the Civil Rights Act of 1875 unconstitutional on the ground that Congress did not have the power to regulate the conduct and transactions of individuals. In 1896 the Court gave racial segregation constitutional standing in *Plessy v. Ferguson*.

The final assault by southern whites on African American empowerment began with the Mississippi Plan in 1890. Developed in the state's constitutional convention, the plan was manifested in a "purity" clause that expressly stated in the constitution that "blacks must no longer be allowed to vote." The means of enforcement (in order to circumvent the Fifteenth Amendment) was to apply a property requirement and a poll tax or a literacy test or both as a basis for voting. The literacy test over time evolved into an "understanding" test, in which the would-be voter would be required to interpret a passage from the state's constitution. The Mississippi Plan spread through the South and by 1910 had been adopted in seven states. Its constitutionality was affirmed by the Supreme Court in 1898 in *Williams v. Mississippi*. That same year the Louisiana legislature provided the last refinement to eliminating the black vote by adding a grandfather clause to the state constitution specifically exempting from the property, poll tax, and literacy tests "any individuals whose fathers or grandfathers were legally entitled to vote prior to January 1, 1867." No African American, of course, could meet that requirement. With variations in the date, the clause was soon added to other state constitutions in the South.

Most of these limitations on African Americans were in place in North Carolina in time for the fall election in 1900. Added to them were the internal political conflicts that divided the Democratic majority in the state from the once-dominant Republicans. Examining the possibility of his winning a third term in Congress and well aware of the defeats he had met in the House his antilynching bill had died in the Judiciary Committee George White decided not to seek reelection.

About the Author

George Henry White was born on December 18, 1852, in Rosindale, North Carolina, to Wiley F. White, a free African American farmer, and his wife, Mary, a slave. (Under North Carolina law George White was free at birth because of his father's status.) Wiley White could read and write and apparently passed those skills on to his son, who at the end of the Civil War attended black public schools in nearby Columbus county. In 1873 he entered Howard University in Washington, D.C., earning a normal school (teaching) certificate in 1877. White qualified for the North Carolina bar in 1879 and practiced law while serving as the principal of several public schools, including the New Bern normal school for training black teachers. He gradually assumed leadership roles in the communities where he taught and became in time a respected public official.

White entered politics in 1880 when he was elected as a Republican to the first of two terms in the lower house of

Time Line

1880

- **November**
  At age twenty-eight, White is elected to the North Carolina General Assembly—his first political office.

1890

- **August 12**
  The Mississippi constitutional convention systematically disenfranchises African Americans by imposing a poll tax requirement and literacy tests for voters.

1896

- **May 18**
  In *Plessy v. Ferguson* the Supreme Court rules that segregation by race is constitutional.

1897

- **March 15**
  White takes his seat as a Republican in the Fifty-fifth Congress of the United States.

1898

- **May 12**
  Louisiana amends its state constitution with a grandfather clause that effectively limits the franchise to white males having the vote prior to January 1, 1867, and their descendants, a provision adopted by six other southern states by 1910.
- **August 12**
  In *Williams v. Mississippi* the Supreme Court upholds the constitutionality of the Mississippi Plan's poll taxes and literacy tests for voters.

1899

- **March 4**
  White begins his second term as the only African American in the Fifty-sixth Congress of the United States.

1900

- **August**
  North Carolina voters approve by a wide margin a constitution that "grandfathers" illiterate whites but effectively bars all African Americans from voting.

Time Line

1901

- **January 29**
  White delivers his Farewell Address to Congress.

1928

- **November 6**
  Oscar Stanton De Preist, Republican from Illinois, is the first African American elected to serve in the U.S. House of Representatives in the twentieth century.

1964

- **January 24**
  The Twenty-fourth Amendment to the U.S. Constitution prohibits the use of poll taxes in national elections.

1965

- **August 6**
  The Voting Rights Act enforces the Fifteenth Amendment and outlaws literary tests as a prerequisite for voting.

1966

- **March 24**
  In *Harper v. Virginia State Board of Elections*, the U.S. Supreme Court declares the use of a poll tax in state and local elections is unconstitutional.

2009

- **September 26**
  President Barack Obama invokes George White's Farewell Address during brief remarks delivered at the Congressional Black Caucus Foundation's annual Phoenix Awards Dinner in Washington, D.C.

the North Carolina General Assembly. As a member of the legislature's Education Committee, he proposed improvements in teacher training, mandatory schooling for the young, and increased funding for white and black public schools. He took on important duties in the county Republican Party, served in the upper house of the General Assembly, and was a delegate to several Republican National Conventions. In 1886, White was elected to the prestigious and politically powerful position of solicitor (public prosecutor) for the Second Judicial District, thereby setting the stage for his entrance onto the national scene. Possessing a shrewd political mind, he bided his time for a decade, building public support in the predominantly African American "Black Second" congressional district, which elected him to the House of Representatives in 1896 the lone African American in the Fifty-fifth Congress but a part of the Republican majority brought into office with the winning Republican presidential candidate, William McKinley.

White was assigned to the House Agriculture Committee. He supported most Republican-backed foreign policy measures. His major focus, however, during his four years in Congress was on civil rights for African Americans. He was unsuccessful in both terms in securing federal action against the southern states' continuing disenfranchisement of black voters. Reelected to the House in 1898, White continued on the Agriculture Committee and served as well on the District of Columbia Committee, which oversaw Washington's municipal government. In his second term he repeatedly sought antilynching legislation that would make mob violence a potential capital offense, but found little support from either the president or his fellow Republicans.

Although White considered himself a national spokesperson for African Americans (and the black newspapers seemed to agree), his positions were increasingly viewed as too radical by his House colleagues and by Republicans in his home district, where changes in the election law in his second term denied the ballot to many of his black supporters. In 1900 he made it known he would not run for reelection. In interviews with northern newspapers, he said that he could not live in North Carolina and be treated as a man, and he urged his black constituents to emigrate to the North or to the West in search of a better life.

Following his dramatic and powerful Farewell Address and his retirement from Congress in March 1901, White opened a successful private law practice in Washington, D.C., moving his office to Philadelphia four years later. As an entrepreneur, he developed Whitesboro, a town for African Americans on the New Jersey shore at Cape May, and established the People's Savings Bank in Philadelphia to provide banking services, including home and business loans, to the city's African Americans. In the summer of 1917, after the People's Savings Bank became insolvent and closed its doors, White was appointed assistant city solicitor, his first public position since his years in Congress. He died in his sleep on December 28, 1918, ten days after his sixty-sixth birthday.

Explanation and Analysis of the Document

The document reproduced here is the speech George H. White delivered on the floor of the U.S. House of Representatives on January 29, 1901, now known as his Farewell Address. The topic before the House that day was the annual appropriation bill of the House Agriculture Committee, a bill that included the continuation of a free seed program to the nation's farmers and payment of the salaries of scientists and other experts in the Department of Agriculture. Given the complexity and importance of the bill (H.R. 13801), the House was sitting as a Committee of the Whole, which means, in parliamentary terms, that the usual rules of pro-

cedure for legislative action are suspended, allowing any member of the House, who chooses to attend, to speak freely. A chairman chosen from the majority presides (rather than the speaker), and any vote is by a simple majority (rather than a specified quorum). The House in regular session may vote to overturn any decisions made in this way.

Because the House was meeting on January 29, 1901, as a Committee of the Whole, White was free to ignore H.R. 13801 and turn, if he wished, to more personal concerns. In his opening remarks, which are not included here, White acknowledged the importance of the bill's contents and then boldly seized the opportunity to deliver a strong defense of his African American constituents and offer a profoundly moving farewell to the Congress he has faithfully served for four years.

White's eloquent opening sentences in paragraph 1 are among the best-known lines in his address. They provide a powerful introduction to the reasons he is ignoring the bill before the House and introduce his indictment of his colleagues, who have consistently slandered his race by linking "the unfortunate few" who commit crimes or lead less than exemplary lives to the majority of hard-working, responsible African Americans. Their calumnies intensified during the last weeks of the Fifty-sixth Congress as the House took up the reapportionment bill, which would increase the size of the House in 1903 by twenty-nine seats, bringing the chamber's total membership to 386 from 357. The debate gave White an opportunity to urge Congress to overturn the disenfranchisement provisions that several southern states had added to their constitutions or their election laws, thereby removing African Americans from the voting roles. White points out that because of parliamentary rulings he was denied the opportunity during the debate to respond to his white southern colleagues' demeaning statements.

White in paragraph 2 singles out his fellow representative from North Carolina, William W. Kitchin, a Democrat and a long-time political rival, as a particular scourge of African Americans, whose right to vote has been stripped away through a state constitutional amendment in August 1900. White deplores the unfairness of the amendment, which permits illiterate white men to vote if they register before 1908 and their ancestors were qualified to vote in 1867 or earlier, a qualification that is denied to African Americans, who are subject to a literacy test (including an interpretation of the state constitution) and a poll tax.

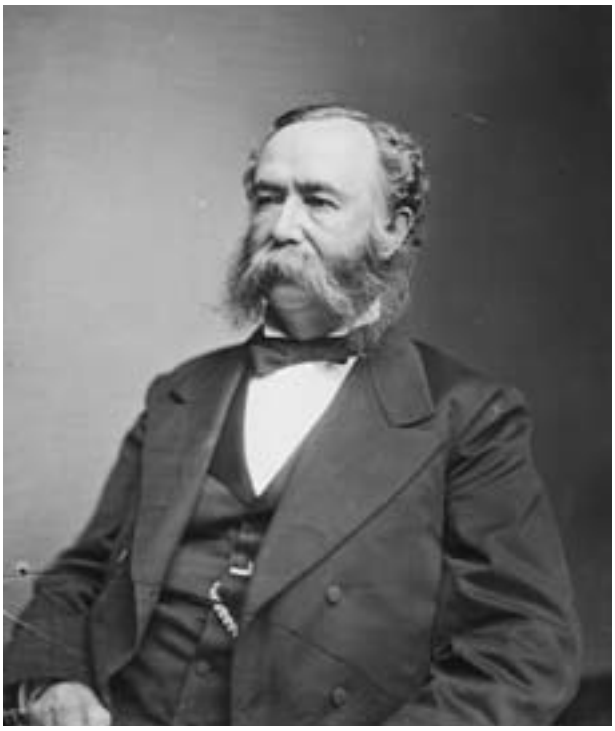
In paragraphs 3 and 4, White announces that he will leave the House in the next five weeks. He explains that William Kitchin's younger brother, Claude, would succeed him as a result of questionable vote counts. White carefully avoids charging fraud and says only that the returns went unchallenged in North Carolina's general election in August 1900.

In paragraphs 6 through 10 White directs his audience's attention to Stanyarne Wilson, a Democrat from South Carolina, who earlier took a leading role in the debate on reapportionment and disenfranchisement in the southern states. An example of White's biting wit is in paragraph 6, where he neatly insults his colleague without openly breaking the House rule that requires the chamber's members to treat each other with courtesy and respect. The veiled insult continues in paragraph 7 as White seems to accept Wilson's assertions that the Reconstruction government in South Carolina was corrupt and ineffective because of its Republican, biracial composition. What White is saying, however, is that if corruption existed (he concedes there may have been a few ignorant and gullible blacks in the legislature), it was not due to the African Americans in the legislature but to the work of unscrupulous whites from the North (carpetbaggers) who exploited the unstable institutions of the postwar South and then retreated to their northern homes or, White says in a witty aside, remained in the South and became Democrats.

White continues his assault on Wilson's argument in paragraph 8. He suggests that Wilson is probably correct in saying that southern whites are working to lift southern blacks and that he is grateful, but he quickly points out that it is black laborers who make it possible for their white "friends" to contribute the "stinty [limited or meager] pittance " that supports black education. White adds in paragraph 9 that for all the self-congratulation implicit in the Democrats' asserting that they are aiding African Americans to help themselves, statistics show that far greater sums are spent per capita on white schools than on black schools in South Carolina.

As he continues to rebut Wilson in paragraph 10, White's initial reference to "the musty records of 1868" is to the records of the several state constitutional conventions that year called to organize new governments during Reconstruction. Most of those constitutions provided universal education, suffrage to all males over twenty-one, and the right to hold public office regardless of race. The opponents of such measures then and in subsequent years argued that African Americans were unprepared for such responsibilities. In their view, most blacks were and continued to be ignorant, illiterate, or indolent, a caricature White rejects out of hand. He pointedly suggests that the condition of the freed slaves and of African Americans generally has changed significantly in the thirty-two years since the state constitutions were written. In paragraphs 10 and 11, he catalogs the advances that the race, despite obstacles imposed by the white world, have achieved in every area of life. It should be noted that the property values and other monetary references are in line with American averages in the nineteenth century.

Paragraphs 12 and 13 provide a stirring challenge to Congress and to white America to understand who African Americans are by moving past skin color and race to see them as human beings like themselves. White's language and his argument here are crystal clear: African Americans want what all Americans want: freedom, equality, family, and work. (The federation of labor White refers to in the last line of paragraph 12 is the recently organized American Federation of Labor, which was a cooperative composed of many independent trades, some of them identified as black or colored unions of, say, carpenters or plumbers, that united in the federation to seek common wages, rights, and



Governor Wade Hampton (Library of Congress)

protections.) Paragraph 13 carries White's defense of his people into the social and civic world, arguing that African Americans are denied full participation there not because of their own indifference but rather because of white prejudice and race hatred.

Paragraph 14 is White's eloquent valedictory. His first sentence is a bold prediction that references the phoenix, the fabulous bird of ancient myth that is eternally renewed through death. The second offers in a dozen or so words his brilliant refutation of white America's hate-filled stereotypes of African Americans. Together they make up the most quoted passage from the speech in the twentieth century and, to many African Americans, the most memorable.

The anecdote that White relates in paragraphs 15 and 16 a transition to his concluding remark never happened. The English philosopher Sir Francis Bacon's bribery trial took place in 1621; he was found guilty, removed from office as attorney general, and fined. The English courtier and navigator Sir Walter Raleigh was executed in 1618 for disobeying King James I's orders not to invade Spanish territory in North America. In his first trial for treason in 1603, Raleigh, defending himself, unsuccessfully pleaded with the court to have his accusers brought to face him because "I am here for my life!"

White's speech comes full circle in paragraph 17 in a single-sentence summary of his argument, echoing the opening lines and reiterating his term-long struggle to get the House to respond to both the white supremacy violence and the disenfranchisement of African Americans in the southern states.

Audience

There were 357 congressmen from forty-five states in the Fifty-sixth Congress. The division of the House was 187 Republicans, 161 Democrats, 5 Populists, and 4 members of splinter parties. Since the measure before the House of Representatives was the annual agricultural appropriation bill under the existing rules the House was sitting as a Committee of the Whole, and members could choose not to attend it is likely that not all of the members were present. An unknown number of spectators were in the galleries, but because White was known to be speaking that day, a goodly number of African Americans were probably present. (A gifted and forceful speaker, White had drawn such an audience on past occasions.)

White's full speech was printed twice in 1901: in the *Congressional Record* (56th Congress, 2nd session, volume 34, part 2) and as a stand-alone fourteen-page booklet entitled *Defense of the Negro Race Charges Answered. Speech of Hon. George H. White, of North Carolina, in the House of Representatives, January 29, 1901*. According to White's biographer, Benjamin H. Jutesen, portions of the Farewell Address were reprinted in such contemporary African American newspapers as the Washington, D.C. *Colored American*, the *Cleveland Gazette*, and the *New York Age*, the most widely read black paper in the country. The address later appeared in several anthologies of black writing, giving it wide circulation well into the twentieth century. Its closing words particularly "Phoenix-like he will rise up some day and come again" resonated among African Americans for the next fifty years.

Impact

Because White had already forgone the 1900 election and thus given up his seat in the House, his Farewell Address had little impact on Congress not that day or in the years following. His words did nothing to lessen the institutional racism that he and his African American predecessors had experienced in the House and Senate, and Congress failed to halt the southern states' violations of the Fifteenth Amendment that denied the vote to generations of African Americans until the 1960s. As for White himself, the southern Democrats were happy to be rid of him, as were many Republicans, who had been uncomfortable with the North Carolinian's outspoken and unapologetic ways. Congressmen of both parties from the North and West well into the twentieth century remained indifferent to the second-class status of African Americans, 90 percent of whom lived in the South in 1901.

White continued in the House without incident for another month and quietly withdrew into his Washington home on March 3, 1901, in advance of the swearing-in of his successor from North Carolina, a white man who had been the beneficiary of the state's changed voting standards that barred most African Americans from voting. The next day, at noon on March 4, both houses of the North Carolina legislature marked the official end of White's term in

Essential Quotes

"You may tie us and then taunt us for a lack of bravery, but one day we will break the bonds."

(Paragraph 11)

"This, Mr. Chairman, is perhaps the negroes' temporary farewell to the American Congress; but let me say, Phoenix-like he will rise up some day and come again."

(Paragraph 14)

"I am pleading for the life, the liberty, the future happiness, and manhood suffrage for one-eighth of the entire population of the United States."

(Paragraph 17)

office by passing resolutions of thanksgiving that heralded a new era in which no black man would be serving in the U.S. Congress. The principal newspaper in the state hailed the departure of its "insolent negro" as a blessing not only to the state but to the nation as well.

For nearly three decades there were no African Americans in Congress until, as a consequence of the Great Migration of thousands of black men and women out of the South to the North, Oscar Stanton De Priest, a Republican from the South Side of Chicago, entered the Seventy-first Congress in March 1929 the first African American elected to the House of Representatives in the twentieth century. Through the following years the number of black men and women in Congress increased, especially in the years after 1950. In the 1960s, as a result of peaceful demonstrations by black students and others throughout the South, the barriers that had prevented African Americans from voting (and that had discouraged George White from seeking reelection in 1890) were removed. In January 1964 the Twenty-fourth Amendment to the U.S. Constitution barred the use of a poll tax as a prerequisite to voting in national elections. The use of a poll tax in state and local elections was declared unconstitutional by the U.S. Supreme Court in March 1966 in *Harper v. Virginia State Board of Elections*. President Lyndon Johnson signed the historic Voting Rights Act in August 1965, outlawing the use of literacy tests in voter registration and providing the federal government with powers to enforce the Fifteenth Amendment.

Additional milestones are worth noting: In November 1968 Edward W. Brooke, a Republican from Massachusetts, was elected to the Ninetieth Congress and served two terms in the U.S. Senate the first African American elected to that chamber in eighty-five years. And in 1973 Andrew Young, Democrat of Georgia, and Barbara Jordan, Democrat of Texas, entered the Ninety-third Congress as the first African Americans from the Deep South to be elected to the House since White bid the chamber farewell in 1901. Since 1870 a total of 119 African Americans have been elected to the House, six to the Senate. When the 111th Congress convened in January 2009, there were forty-one African Americans in the House of Representatives and one in the Senate, and Barack Obama was president of the United States. Nine months later, speaking at the Congressional Black Caucus Foundation's annual Phoenix Awards Dinner in Washington, D.C., President Obama saluted his audience, telling them that they were the fulfillment of White's prophecy that "Phoenix-like," African American men and women would "rise up and come again" to serve the nation in the national government.

See also Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); Civil Rights Cases (1883); *Plessy v. Ferguson* (1896).

Further Reading

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"North Carolina History Project." John Locke Foundation Web site.
http://www.northcarolinahistory.org/.

Allan L. Damon

Questions for Further Study

1. In the years after the Civil War, a number of African Americans served in the U.S. Senate and House of Representatives. Why did their numbers dwindle until White was the last one before the 1960s?

2. Define "Radical Republicans." In what sense were they "radical"? What impact did they have on the Reconstruction period following the Civil War?

3. Trace the history of black voting rights in the post–Civil War decades. What specific events led to White's decision not to run again in North Carolina?

4. W. E. B. Du Bois's *The Souls of Black Folk* appeared just two years after White's address. Compare the two documents. To what extent do both make similar arguments and express similar hopes?

5. What were "carpetbaggers"? What role did they play in the political landscape of the post–Civil War South?

Document Text

George H. White's Farewell Address to Congress

I want to enter a plea for the colored man, the colored woman, the colored boy, and the colored girl of this country. I would not thus digress from the question at issue and detain the House in a discussion of the interests of this particular people at this time but for the constant and the persistent efforts of certain gentlemen upon this floor to mold and rivet public sentiment against us as a people and to lose no opportunity to hold up the unfortunate few who commit crimes and depredations and lead lives of infamy and shame, as other races do, as fair specimens of representatives of the entire colored race. And at no time, perhaps, during the Fifty-sixth Congress were these charges and countercharges, containing, as they do, slanderous statements, more persistently magnified and pressed upon the attention of the nation than during the consideration of the recent reapportionment bill, which is now a law. As stated some days ago on this floor by me, I then sought diligently to obtain an opportunity to answer some of the statements made by gentlemen from different States, but the privilege was denied me; and I therefore must embrace this opportunity to say, out of season, perhaps, that which I was not permitted to say in season.

In the catalogue of members of Congress in this House perhaps none have been more persistent in their determination to bring the black man into disrepute and, with a labored effort, to show that he was unworthy of the right of citizenship than my colleague from North Carolina, Mr. Kitchin. During the first session of this Congress, while the Constitutional amendment was pending in North Carolina, he labored long and hard to show that the white race was at all times and under all circumstances superior to the Negro by inheritance if not otherwise, and the excuse for his party supporting that amendment, which has since been adopted, was that an illiterate Negro was unfit to participate in making the laws of a sovereign State and the administration and execution of them; but an illiterate white man living by his side, with no more or perhaps not as much property, with no more exalted character, no higher thoughts of civilization, no more knowledge of the handicraft of government, had by birth, because he was white, inherited some peculiar qualification, clear, I presume, only in the mind of the gentleman who endeavored to impress it upon others, that entitled him to vote, though he knew nothing whatever of letters. It is true, in my opinion, that men brood over things at times which they would have exist until they fool themselves and actually, sometimes honestly, believe that such things do exist.…

I might state as a further general fact that the Democrats of North Carolina got possession of the state and local government since my last election in 1898, and that I bid adieu to these historic walls on the 4th day of next March, and that the brother of Mr. Kitchin will succeed me. Comment is unnecessary. In the town where this young gentleman was born, at the general election last August for … state and county officers, Scotland Neck had a registered white vote of 395, most of whom of course were Democrats, and a registered colored vote of 534, virtually if not all of whom were Republicans, and so voted. When the count was announced, however, there were 831 Democrats to 75 Republicans; but in the town of Halifax, same county, the result was much more pronounced.

In that town the registered Republican vote was 345, and the total registered vote of the township was 539, but when the count was announced it stood 990 Democrats to 41 Republicans, or 492 more Democratic votes counted than were registered votes in the township. Comment here is unnecessary.…

It would be unfair, however, for me to leave the inference upon the minds of those who hear me that all of the white people of the State of North Carolina hold views with Mr. Kitchin and think as he does. Thank God there are many noble exceptions to the example he sets, that, too, in the Democratic party; men who have never been afraid that one uneducated, poor, depressed Negro could put to flight and chase into degradation two educated, wealthy, thrifty white men. There never has been, nor ever will be, any Negro domination in that state, and no one knows it any better than the Democratic party. It is a convenient howl, however, often resorted to in order to consummate a diabolical purpose by scaring the weak and gullible whites into support of measures and men suitable to the demagogue and the ambitious office seeker, whose crave for office overshadows and puts to flight all other considerations, fair or unfair.…

Document Text

I trust I will be pardoned for making a passing reference to one more gentleman Mr. Wilson of South Carolina who, in the early part of this month, made a speech, some parts of which did great credit to him, showing, as it did, capacity for collating, arranging, and advancing thoughts of others and of making a pretty strong argument out of a very poor case.

If he had stopped there, while not agreeing with him, many of us would have been forced to admit that he had done well. But his purpose was incomplete until he dragged in the reconstruction days and held up to scorn and ridicule the few ignorant, gullible, and perhaps purchasable negroes who served in the State legislature of South Carolina over thirty years ago. Not a word did he say about the unscrupulous white men, in the main bummers who followed in the wake of the Federal Army and settled themselves in the Southern States, and preyed upon the ignorant and unskilled minds of the colored people, looted the States of their wealth, brought into lowest disrepute the ignorant colored people, then hied away to their Northern homes for ease and comfort the balance of their lives, or joined the Democratic party to obtain social recognition, and have greatly aided in depressing and further degrading those whom they had used as easy tools to accomplish a diabolical purpose.

These few ignorant men who chanced at that time to hold office are given as a reason why the black man should not be permitted to participate in the affairs of the government which he is forced to pay taxes to support. He insists that they, the Southern whites, are the black man's best friend, and that they are taking him by the hand and trying to lift him up; that they are educating him. For all that he and all Southern people have done in this regard, I wish in behalf of the colored people of the South to extend our thanks. We are not ungrateful to friends, but feel that our toil has made our friends able to contribute the stinty pittance which we have received at their hands.

I read in a Democratic paper a few days ago, the Washington Times, an extract taken from a South Carolina paper, which was intended to exhibit the eagerness with which the Negro is grasping every opportunity for educating himself. The clipping showed that the money for each white child in the State ranged from three to five times as much per capita as was given to each colored child. This is helping us some, but not to the extent that one would infer from the gentleman's speech.

If the gentleman to whom I have referred will pardon me, I would like to advance the statement that the musty records of 1868, filed away in the archives of Southern capitols, as to what the Negro was thirty-two years ago, is not a proper standard by which the Negro living on the threshold of the twentieth century should be measured. Since that time we have reduced the illiteracy of the race at least 45 percent. We have written and published nearly 500 books. We have nearly 800 newspapers, three of which are dailies. We have now in practice over 2,000 lawyers, and a corresponding number of doctors. We have accumulated over $12,000,000 worth of school property and about $40,000,000 worth of church property. We have about 140,000 farms and homes, valued in the neighborhood of $750,000,000, and personal property valued about $170,000,000. We have raised about $11,000,000 for educational purposes, and the property per-capita for every colored man, woman and child in the United States is estimated at $75.

We are operating successfully several banks, commercial enterprises among our people in the South land, including one silk mill and one cotton factory. We have 32,000 teachers in the schools of the country; we have built, with the aid of our friends, about 20,000 churches, and support 7 colleges, 17 academies, 50 high schools, 5 law schools, 5 medical schools and 25 theological seminaries. We have over 600,000 acres of land in the South alone. The cotton produced, mainly by black labor, has increased from 4,669,770 bales in 1860 to 11,235,000 in 1899. All this was done under the most adverse circumstances. We have done it in the face of lynching, burning at the stake, with the humiliation of "Jim Crow" laws, the disfranchisement of our male citizens, slander and degradation of our women, with the factories closed against us, no Negro permitted to be conductor on the railway cars, whether run through the streets of our cities or across the prairies of our great country, no Negro permitted to run as engineer on a locomotive, most of the mines closed against us. Labor unions carpenters, painters, brick masons, machinists, hackmen and those supplying nearly every conceivable avocation for livelihood have banded themselves together to better their condition, but, with few exceptions, the black face has been left out. The Negroes are seldom employed in our mercantile stores. At this we do not wonder. Some day we hope to have them employed in our own stores. With all these odds against us, we are forging our way ahead, slowly, perhaps, but surely, You may tie us and then taunt us for a lack of bravery, but one day we will break the bonds. You may use our labor for two and a half centuries and then taunt us for our

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poverty, but let me remind you we will not always remain poor! You may withhold even the knowledge of how to read God's word and learn the way from earth to glory and then taunt us for our ignorance, but we would remind you that there is plenty of room at the top, and we are climbing.…

Mr. Chairman, before concluding my remarks I want to submit a brief recipe for the solution of the so-called "American Negro problem." He asks no special favors, but simply demands that he be given the same chance for existence, for earning a livelihood, for raising himself in the scales of manhood and womanhood, that are accorded to kindred nationalities. Treat him as a man; go into his home and learn of his social conditions; learn of his cares, his troubles, and his hopes for the future; gain his confidence; open the doors of industry to him; let the word "Negro," "colored," and "black" be stricken from all the organizations enumerated in the federation of labor.

Help him to overcome his weaknesses, punish the crime-committing class by the courts of the land, measure the standard of the race by its best material, cease to mold prejudicial and unjust public sentiment against him, and … he will learn to support … and join in with that political party, that institution, whether secular or religious, in every community where he lives, which is destined to do the greatest good for the greatest number. Obliterate race hatred, party prejudice, and help us to achieve nobler ends, greater results and become satisfactory citizens to our brother in white.

This, Mr. Chairman, is perhaps the negroes' temporary farewell to the American Congress; but let me say, Phoenix-like he will rise up some day and come again. These parting words are in behalf of an outraged, heart-broken, bruised, and bleeding, but God-fearing people, faithful, industrious, loyal people rising people, full of potential force.

Mr. Chairman, in the trial of Lord Bacon, when the court disturbed the counsel for the defendant, Sir Walter Raleigh raised himself up to his full height and, addressing the court, said:

Sir, I am pleading for the life of a human being.

The only apology that I have to make for the earnestness with which I have spoken is that I am pleading for the life, the liberty, the future happiness, and manhood suffrage for one-eighth of the entire population of the United States.

Glossary

bummers	foragers or marauders during the Civil War
Fifty-sixth Congress	the congressional term from 1899 to 1901, following the practice of numbering two-year congressional terms
hackmen	the drivers of hacks, or cabs
Jim Crow	the informal term used to designate laws and social customs that deprived African Americans of their liberties and rights
Lord Bacon	Francis Bacon, seventeenth-century scientist, jurist, statesman, and philosopher, tried by Parliament for corruption
Mr. Kitchin	William W. Kitchin, White's political rival, whose younger brother, Claude, would succeed White in office
Mr. Wilson	Stanyarne Wilson, a U.S. congressional representative from South Carolina
musty records of 1868	the records of the state constitutional conventions during Reconstruction
Phoenix	a legendary Arabian bird that was said to burn itself to death and then rise from the ashes
Sir Walter Raleigh	an English aristocrat and courtier of the late sixteenth and early seventeenth centuries who was a favorite of Queen Elizabeth I

W. E. B. Du Bois (Library of Congress)

W. E. B. Du Bois: *The Souls of Black Folk*

1903

"[Booker T.] Washington represents in Negro thought the old attitude of adjustment and submission."

Overview

In 1903, W. E. B. Du Bois published the classic book for which he is most remembered, *The Souls of Black Folk: Essays and Sketches*. A groundbreaking study of the African American community from a sociological perspective, the book outlines for both black and white readers the position of African Americans at the turn of the twentieth century. *The Souls of Black Folk* was in large part a repudiation of the views of Booker T. Washington, the black leader who urged other blacks to pursue economic equality before trying to gain political and social equality. Du Bois, in contrast, urged African Americans to develop a "black consciousness" based on an appreciation of their own unique art, culture, religious views, and history and to continue to pursue civil rights. In Chapter III, "Of Mr. Booker T. Washington and Others," Du Bois takes on the rift between Washington's accommodationist views and a more assertive, militant view of African American aspirations. *The Souls of Black Folk* was a key early doctrine of the Harlem Renaissance, the flowering of black culture and art that centered on the Harlem district of Manhattan in New York City, and it remains a central document in the seismic shift of African American consciousness at the start of the twentieth century.

Context

Du Bois came of age during the Reconstruction era that followed the Civil War, "Reconstruction" referring to the political process of reintegrating the rebellious Confederate states into the Union. Confederate soldiers returning to ruined homes found themselves in tenuous financial and political circumstances. The defeated South entered a period of economic chaos. In the midst of this postwar turmoil, the U.S. Congress, led by the Radical Republicans (the loose faction of the Republican Party that before the war opposed slavery and after the war defended the rights of African Americans and wanted to impose harsh terms on the rebellious South), enacted the Thirteenth Amendment, which abolished slavery and other forms of involuntary servitude throughout the United States.

What followed was a flood of legislation and constitutional amendments designed to reshape the racial landscape of the United States. The Civil Rights Act of 1866 gave blacks the right to buy and sell property and to make and enforce contracts to the same extent as white citizens. The Fourteenth Amendment, which was ratified in 1868, affirmed the citizenship rights of former slaves and guaranteed "due process" and "equal protection" to all citizens under the law. The four Reconstruction Acts (1867 1868) created military districts in the South to ensure order during the states' return to the Union, required congressional approval for new state constitutions (a requirement for Confederate states to rejoin the Union), gave voting rights to all men in the former Confederacy, and stipulated that Confederate states had to ratify the Fourteenth Amendment. The Fifteenth Amendment, which took effect in 1870, guaranteed the voting rights of all citizens. The Ku Klux Klan Act of 1871 gave the U.S. president sweeping powers to combat the Klan and similar organizations in the South that were using violence and intimidation to deprive African Americans of their rights and that often directed their violence against white Republicans who supported equal rights for blacks. The Civil Rights Act of 1875 made it unlawful for inns, restaurants, theaters, and other public facilities to deny access to any individual based on race.

The Hayes-Tilden Compromise of 1877 represented the turning point in the fate of black Americans in the South. The most disputed presidential election in American history took place in 1876. After the votes were counted, Democrat Samuel Tilden held a narrow lead in both the popular vote and in the Electoral College over Republican Rutherford B. Hayes, but a number of electoral votes were in dispute. In the Compromise of 1877, Democrats (whose stronghold was in the South) agreed to recognize Hayes as president on the condition that he withdraw federal troops from Florida, South Carolina, and Louisiana, the only three southern states where postwar troops remained. This event marked the end of the Reconstruction era and allowed whites to reassert their dominance using violence, intimidation, and fraud.

Matters worsened in the years that followed. A series of U.S. Supreme Court cases undermined the Fourteenth and Fifteenth Amendments. In the 1876 case *United States v.*

Time Line

1868

- **February 23**
  William Edward Burghardt Du Bois is born in Great Barrington, Massachusetts.

1885

- Du Bois enrolls at Fisk University in Nashville, Tennessee.

1888

- Du Bois enrolls at Harvard University and receives a bachelor's degree in 1890.

1895

- Du Bois receives a PhD in history from Harvard.
- **September 18**
  Booker T. Washington delivers his "Atlanta Compromise" speech at the Atlanta Cotton States and International Exposition.

1897

- Du Bois begins teaching at Atlanta University, where he remains until 1910.

1903

- Du Bois's controversial essay collection *The Souls of Black Folk* is published.

1905

- **July**
  Du Bois cofounds the Niagara Movement.

1910

- Du Bois becomes director of publicity and research and a member of the board of directors of the National Association for the Advancement of Colored People (NAACP); he also founds and edits *The Crisis*, the association's official periodical.

1915

- **November 14**
  Booker T. Washington dies in Tuskegee, Alabama.

1934

- Du Bois resigns from the NAACP and returns to Atlanta University as chair of the Department of Sociology.

Reese, the Court rejected an African American's challenge to a poll tax, holding that the Fifteenth Amendment did not affirmatively assure the right to vote and that the poll tax was racially neutral. *United States v. Cruikshank*, decided the same year, involved an action against a group of whites who used lethal force to break up a political rally that blacks had organized. The Court held that the blacks who brought the case had not established that they were denied any rights based on their color. In the Civil Rights Cases of 1883, which was a consolidation of several cases that presented similar issues, the Court declared that the 1875 Civil Rights Act was unconstitutional. The decision established the "state action" doctrine by holding that Congress did not have the authority to regulate private acts of discrimination. In 1896 segregation was affirmed when the Supreme Court ruled in *Plessy v. Ferguson* that laws requiring segregation in public transportation did not violate the Fourteenth Amendment as long as the separate facilities provided for blacks were equal to those available to whites. Yet another case upheld the outcome of Mississippi's 1890 state constitutional convention, which had the express purpose of disenfranchising black voters. In *Williams v. Mississippi*, the Supreme Court held in 1898 that because Mississippi's voter registration laws were not explicitly discriminatory, they did not violate the Fourteenth Amendment.

In *The Souls of Black Folk*, Du Bois reacted to the rising tide of segregation and racial subordination and established himself as one of the most prominent African American intellectuals and leaders of the early twentieth century. It also set off a heated debate that still reverberates in some circles. A few years before the book was published, the white South found what it believed would be a resolution of the still unsettled question of the status of the black population. The answer to the dilemma came from an unlikely source, a former slave who became perhaps the most powerful person of color in the history of the Republic. The bearer of this solution, Booker T. Washington, spent his childhood in Virginia assisting his family in a series of menial jobs. After he graduated from Hampton Normal and Agricultural Institute (now Hampton University), Washington received an offer to establish a school in rural Alabama. At what became the Tuskegee Institute, Washington developed a program emphasizing industrial education. He trained brick masons, carpenters, and other student artisans who constructed several of Tuskegee's buildings. Women were taught the domestic arts. Tuskegee's program was based on Washington's belief that black students would be served best by training for vocations in the industrial sphere rather than for professions.

In 1895 Washington delivered a historic speech in Atlanta, Georgia, before a large and mainly white audience the so-called "Atlanta Compromise" speech. Invoking a metaphor that would be seen as the solution for race relations, Washington, in a statement Du Bois quotes in Chapter III of *The Souls of Black Folk*, held out one hand and said, "In all things purely social we can be as separate as the fingers, yet as one hand in all things essential to mutual progress." He then closed his fingers into a fist to buttress

his point. The implication of Washington's words was clear: African Americans would be trained to be obedient and reliable workers who would not challenge white supremacy. The speech received national acclaim and made Washington the preeminent leader of black America, particularly among white Americans but among many black Americans as well.

Despite his success, there was much about Washington's philosophy that rankled many African Americans. In addition to preaching accommodation, Washington's speeches included numerous references to the shortcoming of blacks. These comments were often couched in humorous anecdotes that delighted his white audiences but were demeaning to blacks. Washington ridiculed classical education as "sheer folly" because it would not prepare African Americans for practical occupations.

The lines were drawn. Largely in response to Washington's popularity, Du Bois wrote *The Souls of Black Folk*, a collection of incisive essays, several of which had been previously published in the *Atlantic* magazine.

About the Author

William Edward Burghardt Du Bois was born on February 23, 1868, in Great Barrington, Massachusetts, where he was raised by his mother, Mary Silvina Burghardt, whose English roots could be traced back to the American Revolution. She raised her son after his father, Alfred Du Bois, deserted the family when William was two years old. After completing public schooling in Great Barrington, Du Bois enrolled at Fisk University in Nashville, Tennessee, in 1885. He graduated in 1888 and was admitted to Harvard University as a junior.

After earning a bachelor's degree at Harvard, Du Bois remained to pursue graduate studies. He also studied at the University of Berlin and traveled extensively across Europe. He returned to the United States in 1894 and taught briefly at Wilberforce University in Ohio and then at Atlanta University until 1910. Du Bois helped organize the Niagara Movement in 1905 and was one of the founding members of the National Association for the Advancement of Colored People (NAACP), which was established in 1909. He also edited the organization's journal, *The Crisis*, until his departure in 1934.

Du Bois returned to Atlanta University as the head of the sociology department, but in 1944 he rejoined the NAACP as director of publicity and research. His increasing impatience with the lagging advancement of African American rights and ideals, however, alienated his colleagues at the NAACP, and in 1948 he was discharged from his position. During this period Du Bois associated with a number of left-wing organizations. From 1949 to 1955 he was vice chair of the Council on African Affairs, which was cited by the U.S. attorney general as a "subversive" organization. In 1950 he became the chair of the Peace Information Center in New York City. That year, at the age of eighty-two, he ran unsuccessfully for the U.S. Senate as the Progressive Party's candidate.

Time Line

1944	■ Du Bois returns to the NAACP as director of publicity and research but is dismissed in 1948.
1950	■ Du Bois runs for the U.S. Senate in New York on the Progressive Party ticket.
1951	■ Du Bois is indicted, tried, and acquitted on a charge of failing to register as a foreign agent.
1961	■ Du Bois becomes a member of the American Communist Party and is invited to Ghana by President Kwame Nkrumah.
1963	■ Du Bois becomes a citizen of Ghana and dies there on August 27.

In the 1950s the United States was in the midst of the cold war. Fears of espionage and Communist influence abounded. The infamous McCarthy hearings, led by Wisconsin senator Joseph McCarthy, were held to root out suspected Communists in the government and elsewhere. Du Bois's association with leftist groups made him suspect, and NAACP officials distanced themselves from him. In 1951 Du Bois was indicted and tried on the charge of failing to register as a foreign agent. Although he was acquitted, he remained in the eye of government agencies, and the State Department revoked his passport. Du Bois officially joined the American Communist Party in 1961. That year, the president of Ghana, Kwame Nkrumah, invited him to visit Africa and edit the *Encyclopedia Africana*. Du Bois accepted and later became a citizen of Ghana, where he died on August 27, 1963, at the age of ninety-five.

Explanation and Analysis of the Document

The Souls of Black Folk advances the thesis that "the problem of the Twentieth Century is the problem of the color-line." Du Bois traces what he calls the "double-consciousness" of African Americans, the "sense of always looking at one's self through the eyes of others." The book assesses the progress of blacks, the obstacles that blacks face, and the possibilities for progress in the future. Chapter III, "Of Mr. Booker T. Washington and Others," directly addresses Washington's assimilationist views. The cleavage between Washington and Du Bois is one that still reverberates in American race relations.

◆ The Ascendancy of Mr. Booker T. Washington

In the first eight paragraphs of Chapter III, Du Bois outlines the rise of Booker T. Washington to prominence. He points to the growth and industrial development of the United States, what other authors have called the "Gilded Age," when business was expanding and fortunes were being made in the decades following the Civil War. He notes that in the antebellum years, efforts to provide blacks with industrial training had taken place under the auspices of organizations such as the American Missionary Association and individuals such as William G. Price, an African American educator whose career mirrored that of Washington. Du Bois refers to these efforts at industrial education as a "by-path" that Washington was able to turn into a "Way of Life." Du Bois continues by noting that Washington's program won applause in the South and admiration in the North, though not necessarily among blacks.

Du Bois then goes into more detail about Washington and his program. He refers to Washington's efforts in creating Tuskegee Institute and cites the "Atlanta Compromise" speech of 1895, where Washington advocated (to a largely white audience) that blacks abandon the quest for social and political equality until they have achieved economic equality. Many blacks saw the speech as a surrender, but many whites applauded it, making Washington in the words of Du Bois the "most distinguished Southerner since Jefferson Davis," the president of the Confederate States of America during the Civil War. In paragraph 4, Du Bois begins his critique of Washington by suggesting that he had "grasped the spirit of the age which was dominating the North" and that he had learned the speech of "triumphant commercialism," where manual skills were more important than something as presumably esoteric as French grammar. In paragraph 5, Du Bois ironically refers to Washington as a "successful man" in gathering a "cult" of followers, but he also indicates that the time has come to point out Washington's mistakes and shortcomings.

Du Bois hints at the nature of the criticism that Washington has encountered. In his position, Washington has had to "walk warily" to avoid offending his patrons and the South in general. Du Bois notes that at the National Peace Jubilee at the end of the Spanish-American War, Washington alluded to racial prejudice, and he appears to have done so at a White House dinner he had with President Theodore Roosevelt in 1901 a highly publicized and controversial event. These events attracted some criticism, but Washington has generally managed adroitly to avoid giving offense, says Du Bois. In paragraph 7, Du Bois asserts that Washington has encountered opposition, some of it bitter, among his own people, particularly "educated and thoughtful colored men." While these men might admire Washington's honest efforts to do something positive, they feel "deep regret, sorrow, and apprehension" because of the popularity of Washington's views. Paragraph 8 notes, however, that people are hesitant to criticize Washington openly. This, says Du Bois, is "dangerous," and he raises the question of whether African Americans are submitting to a leader who has been imposed on them by external pressure.

◆ The History of the American Black Leadership

Paragraph 9 begins to examine the history of leadership in the African American community. Du Bois observes that these leaders emerge from the environment in which the people lived, and when that environment consists of "sticks and stones and beasts," people will oppose it. Thus, in paragraph 10, he discusses black leadership before 1750. He makes reference to the "Maroons," the name given to escaped slaves in Haiti and throughout the Caribbean who formed gangs that lived in the forests. These gangs, which were generally small but sometimes grew to thousands of men, repeatedly attacked French plantations. "Danish blacks" refers to a group of slaves who, in 1723, gained control of Saint John in the Virgin Islands (then the Danish West Indies) for six months. Cato of Stono is a reference to the Stono Rebellion of 1739 (also called Cato's Rebellion), a slave revolt in South Carolina. By the end of the century, however, it was thought that "kindlier relations" would replace rebellion, as exemplified in the poetry of "Phyllis" (that is, Phillis Wheatley) and the heroism of blacks such as Crispus Attucks, Peter Salem, and Salem Poor during the Revolutionary War. James Durham was the first African American doctor in the colonies, and Benjamin Banneker was an accomplished scientist, mathematician, and surveyor who helped lay out Washington, D.C. "Cuffes" is a reference to Paul Cuffe and his followers, who wanted to establish a free colony in West Africa.

Du Bois then turns to the worsening condition of American slaves in the late eighteenth and early nineteenth century. Notable events included the revolt in Haiti led by Toussaint-Louverture that resulted in an independent Haiti in 1803. Back in the United States, significant slave revolts were headed by Gabriel Prosser in Virginia in 1800, Denmark Vesey in South Carolina in 1822, and Nat Turner in Virginia in 1831. Meanwhile, in the North, African Americans were segregating themselves in black churches at a time when white mainstream churches were ignoring their needs. Paragraph 12 alludes to David Walker's highly influential *Appeal to the Coloured Citizens of the World*, written in 1829. Du Bois goes on to point out instances of prominent northern men who "sought assimilation and amalgamation with the nation on the same terms with other men," but says that they continued to be regarded as "despised blacks."

Accordingly, during the abolition era prior to the Civil War, numerous black leaders, including Charles Lenox Remond, William Cooper Nell, William Wells Brown, and Frederick Douglass, launched a new period of self-assertion. The logic of self-assertion reached its extreme with John Brown's raid on Harpers Ferry, Virginia, in 1859. After the Civil War, leadership in the African American community passed to Douglass and several others: Robert Brown Elliott, a black congressman; Blanche Kelso Bruce, the first black senator to serve a full term; Charles Langston, a black activist (and grandfather of the poet Langston Hughes); Alexander Crummell, an abolitionist and pan-Africanist; and Daniel Payne, a bishop in the African Methodist Episcopal Church and one of the founders of Wilberforce

A* Harper's Weekly *cartoon representing Republican disaffection with the Compromise of 1877, suggesting that Democrats were coercing and not compromising (Library of Congress)

University, where he became the first African American college president in the nation's history.

In paragraph 14, Du Bois uses the term "Revolution" to refer to the disputed presidential election of 1876, which led to the end of the Reconstruction era. In the post-Reconstruction climate, Douglass and Bruce carried on, but Bruce died in 1898 and Douglass was aging. Booker T. Washington arose to fill the vacuum they left, becoming the leader not of one race but of two, both blacks and whites. Some blacks resented Washington's ascendancy, but their criticisms were hushed because of the potential of economic gains as northern businesses were investing in southern enterprises. All were weary of the race problem, and Washington's views seemed to provide a way out.

◆ The Old Attitude of Adjustment and Submission

Beginning with paragraph 15, Du Bois takes on Washington directly. He describes Washington's program as one of "adjustment and submission" and one that "practically accepts the alleged inferiority of the Negro races." Washington "withdraws" the demands of African Americans for equality as citizens. He calls for African Americans to surrender political power, civil rights, and higher education and instead to "concentrate all their energies on industrial education, and accumulation of wealth, and the conciliation of the South." The result, however, has been the "disfranchisement" (usually spelled "disenfranchisement") of blacks, legalized civil inferiority, and loss of opportunities for higher education. In paragraph 17, Du Bois asks whether it is even possible for blacks to achieve economic equality when they have been denied political power, civil rights, and access to education. He then goes on to point out the paradoxes: that black artisans and workingmen cannot defend their rights without the vote, that submission will "sap" the manhood of any race, and that an institution like Tuskegee itself could not remain open without a class of African Americans who have pursued higher education. The result of these paradoxes has been the creation of two classes of blacks: those who "represent the attitude of revolt and revenge" and those who disagree with Washington but cannot say so. These people, according to Du Bois, are obligated to demand of the nation the right to vote, civic equality, and access to education. In paragraph 20, Du Bois acknowledges that the "low social level" of many African Americans leads to discrimination, but he also argues that "relentless color-prejudice is more often a cause than a result of the Negro's degradation." He insists that there is a demand for educational institutions to provide training for African American teachers, professionals, and leaders.

Du Bois continues in paragraph 21 by obliquely criticizing those, particularly blacks, who accept Washington and his views. He acknowledges that they see in Washington an

effort to conciliate the South, no easy task. But he also insists that the issue is one that has to be approached honestly. They recognize that the right to vote, civic rights, and the right to be educated will not come easily, and that the prejudice of the past will not disappear overnight. But they also know that the path to progress will not open by throwing away rights; a people cannot gain respect by "continually belittling and ridiculing themselves."

◆ The Thinking Classes of American Negroes

With paragraph 22, Du Bois begins to build toward a conclusion. He insists that "the thinking classes of American Negroes" are obliged to oppose Washington. While acknowledging that there has been some progress in relations between North and South after the Civil War, he states that if reconciliation has to be bought at the price of "industrial slavery and civic death" or by "inferiority," then patriotism and loyalty demands disagreement with Washington. He maintains that it is necessary to judge the South with discrimination, to recognize that it is a place in ferment and undergoing social change. He concedes in paragraph 24 that the attitude toward blacks in the South is not uniform; ignorant people want to disenfranchise blacks, but not all southerners are ignorant. Among those who are ignorant, he mentions North Carolina governor Charles Aycock, a white supremacist; Thomas Nelson Page, who wrote sentimental novels idealizing pre Civil War plantation life; and Ben Tillman, an open racist who fought Republican government in South Carolina as a member of a paramilitary group known as the Red Shirts.

Du Bois acknowledges that Washington has opposed injustice to people of color. Nevertheless, he calls Washington's views "propaganda" that justifies the South in its attitude toward African Americans, that blacks are responsible for their own degraded condition, and that only through their own efforts can blacks rise in the future. Du Bois counters these "half-truths" by arguing that race prejudice is still a potent force in the South, that earlier systems of education could not succeed without a class of educated blacks, and that blacks can rise only if the culture at large encourages and arouses this effort. The key mistake Washington makes is to impose the burden of the "Negro problem" on blacks without recognizing that it is a national problem, one that it will take the united efforts of North and South to solve. Indeed, says Du Bois, industrial training, along with virtues such as thrift and patience, are to the good, but without fighting for the right and duty to vote, eliminating the "emasculating effects of caste distinctions," and striving for higher education, the promise of the Founding Fathers that "all men are created equal" will never be realized.

Audience

The audience for *The Souls of Black Folk* was broad. Several of the essays had already appeared in the *Atlantic* magazine, one of the nation's leading mainstream publications. Accordingly, the book attracted attention from both the black and the white intelligentsia and went through several editions. The author's purposes were to convince white readers of the essential humanity of African Americans and to promote among black readers a new consciousness. Virtually any writer, white or black, writing on race issues during the early decades of the twentieth century would have read and paid tribute to Du Bois and his book, and even in the twenty-first century the book is still regarded as a classic and its ideas are still debated.

Impact

In *The Souls of Black Folk*, Du Bois boldly challenged Booker T. Washington and his accommodationist approach to race relations. Du Bois emphasized the need to develop a "Talented Tenth" an educated vanguard that would serve as the teachers and leaders in the black community. Demanding political and civil rights for Americans, in 1905 he organized the Niagara Movement, a group of black militants who were adamantly opposed to segregation. Regarded as a forerunner of the NAACP, the nation's oldest, most influential, and highly venerable civil rights organization, the Niagara Movement met annually in Buffalo, New York, through 1909. Around this time, the philosophical differences between Washington and Du Bois grew into a bitter personal animosity. Washington used his influence to block financial support for Atlanta University, and he intimated to the university's president that further support would not be forthcoming as long as Du Bois remained on the faculty. Consequently, Du Bois and Atlanta University parted company in 1910.

Du Bois went on to pursue a career as a distinguished activist, editor, and scholar. As one of the cofounders of the NAACP, he fought unceasingly for social change. The formation of the NAACP was fueled in part by a 1908 race riot in Springfield, Illinois. Violence of this sort was not new, as the lynching of African Americans had been increasing with alarming frequency throughout the late nineteenth century. The riot in Springfield was one of several episodes of brutality inflicted by white mobs against black communities. What was alarming about the Springfield riots was that they erupted outside the South in the birthplace of Abraham Lincoln. Many worried that the "race war" in the South would be transported to northern cities.

These events spurred Mary Ovington, a social worker who had been active in the Niagara Movement, to contact William English Walling, a Socialist who supported progressive causes, and Dr. Henry Moskowitz, another well-known progressive. The group issued a call for the formation of a political movement that would develop a program aimed at securing racial equality. A conference of the newly formed NAACP was held on May 12 14, 1910, in New York City, where the organization outlined its goals. In *The Souls of Black Folk*, Du Bois had insisted on voting rights, civic equality, and access to higher education. These principles were incorporated into the fledgling organization's mission, which was to ensure the political, educational, social, and economic equality of people of color and to

Essential Quotes

"Mr. Washington represents in Negro thought the old attitude of adjustment and submission."

(Paragraph 15)

"Is it possible, and probable, that nine millions of men can make effective progress in economic lines if they are deprived of political rights, made a servile caste, and allowed only the most meagre chance for developing their exceptional men? If history and reason give any distinct answer to these questions, it is an emphatic No.*"*

(Paragraph 17)

"[Washington's] doctrine has tended to make the whites, North and South, shift the burden of the Negro problem to the Negro's shoulders and stand aside as critical and rather pessimistic spectators; when in fact the burden belongs to the nation, and the hands of none of us are clean if we bend not our energies to righting these great wrongs."

(Paragraph 26)

"But so far as Mr. Washington apologizes for injustice, North or South, does not rightly value the privilege and duty of voting, belittles the emasculating effects of caste distinctions, and opposes the higher training and ambition of our brighter minds,—so far as he, the South, or the Nation, does this,—we must unceasingly and firmly oppose them."

(Paragraph 28)

eliminate racial prejudice. Du Bois was appointed director of publicity and research for the NAACP.

By November 1911 a sixteen-page magazine under Du Bois's editorship was ready for distribution. For a title, Du Bois settled on *The Crisis: A Record of the Darker Races*. A thousand copies were printed, and the magazine was immediately successful. After *The Crisis* was established as the voice of the NAACP, Du Bois's stature rose rapidly. Within a short period of time, the magazine's circulation reached a thousand issues per month. As the periodical's reputation grew, Du Bois became the most well-known black intellectual of his time. When Booker T. Washington died in 1915, the power of the Tuskegee machine faded rapidly. Its influence was replaced by the NAACP, which by 1919 had more than eighty-eight thousand members.

Over the next decade the NAACP continued its fight against segregation, using lobbying, public education, and demonstrations as its primary tools. Between 1918 and 1922, the NAACP campaigned for the adoption of antilynching laws by Congress. Such legislative measures failed to gain ground, however, even when argued on the basis of the fundamental Fourteenth Amendment right to due process. Du Bois viewed this and other barriers to equality for blacks as reprehensible, and he began to rethink the integrationist goals of the NAACP. In 1934 controversy erupted over an editorial Du Bois authored that argued that African Americans should adopt a program of self-segregation in which black-owned economic institutions would be encouraged and developed. Frustrated with the NAACP's inability to make progress toward eliminating segregation, Du Bois contended that inte-

gration would likely take a long time to achieve. During the interim, instead of focusing all of its energies on demands for integration, the black community would be better served by developing and relying on its own institutions.

Du Bois's editorial was perceived as acquiescing to continued segregation. A vigorous debate ensued. To many observers, Du Bois appeared to be advocating a return to Washington's philosophy. Du Bois's editorial independence was tolerated as long as *The Crisis* was self-supporting. But during the Great Depression years of 1930s, the publication lost money. In the wake of the controversy, the NAACP's board of directors took steps to rein in Du Bois by adopting a formal resolution requiring editorials to reflect the NAACP's institutional views and requiring advance approval by the board. This was more than Du Bois could take. In June 1934 he announced his resignation.

See also Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); Ku Klux Klan Act (1871); *United States v. Cruikshank* (1876); Civil Rights Cases (1883); Booker T. Washington's Atlanta Exposition Address (1895); *Plessy v. Ferguson* (1896); Niagara Movement Declaration of Principles (1905).

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Leland Ware and Michael J. O'Neal

Questions for Further Study

1. What role did Du Bois play early on in the Harlem Renaissance? In what way did he help create a climate of thought that led to the renaissance?

2. Du Bois and Booker T. Washington are often thought of as representing the opposite poles of black thought during this era. See Booker T. Washington's Atlanta Exposition Address (1895) and summarize the points of view of each figure. Explain how their views were in opposition to each other.

3. What did Du Bois mean by the "double-consciousness" of African Americans? How did he attempt to overcome that double consciousness?

4. Du Bois used expressions such as "the thinking classes of American Negroes." He was, in fact, highly educated and by any measure an intellectual. Do you think that Du Bois was an elitist? Did he look down on classes of blacks who, presumably, were not "thinking"? Do you think you would have enjoyed sitting down to have lunch with a figure such as Du Bois?

5. Read this document in conjunction with the Niagara Movement Declaration of Principles (1905). To what extent did the latter document, written just two years later, embody principles that Du Bois articulated in *The Souls of Black Folk*?

Document Text

W. E. B. Du Bois: *The Souls of Black Folk*

III. Of Mr. Booker T. Washington and Others

> From birth till death enslaved; in word, in deed, unmanned!
> * * * * * * * * * *
> Hereditary bondsmen! Know ye not
> Who would be free themselves must strike the blow?
>
> Byron

Easily the most striking thing in the history of the American Negro since 1876 is the ascendancy of Mr. Booker T. Washington. It began at the time when war memories and ideals were rapidly passing; a day of astonishing commercial development was dawning; a sense of doubt and hesitation overtook the freedmen's sons, then it was that his leading began. Mr. Washington came, with a simple definite programme, at the psychological moment when the nation was a little ashamed of having bestowed so much sentiment on Negroes, and was concentrating its energies on Dollars. His programme of industrial education, conciliation of the South, and submission and silence as to civil and political rights, was not wholly original; the Free Negroes from 1830 up to war-time had striven to build industrial schools, and the American Missionary Association had from the first taught various trades; and Price and others had sought a way of honorable alliance with the best of the Southerners. But Mr. Washington first indissolubly linked these things; he put enthusiasm, unlimited energy, and perfect faith into his programme, and changed it from a by-path into a veritable Way of Life. And the tale of the methods by which he did this is a fascinating study of human life.

It startled the nation to hear a Negro advocating such a programme after many decades of bitter complaint; it startled and won the applause of the South, it interested and won the admiration of the North; and after a confused murmur of protest, it silenced if it did not convert the Negroes themselves.

To gain the sympathy and cooperation of the various elements comprising the white South was Mr. Washington's first task; and this, at the time Tuskegee was founded, seemed, for a black man, well-nigh impossible. And yet ten years later it was done in the word spoken at Atlanta: "In all things purely social we can be as separate as the five fingers, and yet one as the hand in all things essential to mutual progress." This "Atlanta Compromise" is by all odds the most notable thing in Mr. Washington's career. The South interpreted it in different ways: the radicals received it as a complete surrender of the demand for civil and political equality; the conservatives, as a generously conceived working basis for mutual understanding. So both approved it, and to-day its author is certainly the most distinguished Southerner since Jefferson Davis, and the one with the largest personal following.

Next to this achievement comes Mr. Washington's work in gaining place and consideration in the North. Others less shrewd and tactful had formerly essayed to sit on these two stools and had fallen between them; but as Mr. Washington knew the heart of the South from birth and training, so by singular insight he intuitively grasped the spirit of the age which was dominating the North. And so thoroughly did he learn the speech and thought of triumphant commercialism, and the ideals of material prosperity, that the picture of a lone black boy poring over a French grammar amid the weeds and dirt of a neglected home soon seemed to him the acme of absurdities. One wonders what Socrates and St. Francis of Assisi would say to this.

And yet this very singleness of vision and thorough oneness with his age is a mark of the successful man. It is as though Nature must needs make men narrow in order to give them force. So Mr. Washington's cult has gained unquestioning followers, his work has wonderfully prospered, his friends are legion, and his enemies are confounded. To-day he stands as the one recognized spokesman of his ten million fellows, and one of the most notable figures in a nation of seventy millions. One hesitates, therefore, to criticise a life which, beginning with so little, has done so much. And yet the time is come when one may speak in all sincerity and utter courtesy of the mistakes and shortcomings of Mr. Washington's career, as well as of his triumphs, without being thought captious or envious, and without forgetting that it is easier to do ill than well in the world.

The criticism that has hitherto met Mr. Washington has not always been of this broad character. In

the South especially has he had to walk warily to avoid the harshest judgments, and naturally so, for he is dealing with the one subject of deepest sensitiveness to that section. Twice once when at the Chicago celebration of the Spanish-American War he alluded to the color-prejudice that is "eating away the vitals of the South," and once when he dined with President Roosevelt has the resulting Southern criticism been violent enough to threaten seriously his popularity. In the North the feeling has several times forced itself into words, that Mr. Washington's counsels of submission overlooked certain elements of true manhood, and that his educational programme was unnecessarily narrow. Usually, however, such criticism has not found open expression, although, too, the spiritual sons of the Abolitionists have not been prepared to acknowledge that the schools founded before Tuskegee, by men of broad ideals and self-sacrificing spirit, were wholly failures or worthy of ridicule. While, then, criticism has not failed to follow Mr. Washington, yet the prevailing public opinion of the land has been but too willing to deliver the solution of a wearisome problem into his hands, and say, "If that is all you and your race ask, take it."

Among his own people, however, Mr. Washington has encountered the strongest and most lasting opposition, amounting at times to bitterness, and even today continuing strong and insistent even though largely silenced in outward expression by the public opinion of the nation. Some of this opposition is, of course, mere envy; the disappointment of displaced demagogues and the spite of narrow minds. But aside from this, there is among educated and thoughtful colored men in all parts of the land a feeling of deep regret, sorrow, and apprehension at the wide currency and ascendancy which some of Mr. Washington's theories have gained. These same men admire his sincerity of purpose, and are willing to forgive much to honest endeavor which is doing something worth the doing. They cooperate with Mr. Washington as far as they conscientiously can; and, indeed, it is no ordinary tribute to this man's tact and power that, steering as he must between so many diverse interests and opinions, he so largely retains the respect of all.

But the hushing of the criticism of honest opponents is a dangerous thing. It leads some of the best of the critics to unfortunate silence and paralysis of effort, and others to burst into speech so passionately and intemperately as to lose listeners. Honest and earnest criticism from those whose interests are most nearly touched, criticism of writers by readers, this is the soul of democracy and the safeguard of modern society. If the best of the American Negroes receive by outer pressure a leader whom they had not recognized before, manifestly there is here a certain palpable gain. Yet there is also irreparable loss, a loss of that peculiarly valuable education which a group receives when by search and criticism it finds and commissions its own leaders. The way in which this is done is at once the most elementary and the nicest problem of social growth. History is but the record of such group-leadership; and yet how infinitely changeful is its type and character! And of all types and kinds, what can be more instructive than the leadership of a group within a group? that curious double movement where real progress may be negative and actual advance be relative retrogression. All this is the social student's inspiration and despair.

Now in the past the American Negro has had instructive experience in the choosing of group leaders, founding thus a peculiar dynasty which in the light of present conditions is worth while studying. When sticks and stones and beasts form the sole environment of a people, their attitude is largely one of determined opposition to and conquest of natural forces. But when to earth and brute is added an environment of men and ideas, then the attitude of the imprisoned group may take three main forms, a feeling of revolt and revenge; an attempt to adjust all thought and action to the will of the greater group; or, finally, a determined effort at self-realization and self-development despite environing opinion. The influence of all of these attitudes at various times can be traced in the history of the American Negro, and in the evolution of his successive leaders.

Before 1750, while the fire of African freedom still burned in the veins of the slaves, there was in all leadership or attempted leadership but the one motive of revolt and revenge, typified in the terrible Maroons, the Danish blacks, and Cato of Stono, and veiling all the Americas in fear of insurrection. The liberalizing tendencies of the latter half of the eighteenth century brought, along with kindlier relations between black and white, thoughts of ultimate adjustment and assimilation. Such aspiration was especially voiced in the earnest songs of Phyllis, in the martyrdom of Attucks, the fighting of Salem and Poor, the intellectual accomplishments of Banneker and Derham, and the political demands of the Cuffes.

Stern financial and social stress after the war cooled much of the previous humanitarian ardor. The disappointment and impatience of the Negroes at the persistence of slavery and serfdom voiced

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itself in two movements. The slaves in the South, aroused undoubtedly by vague rumors of the Haytian revolt, made three fierce attempts at insurrection, in 1800 under Gabriel in Virginia, in 1822 under Vesey in Carolina, and in 1831 again in Virginia under the terrible Nat Turner. In the Free States, on the other hand, a new and curious attempt at self-development was made. In Philadelphia and New York color-prescription led to a withdrawal of Negro communicants from white churches and the formation of a peculiar socio-religious institution among the Negroes known as the African Church, an organization still living and controlling in its various branches over a million of men.

Walker's wild appeal against the trend of the times showed how the world was changing after the coming of the cotton-gin. By 1830 slavery seemed hopelessly fastened on the South, and the slaves thoroughly cowed into submission. The free Negroes of the North, inspired by the mulatto immigrants from the West Indies, began to change the basis of their demands; they recognized the slavery of slaves, but insisted that they themselves were freemen, and sought assimilation and amalgamation with the nation on the same terms with other men. Thus, Forten and Purvis of Philadelphia, Shad of Wilmington, Du Bois of New Haven, Barbadoes of Boston, and others, strove singly and together as men, they said, not as slaves; as "people of color," not as "Negroes." The trend of the times, however, refused them recognition save in individual and exceptional cases, considered them as one with all the despised blacks, and they soon found themselves striving to keep even the rights they formerly had of voting and working and moving as freemen. Schemes of migration and colonization arose among them; but these they refused to entertain, and they eventually turned to the Abolition movement as a final refuge.

Here, led by Remond, Nell, Wells-Brown, and Douglass, a new period of self-assertion and self-development dawned. To be sure, ultimate freedom and assimilation was the ideal before the leaders, but the assertion of the manhood rights of the Negro by himself was the main reliance, and John Brown's raid was the extreme of its logic. After the war and emancipation, the great form of Frederick Douglass, the greatest of American Negro leaders, still led the host. Self-assertion, especially in political lines, was the main programme, and behind Douglass came Elliot, Bruce, and Langston, and the Reconstruction politicians, and, less conspicuous but of greater social significance, Alexander Crummell and Bishop Daniel Payne.

Then came the Revolution of 1876, the suppression of the Negro votes, the changing and shifting of ideals, and the seeking of new lights in the great night. Douglass, in his old age, still bravely stood for the ideals of his early manhood, ultimate assimilation through self-assertion, and on no other terms. For a time Price arose as a new leader, destined, it seemed, not to give up, but to re-state the old ideals in a form less repugnant to the white South. But he passed away in his prime. Then came the new leader. Nearly all the former ones had become leaders by the silent suffrage of their fellows, had sought to lead their own people alone, and were usually, save Douglass, little known outside their race. But Booker T. Washington arose as essentially the leader not of one race but of two, a compromiser between the South, the North, and the Negro. Naturally the Negroes resented, at first bitterly, signs of compromise which surrendered their civil and political rights, even though this was to be exchanged for larger chances of economic development. The rich and dominating North, however, was not only weary of the race problem, but was investing largely in Southern enterprises, and welcomed any method of peaceful cooperation. Thus, by national opinion, the Negroes began to recognize Mr. Washington's leadership; and the voice of criticism was hushed.

Mr. Washington represents in Negro thought the old attitude of adjustment and submission; but adjustment at such a peculiar time as to make his programme unique. This is an age of unusual economic development, and Mr. Washington's programme naturally takes an economic cast, becoming a gospel of Work and Money to such an extent as apparently almost completely to overshadow the higher aims of life. Moreover, this is an age when the more advanced races are coming in closer contact with the less developed races, and the race-feeling is therefore intensified; and Mr. Washington's programme practically accepts the alleged inferiority of the Negro races. Again, in our own land, the reaction from the sentiment of war time has given impetus to race-prejudice against Negroes, and Mr. Washington withdraws many of the high demands of Negroes as men and American citizens. In other periods of intensified prejudice all the Negro's tendency to self-assertion has been called forth; at this period a policy of submission is advocated. In the history of nearly all other races and peoples the doctrine preached at such crises has been that manly self-respect is worth more than lands and houses, and that a people who voluntarily surrender such respect, or cease striving for it, are not worth civilizing.

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In answer to this, it has been claimed that the Negro can survive only through submission. Mr. Washington distinctly asks that black people give up, at least for the present, three things,

First, political power,
Second, insistence on civil rights,
Third, higher education of Negro youth,

and concentrate all their energies on industrial education, and accumulation of wealth, and the conciliation of the South. This policy has been courageously and insistently advocated for over fifteen years, and has been triumphant for perhaps ten years. As a result of this tender of the palm-branch, what has been the return? In these years there have occurred:

1. The disfranchisement of the Negro.
2. The legal creation of a distinct status of civil inferiority for the Negro.
3. The steady withdrawal of aid from institutions for the higher training of the Negro.

These movements are not, to be sure, direct results of Mr. Washington's teachings; but his propaganda has, without a shadow of doubt, helped their speedier accomplishment. The question then comes: Is it possible, and probable, that nine millions of men can make effective progress in economic lines if they are deprived of political rights, made a servile caste, and allowed only the most meagre chance for developing their exceptional men? If history and reason give any distinct answer to these questions, it is an emphatic *No*. And Mr. Washington thus faces the triple paradox of his career:

1. He is striving nobly to make Negro artisans business men and property-owners; but it is utterly impossible, under modern competitive methods, for workingmen and property-owners to defend their rights and exist without the right of suffrage.
2. He insists on thrift and self-respect, but at the same time counsels a silent submission to civic inferiority such as is bound to sap the manhood of any race in the long run.
3. He advocates common-school and industrial training, and depreciates institutions of higher learning; but neither the Negro common-schools, nor Tuskegee itself, could remain open a day were it not for teachers trained in Negro colleges, or trained by their graduates.

This triple paradox in Mr. Washington's position is the object of criticism by two classes of colored Americans. One class is spiritually descended from Toussaint the Savior, through Gabriel, Vesey, and Turner, and they represent the attitude of revolt and revenge; they hate the white South blindly and distrust the white race generally, and so far as they agree on definite action, think that the Negro's only hope lies in emigration beyond the borders of the United States. And yet, by the irony of fate, nothing has more effectually made this programme seem hopeless than the recent course of the United States toward weaker and darker peoples in the West Indies, Hawaii, and the Philippines, for where in the world may we go and be safe from lying and brute force?

The other class of Negroes who cannot agree with Mr. Washington has hitherto said little aloud. They deprecate the sight of scattered counsels, of internal disagreement; and especially they dislike making their just criticism of a useful and earnest man an excuse for a general discharge of venom from small-minded opponents. Nevertheless, the questions involved are so fundamental and serious that it is difficult to see how men like the Grimkes, Kelly Miller, J. W. E. Bowen, and other representatives of this group, can much longer be silent. Such men feel in conscience bound to ask of this nation three things:

1. The right to vote.
2. Civic equality.
3. The education of youth according to ability.

They acknowledge Mr. Washington's invaluable service in counselling patience and courtesy in such demands; they do not ask that ignorant black men vote when ignorant whites are debarred, or that any reasonable restrictions in the suffrage should not be applied; they know that the low social level of the mass of the race is responsible for much discrimination against it, but they also know, and the nation knows, that relentless color-prejudice is more often a cause than a result of the Negro's degradation; they seek the abatement of this relic of barbarism, and not its systematic encouragement and pampering by all agencies of social power from the Associated Press to the Church of Christ. They advocate, with Mr. Washington, a broad system of Negro common schools supplemented by thorough industrial training; but they are surprised that a man of Mr. Washington's insight can-

Document Text

not see that no such educational system ever has rested or can rest on any other basis than that of the well-equipped college and university, and they insist that there is a demand for a few such institutions throughout the South to train the best of the Negro youth as teachers, professional men, and leaders.

This group of men honor Mr. Washington for his attitude of conciliation toward the white South; they accept the "Atlanta Compromise" in its broadest interpretation; they recognize, with him, many signs of promise, many men of high purpose and fair judgment, in this section; they know that no easy task has been laid upon a region already tottering under heavy burdens. But, nevertheless, they insist that the way to truth and right lies in straightforward honesty, not in indiscriminate flattery; in praising those of the South who do well and criticising uncompromisingly those who do ill; in taking advantage of the opportunities at hand and urging their fellows to do the same, but at the same time in remembering that only a firm adherence to their higher ideals and aspirations will ever keep those ideals within the realm of possibility. They do not expect that the free right to vote, to enjoy civic rights, and to be educated, will come in a moment; they do not expect to see the bias and prejudices of years disappear at the blast of a trumpet; but they are absolutely certain that the way for a people to gain their reasonable rights is not by voluntarily throwing them away and insisting that they do not want them; that the way for a people to gain respect is not by continually belittling and ridiculing themselves; that, on the contrary, Negroes must insist continually, in season and out of season, that voting is necessary to modern manhood, that color discrimination is barbarism, and that black boys need education as well as white boys.

In failing thus to state plainly and unequivocally the legitimate demands of their people, even at the

Glossary

"Atlanta Compromise"	the informal name of a speech given by Booker T. Washington in 1895
Attucks, Salem, and Poor	African Americans Crispus Attucks, Peter Salem, and Salem Poor, who fought in the Revolutionary War
Aycock	North Carolina governor Charles Aycock, a white supremacist
Banneker	Benjamin Banneker, an accomplished African American scientist, mathematician, and surveyor who helped lay out Washington, D.C.
Barbadoes	James G. Barbadoes, one of the founders of the American Anti-Slavery Society
Ben Tillman	an open racist who fought Republican government in South Carolina as a member of a paramilitary group known as the Red Shirts
Bruce	Blanche Kelso Bruce, the first black U.S. senator to serve a full term
Byron	George Gordon Lord Byron, a prominent British Romantic poet of the early nineteenth century; the quotation is from his long narrative poem *Childe Harold's Pilgrimage*
Cato of Stono	a reference to the Stono Rebellion of 1739 (also called Cato's Rebellion), a slave revolt in South Carolina
Crummell	Alexander Crummell, a prominent abolitionist and pan-Africanist
Cuffes	a reference to Paul Cuffe and his followers, who wanted to establish a free colony in West Africa
Danish blacks	a group of slaves who, in 1723, gained control of Saint John in the Virgin Islands (then the Danish West Indies) for six months
Derham	James Derham, the first African American doctor in the colonies
Douglass	Frederick Douglass, the preeminent abolitionist of the nineteenth century

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cost of opposing an honored leader, the thinking classes of American Negroes would shirk a heavy responsibility, a responsibility to themselves, a responsibility to the struggling masses, a responsibility to the darker races of men whose future depends so largely on this American experiment, but especially a responsibility to this nation, this common Fatherland. It is wrong to encourage a man or a people in evil-doing; it is wrong to aid and abet a national crime simply because it is unpopular not to do so. The growing spirit of kindliness and reconciliation between the North and South after the frightful difference of a generation ago ought to be a source of deep congratulation to all, and especially to those whose mistreatment caused the war; but if that reconciliation is to be marked by the industrial slavery and civic death of those same black men, with permanent legislation into a position of inferiority, then those black men, if they are really men, are called upon by every consideration of patriotism and loyalty to oppose such a course by all civilized methods, even though such opposition involves disagreement with Mr. Booker T. Washington. We have no right to sit silently by while the inevitable seeds are sown for a harvest of disaster to our children, black and white.

First, it is the duty of black men to judge the South discriminatingly. The present generation of Southerners are not responsible for the past, and they should not be blindly hated or blamed for it. Furthermore, to no class is the indiscriminate endorsement of the recent course of the South toward Negroes more nauseating than to the best thought of the South. The South is not "solid"; it is a land in the ferment of social change, wherein forces of all kinds are fighting for supremacy; and to praise the ill the South is today perpetrating is just as wrong as to condemn the good. Discriminating and broad-minded criticism is what the South needs,

Glossary

Du Bois of New Haven	probably a reference to Du Bois's ancestor, Alexander Du Bois, who was disowned by his family because his mother was a black Haitian
Elliott	Robert Brown Elliott, a black congressman
Forten	James Forten, an early abolitionist and businessman
Gabriel	Gabriel Prosser, who led a slave revolt in Virginia in 1800
Grimkes	a reference to the half-brothers of prominent white abolitionists Sarah and Angelina Grimke, born of their father's liaison with a slave woman
Haytian revolt	the revolution that led to a free Haiti in 1803
J. W. E. Bowen	John Wesley Edward Bowen, a Methodist clergyman, university educator, one of the first African Americans to earn a Ph.D. degree in the United States, and the first African American to receive a Ph.D. from Boston University
Jefferson Davis	the president of the Confederate States of America during the Civil War
Joshua	in the Old Testament, the leader of the Israelites after the death of Moses
Kelly Miller	a scientist, mathematician, essayist, and newspaper columnist; the first black admitted to The Johns Hopkins University
Langston	Charles Langston, a black activist and grandfather of the poet Langston Hughes
Maroons	escaped slaves in Haiti and throughout the Caribbean who formed gangs that lived in the forests and attacked French plantations
Nat Turner	leader of a slave rebellion in Virginia in 1831
Nell	William Cooper Nell, an abolitionist, author, journalist, and civil servant
Payne	Daniel Payne, a bishop in the African Methodist Episcopal Church and one of the founders of Wilberforce University

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needs it for the sake of her own white sons and daughters, and for the insurance of robust, healthy mental and moral development.

Today even the attitude of the Southern whites toward the blacks is not, as so many assume, in all cases the same; the ignorant Southerner hates the Negro, the workingmen fear his competition, the money-makers wish to use him as a laborer, some of the educated see a menace in his upward development, while others usually the sons of the masters wish to help him to rise. National opinion has enabled this last class to maintain the Negro common schools, and to protect the Negro partially in property, life, and limb. Through the pressure of the money-makers, the Negro is in danger of being reduced to semi-slavery, especially in the country districts; the workingmen, and those of the educated who fear the Negro, have united to disfranchise him, and some have urged his deportation; while the passions of the ignorant are easily aroused to lynch and abuse any black man. To praise this intricate whirl of thought and prejudice is nonsense; to inveigh indiscriminately against "the South" is unjust; but to use the same breath in praising Governor Aycock, exposing Senator Morgan, arguing with Mr. Thomas Nelson Page, and denouncing Senator Ben Tillman, is not only sane, but the imperative duty of thinking black men.

It would be unjust to Mr. Washington not to acknowledge that in several instances he has opposed movements in the South which were unjust to the Negro; he sent memorials to the Louisiana and Alabama constitutional conventions, he has spoken against lynching, and in other ways has openly or silently set his influence against sinister schemes and unfortunate happenings. Notwithstanding this, it is equally true to assert that on the whole the distinct impression left by Mr. Washing-

Glossary

Phyllis	Phillis Wheatley, an eighteenth-century slave poet
President Roosevelt	Theodore Roosevelt, who earlier had led forces in the Spanish-American War
Price	William G. Price, an African American educator
Purvis	Robert Purvis, a nineteenth-century abolitionist who was three quarters white but chose to identify with the black community
Remond	Charles Lenox Remond, an orator and abolitionist
Revolution of 1876	a reference to the disputed presidential election of 1876, which led to the end of the Reconstruction era
Senator Morgan	John Tyler Morgan, a segregationist Alabama senator after the Civil War
Shad	probably a reference to Abraham Shadd, a free black who opposed African colonization by U.S. blacks
Socrates	an ancient Greek philosopher
St. Francis of Assisi	a Catholic saint who founded the Franciscan order of priests
Thomas Nelson Page	an author of sentimental novels idealizing pre–Civil War plantation life
Toussaint	Toussaint L'Ouverture, the leader of the Haitian Revolution
Tuskegee	Tuskegee Institute, the educational institution, stressing occupational skills, founded by Booker T. Washington
Vesey	Denmark Vesey, who led a slave revolt in South Carolina in 1822
Walker's wild appeal	David Walker's influential *Appeal to the Coloured Citizens of the World*
Wells-Brown	William Wells Brown, a prominent historian, lecturer, playwright, and novelist

ton's propaganda is, first, that the South is justified in its present attitude toward the Negro because of the Negro's degradation; secondly, that the prime cause of the Negro's failure to rise more quickly is his wrong education in the past; and, thirdly, that his future rise depends primarily on his own efforts. Each of these propositions is a dangerous half-truth. The supplementary truths must never be lost sight of: first, slavery and race-prejudice are potent if not sufficient causes of the Negro's position; second, industrial and common-school training were necessarily slow in planting because they had to await the black teachers trained by higher institutions, it being extremely doubtful if any essentially different development was possible, and certainly a Tuskegee was unthinkable before 1880; and, third, while it is a great truth to say that the Negro must strive and strive mightily to help himself, it is equally true that unless his striving be not simply seconded, but rather aroused and encouraged, by the initiative of the richer and wiser environing group, he cannot hope for great success.

In his failure to realize and impress this last point, Mr. Washington is especially to be criticised. His doctrine has tended to make the whites, North and South, shift the burden of the Negro problem to the Negro's shoulders and stand aside as critical and rather pessimistic spectators; when in fact the burden belongs to the nation, and the hands of none of us are clean if we bend not our energies to righting these great wrongs.

The South ought to be led, by candid and honest criticism, to assert her better self and do her full duty to the race she has cruelly wronged and is still wronging. The North her co-partner in guilt cannot salve her conscience by plastering it with gold. We cannot settle this problem by diplomacy and suaveness, by "policy" alone. If worse come to worst, can the moral fibre of this country survive the slow throttling and murder of nine millions of men?

The black men of America have a duty to perform, a duty stern and delicate, a forward movement to oppose a part of the work of their greatest leader. So far as Mr. Washington preaches Thrift, Patience, and Industrial Training for the masses, we must hold up his hands and strive with him, rejoicing in his honors and glorying in the strength of this Joshua called of God and of man to lead the headless host. But so far as Mr. Washington apologizes for injustice, North or South, does not rightly value the privilege and duty of voting, belittles the emasculating effects of caste distinctions, and opposes the higher training and ambition of our brighter minds, so far as he, the South, or the Nation, does this, we must unceasingly and firmly oppose them. By every civilized and peaceful method we must strive for the rights which the world accords to men, clinging unwaveringly to those great words which the sons of the Fathers would fain forget: "We hold these truths to be self-evident: That all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness."

Niagara Movement Declaration of Principles

1905

"Any discrimination based simply on race or color is barbarous."

Overview

The Niagara Movement Declaration of Principles outlined a philosophy and political program designed to address racial inequality in the United States. It had its origin on July 11, 1905, when twenty-nine African American men began deliberations at the Erie Beach Hotel in Fort Erie, Ontario, just across the border from Buffalo and Niagara, New York. When they adjourned three days later, the Niagara Movement had been born. The Niagara Movement had a limited impact on race relations in the United States. Within five years it would cease to exist, and in the history of the struggle for equal rights it has long been overshadowed by the more successful, long-lived, biracial National Association for the Advancement of Colored People (NAACP). Nevertheless, the Niagara Movement was an important landmark in U.S. and African American history.

Several factors distinguish the movement. First, it was a purely African American effort to address discrimination and racial inequality. No whites were involved in its creation, organization, or operation. Second, it enunciated a clearly defined philosophy and political program, embodied in the Declaration of Principles that was drafted and approved at the 1905 meeting. While rephrased and modified somewhat, the sentiments and tone of the Declaration of Principles would outlive the Niagara Movement and help define the agenda of the NAACP and the civil rights movement of the 1950s and early 1960s. Finally, the gathering in Fort Erie pointedly excluded the most prominent African American leader of the day, Booker T. Washington, as well as anyone perceived to be allied with him. In addition to confronting American racism, the Niagara Movement and its Declaration of Principles were also a challenge to Booker T. Washington's leadership and his program for the advancement of African Americans.

Context

There is no question that the racial situation in the United States in the first decade of the twentieth century called out for a strong and assertive civil rights organization. Race relations in the country had deteriorated steadily since the end of Reconstruction following the Civil War. By the turn of the century the promise of equality incorporated in the Reconstruction Amendments to the U.S. Constitution and the Civil Rights Acts of 1866 and 1875 had been undone by state action and by the U.S. Supreme Court. A series of state laws and local ordinances segregating blacks and whites received sanction in the Supreme Court, culminating with the *Plessy v. Ferguson* decision in 1896. In this case the Supreme Court legitimized "separate but equal facilities" and provided the legal basis for segregation for the next half-century. At the same time, southern states began to place limits on the right of African Americans to vote, using tactics such as the grandfather clause, white primaries, literacy tests, residency requirements, and poll taxes to prevent blacks from voting. In 1898 the Supreme Court upheld so-called race-neutral restrictions on black suffrage in *Williams v. Mississippi*. The effect was virtually to eliminate black voting in the states of the South. African Americans did not fare much better in the North, where segregation, if not disenfranchisement, grew increasingly common.

Accompanying segregation and disenfranchisement was a resurgence in racial violence. While the Reconstruction Ku Klux Klan had been effectively suppressed by the mid-1870s, the late nineteenth century and early twentieth century experienced an unprecedented wave of racially motivated lynchings and riots. During the first decade of the twentieth century, between fifty-seven and 105 African Americans were lynched by white mobs each year. Lynch mobs targeted blacks almost exclusively, and any pretense of legalism and due process vanished. Furthermore, blacks increasingly became victims of the more generalized racial violence of race riots. Race riots during this period typically involved whites rioting against blacks. Some, such as the 1898 riot in Wilmington, North Carolina, were linked to political efforts to stir up racial hostility as part of a campaign to disenfranchise blacks; others, such as the New York race riot of 1900 and the Atlanta race riot of 1906, grew out of resentment of the presence of blacks. To the degree that the rage they unleashed had an objective, it was to destroy the black community and put blacks in "their place."

As the racial scene deteriorated, African Americans faced a transition in leadership. Frederick Douglass, who had symbolized the African American struggle against slav-

Time Line

1895

- **February 20**
  Frederick Douglass dies at his home in Washington, D.C.
- **September 18**
  Washington delivers his Atlanta Exposition Address during the opening ceremonies of the Cotton States and International Exposition, which in the eyes of most Americans elevates him to the leadership of the African American community.

1896

- **May 18**
  In *Plessy v. Ferguson*, the Supreme Court rules that a Louisiana law segregating passengers on railroads was legal because it provided "separate but equal" facilities; this became the legal basis for the segregation of African Americans.

1898

- **April 25**
  In *Williams v. State of Mississippi*, the Supreme Court rules that a Mississippi law that allowed poll taxes and literacy tests to be used as voter qualifications is legal, legitimizing the efforts of southern states to deny African Americans the right to vote.
- **November 10**
  A race riot erupts in Wilmington, North Carolina, following a local election, as Democrats force blacks and Republicans to resign from their elected offices. A confirmed fourteen blacks are killed, although estimated deaths were several times that many; a number of leading black citizens are banished from the town.

1900

- **August 15**
  White mobs, with the support of police, attack blacks in the Tenderloin district of New York City. Scores of blacks are beaten, with many requiring hospitalization.

ery and had been an outspoken advocate for equal rights in the post Civil War period, died in 1895. That same year Booker T. Washington rose to national prominence with his speech at the Cotton States and International Exposition in Atlanta. The southern-based Washington focused on the economic development of African Americans as the surest road to equality, and while he opposed segregation and black disenfranchisement, he eschewed militant rhetoric and direct confrontation. Washington essentially believed that rational argument and an appeal to southerners' self-interest would defeat prejudice. As time passed and the racial situation worsened, many blacks, especially college-educated northerners, grew impatient with Washington's leadership. By the early twentieth century, such critics as the Boston newspaper editor William Monroe Trotter had become increasingly outspoken about Washington's failures. After 1903 W. E. B. Du Bois emerged as the most respected opponent of Washington and his Tuskegee political machine, the loose coalition of friends and allies through which Washington exercised his political influence on the African American community.

About the Author

Most people assume that W. E. B. Du Bois was the author of the Declaration of Principles. Actually the authorship is not that simple or clear. The final form of the document would be approved by the twenty-nine delegates at the Fort Erie meeting. The actual drafting of the declaration was a collaboration between Du Bois and William Monroe Trotter.

W. E. B. Du Bois was born February 23, 1868, in Great Barrington, Massachusetts, and raised by his mother in an environment characterized by varying degrees of poverty. Despite these limitations, Du Bois excelled in school and achieved one of the most impressive educations of his generation. He took bachelor degrees at Fisk and then Harvard, pursued graduate work at Harvard and the University of Berlin, and earned his Ph.D. in history from Harvard in 1895. He held faculty positions at Wilberforce University and then Atlanta University and spent a year working for the University of Pennsylvania on a study of blacks in Philadelphia. In 1903 he published *The Souls of Black Folk*, his third book and the one that propelled him to the forefront of African American intellectuals; shortly thereafter he emerged as the most respected critic of Booker T. Washington. In 1905 he made his first major foray into racial politics when he assumed a major role in the creation and operation of the Niagara Movement.

William Monroe Trotter was born on April 7, 1872, in Chillicothe, Ohio, but was raised in Boston among the city's black elite. He attended Harvard, where he met Du Bois. After graduating Phi Beta Kappa, he worked in insurance and real estate. In 1901 he cofounded and became editor of the *Guardian*, a Boston newspaper noted for its militant, uncompromising, and often intemperate support of African American civil rights and racial justice and for its criticism and attacks on Booker T. Washington. In July 1903 he was

the principal organizer of the "Boston riot," when he and his allies disrupted a Booker T. Washington speech at the Columbus Avenue AME Zion Church. He was sentenced to thirty days in jail for provoking the incident. While Du Bois was the leading African American intellectual of his day, Trotter was the race's most outspoken polemicist.

Although they were of different temperaments, Du Bois and Trotter worked well together on the Declaration of Principles. The document combined Du Bois's more scholarly approach with Trotter's more polemical style. The partnership did not last long. The two clashed over leadership issues, especially the role that whites should play in the Niagara Movement. Trotter withdrew from the organization and founded the National Equal Rights League in 1908. Although he participated in the creation of the NAACP, he objected to the dominant roles whites played in the organization. He continued to agitate for racial equality and publish the *Guardian* until his death in 1934. Du Bois assumed a major role in the NAACP, especially as editor of *The Crisis* from its founding in 1910 until he returned to Atlanta University in 1934. Du Bois was the premier African American intellectual of the twentieth century as well as a civil rights advocate and an advocate of pan-Africanism. He died in Ghana in 1963.

Explanation and Analysis of the Document

The Declaration of Principles was approved by the assembly of African American men who met July 11 13, 1905, in Fort Erie, Ontario. The document drafted by W. E. B. Du Bois and William Monroe Trotter contains eighteen short paragraphs, each raising and briefly addressing a specific issue. The style of the declaration is that of a list or an outline rather than an analytical discussion of the status of African Americans. The first seventeen paragraphs contain a manifesto of grievances and demands; the eighteenth is a list of duties. Together they summarize the issues confronting African Americans in the early twentieth century and define the purpose and agenda of the Niagara Movement.

The first section of the declaration, "Progress," comments on the gathering of the Niagara Movement and congratulates African Americans on the progress they had achieved in the preceding ten years. These ten years essentially covered the time period since the death of Frederick Douglass and the rise to power of Booker T. Washington, and the Niagarites viewed this as a period of failed leadership and a decline in the rights of African Americans. The progress cited the increase in intelligence and in the acquisition of property and the creation of successful institutions omits reference to the political and civil rights of African Americans.

◆ "Suffrage," "Civil Liberty," and "Economic Opportunity"

The next three paragraphs address in sequence "Suffrage," "Civil Liberty," and "Economic Opportunity" areas in which African Americans faced clear and increasing discrimination. Here the declaration lists grievances for the

Time Line

1901

- **November 9**
  The *Guardian* (Boston) debuts under the editorship of William Monroe Trotter. The paper quickly becomes recognized for its radical support for equal rights and its attacks, often personal in nature, on the leadership of Booker T. Washington.

1903

- **April 18**
  W. E. B. Du Bois emerges as a major African American leader with the publication of *The Souls of Black Folk*. In this book Du Bois initiates his criticism of Washington's leadership with the chapter "Of Mr. Booker T. Washington and Others."
- **July 30**
  William Monroe Trotter and his allies disrupt a Booker T. Washington speech at the Columbus Avenue AME Zion Church in Boston. In the ensuing melee Trotter and one of his associates are arrested for inciting a riot. The incident deepens the rift between Washington and Du Bois.

1905

- **July 11**
  Twenty-nine African Americans, including W. E. B. Du Bois, meet in Fort Erie, Ontario, for three days to organize the Niagara Movement. Their Declaration of Principles outlines a new civil rights agenda.

1906

- **September 22–25**
  Atlanta race riot erupts as white mobs attack blacks and black neighborhoods, resulting in the deaths of at least ten blacks and leaving scores injured.

1908

- **August 14**
  A race riot erupts in Springfield, Illinois, as a white mob attacks, beats, and lynches blacks and burns black residences. The violence lasts two days, leaving two blacks dead and forty black families homeless. Sporadic violence against blacks continues for several weeks.

Time Line

1909

- **May 31**
  A biracial committee, dominated by white liberals, meets in New York City and establishes the Negro National Committee to address racial violence and civil rights. Du Bois plays a major role in this meeting and the new organization.

1910

- **May 12–14**
  The Negro National Committee meets again in New York and reorganizes itself as the National Association for the Advancement of Colored People. Du Bois is the only black on the board of directors and also assumes the paid position of director of publications and research.
- **November**
  Du Bois publishes the inaugural issue of *The Crisis*, the NAACP's monthly journal. Du Bois will serve as editor of *The Crisis* for twenty-four years.

1915

- **November 14**
  Booker T. Washington dies at his home in Tuskegee, Alabama.

1916

- **August 24–26**
  Amenia Conference, hosted by the NAACP president Joel E. Spingarn, brings together fifty prominent white and African American civil rights leaders in an effort to heal the breach between the followers of the late Booker T. Washington and W. E. B. Du Bois.

first time and evokes protest as an appropriate response to these grievances. The declaration asserts the importance of manhood suffrage and then notes that black political rights have been curtailed and that blacks cannot afford to place their political fate in the hands of others. This argument did not address the specifics of the strategies used to disenfranchise blacks literacy tests, the grandfather clause, or similar practices. Instead, it asserted that all men deserve the right to vote. This approach distinguished the Niagarites from Booker T. Washington, who supported suffrage and attacked disenfranchisement on the basis that it treated blacks differently than whites. The declaration sees universal manhood suffrage as a fundamental right of all men and calls on blacks to protest "empathically and continually" as long as their political rights are violated. This introduces a theme that runs through the declaration: that discrimination is a violation of the rights of African Americans and that the response to these violations must be agitation and protest (not negotiation and patience).

The declaration continues this argument in its examination of civil liberty. It defines civil liberty as civil rights rights shared equally by all citizens. It broadens the concept to include the right to "equal treatment in places of public entertainment," that is, restaurants, theaters, hotels, and other places of public accommodation. Exclusion from such places must not be based on race or color but instead on the individual's behavior and demeanor. The declaration demands equal access not to residences or other private spaces but to places open to the public, the same places blacks finally achieved access to in the Civil Rights Act of 1964. Furthermore, to gain their civil rights, blacks must be willing to protest.

As it turns to economic opportunity, the Declaration of Principles directly confronts the heart of Washington's program for African American advancement. Washington believed that the acquisition of property and prosperity would earn blacks the respect of whites and equal rights and that this prosperity could most easily be achieved in the South. The declaration rejects this, noting that African Americans are denied equal economic opportunity in the South and that prejudice and inequity in the law in that region undermine black economic efforts. Specifically, it protests the spread of peonage that has returned blacks to virtual slavery in large areas of the rural South and the practice of discrimination in hiring, wages, and credit that has "crushed" black labor and small businesses.

◆ "Education"

Education was a key issue for the Niagara Movement. Most of the delegates who attended the gathering were from the college-educated black elite, the group that Du Bois termed the "Talented Tenth" and the group that most Niagarites believed would provide the leadership for African American advancement. Generally, this group denigrated Booker T. Washington and his Tuskegee Institute for their focus on job training and practical education. However, the section on education in the Declaration of Principles recognizes the need for all forms of education in the African American community. It focuses its complaints on the lack of equal access to education for blacks, especially in the South. Specifically, it calls for "common" schools (basically elementary schools) to be free and compulsory for all children, regardless of race. It also calls for blacks to have access to high schools, colleges and universities, and trade and technical schools, and it calls for the U.S. government to aid common-school education, especially in the South.

What is striking about the statement on education is that it does not call for the desegregation of education. It specifi-

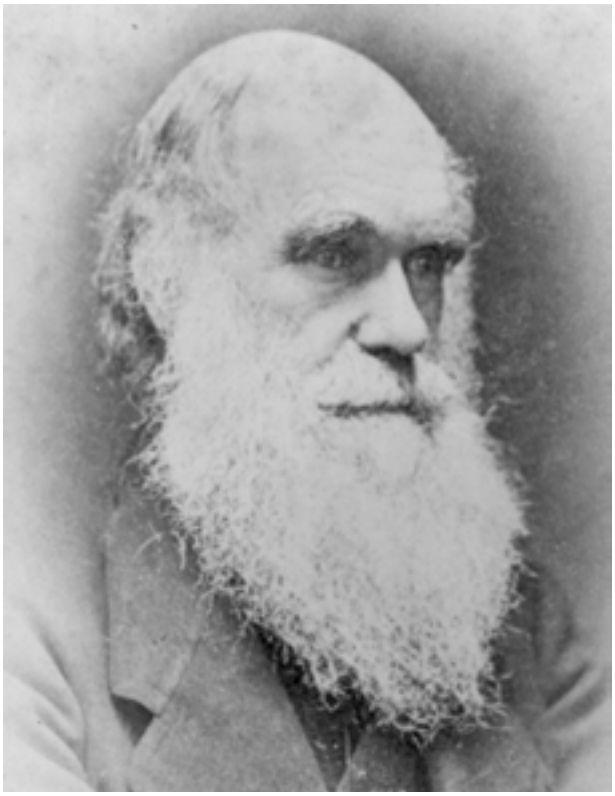
Tuskegee Institute students in mattress-making class (1902) (Library of Congress)

cally asks for an increase in the number of public high schools in the South, where blacks rarely had access to them, and it requests white philanthropists to provide adequate endowments for black institutions of higher education. The focus is clearly on improving black access to educational facilities of all types and at all levels. The language of this section is also much more conciliatory; agitation is suggested only to pressure the U.S. government to provide aid to black common schools. To understand this, it is important to remember that public school systems did not appear in most southern states prior to the period of Reconstruction, and in 1905 schools throughout the South were very poorly funded. Educational facilities for African Americans received significantly less support than did those for white students.

◆ "Courts," "Public Opinion," and "Health"

The next three paragraphs address three seemingly unrelated topics. The statement on courts begins with a "demand" for fair and honest judges, the inclusion without discrimination of blacks on juries, and fair and equitable sentencing procedures. It then lists additional needed reforms ranging from social service institutions such as orphanages and reformatories and an end to the convict-lease system. In contrast, the statement on health begins, "We plead for health for an opportunity to live in decent houses and localities." There was a connection between the two issues, although it was somewhat tenuous. Bringing justice to the criminal justice system extended to providing a decent environment for orphans, dependent children, and children in the court system; health was extended to include a healthy environment, both physically and morally, in which to raise children. While these concerns were not always at the forefront of civil rights agitation, these issues, especially those that relate to child welfare, reflected the social agenda voiced by white progressive reformers in the early years of the century.

The paragraph on public opinion introduces a new concern, a perceived shift away from the ideals of democracy that were voiced in the eighteenth century by the Founding Fathers. The last sentence, with its reference to "all men … created free and equal" and "unalienable rights," echoes the language of the Declaration of Independence. The Niagara delegates were not ignorant of the slavery and racial prejudice that were central to the founding of the



Charles Darwin, whose ideas about the "survival of the fittest" underpinned "scientific racism" (Library of Congress)

United States, but their alarm over the "retrogression" was justified. Racial violence was rampant; democracy seemed challenged by labor wars and fears of unrestricted immigration; and the arts, sciences, and social sciences embraced a new scientific racism that was based on the application of Charles Darwin's "survival of the fittest" to efforts to categorize and rank human races.

◆ "Employers and Labor Unions"

The declaration's earlier discussion of economic opportunity focuses completely on conditions in the South. Here it turns to economic opportunity in the North, especially the abuses blacks suffered at the hands of racially prejudiced labor unions and the exploitation of blacks by white employers in using them as strike breakers. This situation, and especially the restrictive behavior of white labor unions, characterized the African American experience with organized labor throughout much of the twentieth century. It ran counter to the belief of many progressives and Socialists that class unity would defeat racial prejudice. The declaration denounces the practices of both employers and unions in strong terms and blames them for contributing to class warfare.

◆ "Protest"

Protest, along with agitation, were central tenets of the Niagara Movement's strategy for achieving racial justice, and both terms appear frequently in the Declaration of Principles. In contrast to Booker T. Washington's Atlanta Exposition Address, with its ambiguity on the effectiveness of agitation, the Declaration of Principles is crystal clear protest and agitation are necessary tools to combat injustice. However, the language and tone in the section specifically discussing protest are exceptionally mild. The term *agitation* is not used, and the word *protest* is used only once. The argument is that blacks must not "allow the impression to remain" that they assented to inferiority, were "submissive" to oppression, or were "apologetic" when faced with insults, and the argument is worded to suggest that Washington was both apologetic and submissive. But there is little power or threat in this language beyond the assurance that although blacks may of necessity submit to oppression, they must continue to raise their voices in protest.

◆ "Color-Line"

Beginning with this paragraph the Declaration of Principles returns to the issue of discrimination and its impact on African Americans. "Color-Line" discusses legitimate and illegitimate discrimination. The former included discrimination based on intelligence, immorality, and disease (for example, quarantining someone with a highly infectious disease to protect public health). In contrast, discrimination based on physical conditions such as place of birth (immigrants) and race was never justified. The color line segregation and discrimination based on race or skin color or both is described in harsh terms, as barbarous and as a relic of unreasoning human savagery. According to the Declaration of Principles, the fact that the color line is sanctioned by law, custom, or community standards does nothing to legitimize it or to diminish the evil and injustice that it manifests.

◆ "'Jim Crow' Cars," "Soldiers," and "War Amendments"

These three paragraphs briefly address three specific issues related to discrimination. "'Jim Crow' cars" refers to the segregation of African Americans on railroads. This issue had both practical and symbolic importance. Railroads were by far the chief means of intercity transportation at the beginning of the twentieth century. Policies that restricted black passengers to overcrowded, rowdy Jim Crow cars affected all black passengers, especially women and the black elite. Virtually every African American who traveled through the South suffered this indignity. Du Bois himself had been victimized by this practice and sought Washington's help in an unsuccessful effort to seek redress from the Southern Railway Company. The issue of Jim Crow segregation on railroads was the subject of the *Plessy v. Ferguson* case; the Supreme Court ruling legitimizing separate-but-equal segregation provided the legal basis for segregation in schools, parks, public accommodations, and almost all areas of life. The Declaration of Principles condemns Jim Crow cars as effectively crucifying "wantonly our manhood, womanhood and self-respect."

"Soldiers" puts the Niagara Movement on record protesting the inequity experienced by African Americans serving

in the armed forces. This issue took on additional meaning a year later as blacks reacted to the harsh treatment of the black soldiers following a racial clash with local civilians in the so-called Brownsville incident in Brownsville, Texas, and it was revived again during World War I as black troops suffered from systematic discrimination and mistreatment.

One of the most frustrating issues facing African Americans was that along with abolishing slavery, the three Civil War Amendments wrote civil rights and voting rights into the U.S. Constitution. The Fourteenth Amendment guaranteed all citizens, including blacks, equal protection under the law and equal rights and privileges; the Fifteenth Amendment provided that no citizen could be denied the right to vote "on account of race, color, or previous condition of servitude." What the declaration calls for is legislation from Congress to enforce these provisions.

◆ "Oppression" and "The Church"

In examining the broad issue of oppression, the declaration presents a litany of crimes perpetrated on African Americans, from their kidnapping in Africa to their ravishment and degradation in America; as they have struggled to advance themselves, again and again they have encountered criticism, hindrance, and violence. In a thinly veiled attack on Booker T. Washington, the Niagarites also place blame on African American leadership for providing in the face of oppression only cowardice and apology, essentially leaving it to the oppressor to define the rights of the oppressed. Finally, in the brief paragraph "The Church," the declaration charges churches and organized religion with acquiescence to racial oppression and condemns them as "wrong, unchristian and disgraceful."

◆ "Agitation"

Following this litany of grievances, the Declaration of Principles reaffirms its commitment to protest and agitation. The delegates vow to voice their grievances "loudly and insistently" and note that "manly agitation is the way to liberty." As in the section on "Protest," the language is clear but measured and temperate rather than threatening.

◆ "Help" and "Duties"

The Declaration of Principles concludes with a section recognizing with gratitude the valuable assistance that African Americans had received throughout their history from their white friends and allies. It then lists eight duties that it expects blacks to follow as they pursue their rights. These duties include civic responsibilities, such as the duty to vote, work, and obey the law, as well as personal obligations, such as the duty to be clean and orderly and to educate their children. These last two sections softened the impact of the declaration and were intended to assure whites that the Niagara Movement was neither revolutionary nor antiwhite. Ironically, the tone of these concluding paragraphs is more that of Booker T. Washington than W. E. B. Du Bois. The final sentence of the declaration notes that the document, characterized as a "statement, complaint and prayer," is being submitted to the American people and to God.

Taken as a whole, the Declaration of Principles is both an interesting and a compelling document. It is a comprehensive list of issues, concepts, grievances, and statements about the conditions confronting blacks at the beginning of the last century. What is compelling is that this was the most successful effort to date to express all of this in one place and do so in language that was pointed and uncompromising yet restrained. At the same time, the declaration is interesting for what it did not say. By the standards of the twenty-first century it is not a particularly radical document. Although the Niagara Movement was an all-black organization, there is no hint of black nationalism or separatism in its Declaration of Principles. Rather, it serves as a restrained, moderate document outlining a program of desegregation, equal rights, and racial justice. It praises white friends and allies for their support, and it reminds blacks that they have the duty and responsibility to be hardworking and law-abiding citizens who embody the values and habits of middle-class America. Despite the anti Booker T. Washington nature of the Niagara Movement and its members and Washington's open hostility to both the Niagara Movement and its Declaration of Principles, there is little in the document with which the Tuskegeean could take issue.

Audience

The authors of the Declaration of Principles concluded by submitting the document to the American people. While this may have represented the wishes of the group assembled at Fort Erie, the actual audience was much more modest. The initial audience for the document was that group of twenty-nine men assembled at the inaugural meeting of the Niagara Movement. The secondary audience was the four hundred or so men and women who would join the Niagara Movement before its demise in 1909. Of course, the intended audience was much larger. It included the African American community, especially in the North, and the intention was that blacks from all parts of the United States would hear about and read the document and join the Niagara Movement. The document was also crafted for a white audience. The language and moderate tone, as well as the specific statement of appreciation to white friends and allies, were intended to attract financial and political support for the agenda and the movement and convince progressive whites that they offered a realistic and palatable alternative to the racial agenda of Booker T. Washington.

In the short term the audience was quite small, as press coverage of the Fort Erie meeting and the Declaration of Principles was limited. It is not clear how much coverage a small meeting of African Americans in Ontario would receive in the white press in ordinary circumstances, but in July 1905 a very effective campaign by the Tuskegee machine kept press coverage to a minimum. News of the Fort Erie events was kept out of most of the white press when a Washington ally went to the Buffalo Associated Press office and persuaded it not to forward the news of the Fort Erie meeting. There was some reporting in the African American press,

Essential Quotes

"Any discrimination based simply on race or color is barbarous, we care not how hallowed it be by custom, expediency or prejudice."

(Color-Line)

"The Negro race in America stolen, ravished and degraded, struggling up through difficulties and oppression, needs sympathy and receives criticism; needs help and is given hindrance, needs protection and is given mob-violence, needs justice and is given charity, needs leadership and is given cowardice and apology, needs bread and is given a stone."

(Oppression)

"Of the above grievances we do not hesitate to complain, and to complain loudly and insistently. To ignore, overlook, or apologize for these wrongs is to prove ourselves unworthy of freedom."

(Agitation)

especially in Atlanta and Washington, where there was widespread support for the Niagarites, and, of course, in Boston, where Trotter's *Guardian* pushed the story. But on the whole the black press remained loyal to Washington and withheld news of the meeting. Eventually the audience grew significantly. The Declaration of Principles and much of the agenda of the Niagara Movement were picked up by the NAACP and influenced its approach to civil rights.

Impact

Much like its audience, the impact of the Declaration of Principles grew over time. Initially, the influence of the Niagara Movement and its Declaration of Principles was limited. Membership never exceeded about four hundred, and the dream of a vibrant organization with chapters nationwide was never realized. Feuding leadership and the failure to secure adequate funding doomed the organization, and membership and attendance at its annual meeting began to decline. The Niagara Movement shut down following its 1909 meeting. During its short life the declaration accomplished one thing: It defined the terms of the Du Bois Washington debate. As the writer and civil rights activist James Weldon Johnson noted, the animosity between these two factions reached an intensity that is difficult to comprehend today.

The principal impact of the document followed the demise of the Niagara Movement, when it essentially set the agenda of the NAACP. The focus of the Declaration of Principles on voting rights and discrimination and segregation were also the focus of the NAACP for its first fifty years; protest and agitation were its tools. Perhaps the clearest example of this impact is the use of the declaration's statement on the Civil War Amendments and its call for Congress to enforce the provisions of these amendments. This is exactly what the NAACP did, using the courts instead of Congress. In 1915 the NAACP scored one of its first major victories when it filed a brief in *Guinn v. United States*, the case in which the Supreme Court overturned Oklahoma's use of the grandfather clause to restrict black suffrage. In the 1930s the NAACP launched its legal assault on the continuing restrictions on black suffrage, provisions that kept blacks from serving on juries, and segregation, especially in public and higher education. Ultimately, this campaign led to the reversal of *Plessy v. Ferguson* and separate-but-equal segregation. In the 1950s and 1960s the civil rights movement used the declaration strategy by successfully lobbying for a series of civil rights acts, finally enforcing provisions of the Fourteenth Amendment to attack segregation, and enacting the Voting Rights Act to enforce the Fifteenth Amendment.

See also Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); Ku Klux Klan Act (1871); Booker T. Washington's Atlanta Exposition Address (1895); *Plessy v. Ferguson* (1896); Monroe Trotter's Protest to Woodrow Wilson (1914).

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Cary D. Wintz

Questions for Further Study

1. In what ways did the Declaration of Principles represent a new and different African American approach to prejudice, discrimination, and racism? Explain exactly what was new and different and what was not.

2. Was the Declaration of Principles a radical or a conservative document? Explain your answer both in the context of 1905 and in terms of concepts of radical and conservative and civil rights today.

3. What is the difference between the Niagara Movement and the NAACP? Explain how the Declaration of Principles relates to each of these organizations.

4. The Declaration of Principles called upon Congress for the "enactment of appropriate legislation for securing the proper enforcement of those articles of freedom, the thirteenth, fourteenth and fifteenth amendments of the Constitution of the United States." In what sense were these three amendments "articles of freedom"? What freedoms did they guarantee? To what extent had they not been enforced? Since Congress had initially approved these amendments, why had they not been enforced?

5. "Agitation" and "protest" are recurring themes in the Declaration of Principles. What did the Niagara Movement mean by these terms? What did most Americans at the time think about African American agitation and protest? Explain how the Niagara Movement and later the NAACP utilized agitation and protest.

Document Text

Niagara Movement Declaration of Principles

Progress: The members of the conference, known as the Niagara Movement, assembled in annual meeting at Buffalo, July 11th, 12th and 13th, 1905, congratulate the Negro-Americans on certain undoubted evidences of progress in the last decade, particularly the increase of intelligence, the buying of property, the checking of crime, the uplift in home life, the advance in literature and art, and the demonstration of constructive and executive ability in the conduct of great religious, economic and educational institutions.

Suffrage: At the same time, we believe that this class of American citizens should protest emphatically and continually against the curtailment of their political rights. We believe in manhood suffrage; we believe that no man is so good, intelligent or wealthy as to be entrusted wholly with the welfare of his neighbor.

Civil Liberty: We believe also in protest against the curtailment of our civil rights. All American citizens have the right to equal treatment in places of public entertainment according to their behavior and deserts.

Economic Opportunity: We especially complain against the denial of equal opportunities to us in economic life; in the rural districts of the South this amounts to peonage and virtual slavery; all over the South it tends to crush labor and small business enterprises; and everywhere American prejudice, helped often by iniquitous laws, is making it more difficult for Negro-Americans to earn a decent living.

Education: Common school education should be free to all American children and compulsory. High school training should be adequately provided for all, and college training should be the monopoly of no class or race in any section of our common country. We believe that, in defense of our own institutions, the United States should aid common school education, particularly in the South, and we especially recommend concerted agitation to this end. We urge an increase in public high school facilities in the South, where the Negro-Americans are almost wholly without such provisions. We favor well-equipped trade and technical schools for the training of artisans, and the need of adequate and liberal endowment for a few institutions of higher education must be patent to sincere well-wishers of the race.

Courts: We demand upright judges in courts, juries selected without discrimination on account of color and the same measure of punishment and the same efforts at reformation for black as for white offenders. We need orphanages and farm schools for dependent children, juvenile reformatories for delinquents, and the abolition of the dehumanizing convict-lease system.

Public Opinion: We note with alarm the evident retrogression in this land of sound public opinion on the subject of manhood rights, republican government and human brotherhood, and we pray God that this nation will not degenerate into a mob of boasters and oppressors, but rather will return to the faith of the fathers, that all men were created free and equal, with certain unalienable rights.

Health: We plead for health for an opportunity to live in decent houses and localities, for a chance to rear our children in physical and moral cleanliness.

Employers and Labor Unions: We hold up for public execration the conduct of two opposite classes of men: The practice among employers of importing ignorant Negro-American laborers in emergencies, and then affording them neither protection nor permanent employment; and the practice of labor unions in proscribing and boycotting and oppressing thousands of their fellow-toilers, simply because they are black. These methods have accentuated and will accentuate the war of labor and capital, and they are disgraceful to both sides.

Protest: We refuse to allow the impression to remain that the Negro-American assents to inferiority, is submissive under oppression and apologetic before insults. Through helplessness we may submit, but the voice of protest of ten million Americans must never cease to assail the ears of their fellows, so long as America is unjust.

Color-Line: Any discrimination based simply on race or color is barbarous, we care not how hallowed it be by custom, expediency or prejudice. Differences made on account of ignorance, immorality, or disease are legitimate methods of fighting evil, and against them we have no word of protest; but discriminations based simply and solely on physical peculiarities, place of birth, color of skin, are relics of that unreasoning human savagery of which the world is and ought to be thoroughly ashamed.

Document Text

"Jim Crow" Cars: We protest against the "Jim Crow" car, since its effect is and must be to make us pay first-class fare for third-class accommodations, render us open to insults and discomfort and to crucify wantonly our manhood, womanhood and self-respect.

Soldiers: We regret that this nation has never seen fit adequately to reward the black soldiers who, in its five wars, have defended their country with their blood, and yet have been systematically denied the promotions which their abilities deserve. And we regard as unjust, the exclusion of black boys from the military and naval training schools.

War Amendments: We urge upon Congress the enactment of appropriate legislation for securing the proper enforcement of those articles of freedom, the thirteenth, fourteenth and fifteenth amendments of the Constitution of the United States.

Oppression: We repudiate the monstrous doctrine that the oppressor should be the sole authority as to the rights of the oppressed. The Negro race in America stolen, ravished and degraded, struggling up through difficulties and oppression, needs sympathy and receives criticism; needs help and is given hindrance, needs protection and is given mob-violence, needs justice and is given charity, needs leadership and is given cowardice and apology, needs bread and is given a stone. This nation will never stand justified before God until these things are changed.

The Church: Especially are we surprised and astonished at the recent attitude of the church of Christ of an increase of a desire to bow to racial prejudice, to narrow the bounds of human brotherhood, and to segregate black men to some outer sanctuary. This is wrong, unchristian and disgraceful to the twentieth century civilization.

Agitation: Of the above grievances we do not hesitate to complain, and to complain loudly and insistently. To ignore, overlook, or apologize for these wrongs is to prove ourselves unworthy of freedom. Persistent manly agitation is the way to liberty, and toward this goal the Niagara Movement has started and asks the cooperation of all men of all races.

Help: At the same time we want to acknowledge with deep thankfulness the help of our fellowmen from the Abolitionist down to those who today still stand for equal opportunity and who have given and still give of their wealth and of their poverty for our advancement.

Duties: And while we are demanding, and ought to demand, and will continue to demand the rights

Glossary

Abolitionist	a person who advocated the complete, immediate, and unconditional abolition of slavery, especially in the United States, prior to and during the Civil War
artisans	skilled craftsmen or workers
civil rights	rights guaranteed to all citizens by law or the Constitution regardless of such differences as race
common school	a free public elementary school
convict-lease system	a system of labor in which prisoners are leased to an employer by the court or the prison system
execration	vehement denunciation
hallowed	sacred; respected; venerated beyond question
iniquitous	unjust
"Jim Crow" car	a segregated railroad coach, usually of inferior quality, set aside for African Americans
peonage	a system of agricultural labor in which workers are bound to their job, often against their will, by economic debt or other means; virtual bondage
retrogression	a reversal in development of condition; moving backward or becoming worse
suffrage	the right to vote

enumerated above, God forbid that we should ever forget to urge corresponding duties upon our people:

The duty to vote.
The duty to respect the rights of others.
The duty to work.
The duty to obey the laws.
The duty to be clean and orderly.
The duty to send our children to school.
The duty to respect ourselves, even as we respect others.

This statement, complaint and prayer we submit to the American people, and Almighty God.

Theodore Roosevelt (Library of Congress)

Theodore Roosevelt's Brownsville Legacy Special Message to the Senate

1906

"The act was one of horrible atrocity, and ... unparalleled for infamy in the annals of the United States Army."

Overview

President Theodore Roosevelt's Special Message to the U.S. Senate of December 19, 1906, explained his summary dismissal of 167 members of the segregated Twenty-fifth Infantry Regiment from the U.S. Army. The dismissals resulted from charges that the soldiers had engaged in a conspiracy of silence after some members of their regiment had attacked the Mexican-border city of Brownsville, Texas, on the night of August 13, 1906. Reported shootings by the military took the life of a civilian and seriously wounded a police officer. The message was a response to two Senate information-gathering resolutions that had been submitted to Secretary of War William Howard Taft, and it was presented together with several documents, including a letter from General A. B. Nettleton and memoranda demonstrating precedents for the summary discharges. The dismissals involved virtually all members of Companies B, C, and D (the only companies of the regiment that went to Brownsville); they also led to the expulsion of black troops from Texas and the heightening of racial tension in the United States.

The president's Special Message caused a heated controversy within the government and across the nation. Republican Senator Joseph B. Foraker of Ohio, who perhaps was eyeing a presidential campaign, argued the innocence of the accused on the chamber floor as well as in public speeches and magazine articles. A report released in March 1908 by the Senate Committee on Military Affairs, however, supported Roosevelt's action, although a supplementary report recommended a policy of leniency toward the men that would allow them to reenlist, which the president himself had also urged earlier. With respect to the possibility that certain townspeople might have staged the attack on Brownsville and framed the regiment, Senator Foraker was able to obtain the support of only Senator Morgan G. Bulkeley of Connecticut. The perceived image of black soldiers attacking a town embittered racial relations in many garrison towns. It would not be until 1970 that the regiment's innocence would be reconsidered in a scathing study by the historian John D. Weaver that condemned Roosevelt's handling of the Brownsville affray. That book prompted California Democratic Representative Augustus Hawkins to introduce legislation signed by President Richard M. Nixon in 1972 that granted honorable discharges, nearly all of them posthumous, to the 153 cashiered servicemen who had not been allowed to reenlist.

Context

The Twenty-fifth Infantry was one of six African American U.S. Army regiments organized by Congress in July of 1866 (two cavalry and four infantry). These regiments served in Texas and other western frontier areas for much of the late nineteenth century. They were often assigned frontier duty because of the need for security in the West and the Great Plains; furthermore, many military towns in the East were reticent about welcoming black soldiers. In the West, African American regiments not only offered protection to often ungrateful civilians from attacks by outlaws and Native Americans but also performed more mundane operations, such as stringing and maintaining telegraph lines, building roads, aiding travelers, delivering federal mail, performing agricultural experiments, and compiling weather records. Black soldiers patrolled reservations to ensure that Native Americans stayed on them. They also protected reservation residents from white intruders, occasionally arrested white buffalo hunters, and acted as translators and even agents for some tribes. For these services, Native Americans gave them a respected name, "Buffalo Soldiers."

From the outset, African American soldiers had to confront racial prejudice along with other obstacles. Customary indignities and occasional violence directed toward troops seldom drew retaliation. Two incidents, however, broke the sullen calm of garrison towns in the 1880s. At San Angelo, Texas, white citizens shot to death two Tenth Cavalry soldiers stationed at Fort Concho within ten days. Irate troopers scattered handbills around the community, protesting the unpunished murders and threatening to mete out justice. Some soldiers unleashed a volley of gunfire toward a suspected culprit, an act that prompted intervention by the Texas Rangers, punishment of the soldiers, and removal of the companies from Fort Concho. A similar incident played out at Sturgis City, Dakota Territory, in August 1885. The lynching of a black soldier provoked members of the Twenty-fifth Infantry from Fort Meade to

Time Line

1866

- **July 28**
  By act of Congress, six black regiments are established.

1867–1881

- African American troops, dubbed "Buffalo Soldiers" by the Plains Indians, serve in Texas, generally without incident.

1899

- **October 18**
  Members of the Tenth Cavalry attack a Laredo peace officer after complaints of abuse.
- **November 20**
  Members of the Ninth Cavalry fire on Rio Grande City, allegedly to repel an attack on Fort Ringgold.

1900

- **February 7**
  An El Paso lawman is killed when soldiers of the Twenty-fifth Infantry attempt to free a jailed comrade.

1906

- **July 28**
  Companies B, C, and D of the Twenty-fifth Infantry arrive at Fort Brown, Texas, along the Mexican border.
- **August 13**
  Around midnight, shots ring out in the town of Brownsville and the neighboring garrison, resulting in one death and two injuries.
- **November 4**
  Following several military investigations into the Brownsville raid, President Theodore Roosevelt summarily dismisses 167 members of the regiment from the military for having refused to provide information about the alleged instigators of the incident.
- **December 3**
  Senator Joseph B. Foraker of Ohio introduces a resolution for a Senate investigation of the Brownsville raid.

fire into a saloon, killing a customer. In this instance the War Department resisted public demands to remove the troops after having charged four soldiers with the shooting.

Black troops faced both indifference from town officials toward enforcing their safety and swift reprisals from the military for alleged transgressions. White officers, frequently hoping for a fast track to promotion, commanded the soldiers; indeed, West Point graduated only three African Americans over the course of the nineteenth century. Post commanders keenly felt the obligation to maintain good relationships with the citizenry of garrison towns, and the army never considered itself a laboratory for social experimentation. Whether the military meted out harsher justice for black troops than white troops in similar circumstances is a matter of debate among historians, but African Americans clearly worked under more difficult conditions, often in areas such as Texas, which once had been part of the Confederacy.

The transfer of black troops to the South after the Spanish-American War in 1898 sparked more frequent racial clashes between forts and towns than in preceding years. The higher incidence of conflict derived from opposing movements that had gained momentum after the war: an attempt in the southern states to further isolate blacks and remove them entirely from political participation and a determination on the part of black soldiers, many of whom had received commendations for valor in the recent war, to validate their constitutional rights. Partly as a reaction to the Populist movement, which threatened the establishment and brought whites and blacks together tentatively during political campaigns of the 1890s, southern legislatures enacted laws that stipulated stricter property qualifications and literacy tests for African American voters. Many southern states, including Texas, also required poll taxes for black voters and established all-white Democratic primaries. After the Supreme Court's *Plessy v. Ferguson* ruling (1896), many communities began to enforce segregationist practices even more strictly, such as requiring separate seating on newly introduced electric streetcars. Incidents of lynching reached an all-time high in the South in the early 1900s, with Texas ranking third in frequency, and black community groups complained of excessive use of force by police.

Members of all the African American regiments encountered hostility from whites after the end of the Spanish-American War. A group of Floridians booed the soldiers while cheering their Spanish military prisoners. Snipers fired at troop trains passing through Alabama and departing from Houston, Texas. National Guardsmen scuffled with black soldiers at Huntsville, Alabama. A constable in Texarkana, Texas, almost provoked retaliation when he attempted to arrest a soldier on a troop train after a disturbance at a local brothel. Some of the soldier's comrades, unaware of the circumstances, silently drew weapons at the sight of an armed civilian accosting a member of their unit. Their reaction allowed the soldier to disappear aboard the train, escaping arrest and identification. The most serious clashes, however, awaited the troops' arrival at their Texas posts in 1899.

Prior to the Brownsville affray, Texas clashes between soldiers and townspeople, often law officers, had erupted at

Laredo, Rio Grande City, and El Paso. The events preceding these conflicts bore a dismal similarity to conditions in Brownsville. Predominantly Hispanic populations, governed by a white political and business establishment, greeted the arriving troops with suspicion followed by minor disturbances. Soldiers complained of discrimination and price gouging from the business community as well as harassment by local police. Some civilians plainly hoped that the War Department could be persuaded to remove the black troops and replace them with white units a virtual impossibility in light of the strained resources of the military command. At Fort McIntosh, Laredo, Company D of the Twenty-fifth Infantry felt victimized by a local peace officer. Mistaking another officer for the man, a number of enlisted men assaulted him with rifle butts and then fired their arms in the streets. The mayor protested to the governor, who strongly supported the stance of the local official. The War Department resolved the matter by evacuating the post.

Almost simultaneously, another incident broke the peace at Fort Ringgold, Rio Grande City, a hundred miles to the south. After a ruckus in a gambling hall involving the citizenry and members of Troop D, Ninth Cavalry, rumors reached the post of an impending attack from the town. The disabled post commander gave credence to his men's reports of snipers by allowing the firing of a Gatling gun toward Rio Grande City. Mercifully, there were no casualties, but a major row ensued between officials of the town and the fort over culpability, each claiming attack by the other. Texas governor Joseph D. Sayers involved himself in the controversy, engaging in a dispute with the army over legal jurisdiction. The matter dissipated when an angry grand jury failed to return indictments against any soldier.

In the most serious civilian-military rift before Brownsville, a sergeant from Company A of the Twenty-fifth Infantry was charged with murder in 1900 for having led a group of soldiers to the El Paso jail to release a jailed comrade, who they believed had been unjustly detained. In the scuffle a popular lawman received fatal wounds. Because of heated emotions in El Paso, a change of venue was ordered for the ensuing trial. A Dallas court sentenced Sergeant John Kipper to fifty years at hard labor, further embittering race relations between the military and civilians in the state.

Only the magnitude of the controversy that surrounded the Brownsville incident separated it from its lesser-known predecessors. The Twenty-fifth Infantry passed a productive six years abroad and stateside after its partial involvement in the Rio Grande City imbroglio. After the outbreak of the Philippine insurrection in 1899, all of the regiment's companies were shipped to the islands within one year. The regiment demonstrated the same combat efficiency in the Pacific as it had in Cuba, drawing accolades from Brigadier General A. S. Burt. Filipinos themselves praised the troops' decorum. These same heroics failed to impress Brownsville residents, who for whatever reasons refused to accept the troops, regardless of their stellar military campaign record. Among those who objected to the troops' presence were outright bigots, residents with an antimilitary bias, Latinos challenged by a new minority group, and the lawless. The highly publicized murder at El Paso had also promoted a feeling of apprehension among some of the citizenry. Disappointing news from Austin, Texas, elicited resentment from the soldiers as well; the War Department rescinded the regiment's participation in maneuvers at Camp Mabry after Texas National Guardsmen threatened the black soldiers with violence if they were to appear.

Tensions at Brownsville quickly mounted. Some residents wired Washington, D.C., to complain about the First Battalion even before it was garrisoned at Fort Brown on July 28. Departing white troops acknowledged that they had heard threats against the incoming blacks. Although the city administration sought to maintain a constructive relationship with the army for defensive and financial reasons, federal authorities showed no concern. Fred Tate, a customs inspector, clubbed Private James W. Newton for supposedly jostling Tate's wife and another white woman on a sidewalk. Another customs officer, A. Y. Baker, pushed Private Oscar W. Reed into the Rio Grande. Baker claimed that he was trying to quiet the soldier, who allegedly had returned from Matamoras, Mexico, drunk and boisterous. Locals voiced racial slurs at the soldiers on the streets. Payday, August 11, passed without the confrontation that some had feared, but the following night a report of an attack on a white woman by a black soldier jolted the community. Mrs. Lon Evans, who lived near the red-light district, complained that a uniformed black man had grabbed her hair and thrown her to the ground. The incident had caused Mrs. Evans little physical pain, and she could not swear that her assailant had worn a military uniform. Nev-

Time Line

1906

- **December 19**
  President Roosevelt issues a Special Message to the Senate about the Brownsville raid, in which he justifies his dismissal of the soldiers.

1908

- **March 11**
  The Senate Committee on Military Affairs issues a report on the Brownsville raid and dismissals; the committee supports the presidential decision by a vote of nine to four.

1972

- **September 28**
  President Richard M. Nixon issues honorable discharges and pensions to the dismissed soldiers, following a resolution by Democratic California representative Augustus Hawkins.

ertheless, claims of blacks assaulting white women were known to incite lynch mobs. Accordingly, Mayor Frederick J. Combe and post commander Major Charles W. Penrose hastily met to defuse the situation. Penrose subsequently imposed an eight o'clock curfew on his men.

Around midnight shots rang out near the garrison wall separating the town from the fort. Various Brownsville residents later testified that they saw a shadowy group of nine to twenty persons who divided into two groups and charged up an alley toward town, firing several hundred shots at random into lighted areas. The shooters killed the bartender, Frank Natus, and shattered the arm of M. Y. Dominguez, a police lieutenant, necessitating its amputation. Alleged witnesses never were able to identify the culprits and insisted that the raiders had worn military uniforms or that the shots had emanated from military rifles. Daylight searches located spent army-type cartridges in the streets. Soldiers, contrarily, protested their innocence until the death of the last surviving serviceman over seventy years later. Major Penrose echoed the sentinel's belief that the post had been under attack, particularly after a roll call found all servicemen present or accounted for and a weapons and ammunition inspection revealed none missing. A morning visit from Mayor Combe, brandishing empty cartridges from the streets, convinced the commanding officer of the garrison's guilt, a view quickly adopted by Brownsville residents, newspapers, Texas congressmen, and Governor S. W. T. Lanham, who demanded removal of all African American soldiers from the state.

After an initial investigation, the U.S. government accepted the widely held conviction of the soldiers' guilt. President Roosevelt sent Major General Augustus P. Blocksom to Brownsville several days after the raid. Eleven days later he submitted a report to the White House that differed from the view of the black regiment's guilt only in his conclusion that both sides had exaggerated the facts, that Tate probably had overreacted in his beating of Private Newton, and that some of the citizenry were racially prejudiced. Stating that black soldiers had adopted an aggressive stance, Blocksom posited a scenario in which some soldiers began firing between barracks and the wall, others fired into the air to create an alarm, and nine to fifteen men scaled the wall and rushed through an alley into the streets. The attackers subsequently returned to camp to clean and reassemble their weapons while duping their officers into believing they had not left the garrison. Blocksom also noted that the men's motivation for the raid was questionable, since some bars had served the soldiers and Natus had never quarreled with the troops. Nevertheless, he considered the accusers' testimony as more reliable than that of the soldiers. Blocksom also declared that the discovery of the empty cartridges, which did not fit the recently assigned Springfield rifles, was not pertinent to his decision. He recommended the discharge of every man in the battalion. Each soldier would be granted the option to reenlist only if he identified the guilty by a date determined by the War Department. Roosevelt, adhering to the demands of Texas officials and press, ordered the transfer of the First Battalion to Fort Reno, Oklahoma, except for those held as suspects involved in the raid. Captain William J. "Bill" McDonald of the Texas Rangers and Major Penrose settled on a dozen defendants, based strictly on conjecture, who were grudgingly not indicted by the Cameron County grand jury for lack of evidence. The War Department scheduled Fort Brown for temporary closure.

Determined to uncover the guilty, Roosevelt sent Brigadier General Ernest A. Garlington, inspector general of the U.S. Army, to Fort Reno and Fort Sam Houston in San Antonio, Texas, to interrogate the suspects. Following Blocksom's suggestion, the president instructed Garlington to threaten all members of the battalion with dismissal without honor. When the mere threat proved ineffective, Garlington urged Roosevelt to proceed with its execution. Roosevelt complied on November 4 with War Department Special Order No. 266, an edict that escalated the Texas controversy to national stature and sparked criticism from African Americans and some whites. The *Richmond Planet* and *Atlanta Independent* accused Roosevelt of having delayed until after the congressional elections to assure a black Republican vote in key northern states. Black ministers joined the fray, and the scholar-activist W. E. B. Du Bois urged his followers to vote Democratic in the 1908 elections. Booker T. Washington, the widely publicized White House guest and administration patron to the African American constituency, continued to support Roosevelt and took his own share of criticism together with the chief executive and Secretary of War Taft, the front-runner for the Republican presidential nomination in 1908. An interracial organization, the Constitutional League, raised the argument of the troops' innocence. The director of the league, John Milholland, a white Progressive, assailed the reports of Blocksom and Garlington for racism, haste, and inconsistencies. Republican senator Joseph B. Foraker took up the argument and carried it to a larger stage.

Ordinarily the most stalwart of conservatives, Foraker may have acted from principle, presidential ambitions, or personal dislike of Roosevelt. In any case, he became the cashiered soldiers' most celebrated advocate. His Senate resolution called for an investigation of the raid and summoned the War Department to provide the evidence it had used in its decision. On December 19, Roosevelt countered with a Special Message defending the summary dismissals.

About the Author

Theodore Roosevelt, the twenty-sixth president of the United States, was born October 27, 1858, to a wealthy family in Oyster Bay, New York. The second of four children, Roosevelt was a sickly child and required homeschooling. A voracious reader and experienced world traveler even as a boy, Roosevelt entered Harvard at age eighteen. He excelled with the Harvard boxing team, among other sporting endeavors, and graduated in 1880. He ranched for several years in the Dakota Territory, where he built up his physique and developed a lifelong passion for nature.

Roosevelt served two years in the New York State Assembly, unsuccessfully campaigned for mayor of New York City, served on the U.S. Civil Service Commission, became president of the New York City Board of Police Commissioners, and accepted an appointment as assistant secretary of the U.S. Navy. In all of these positions he displayed a marked enthusiasm for efficiency and public service. Along the way he wrote several books, including *The Naval War of 1812* (1882) and the four-volume series *The Winning of the West* (1889 1896).

The Spanish-American War of 1898 defined Roosevelt for many Americans. His war plan dispatched Commodore George Dewey to a victory over the Spanish navy in the Philippines. At the start of the war, Roosevelt accepted the commission of lieutenant colonel and led the flamboyant "Rough Riders," or the First U.S. Volunteer Cavalry, to fame in Cuba. The forty-year-old Roosevelt emerged from the war as "the Hero of San Juan Hill," where he had fought alongside troops that had included African Americans from the Twenty-fourth Infantry Regiment. For his heroism, he was posthumously awarded the Congressional Medal of Honor in 2001. Roosevelt's popularity brought the governorship of New York within his grasp; he easily won election and instituted several policies of reform during his two-year term. In 1900 he received the Republican vice presidential nomination. The assassination of William McKinley only six months into his second term catapulted Roosevelt to the presidency. At the time he was only forty-two, the youngest man ever to have become president of the United States.

Roosevelt's presidency brought Progressivism to the national scene. He articulated a philosophy of a strong presidency as he took the lead in conservation and labor-management relations. He signed into law many pieces of reform legislation, such as the Hepburn Act, which strengthened the Interstate Commerce Commission Act, the Meat Inspection Act, and the Pure Food and Drug Act. In an unusual display of racial tolerance for the period, the president hosted the African American leader Booker T. Washington at a White House luncheon. He pursued a strong foreign policy, including intervention in the Panamanian insurrection against Colombia, which facilitated the construction of the Panama Canal. In a more diplomatic fashion, he arranged debt payments by the Dominican Republic to European creditor nations and won the Nobel Peace Prize in 1906 for his moderation of the Portsmouth Peace Conference in 1905, which had brought the Russo-Japanese War to an end.

In 1908 Roosevelt denied himself renomination as the Republican presidential candidate and appeared to have left the political arena once his chosen successor, William Howard Taft, won the election. However, he grew impatient with Taft's apparent caution and mounted a third-party campaign against him in 1912, running on the Progressive Party ticket. The division of the vote between Taft and Roosevelt assured the victory of Democrat Woodrow Wilson. Roosevelt then devoted much of his time to travel and writing until World War I. Frustrated in his attempts to strengthen American policy against Germany and, later, to revive his military career, Roosevelt died in his sleep on January 6, 1919.

Explanation and Analysis of the Document

President Roosevelt addresses Senate inquiries to him and Secretary of War William Howard Taft in his Special Message of December 19, 1906. In addition to his defense of his summary dismissal of almost all members of Companies B, C, and D of the Twenty-fifth Infantry, Roosevelt also submitted a Department of War report, a letter from General A. B. Nettleton, a memorandum on precedents supporting the action, and other documents. In his message, the president calls attention to his constitutional power as commander in chief of the armed forces, evidence of the guilt of the unit members, and the existence of a conspiracy of silence among the men to protect the known guilty. Roosevelt denies color as having been a factor in his decision and cites precedents that upheld the dismissals.

Obviously sensitive to the allegation of racial discrimination, Roosevelt defends the record of his investigators in the opening paragraphs of his message and his own record in his conclusion. The president attacks the premise that General Garlington had acted as a southerner; he also emphasizes that Lieutenant Colonel Leonard A. Lovering was a native of New Hampshire, while Major Blocksom had been born in Ohio and General Nettleton in Illinois. He notes that Blocksom had judged the men guilty in his report, while Garlington had acted to protect the innocent from the guilty soldiers. (Garlington and Roosevelt's views were that the guilty soldiers would be named by the innocent soldiers and escape dismissal. The townspeople considered all the soldiers guilty. The soldiers considered none of them guilty.)

He dismisses the notion of birthplace as having played any role in the investigation; all those involved had displayed professional honor and loyalty to the flag and the service. On his own behalf, Roosevelt recalls his condemnation of lynching in his message to the opening session of Congress, his appointment of African Americans to federal offices in both the North and South, and a determined policy to treat people as individuals, regardless of race.

Roosevelt emphasizes that the evidence, reports of federal investigators, and sworn testimony determined his decision, which was corroborated by the discovery of ammunition and other items in the streets of Brownsville. In taking this position, the president skirts the observation that some of the discovered military equipment was not of the type used by the army at that time; he also appears to give more credence to testimony of the Brownsville residents than that of the soldiers. In Roosevelt's view, the most trustworthy reports, of course, came from his appointed investigators. He acknowledges previous incidents that had involved the members of the Twenty-fifth Infantry, ascribing blame to both the soldiers and Brownsville civilians, but he denies any possible justification for the attack on the town. Roosevelt considers the testimony of civilians as consistent except for minor details and dismisses the possibility of collusion on their part. He also rejects as absurd the claim that townsmen shot one another to frame the soldiers; later studies, however, would propose the likelihood of that scenario. In Roosevelt's view,

Buffalo soldiers on the western frontier (Library of Congress)

nine to twenty soldiers climbed over the fort's walls, hurried through an area near the fort, and shot at whomever they saw entering lighted buildings or otherwise moving about. Policemen, the target of fire, identified the shooters as soldiers. The culprits returned the short distance to the barracks, which was not more than 350 yards, within less than ten minutes and thus escaped discovery. Officers, believing the fort was under siege, became aware of the situation only several hours later, which gave the shooters sufficient time to return to their routines. Roosevelt oversaw the War Department's investigation of the white officers, which recommended that two be court-martialed.

The president focuses his frustration and anger on the noncommissioned officers, all of them African Americans, whom he considered the leaders of the alleged cover-up. He saw them as responsible primarily for the discipline and good conduct of the men. They held the keys to the arms room and must have known the whereabouts of the soldiers and suspected their guilt. Roosevelt felt no sympathy for the dismissal of the most senior noncommissioned officers, since supposedly they should have acted to prevent mutiny and murder. He left no room for the possibility of ignorance on the part of any of the dismissed soldiers. They were warned to separate themselves from the guilty or face expulsion from the army with no opportunity for future government employment. Roosevelt denied, however, that dismissal constituted punishment, for the proper punishment for murder was death.

Almost one quarter of President Roosevelt's message is devoted to precedents supporting his action, and he repeatedly denies that race had been a factor in reaching his decision. He cites a district attorney's letter about cases that had involved misconduct by white soldiers; every member of those units had cooperated in the investigations, which ended in findings of guilt for some soldiers and innocence for others. The Civil War presented numerous instances of summary dismissals for misconduct or desertion. In one case, General Ulysses S. Grant mustered two officers out of the service and forced the other brigade members to repay the loss of money to the victim of an unsolved robbery. Roosevelt observes that in the 1906 fiscal year the War Department had discharged 352 enlisted men for misconduct without trial or court martial. He reserves the concluding paragraph to recount his record as an advocate of racial equality in matters of education, opportunity, and employment.

Audience

Roosevelt's immediate audience was the U.S. Senate, which had requested information supporting his decision of November 4, 1906, to summarily discharge 167 members of the First Battalion of the Twenty-fifth Infantry. However, because of the public controversy waged in the media, he was also addressing a national audience. Aside from African Americans and a few sympathetic whites, most of the nation plainly agreed with the president's position and explanation.

Impact

The Senate Committee on Military Affairs, on which Joseph Foraker served, conducted hearings on the Brownsville incident between February 1907 and March 1908. The sessions followed speeches by Foraker, who denounced the absence of trials and suggested that outside forces had raided Brownsville. Despite popularizing the controversy, Foraker's crusade on behalf of the soldiers met the same dismal fate as his campaign for the Republican presidential nomination. By a vote of nine to four, the committee sustained Roosevelt's action, with all five Democrats and four Republican members affirming it. A supplementary report signed by four senators provided for the reenlistment of men who had proved their innocence, a motion supported by Roosevelt. Senator Nathan B. Scott of West Virginia wrote a report that was signed by three other Republican members, including Foraker, which stated that the government had not proved its case. Foraker, in turn, issued a report with Senator Morgan Bulkeley of Connecticut that maintained the men's innocence since they lacked a motive for the crime. On a note to be echoed six decades later, Foraker and Bulkeley asserted that members of the citizenry stood to gain from the soldiers' disgrace and removal. Foraker continued his assault on the decision in an article in the *North American Review* one year later.

The government investigations resulted in courts-martial of two officers of the First Battalion. Major Penrose and Captain Edgar Macklin were tried for dereliction of duty but found not guilty. The War Department permitted fourteen of the cashiered soldiers to reenlist in 1910 but never stated its criteria for that determination. Although no new evidence had come to light, the First Battalion was exonerated more than a half century later. President Richard Nixon, acting on the proposal of Democratic Representative August Hawkins

Essential Quotes

"The act was one of horrible atrocity, and as far as I am aware, unparalleled for infamy in the annals of the United States Army."

"It has been supplemented by another, only less black, in the shape of a successful conspiracy of silence for the purpose of shielding those who took part in the original conspiracy of murder."

of California, granted an honorable discharge and a pension of $25,000 to each of the 153 dismissed servicemen in 1972, without ascribing any blame for the Brownsville attack. Nixon's decision came two years after the publication of a history of the incident, *The Brownsville Raid* by John D. Weaver, which convincingly presented Foraker's argument of innocence. Only one member of the battalion, Dorsey Willis, had survived to receive the pardon. Willis had continued to maintain the innocence of all the soldiers and their lack of knowledge about the raid. Most historians today believe that justice was not served in Roosevelt's action from the lack of due process, the absence of certain evidence, or the likelihood of a conspiracy against the black soldiers.

Further Reading

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Lane, Ann J. *The Brownsville Affair: National Crisis and Black Reaction*. Port Washington, N.Y.: Kennikat Press, 1971.

Weaver, John D. *The Brownsville Raid*. New York: W. W. Norton, 1970.

Garna L. Christian

Questions for Further Study

1. Using this document and Thomas Morris Chester's Civil War Dispatches (1864), trace the history of African American participation in the military during the late nineteenth century.

2. Summarize the events surrounding the Brownsville disturbance. Why was it so difficult at the time to affix blame where it belonged?

3. Theodore Roosevelt was a military commander during the Spanish-American War, in which black soldiers and units acquitted themselves with valor. Yet Roosevelt defended his dismissal of the African American troops. Why?

4. Why were the dismissed soldiers exonerated in 1972?

5. How did the incident at Brownsville illustrate the Jim Crow system in the South—and, indeed, throughout much of the country—at the turn of the twentieth century?

Theodore Roosevelt's Brownsville Legacy Special Message to the Senate

To the Senate:

In response to Senate resolution of December 6 addressed to me, and to the two Senate resolutions addressed to him, the Secretary of War has, by my direction, submitted to me a report which I herewith send to the Senate, together with several documents, including a letter of General Nettleton and memoranda as to precedents for the summary discharge or mustering out of regiments or companies, some or all of the members of which had been guilty of misconduct.

I ordered the discharge of nearly all the members of Companies B, C, and D of the Twenty-fifth Infantry by name, in the exercise of my constitutional power and in pursuance of what, after full consideration, I found to be my constitutional duty as Commander in Chief of the United States Army. I am glad to avail myself of the opportunity afforded by these resolutions to lay before the Senate the following facts as to the murderous conduct of certain members of the companies in question and as to the conspiracy by which many of the other members of these companies saved the criminals from justice, to the disgrace of the United States uniform.

I call your attention to the accompanying reports of Maj. Augustus P. Blocksom, of Lieut. Col. Leonard A. Lovering, and of Brig. Gen. Ernest A. Garlington, the Inspector-General of the United States Army, of their investigation into the conduct of the troops in question. An effort has been made to discredit the fairness of the investigation into the conduct of these colored troops by pointing out that General Garlington is a Southerner. Precisely the same action would have been taken had the troops been white indeed, the discharge would probably have been made in more summary fashion. General Garlington is a native of South Carolina; Lieutenant-Colonel Lovering is a native of New Hampshire; Major Blocksom is a native of Ohio. As it happens, the disclosure of the guilt of the troops was made in the report of the officer who comes from Ohio, and the efforts of the officer who comes from South Carolina were confined to the endeavor to shield the innocent men of the companies in question, if any such there were, by securing information which would enable us adequately to punish the guilty. But I wish it distinctly understood that the fact of the birthplace of either officer is one which I absolutely refuse to consider. The standard of professional honor and of loyalty to the flag and the service is the same for all officers and all enlisted men of the United States Army, and I resent with the keenest indignation any effort to draw any line among them based upon birthplace, creed, or any other consideration of the kind. I should put the same entire faith in these reports if it had happened that they were all made by men coming from some one State, whether in the South or the North, the East or the West, as I now do, when, as it happens, they were made by officers born in different States.

Major Blocksom's report is most careful, is based upon the testimony of scores of eye-witnesses testimony which conflicted only in non-essentials and which established the essential facts beyond chance of successful contradiction. Not only has no successful effort been made to traverse his findings in any essential particular, but, as a matter of fact, every trustworthy report from outsiders amply corroborates them, by far the best of these outside reports being that of Gen. A. B. Nettleton, made in a letter to the Secretary of War, which I herewith append; General Nettleton being an ex-Union soldier, a consistent friend of the colored man throughout his life, a lifelong Republican, a citizen of Illinois, and Assistant Secretary of the Treasury under President Harrison.

It appears that in Brownsville, the city immediately beside which Fort Brown is situated, there had been considerable feeling between the citizens and the colored troops of the garrison companies. Difficulties had occurred, there being a conflict of evidence as to whether the citizens or the colored troops were to blame. My impression is that, as a matter of fact, in these difficulties there was blame attached to both sides; but this is a wholly unimportant matter for our present purpose, as nothing that occurred offered in any shape or way an excuse or justification for the atrocious conduct of the troops when, in lawless and murderous spirit, and under cover of the night, they made their attack upon the citizens.

The attack was made near midnight on August 13. The following facts as to this attack are made clear by Major Blocksom's investigation and have not been, and, in my judgment, can not be, successfully contro-

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verted. From 9 to 15 or 20 of the colored soldiers took part in the attack. They leaped over the walls from the barracks and hurried through the town. They shot at whomever they saw moving, and they shot into houses where they saw lights. In some of these houses there were women and children, as the would-be murderers must have known. In one house in which there were two women and five children some ten shots went through at a height of about 4 1/2 feet above the floor, one putting out the lamp upon the table. The lieutenant of police of the town heard the firing and rode toward it. He met the raiders, who, as he stated, were about 15 colored soldiers. They instantly started firing upon him. He turned and rode off, and they continued firing upon him until they had killed his horse. They shot him in the right arm (it was afterwards amputated above the elbow). A number of shots were also fired at two other policemen. The raiders fired several times into a hotel, some of the shots being aimed at a guest sitting by a window. They shot into a saloon, killing the bartender and wounding another man. At the same time other raiders fired into another house in which women and children were sleeping, two of the shots going through the mosquito bar over the bed in which the mistress of the house and her two children were lying. Several other houses were struck by bullets. It was at night, and the streets of the town are poorly lighted, so that none of the individual raiders were recognized; but the evidence of many witnesses of all classes was conclusive to the effect that the raiders were negro soldiers. The shattered bullets, shells, and clips of the Government rifles, which were found on the ground, are merely corroborative. So are the bullet holes in the houses; some of which it appears must, from the direction, have been fired from the fort just at the moment when the soldiers left it. Not a bullet hole appears in any of the structures of the fort.

The townspeople were completely surprised by the unprovoked and murderous savagery of the attack. The soldiers were the aggressors from start to finish. They met with no substantial resistance, and one and all who took part in that raid stand as deliberate murderers, who did murder one man, who tried to murder others, and who tried to murder women and children. The act was one of horrible atrocity, and so far as I am aware, unparalleled for infamy in the annals of the United States Army.

The white officers of the companies were completely taken by surprise, and at first evidently believed that the firing meant that the townspeople were attacking the soldiers. It was not until 2 or 3 o'clock in the morning that any of them became aware of the truth. I have directed a careful investigation into the conduct of the officers, to see if any of them were blameworthy, and I have approved the recommendation of the War Department that two be brought before a court-martial.

As to the noncommissioned officers and enlisted men, there can be no doubt whatever that many were necessarily privy, after if not before the attack, to the conduct of those who took actual part in this murderous riot. I refer to Major Blocksom's report for proof of the fact that certainly some and probably all of the noncommissioned officers in charge of quarters who were responsible for the gun-racks and had keys thereto in their personal possession knew what men were engaged in the attack.

Major Penrose, in command of the post, in his letter (included in the Appendix) gives the reasons why he was reluctantly convinced that some of the men under him as he thinks, from 7 to 10 got their rifles, slipped out of quarters to do the shooting, and returned to the barracks without being discovered, the shooting all occurring within two and a half short blocks of the barracks. It was possible for the raiders to go from the fort to the farthest point of firing and return in less than ten minutes, for the distance did not exceed 350 yards.

Such are the facts of this case. General Nettleton, in his letter herewith appended, states that next door to where he is writing in Brownsville is a small cottage where a children's party had just broken up before the house was riddled by United States bullets, fired by United States troops, from United States Springfield rifles, at close range, with the purpose of killing or maiming the inmates, including the parents and children who were still in the well-lighted house, and whose escape from death under such circumstances was astonishing. He states that on another street he daily looks upon fresh bullet scars where a volley from similar Government rifles was fired into the side and windows of a hotel occupied at the time by sleeping or frightened guests from abroad who could not possibly have given any offense to the assailants. He writes that the chief of the Brownsville police is again on duty from hospital, and carries an empty sleeve because he was shot by Federal soldiers from the adjacent garrison in the course of their murderous foray; and not far away is the fresh grave of an unoffending citizen of the place, a boy in years, who was wantonly shot down by these United States soldiers while unarmed and attempting to escape.

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The effort to confute this testimony so far has consisted in the assertion or implication that the townspeople shot one another in order to discredit the soldiers an absurdity too gross to need discussion, and unsupported by a shred of evidence. There is no question as to the murder and the attempted murders; there is no question that some of the soldiers were guilty thereof; there is no question that many of their comrades privy to the deed have combined to shelter the criminals from justice. These comrades of the murderers, by their own action, have rendered it necessary either to leave all the men, including the murderers, in the Army, or to turn them all out; and under such circumstances there was no alternative, for the usefulness of the Army would be at an end were we to permit such an outrage to be committed with impunity.

In short, the evidence proves conclusively that a number of the soldiers engaged in a deliberate and concerted attack, as cold blooded as it was cowardly; the purpose being to terrorize the community, and to kill or injure men, women, and children in their homes and beds or on the streets, and this at an hour of the night when concerted or effective resistance or defense was out of the question, and when detection by identification of the criminals in the United States uniform was well-nigh impossible. So much for the original crime. A blacker [crime] never stained the annals of our Army. It has been supplemented by another, only less black, in the shape of a successful conspiracy of silence for the purpose of shielding those who took part in the original conspiracy of murder. These soldiers were not school boys on a frolic. They were full-grown men, in the uniform of the United States Army, armed with deadly weapons, sworn to uphold the laws of the United States, and under every obligation of oath and honor not merely to refrain from criminality, but with the sturdiest rigor to hunt down criminality; and the crime they committed or connived at was murder. They perverted the power put into their hands to sustain the law into the most deadly violation of the law. The noncommissioned officers are primarily responsible for the discipline and good conduct of the men; they are appointed to their positions for the very purpose of preserving this discipline and good conduct, and of detecting and securing the punishment of every enlisted man who does what is wrong. They fill, with reference to the discipline, a part that the commissioned officers are of course unable to fill, although the ultimate responsibility for the discipline can never be shifted from the shoulders of the latter. Under any ordinary circumstances the first duty of the noncommissioned officers, as of the commissioned officers, is to train the private in the ranks so that he may be an efficient fighting man against a foreign foe. But there is an even higher duty, so obvious that it is not under ordinary circumstances necessary so much as to allude to it the duty of training the soldier so that he shall be a protection and not a menace to his peaceful fellow-citizens, and above all to the women and children of the nation. Unless this duty is well performed, the Army becomes a mere dangerous mob; and if conduct such as that of the murderers in question is not, where possible, punished, and, where this is not possible, unless the chance of its repetition is guarded against in the most thoroughgoing fashion, it would be better that the entire Army should be disbanded. It is vital for the Army to be imbued with the spirit which will make every man in it, and above all, the officers and non-commissioned officers, feel it a matter of highest obligation to discover and punish, and not to shield, the criminal in uniform.

Yet some of the noncommissioned officers and many of the men of the three companies in question have banded together in a conspiracy to protect the assassins and would-be assassins who have disgraced their uniform by the conduct above related. Many of these non-commissioned officers and men must have known, and all of them may have known, circumstances which would have led to the conviction of those engaged in the murderous assault. They have stolidly and as one man broken their oaths of enlistment and refused to help discover the criminals.

By my direction every effort was made to persuade those innocent of murder among them to separate themselves from the guilty by helping bring the criminals to justice. They were warned that if they did not take advantage of the offer they would all be discharged from the service and forbidden again to enter the employ of the Government. They refused to profit by the warning. I accordingly had them discharged. If any organization of troops in the service, white or black, is guilty of similar conduct in the future I shall follow precisely the same course. Under no circumstances will I consent to keep in the service bodies of men whom the circumstances show to be a menace to the country. Incidentally I may add that the soldiers of longest service and highest position who suffered because of the order, so far from being those who deserve most sympathy, deserve least, for they are the very men upon whom we should be able especially to rely to prevent mutiny and murder.

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People have spoken as if this discharge from the service was a punishment. I deny emphatically that such is the case, because as punishment it is utterly inadequate. The punishment meet for mutineers and murderers such as those guilty of the Brownsville assault is death; and a punishment only less severe ought to be meted out to those who have aided and abetted mutiny and murder and treason by refusing to help in their detection. I would that it were possible for me to have punished the guilty men. I regret most keenly that I have not been able to do so.

Be it remembered always that these men were all in the service of the United States under contracts of enlistment, which by their terms and by statute were terminable by my direction as Commander in Chief of the Army. It was my clear duty to terminate those contracts when the public interest demanded it; and it would have been a betrayal of the public interest on my part not to terminate the contracts which were keeping in the service of the United States a body of mutineers and murderers.

Any assertion that these men were dealt with harshly because they were colored men is utterly without foundation. Officers or enlisted men, white men or colored men, who were guilty of such conduct, would have been treated in precisely the same way; for there can be nothing more important than for the United States Army, in all its membership, to understand that its arms cannot be turned with impunity against the peace and order of the civil community.

There are plenty of precedents for the action taken. I call your attention to the memoranda herewith submitted from The Military Secretary's office of the War Department, and a memorandum from The Military Secretary enclosing a piece by ex-Corporal Hesse, now chief of division in The Military Secretary's office, together with a letter from District Attorney James Wilkinson, of New Orleans. The district attorney's letter recites several cases in which white United States soldiers, being arrested for crime, were tried, and every soldier and employee of the regiment, or in the fort at which the soldier was stationed, volunteered all they knew, both before and at the trial, so as to secure justice. In one case the soldier was acquitted. In another case the soldier was convicted of murder, the conviction resulting from the fact that every soldier, from the commanding officer to the humblest private, united in securing all the evidence in their power about the crime. In other cases, for less offense, soldiers were convicted purely because their comrades in arms, in a spirit of fine loyalty to the honor of the service, at once told the whole story of the troubles and declined to identify themselves with the criminals.

During the civil war numerous precedents for the action taken by me occurred in the shape of the summary discharge of regiments or companies because of misconduct on the part of some or all of their members. The Sixtieth Ohio was summarily discharged, on the ground that the regiment was disorganized, mutinous, and worthless. The Eleventh New York was discharged by reason of general demoralization and numerous desertions. Three companies of the Fifth Missouri Cavalry and one company of the Fourth Missouri Cavalry were mustered out of the service of the United States without trial by court-martial by reason of mutinous conduct and *disaffection of the majority of the members of these companies* (an almost exact parallel to my action). Another Missouri regiment was mustered out of service because it was in a state bordering closely on mutiny. Other examples, including New Jersey, Maryland, and other organizations, are given in the enclosed papers.

I call your particular attention to the special field order of Brig. Gen. U. S. Grant, issued from the headquarters of the Thirteenth Army Corps on November 16, 1862, in reference to the Twentieth Illinois. Members of this regiment had broken into a store and taken goods to the value of some $1,240, and the rest of the regiment, including especially two officers, failed, in the words of General Grant, to "exercise their authority to ferret out the men guilty of the offenses." General Grant accordingly mustered out of the service of the United States the two officers in question, and assessed the sum of $1,240 against the said regiment as a whole, officers and men to be assessed pro rata on their pay. In its essence this action is precisely similar to that I have taken; although the offense was of course trivial compared to the offense with which I had to deal.

Ex-Corporal Hesse recites what occurred in a United States regular regiment in the spring of 1860. (Corporal Hesse subsequently, when the regiment was surrendered to the Confederates by General Twiggs, saved the regimental colors by wrapping them about his body, under his clothing, and brought them north in safety, receiving a medal of honor for his action.) It appears that certain members of the regiment lynched a barkeeper who had killed one of the soldiers. Being unable to discover the culprits, Col. Robert E. Lee, then in command of the Department of Texas, ordered the company to be disbanded and the members transferred to other companies and

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discharged at the end of their enlistment, without honor. Owing to the outbreak of the Civil War, and the consequent loss of records and confusion, it is not possible to say what finally became of this case.

When General Lee was in command of the Army of Northern Virginia, as will appear from the enclosed clipping from the *Charlotte Observer*, he issued an order in October, 1864, disbanding a certain battalion for cowardly conduct, stating at the time his regret that there were some officers and men belonging to the organization who, although not deserving it, were obliged to share in the common disgrace because the good of the service demanded it.

In addition to the discharges of organizations, which are of course infrequent, there are continual cases of the discharge of individual enlisted men without honor and without trial by court-martial. The official record shows that during the fiscal year ending June 30, last, such discharges were issued by the War Department without trial by court-martial in the cases of 352 enlisted men of the Regular Army, 35 of them being on account of "having become disqualified for service through own misconduct." Moreover, in addition to the discharges without honor ordered by the War Department, there were a considerable number of discharges without honor issued by subordinate military authorities under paragraph 148 of the Army Regulations, "where the service has not been honest and faithful that is, where the service does not warrant reenlistment."

So much for the military side of the case. But I wish to say something additional, from the standpoint of the race question. In my message at the opening of the Congress I discussed the matter of lynching. In it I gave utterance to the abhorrence which all decent citizens should feel for the deeds of the men (in almost all cases white men) who take part in lynchings and at the same time I condemned, as all decent men of any color should condemn, the action of those colored men who actively or passively shield the colored criminal from the law. In the case of these companies we had to deal with men who in the first place were guilty of what is practically the worst possible form of lynching for a lynching is in its essence lawless and murderous vengeance taken by an armed mob for real or fancied wrongs and who in the second place covered up the crime of lynching by standing with a vicious solidarity to protect the criminals.

It is of the utmost importance to all our people that we shall deal with each man on his merits as a man, and not deal with him merely as a member of a given race; that we shall judge each man by his conduct and not his color. This is important for the white man, and it is far more important for the colored man. More evil and sinister counsel never was given to any people than that given to colored men by those advisers, whether black or white, who, by apology and condonation, encourage conduct such as that of the three companies in question. If the colored men elect to stand by criminals of their own race because they are of their own race, they assuredly lay up for themselves the most dreadful day of reckoning. Every farsighted friend of the colored race in its efforts to strive onward and upward, should teach first, as the most important lesson, alike to the white man and the black, the duty of treating the individual man strictly on his worth as he shows it. Any conduct by colored people which tends to substitute for this rule the rule of standing

Glossary

Col. Robert E. Lee	later a general who commanded the Army of Northern Virginia during the Civil War
disaffection	disloyalty to the government
Judge Jones	U.S. District Court Judge Thomas Goode Jones, who heard a number of peonage cases in 1903
Judge Speer	Emory Speer, a judge in Georgia who ruled against the use of chain gangs and upheld the constitutionality of laws against peonage
noncommissioned officers	those of the rank of sergeant who command troops but are not commissioned as lieutenants, captains, and the like
peonage	the practice of requiring a debtor to work for his creditor until the debt is discharged

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by and shielding an evil doer because he is a member of their race, means the inevitable degradation of the colored race. It may and probably does mean damage to the white race, but it means ruin to the black race.

Throughout my term of service in the Presidency I have acted on the principle thus advocated. In the North as in the South I have appointed colored men of high character to office, utterly disregarding the protests of those who would have kept them out of office because they were colored men. So far as was in my power, I have sought to secure for the colored people all their rights under the law. I have done all I could to secure them equal school training when young, equal opportunity to earn their livelihood, and achieve their happiness when old. I have striven to break up peonage; I have upheld the hands of those who, like Judge Jones and Judge Speer, have warred against this peonage, because I would hold myself unfit to be President if I did not feel the same revolt at wrong done a colored man as I feel at wrong done a white man. I have condemned in unstinted terms the crime of lynching perpetrated by white men, and I should take instant advantage of any opportunity whereby I could bring to justice a mob of lynchers. In precisely the same spirit I have now acted with reference to these colored men who have been guilty of a black and dastardly crime. In one policy, as in the other, I do not claim as a favor, but I challenge as a right, the support of every citizen of this country, whatever his color, provided only he has in him the spirit of genuine and farsighted patriotism.

Theodore Roosevelt

Poster of African American soldiers fighting German soldiers in World War I, with portrait of Abraham Lincoln above (Library of Congress)

Act in Relation to the Organization of a Colored Regiment in the City of New York

1913

"The adjutant general shall organize and equip a colored regiment of infantry in the city of New York."

Overview

In 1913 the New York State Legislature passed An Act to Amend the Military Law, in Relation to the Organization and Equipment of a Colored Regiment of Infantry in the City of New York, creating an African American National Guard unit, later known as the "Harlem Hell Fighters." The regiment played a crucial role in World War I. During the German spring offensive of 1918, the Harlem Hell Fighters were often the only regiment between the Germans and Paris, France. The New York law was a key legislative milestone in the struggle for African Americans to have equal opportunities to serve in the armed forces.

Article XI of New York's fourth constitution, passed in 1894, required that the state maintain a military force of "not less than ten thousand enlisted men, fully uniformed, armed, equipped, disciplined and ready for active service." In response to an incursion into New Mexico by the renegade Mexican revolutionary general Pancho Villa in March 1916, almost all of New York's military forces were mustered into federal service and started leaving the state in June. Governor Charles Whitman realized that New York would thus be left with fewer soldiers than the constitutional requirement. Whitman; his military secretary, Lorillard Spencer; and the public service commissioner, William Hayward, a long-time Whitman associate, discussed the options for increasing the state's troop strength. Spencer had recently discovered the 1913 law authorizing an African American regiment for New York's National Guard. Whitman decided to create the regiment after the federal War Department requested that the state provide more troops. Whitman appointed Hayward as colonel and commander of the regiment and directed him to organize it immediately.

Context

African Americans have served in every American war. In wars against the Indians in the early eighteenth century, blacks fought along with white militiamen in defending colonial settlements. During the French and Indian War (1754 1763), African Americans again provided a significant number of soldiers and support troops. Many enslaved blacks in the northern states achieved their freedom through military service during those times. At the battles of Lexington and Concord, the first military engagements of the American Revolution (1775 1783), there were African Americans among the minutemen who fought the British. But early in the American Revolution there was also resistance among many slave owners, including George Washington, to arming blacks because they feared an armed slave revolt. Ironically, the British offered freedom and land to any slave who fought on the British side. Although the British lost the war, they honored their commitment and settled their black soldiers and families on land grants in Nova Scotia (today, a province in Canada). In the War of 1812 (lasting until 1815), African Americans fought in the Battle of New Orleans. In 1815, two battalions of blacks helped inflict the worst defeat ever experienced by the British Army.

The Civil War (1861 1865) brought thousands of African Americans into the Union army. In Massachusetts, Fredrick Douglass, an escaped slave who became a famous orator and writer, was involved in organizing and recruiting for a volunteer regiment of African Americans (led by white officers), the Fifty-fourth Massachusetts Volunteer Regiment. Douglass's two sons joined that regiment. Following the Civil War, an act of congress made four African American regiments two cavalry and two infantry a permanent part of the regular army. During the Spanish-American War (1898), many African Americans joined volunteer regiments and were accepted into the army. Despite forgotten promises, these former soldiers remembered their service with great pride. So it was that African Americans came to view military service as a right and an obligation of American citizens, allowing visible recognition of their participation as full members of society. Several states, including Massachusetts, Maryland, Tennessee, and Ohio, as well as the District of Columbia, had organized all-black militia and National Guard units; Illinois had an African American regiment based in Chicago. These units traced their beginnings to volunteer units that had fought in the Civil War. Despite the large number of African Americans from New York City who served in the Civil War and, later, the Spanish-American War, the city had no black militia or National Guard unit.

Early in 1911, a group of influential African American business and social leaders known as the Equity Congress

Time Line

1913

- **March 28**
  The state senator Henry Salant introduces a bill for a "colored battalion of infantry in the city of New York."
- **April 1**
  The assemblyman Thomas Kane submits a bill for a full "colored regiment of infantry in the city of New York."
- **June 2**
  Governor William Sulzer signs the Colored Regiment of Infantry Act into law, consolidating the two related bills to call for an African American regiment of infantry in New York City.

1914

- **August 1**
  Following the assassination of the Austrian archduke Franz Ferdinand on June 28, Germany declares war on Russia. Because of a series of complex mutual defense treaties, most European nations joined the war on one side or another.
- **August 4**
  President Woodrow Wilson declares the United States to be a neutral nation.

1916

- **June 16**
  Governor Charles Whitman appoints William Hayward as colonel of the Fifteenth Infantry Regiment, with orders to organize the regiment and begin recruiting.
- **October 1**
  Whitman presents the regimental colors to the Fifteenth Infantry in a ceremony at the Union League Club in New York City.

1917

- **April 6**
  The United States declares war on Germany.
- **July 25**
  The Fifteenth Infantry Regiment enters active federal service.

decided to actively encourage the formation of an African American militia regiment in New York City. However, creating a new militia unit would require an act of the New York legislature. Pending such action, the Equity Congress supported organizing a provisional regiment. In April 1911, Louis Cuvillier, a white New York assemblyman whose district included a large African American population, introduced a bill in the New York Assembly to authorize "a colored regiment of infantry in the city of New York." The state adjutant general strongly opposed the bill and was quoted in the *New York Times* of February 8, 1911, as saying "that it would take $50,000 to equip the regiment, $20,000 a year to support it, and that there would be prejudice in the guard against it." The bill was very detailed and specified the organization of the regiment down to the level of providing a precise number of officers, but it was not well structured. It repeated entire sections of existing law verbatim. Nonetheless, the bill was approved by both houses of the legislature and, in late July, was sent to Governor John Dix to be signed into law. Dix, however, did not approve the bill. In July, the *New York Times* reported that the bill's opponents in the legislature considered it to be "so loosely and badly drawn that the high hopes entertained by the colored men whose political influence won votes for it are sure to be disappointed." Cuvillier was aware of the opposition within the governor's staff and told the Equity Congress that the bill had failed because of the adjutant general's opposition.

The assemblyman Dean Nelson introduced a less specific bill on January 18, 1912. According to the *Assembly Introductory Number Record*, it was amended with minor revisions but was then sent back to the Military Affairs Committee. The assembly record shows that the bill was not reported out of the committee. There was no further action taken to establish an African American regiment until 1913, after Dix was defeated in his bid for a second term as governor of New York in the 1912 election. William Sulzer, a Democratic congressman from New York City, became governor in January 1913. The state senator Henry Salant then introduced a bill on March 28, 1913, to authorize "the organization and equipment of a colored battalion of infantry in the city of New York." On April 1, Thomas Kane, a Democrat who had defeated Nelson in the 1912 election, introduced another bill with wording similar to Salant's, but rather than calling for a battalion, the bill specified organizing a full regiment. (At the time, a regiment in the New York National Guard comprised three battalions.) Salant's bill also provided funding for an armory, while Kane's bill did not. In committee, the two bills were resolved into one that authorized a regiment but provided no funding.

The amended bill was passed by the assembly on April 29, 1913, and by the senate on May 2. The bill went to Sulzer for signature on May 7, and he signed the bill into law on June 2. That law required the New York adjutant general to organize and equip the regiment no later than three months after the effective date of the act. Although the law specified that it was to take effect immediately, Sulzer was impeached and removed from office before the law could be implemented. Finally, in 1916, Governor

Charles Whitman ordered the regiment to be formed and designated it the Fifteenth Infantry Regiment, New York National Guard. In 1918, while the unit was assigned to the French Army, the War Department changed its designation to the 369th Infantry Regiment.

Time Line

1917

- **August 5**
  The entire New York National Guard is mustered into the U.S. Army.

1918

- **March 1**
  The Fifteenth Infantry is designated the 369th Infantry Regiment and assigned to the French Sixteenth Division for training and service before being sent to the front lines for two years.
- **July 15–18**
  The 369th Infantry reverses a German attack and becomes known as the Harlem Hell Fighters.
- **November 11**
  The armistice ends the war at 11:00 AM.
- **December 13**
  The Croix de Guerre is pinned to the colors of the 369th, awarding the decoration to every member.

1919

- **February 17**
  Soon after returning to New York, the 369th marches down Fifth Avenue in its own victory parade.

About the Author

The legislation creating New York City's African American infantry regiment was first introduced in both houses of the New York State Legislature. These two bills, differing slightly, were ultimately consolidated into a single bill, signed by Governor Sulzer. Thomas Kane introduced the bill in the New York State Assembly. Kane had immigrated to the United States from Ireland in 1887 when he was nineteen years old. He was a skilled amateur athlete who was president of the Clipper Athletic Club for seven years and worked in industrial marketing. He was one of the first to support building public playgrounds in New York City. With support from Tammany Hall, he defeated the Republican incumbent Dean Nelson by a 25 percent margin in the 1912 election. Henry Salant introduced similar legislation in the New York State Senate. He was a native New Yorker who ran as a National Progressive in the 1912 election. Salant had been a very successful real estate lawyer in New York City. He was removed from office in late April 1913 following an election protest and ballot recount. Afterward Salant continued his active law practice and appeared as counsel in a number of important cases. He remained active in New York Republican Party politics through the 1920s but held no further significant political office.

Explanation and Analysis of the Document

Although legislation intended to create an African American regiment for New York City had been introduced and passed by the legislature before, first in 1911 and again in 1912, the governor did not sign those bills into law. On June 2, 1913, the newly elected Governor Sulzer signed into law the Colored Regiment of Infantry Act.

The 1913 act amended Article 2 of Chapter 41, "Military Law," of the 1909 laws of New York State, which defined the command, organization, and administration of the state National Guard. Legislation similar to the enacted bill had been proposed in 1911, but that bill contained additional language that duplicated provisions in the existing military law. In 1912 a much shorter version of the 1911 bill was proposed, but that bill also contained redundant language. The final bill was pared down to the language essential to require the adjutant general the senior New York State military administrative authority to create a regiment no later than three months after the bill became law. However, the law inadvertently contained a provision that allowed the adjutant general to delay creation of the regiment: It required the officers of the regiment to be commissioned according to the military law provisions for eligibility and examination. The adjutant general interpreted the law to require that the regiment's officers be black, but black officers of the provisional regiment did not have sufficient military education to pass the examinations.

Audience

There were two main audiences for the law. First, the New York State adjutant general and the New York National Guard were responsible for executing its provisions. Second, and perhaps politically more important, were the African American community in New York City and the politically active Equity Congress, backers of the provisional regiment.

Impact

Despite the law's provision that the African American regiment be created within three months, the adjutant general and other state authorities took no action. There were conflicting loyalties among those political appointees who

William Hayward (Library of Congress)

owed allegiance to Tammany Hall and those who supported Governor Sulzer. Tammany Hall was the name given to the political organization that dominated the Democratic Party in New York State and New York City during the nineteenth and early twentieth centuries. Originally it had dominated Irish American politics but in the late nineteenth century encompassed the larger immigrant community. In the early twentieth century, it worked to divert African Americans from their traditional support of the Republican Party. Tammany maintained its control through a system of patronage appointments, illegal payments and kickbacks, and generally corrupt political practice. Sulzer had received political support from Tammany Hall for a large part of his career, but when he became governor, he refused to follow Tammany instructions for political appointments. In October 1913, Tammany Hall politicians whom Sulzer had opposed started impeachment proceedings, alleging he had misappropriated campaign funds; he was forced out of office in 1913. Lieutenant Governor Martin H. Glynn, who supported the Tammany Hall political machine, then became governor. Glynn had no interest in pursuing the formation of an African American regiment and took no action despite inquiries from the black community.

The *New York Times* reported on May 11, 1914, that "C. Franklin Carr of New York, a candidate for Colonel of the negro regiment" had written a letter to the state's adjutant general on May 1 expressing the provisional regiment's impatience with the delay in mustering the unit into the New York National Guard. The letter continued to state that if an interpretation of the authorization law meant that the regiment would need to have white officers, the regiment would be willing to accept that condition. On May 9, an assistant to the adjutant general replied that since "not a sufficient number of officers succeeded in passing the prescribed examination to officer one company, the organization of the colored regiment has been temporarily postponed." The *Annual Report of the Adjutant General of the State of New York* covering the year 1914 states that fifty-seven candidates for commissions were tested: "The result was so disappointing as to make it obviously improper to expend public funds any further in the attempt to comply with the act." The same report mentions that the state had thirteen regiments, four more than the War Department required with the implication that forming a new regiment would drain scarce funds from the rest of the state's National Guard. The adjutant general, in sum, was not favorably disposed toward the creation of a new black regiment; no further action was taken for almost two more years.

When Charles Whitman defeated Glynn in New York's 1914 gubernatorial election, the U.S. government was cautiously watching events in Europe. The previous August, Germany had declared war on Russia and France, followed by Great Britain's declaration of war on Germany. In Mexico, the revolutionary Pancho Villa was waging war for control of the Mexican government. Villa saw the U.S. government's transition of support from him to his opponent, Venustiano Carranza, as a betrayal and a personal affront. Consequently, in March 1916, Villa crossed the border into New Mexico and killed seventeen citizens in the town of Columbus. In April, the War Department mobilized the National Guard in response to Villa's attack, and almost all of the New York National Guard entered federal service. When the New York National Guard was mobilized, it fielded an entire division.

On June 16, 1916, Governor Whitman appointed William Hayward as colonel in the New York National Guard with orders to start organizing and recruiting for the new African American unit, named the Fifteenth Infantry Regiment. Many wondered why Hayward was selected to command the Fifteenth rather than Charles Fillmore, who was the acting colonel of the provisional regiment; it is probable that Hayward's appointment was a political reward from Whitman, as was the appointment of Lorillard Spencer as the adjutant of the regiment. Both Hayward and Spencer were close to the governor and had previously been provided with political appointments. Spencer held the rank of captain in the New York National Guard Coast Artillery Corp but was promoted to major when he became Whitman's military secretary. Conveniently, Hayward, who had been public service commissioner, still held the rank of colonel in the Nebraska National Guard, albeit on the excess inactive list; it was thus a simple administrative act to have him transferred to the New York National Guard's excess inactive list and then detailed to active service.

In the first weeks of their efforts, Colonel Hayward and his adjutant, Major Spencer, ran into great difficulties finding recruits in New York's African American community. Although they were pleased to finally have the regiment, they were especially concerned that it might have only white officers. Hayward advertised that the color line would not be

Essential Quotes

"The adjutant-general shall organize and equip a colored regiment of infantry in the city of New York."

"Such regiment when organized and equipped shall become a part of the national guard of the state of New York, and subject to all the statutes, rules and regulations governing such national guard."

drawn in the Fifteenth Infantry and that colored men who qualified would be commissioned as officers. He opened the doors to the Fifteenth Infantry Regiment's first recruiting office on June 27, 1916. A few prospective recruits came by, and several were enlisted that night. Later in the week the *New York Age*, a popular African American weekly newspaper in New York City, printed two related articles on its front page: one about the heroic actions of the all-black Tenth Cavalry Regiment in Mexico and the other on the recruiting efforts for New York's Fifteenth Infantry. Those two articles brought hundreds of recruits into the regiment; by the middle of July, the first battalion had been filled.

While the regiment continued to attract a number of highly qualified African Americans, there were not enough to fill the large number of officer positions, and Hayward was indeed forced to bring in a number of white officers. Hamilton Fish III, a New York assemblyman and well-connected socialite, was appointed a captain, as was Arthur Little, a well-known insurance broker. Most of the enlisted personnel came from Harlem, the Bronx, and Brooklyn; Hayward recruited and formed one battalion in each of the three locations. For the most part, the men he recruited were ordinary laborers, such as porters, doormen, and the like. Needham Roberts, a former bellhop, had tried to enlist in the navy but had been turned down. Henry Johnson had been a railroad porter in Albany, New York, but went to New York City to enlist. Horace Pippin had been a metalworker, a molder in a brake-shoe foundry. He had shown some artistic talent as a child, and his war diary is illustrated with his drawings. In the 1930s Pippin gained fame as one the leading American "naive" artists of the century.

Another enlistee was James Reese Europe, who joined New York's Fifteenth on September 18, 1916, and recruited his friend and colleague Noble Sissle to join ten days later. Europe was a famous bandleader whose music was well known across the country. He joined the regiment to be a soldier, not a musician, but when Hayward was having problems recruiting, he turned to Europe to form a band that would bring in men to join the regiment. Europe scoured New York for skilled musicians; when he exhausted the supply, he went to Chicago to recruit Frank DeBroit, a famous black cornet player. Because there was a shortage of clarinet and saxophone players at the time, Europe persuaded Hayward to fund a trip to Puerto Rico. Europe returned with a group of eighteen highly skilled musicians he had somehow persuaded to enlist and go to New York.

The Fifteenth New York was mobilized into federal service on July 25, 1917. On August 5, along with all the other units of the National Guard of the United States, the Fifteenth New York entered the U.S. Army. After two months of guard duty in the New York area, the regiment was sent to Camp Wadsworth in Spartanburg, South Carolina, for additional training. Race relations at Camp Wadsworth were extremely tense, and there were a number of violent incidents. The commander of Camp Wadsworth, Brigadier General Charles Phillips, believed the situation to be so critical that he arranged a private meeting between Colonel Hayward and Secretary of War Newton Baker on October 22, just seven days after the regiment had arrived there. Two days later, the regiment left Spartanburg by train for New York to await transportation by ship to France in November. After a number of mishaps, including a return to New York for engine repair, the regiment landed in Brest, France, on December 27, 1917.

Rather than being sent into combat training as they had expected, the regiment was unceremoniously boarded onto freight cars and sent to Saint-Nazaire to be a labor and construction unit. While the rest of the regiment was building railroads and unloading cargo, the regimental band directed by Europe was sent on a tour across France. A visiting American theatrical producer, Winthrop Ames, and the Broadway actor E. H. Sothern had been touring France to find entertainment for American troops when they heard Europe's band. In their opinion, it was the best band they had ever heard. It may have been their recommendation that led the army to order the band to play at a rest and recuperation area at Aix-les-Bains, a resort area near the French Alps. On February 12, 1918, the band boarded a train and played their way across the southeastern quarter of France; everywhere the train stopped, the band played. The French had never heard a jazz band before and embraced the music with great enthusiasm.

General John J. Pershing, the commanding general of the American Expeditionary Force, was then being pressured by the French and British commanders to assign American forces to fill in losses in both armies. Pershing adamantly refused, insisting that Americans command Americans. When Germany launched its spring offensive in March 1918, Pershing made an exception to his policy and agreed to loan three regular U.S. Army divisions and two National Guard regiments to back up the French and British forces. The German offensive stalled, and the American units were never assigned except for the Fifteenth New York, which was given to the French Fourth Army; Pershing had no confidence in the combat skills of African Americans but had found a way to satisfy French requests for American units and get rid of what he saw as a problem. Under French leadership, Pershing's African American "problem" became one of the most decorated American regiments in the war.

When the regiment reported for duty with the French Army, it learned it had been designated as the "369th Infantry Regiment." Because the regiment was to be part of the French Army, it had to exchange American equipment for French-issued items. They were given the distinctive helmet worn by the French soldiers, with a crest that ran from front to back, as well as French leather belts and strappings to hold their ammunition, gas masks, and grenade bags. They were armed with the same rifles as were the other French troops deployed in the same sector. After three weeks' training with French infantry weapons and tactics, the regiment was assigned to a 2.8-mile sector of frontline trenches. The 369th Infantry Regiment's first combat experience occurred late on April 14 when the regiment came under a German artillery attack. The shelling lasted only a short time, and there were no casualties. The 369th commanded the frontline trenches from April 29 until July 4, when it was relieved and sent to the second-line trenches.

In mid-July, the last phase of the German spring offensive began in the Champagne-Ardenne, as the Germans attempted to widen their front on the Marne River. After helping stop the German attack, the French attached the 369th to the 161st Division, which had been pushed back from its frontline trenches by the German attack. The 369th counterattacked on July 18 and recaptured the frontline trenches. Portions of the regiment were then parceled out to support other French units from July 21 through August 19. Once the sector was quiet and the regiment was reunited, it resumed training. The regiment was permanently reassigned to the 161st Division on September 9, prior to the French Fourth Army's Meuse-Argonne offensive, started on September 26. That day the 369th, assigned to support the French attack, discovered a gap in the front lines and advanced to capture the town of Ripont. The following day they advanced about three-quarters of a mile. While the rest of the 161st was being delayed by German resistance, the regiment captured Séchault and advanced three-quarters of a mile further. After the heavy fighting abated and the front was consolidated, the 161st Division, including the 369th, was relieved and returned to a rehabilitation area around October 8. On October 14 the regiment, as part of the 161st, began occupation of the Thur sector, northeast of Belfort. Because of their remarkable record in combat, the men of the 369th were accorded the honor of being the first American troops to cross the Rhine into Germany.

Despite the regiment's accomplishments, once the 369th was reassigned from the French Army back to the U.S. Army, it once again faced racial prejudices. The U.S.

Questions for Further Study

1. Compare this document with Thomas Morris Chester's Civil War Dispatches (1864). What do you think Chester's reaction to the new law would have been?

2. Using this document in conjunction with Chester's Civil War Dispatches and Harry Truman's Executive Order 9981 desegregating the military in 1948, trace the history of African American involvement in the military and efforts to desegregate it.

3. Describe the role that the Harlem Hell Fighters played in World War I.

4. What role did local politics have in the formation of the Colored Regiment of Infantry Act and in delays in its implementation?

5. In the twentieth century numerous African American leaders called on black men to resist the military draft. See, for example, Stokely Carmichael's "Black Power" (1966). What changed in attitudes toward the military between the early twentieth century and the later decades of the century?

Army refused to allow the Harlem Hell Fighters to march in the Paris victory parade and quickly shipped them back to New York. Yet Colonel Hayward promised his men a victory parade of their own and, using his many political connections, arranged a remarkable event. On February 17, 1919, the Harlem Hell Fighters, led by Europe and the regimental band, marched down Fifth Avenue from the victory arch being built at 24th and Broadway to Harlem.

In a larger sense, the full impact of the 369th Harlem Hell Fighters and other black regiments' service in World War I was not realized until President Harry S. Truman integrated the U.S. military forces in 1948. Starting with the Korean War, as African Americans began to be accepted into the military on an equal basis with whites and other races, a renewed consciousness emerged of a uniquely black military heritage of service. That heritage, service despite racial prejudice and inequality, is a heritage of honor, courage, and sacrifice that continues to inspire African American youth.

See also Executive Order 9981 (1948).

Further Reading

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William S. Pettit

Document Text

Act in Relation to the Organization of a Colored Regiment in the City of New York

Became a law June 2, 1913, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article two of chapter forty-one of the laws of nineteen hundred and nine, entitled "An act in relation to the militia, constituting chapter thirty-six of the consolidated laws," is hereby amended by adding at the end thereof a new section, to be section forty, to read as follows:

§40. Colored regiment of infantry. Within three months after this section takes effect, the adjutant-general shall organize and equip a colored regiment of infantry in the city of New York. Such regiment when organized and equipped shall become a part of the national guard of the state of New York, and subject to all the statutes, rules and regulations governing such national guard. The officers of such regiment shall be commissioned by the governor, subject to the provisions of this chapter, in relation to eligibility and examination. The armory board of the city of New York shall provide quarters for such regiment.

§2. This act shall take effect immediately.

Woodrow Wilson (Library of Congress)

Monroe Trotter's Protest to Woodrow Wilson

1914

"As equal citizens and by virtue of your public promises we are entitled at your hands to freedom from discrimination."

Overview

As a candidate for the presidency of the United States in 1912, Woodrow Wilson proposed a platform based on what he characterized as "new freedom." In doing so, Wilson made promises to African Americans that he could be counted on to provide fairness if elected. However, upon his election, Wilson reneged on his original promise and instituted a policy of racial segregation in both the Department of the Treasury and the Post Office Department. The National Association for the Advancement of Colored People (NAACP), the leading civil rights group in the nation at that time, forwarded a letter of protest to Wilson, but their efforts were ignored. On November 6, 1913, and again on November 12, 1914, President Wilson met with a delegation of African American leaders from the National Independent Equal Rights League. Their spokesman, the uncompromising *Boston Guardian* editor William Monroe Trotter, challenged Wilson in his opening remarks at the second meeting to live up to his promises to provide equality for African Americans. Trotter's message was characteristically direct, even blunt. It led to a tense encounter that garnered much public attention.

Context

The 1910s were a time of racial volatility in the United States, evidenced by numerous urban race riots, notably in East St. Louis and Chicago. The historian Rayford Logan has characterized this period as the nadir of race relations in America. Terrifying violence against African Americans included numerous lynchings and other hostile attacks. Racial segregation had become entrenched in American life. The doctrine of "separate but equal" had even obtained legal status in the Supreme Court's *Plessy v. Ferguson* decision of 1896, and in his famous Atlanta Exposition Address in 1895 the most prominent black leader of the day, Booker T. Washington, advocated a "gradualist" program of self-improvement that other African Americans came to consider inadequate to the troubled times. The Niagara Movement and the subsequent founding of the NAACP in 1909 represented a more activist response. A broader effect of southern violence was the northward migration of black Americans. Beginning in earnest in 1910, this persistent shift saw millions of African Americans move to the industrial north in search of jobs and, they hoped, a better life. To assist in meeting the numerous social, economic, cultural, and political challenges posed by the recently arriving black southerners, the National Urban League was formed in New York City in 1910.

The death of Frederick Douglass in 1895 left Booker T. Washington as the most prominent representative of national black leadership. Washington, a former slave, was known for his gradualism, a strategy of improving poor southern blacks' conditions through industrial education and hard work. His status as the first president of the influential Tuskegee Institute in Alabama, his prominent Atlanta address, and his recognition by several U.S. presidents cemented Washington's image as the nation's foremost African American. However, a number of northern blacks, including Monroe Trotter's camp of radical intellectuals, took a more assertive stance and waged an intense public and private debate with the "Bookerites." This ideological struggle came to a head on July 30, 1903, when Washington spoke at an event sponsored by the National Negro Business League at the Columbus Avenue African Methodist Episcopal Zion Church in Boston. Trotter and several of his associates protested so vigorously that they were ejected and arrested. Also in 1903, W. E. B. Du Bois published *The Souls of Black Folk*, with a chapter, "Of Mr. Booker T. Washington and Others," that represented an additional challenge to the "Tuskegee Machine" and its hold on black leadership. Washington died in 1915, a year after Trotter's confrontation with President Wilson, leaving a leadership vacuum that Du Bois, Trotter, and others intended to fill.

In 1912, Woodrow Wilson, a Democrat, had appealed to blacks (who were mainly Republicans) for their votes, offering promises of equal treatment should he be elected president. Frustrated with the incursion of segregation into the federal bureaucracy, Trotter requested meetings with Wilson in November 1913 and again in November 1914. In this time of great travail, the election of Wilson to the presidency of the United States offered hope for African Americans. In fact, a number of black leaders, including Trotter,

Time Line

1895	■ Frederick Douglass dies, and Booker T. Washington delivers his Atlanta Exposition Address.
1896	■ **May 18** The Supreme Court's *Plessy v. Ferguson* decision legitimates racial segregation in American life, law, and culture.
1898	■ **November 10** A race riot occurs in Wilmington, North Carolina.
1903	■ The historian W. E. B. Du Bois publishes *The Souls of Black Folk*.
1905	■ The Niagara Movement is founded in Niagara Falls, Ontario, in call for opposition to racial segregation and disenfranchisement as well as policies of accommodation.
1906	■ Racial disturbances and riots occur in Brownsville, Texas, and Atlanta, Georgia.
1908	■ **August 14–15** A race riot occurs in Springfield, Illinois.
1909	■ **February 12** The National Association for the Advancement of Colored People is founded.
1910	■ The National Urban League is founded in New York City.
1912	■ Monroe Trotter, Du Bois, and other black leaders endorse Woodrow Wilson for president.

publicly supported Wilson's candidacy, breaking with their traditional Republican allegiance. Wilson was known in many circles as a progressive, but his concerns did not extend to African Americans and their condition. Like his early foreign policy, Wilson's approach to African American demands for equality could well be described as noninterventionist. Adding to the tensions that flared in the meeting, Wilson was still grieving at the time over the death of his wife, Ellen Axson Wilson, on August 6.

About the Author

William Monroe Trotter, son of the noted Union army soldier and activist James Monroe Trotter, was born on April 7, 1872, at his grandparents' farm in Springfield Township, Ohio, and raised in a middle-class neighborhood in Boston. He graduated from Harvard with Phi Beta Kappa honors in 1895 and earned his master's there the following year. Primarily known as a journalist, he served in various activist organizations and, in 1901, founded (along with George W. Forbes) the influential newspaper the *Boston Guardian*, which served as an important news vehicle promoting equal rights for African Americans. Defiant and uncompromising on issues of race, he went on to become a militant civil rights advocate and one of the most influential African American leaders of the early twentieth century. He accomplished much in his career before the age of forty.

Along with W. E. B. Du Bois, Trotter also played a leading role in the founding of the Niagara Movement in 1905, serving as head of the Press and Public Opinion Committee. Du Bois and Trotter together drafted the organization's radical "Declaration of Principles," which was supported by the movement membership. Trotter also played a leading role in the NAACP, attending the founding meeting in 1909 and maintaining contact with the group until disputes occurred with leaders such as Oswald Garrison Villard and Du Bois. During these years, Trotter was also an important figure in the National Independent Equal Rights League. Both Trotter and Du Bois endorsed Woodrow Wilson for president in 1912. However, they soon realized that the new president was less supportive of equal rights for African Americans than he had promised to be as a candidate. Wilson's actions, such as outright rejection of black advisers, support of segregation in federal office buildings, and exclusion of blacks from important civil service posts, garnered a sharp response from notable black leaders, including Trotter.

Trotter opposed D. W. Griffith's film *The Birth of a Nation* (based on Thomas Dixon's novel and play *The Clansman*), which was shown at the White House in 1915. President Wilson praised the film, while Trotter stridently opposed the film's glorification of the Ku Klux Klan. Indeed, Trotter was arrested, with others, while picketing the stage production in Boston, which eventually was forced to close. The film was banned in Ohio, Chicago, St. Louis, and some areas of Massachusetts but continued to be shown in a number of Boston theaters for several months. Trotter's death is still somewhat of a mystery. On

his sixty-second birthday, he reportedly fell (or, some say, jumped) from a window of his home to his death.

Explanation and Analysis of the Document

In the first paragraph, Trotter reminds the president that, a year earlier, he and other black leaders had presented a petition, signed by persons from thirty-eight states, "protesting against segregation of employees of the National government whose ancestry could be traced in whole or in part to Africa." The focus of the group's concerns was the U.S. Treasury and Post Office, where "all the forms of segregation … are still practiced." Trotter reminds Wilson that the group had urged him to undo this racial segregation and that "there could be no freedom, no respect from others, and no equality of citizenship under segregation for races," particularly when such segregation was so rampant in the federal bureaucracy. Trotter highlights the social, political, and personal damage of such an arrangement, noting how the implied labeling of African Americans as "a lower order of beings" consigned them to an "inferiority of status." Trotter then proceeds to list the segregated areas of the federal government, drawing specific attention to facilities for dining, dressing, and washing. The effect of this policy, he says, is "a public humiliation and degradation" that has far-reaching consequences. He calls this continued segregation "a gratuitous blow" against those who had supported Wilson's candidacy to lead America for all Americans.

Trotter next reminds Wilson of his promise to investigate these conditions himself. One year later, he notes that segregation persists in all the areas of initial concern and has, in fact, spread to other federal buildings. Obviously, this finding greatly alarmed Trotter and the delegation, as they had invested much public capital in supporting Wilson. In part, therefore, the occasion represented an opportunity for Trotter and other leaders to save face among skeptical African Americans. More centrally, his words represent genuine frustration and anger at the turn of events.

In the third paragraph, Trotter details the specifics of racial segregation in federal government buildings. Segregated facilities then existed in the Treasury Department, the Bureau of Engraving and Printing, and the Navy Department for dressing rooms, working positions, eating arrangements, and even lavatories. The repetition of this last word, mentioned eleven times in this paragraph alone, illustrates the level of humiliation and dehumanization to which African Americans were being subjected.

That such high hopes were followed by such worsening outcomes a year later was too much for the delegation, especially Trotter, to stomach. To the fiery activist it was unbearable that African American employees who dared to use the public facilities on the floors where they worked would be accused of "insubordination." In one particularly ridiculous case, African Americans were forbidden from even entering an adjoining room occupied by white clerks. Black men working on the sixth floor were forced to use public facilities on the eighth floor. In Trotter's mind there seemed to be no rational or substantial explanation for such debased and mortifying treatment for any human beings, especially for African Americans who had staunchly pledged their support for the nation, and (in many cases) for Wilson himself, at the behest of Trotter. As he puts it (in paragraph 9), "Consider that any passerby on the streets of the national capital, whether he be black or white, can enter and use the public lavatories in government buildings while citizens of color who do the work of the government are excluded."

Time Line

1914
- **November 12** Trotter and other African American leaders meet with President Wilson in the White House, where Trotter delivers his protest concerning segregation; their acrimonious confrontation is widely reported the following day.

1915
- Booker T. Washington dies.
- Trotter campaigns to have D. W. Griffith's film *The Birth of a Nation* (praised by President Wilson) banned in Boston for its positive portrayal of the Ku Klux Klan.

1916
- Woodrow Wilson is reelected president.

1917
- Race riots occur in East St. Louis, Illinois, and Houston, Texas.

1918
- **November 11** The Armistice brings World War I to an end.

1919
- Race riots occur in Chicago, Illinois, and Elaine, Arkansas.

1921
- Massive rioting in Tulsa, Oklahoma, destroys the city's black neighborhood.

1934
- Trotter dies in Boston.

Charles Evans Hughes (standing center), Republican Party presidential candidate campaigning in New York City
(Library of Congress)

Such matters were not petty for Trotter. The overt and underlying message they sent to African Americans all around the country was indicative of the value that their federal government placed on them. Black citizens were already devastated by the degree to which the party of Abraham Lincoln had abandoned its forthright championing of the interests of African Americans for nearly two decades, even while African Americans remained loyal to the Republicans. Now, searching for some sense of hope in Wilson as emblematic of a new Democratic Party, black people were intensely disappointed. That African Americans were undergoing one of the worst periods in their history at this time, owing to the rampant harassment, violence, and lynchings, made the added insult of toilet segregation too much to bear.

Trotter unequivocally states, in paragraph 4, that the delegation has come to "renew the protest," asking the president once again to "abolish segregation of Afro-American employees in the executive department." Striking here, in addition to the use of the term *Afro-American*, is his inclusive concern for African American women and men. (Trotter opposed use of the term *Negro*, choosing instead to use terms such as *Colored American* and *Afro-American*.) In both these instances, Trotter was ahead of his time, indicating a truly progressive character to his leadership and personality.

In paragraph 5, Trotter makes one of his most poignant statements, one that had overarching and far-reaching implications for African Americans for the remainder of the century and beyond. Trotter predicts that if the government of the United States of America can be allowed to segregate African Americans, it will encourage the rest of the nation to continue to do the same, permitting segregation to spread from the White House to every part of the nation. Inaction on the part of Wilson was sending a disturbing message to every African American citizen and potentially giving whites a license to continue their inhumane treatment of blacks. In this policy Trotter foresaw danger for the entire nation, potentially leading to its unraveling. American citizenship thus would become extremely precarious, even to the point of placing into question the promises of the founding documents and the structure of American democracy itself. This point was a prophetic warning from Trotter that would soon possess clear meaning as the United States entered World War I in 1917 to make the world "safe for democracy," in Wilson's words.

Trotter, a master strategist, proceeds in paragraph 6 to recount the delegation's strategy to date, reminding Wilson of the serious and organized manner of their protest. That protest had graduated from the national antisegregation petition offered in 1913 to protests at the voting polls whereby African Americans, as a sign of their heightened disdain for inaction, voted "against every Democratic candidate save those outspoken against segregation." Trotter noted that David Walsh of Massachusetts, the only Demo-

crat elected governor in the eastern part of the country, had publicly appealed to Wilson to end segregation. Mere lip service or empty promises could not allay the frustrations of African Americans. Only tangible, concerted actions by governmental leaders would do that. The clear message to the president was that he should reverse course and make good on his promise or else potentially face the same fate as many of his Democratic colleagues around the nation. With the next presidential election just two years away, this message was no idle threat. Just as we publicly supported you, we can also publicly denounce you, Trotter and the delegation seem to imply, unless you end segregation in the federal bureaucracy once and for all.

Trotter underscores the power of the African American vote in the recent shift of black political allegiance that helped to elect Wilson. This historic shift away from the Republican Party resulted from the Republicans' disregard for African American concerns at a crucial period of the nation's history. Here the race leader demonstrates that the shift was not a matter that blacks took lightly. African Americans were not wedded to Wilson or the Democrats any more than they were to the Republican Party, should either turn its back on African American efforts for equality. Wilson may have been touted as the "second Lincoln," says Trotter, but his actions and inactions placed African American representatives, like Trotter himself, in the compromising position of being labeled as false leaders and race traitors. This was not the kind of change that African Americans could believe in or had hoped for when voting for Wilson.

In the final sections of his address, Trotter, using Wilson's own words, reminds the president of the promise he made to African American people. Then, in paragraph 9, comes an argument linking fellow citizenship with "congregation," by which he means a united community, one that is subverted by segregation.

As "equal citizens and by virtue of your public promises," African Americans are "entitled" to "freedom from discrimination, restriction, imputation and insult in government employ." The parting shot that surely rang throughout the entire room asks if Wilson had instituted a "new freedom for white Americans and new slavery for your Afro-American fellow citizens." Trotter concludes with the delegation's specific policy proposal: that the president issue an executive order banning all racial segregation of government employees on account of race. "We await your reply." According to an article published that day in the Philadelphia *Evening Ledger*, Wilson reportedly replied to Trotter that he had spoken "as no other man has spoken since I assumed the Presidency" and said that he would no longer receive him as part of a future delegation.

Much has been made of Trotter's militant tone during this meeting. However, this opening statement to the president evidences a degree of decorum and respect. He maintains a reasonable attitude in expressing the hope that Wilson will be a man of his word. But Trotter and the delegation also offered a warning that the people whom they represented were greatly alarmed at the lack of progress, especially the further encroachment upon their movement for equality. Furthermore, the symbolism of the president of the United States seeming to condone racial segregation in the very citadel of democracy could not go unchallenged. Neither could Wilson's professed dedication to making the world "safe for democracy" while he directly and indirectly denied African Americans their rights and full citizenship.

Audience

William Monroe Trotter delivered this address directly to Woodrow Wilson in the White House on November 12, 1914. It was the second meeting for the two men. In attendance were Trotter and a number of other black leaders from the National Independent Equal Rights League. The spirited and heated discussion lasted for forty-five minutes, before Wilson ordered the delegation to leave. News of the controversial meeting was featured in various newspapers including the Philadelphia *Evening Ledger*, the *New York Times*, the *Boston Evening Transcript*, and the African American newspaper the *New York Age*. Copies of the opening address were reprinted in numerous newspapers, including the black press. The president himself was the direct focus of frustration and criticism, since his reneging on campaign pledges had angered and embarrassed his black supporters out of hand.

Impact

The meetings of November 1913 and November 1914 demonstrated the serious difficulties African Americans had with the administration of Woodrow Wilson, in particular with the president himself. At the time of the second meeting, Wilson was undergoing severe strain and grief owing to the tragic death of his wife of thirty years. Considering the commensurate strain felt by Trotter, the delegation, and African American people across the country, this meeting had the makings of a truly volatile encounter, which ended with Wilson's ordering Trotter and the delegation out of his office. The second exchange was characterized as a confrontation by the White House, dismissing any idea that the meeting held any level of civility at all. Trotter's anger at Wilson and the Democrats did not subside after the meeting. In protest, he left the Democratic Party in 1916 and supported the Republican candidate, Charles Evans Hughes. At the same time, Trotter maintained his vigilant struggle for African Americans' equal rights.

A huge cloud of protest resulted from the confrontation between Trotter and Wilson. The national mainstream press was highly critical of Wilson. The *Nation* characterized racial segregation as "a sad blot upon the Wilson administration." The *New Republic* chided Wilson for confirming the emptiness of his pre-election promises to African Americans. The black press was even more critical of the government tolerance for racial segregation. Still, in the pages of the *New York Age* the writer and civil rights advocate James Weldon Johnson considered a moderate

Essential Quotes

"Such segregation was a public humiliation and degradation, entirely unmerited and far-reaching in its injurious effects, a gratuitous blow against ever-loyal citizens and against those many of whom aided and supported your elevation to the presidency of our common country."

(Paragraph 1)

"Because we cannot believe you capable of any disregard of your pledges we have been sent by the alarmed American citizens of color. They realize that if they can be segregated and thus humiliated by the national government at the national capital the beginning is made for the spread of that persecution and prosecution which makes property and life itself insecure in the South, the foundation of the whole fabric of their citizenship is unsettled."

(Paragraph 5)

"Fellow citizenship means congregation. Segregation destroys fellowship and citizenship."

(Paragraph 9)

"As equal citizens and by virtue of your public promises we are entitled at your hands to freedom from discrimination, restriction, imputation and insult in government employ. Have you a 'new freedom' for white Americans and a new slavery for your Afro-American fellow citizens? God forbid!"

(Paragraph 10)

on issues of racial justice who worked actively within the "system" to achieve justice and equality for African Americans praised Trotter's stance in principle while disagreeing with his particular tactics. Although segregation continued in the departments of the federal government, scholars credit Trotter with blunting its spread in bringing national attention to the subject. The Wilson administration retreated in the encounter's aftermath.

Although no substantial change in federal segregation policy occurred in the immediate aftermath of the meeting, it was evident that a clear message had been sent to the White House. The Wilson administration, in the period following the meeting, recoiled regarding matters of race, while the black press focused less and less on the subject for about two years. The race question slipped into the background in the years leading up to World War I, as African Americans hoped that their support for America's participation in the war would demonstrate their patriotism and win for them equality and acceptance. In the interim, Booker T. Washington died in 1915, leaving somewhat of a leadership vacuum in black America. Then, by 1916, the United States was drawing closer to the ongoing European war, reopening national discussion regarding race matters and American citizenship.

See also Booker T. Washington's Atlanta Exposition Address (1895); *Plessy v. Ferguson* (1896); W. E. B. Du Bois: *The Souls of Black Folk* (1903); Niagara Movement Declaration of Principles (1905).

Further Reading

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Zachery Williams

Questions for Further Study

1. What circumstances do you think might have led to so much racial unrest during the 1910s? Why do some historians regard this decade as among the worst in the nation's history with regard to race?

2. Describe the ideological struggle between such figures as Booker T. Washington and William Monroe Trotter. What was the source of this struggle? What impact did it have on African Americans?

3. Historians regard Woodrow Wilson as a "progressive" president, but his progressivism did not appear to extend to issues of race. What do you think might explain that? What would make a "progressive" president praise a movie glorifying the Ku Klux Klan?

4. A century-plus earlier, another African American leader directly challenged his president. Compare this document to Benjamin Banneker's Letter to Thomas Jefferson, written in 1791. What do you think Banneker's attitude toward Trotter's protest would have been? What differing tactics did the two writers use in addressing their presidents?

5. In what ways did World War I complicate race relations in the United States? How might these complications have influenced both Trotter and Wilson in their meetings?

Document Text

Monroe Trotter's Protest to Woodrow Wilson

One year ago we presented a national petition, signed by Afro-Americans in thirty-eight states, protesting against the segregation of employees of the National government whose ancestry could be traced in whole or in part to Africa, as instituted under your administration in the treasury and post-office departments. We then appealed to you to undo this race segregation in accord with your duty as president and with your pre-election pledges. We stated that there could be no freedom, no respect from others, and no equality of citizenship under segregation for races, especially when applied to but one of many racial elements in the government employ. For such placement of employes means a charge by the government of physical indecency or infection, or of being a lower order of beings, or a subjection to the prejudices of other citizens, which constitutes inferiority of status. We protested such segregation as to working conditions, eating tables, dressing rooms, rest rooms, lockers and especially public toilets in government buildings. We stated that such segregation was a public humiliation and degradation, entirely unmerited and far-reaching in its injurious effects, a gratuitous blow against ever-loyal citizens and against those many of whom aided and supported your elevation to the presidency of our common country.

At that time you stated you would investigate conditions for yourself. Now, after the lapse of a year, we have come back having found that all the forms of segregation of government employes of African extraction are still practiced in the treasury and postoffice department buildings, and to a certain extent have spread into other government buildings.

Under the treasury department, in the bureau of engraving and printing there is segregation not only in dressing rooms, but in working positions, Afro-American employes being herded at separate tables, in eating, and in toilets. In the navy department there is herding at desks and separation in lavatories. In the postoffice department there is separation in work for Afro-American women in the alcove on the eighth floor, of Afro-American men in rooms on the seventh floor, with forbidding even of entrance into an adjoining room occupied by white clerks on the seventh floor, and of Afro-American men in separate rooms just instituted on the sixth floor, with separate lavatories for Afro-American men on the eighth floor; in the main treasury building in separate lavatories in the basement; in the interior department separate lavatories, which were specifically pointed out to you at our first hearing; in the state and other departments separate lavatories; in marine hospital service building in separate lavatories, though there is but one Afro-American clerk to use it; in the war department in separate lavatories in the postoffice department building separate lavatories; in the sewing and bindery divisions of the government printing office on the fifth floor there is herding at working positions of Afro-American women and separation in lavatories, and new segregation instituted by the division chief since our first audience with you This lavatory segregation is the most degrading, most insulting of all. Afro-American employes who use the regular public lavatories on the floors where they work are cautioned and are then warned by superior officers against insubordination.

We have come by vote of this league to set before you this definite continuance of race segregation and to renew the protest and to ask you to abolish segregation of Afro-American employes in the executive department.

Because we cannot believe you capable of any disregard of your pledges we have been sent by the alarmed American citizens of color. They realize that if they can be segregated and thus humiliated by the national government at the national capital the beginning is made for the spread of that persecution and prosecution which makes property and life itself insecure in the South, the foundation of the whole fabric of their citizenship is unsettled.

They have made plain enough to you their opposition to segregation last year by a national anti-segregation petition, this year by a protest registered at the polls, voting against every Democratic candidate save those outspoken against segregation. The only Democrat elected governor in the eastern states, was Governor Walsh of Massachusetts, who appealed to you by letter to stop segregation. Thus have the Afro-Americans shown how they detest segregation.

In fact, so intense is their resentment that the movement to divide this solid race vote and make

Document Text

peace with the national Democracy, so suspiciously revived when you ran for the presidency, and which some of our families for two generations have been risking all to promote, bids fair to be undone.

Only two years ago you were heralded as perhaps the second Lincoln, and now the Afro-American leaders who supported you are hounded as false leaders and traitors to their race. What a change segregation has wrought!

You said that your "Colored fellow citizens could depend upon you for everything which would assist in advancing the interests of their race in the United States." Consider this pledge in the face of the continued color segregation! Fellow citizenship means congregation. Segregation destroys fellowship and citizenship. Consider that any passerby on the streets of the national capital, whether he be black or white, can enter and use the public lavatories in government buildings while citizens of color who do the work of the government are excluded.

As equal citizens and by virtue of your public promises we are entitled at your hands to freedom from discrimination, restriction, imputation and insult in government employ. Have you a "new freedom" for white Americans and a new slavery for your Afro-American fellow citizens? God forbid!

We have been delegated to ask you to issue an executive order against any and all segregation of government employes because of race and color, and to ask whether you will do so. We await your reply, that we may give it to the waiting citizens of the United States of African extraction.

Glossary

bureau of engraving and printing	a federal agency, part of the Treasury Department, that produces paper currency, government bonds, postage stamps, and various other official documents
Governor Walsh	David Ignatius Walsh, the isolationist governor of Massachusetts who argued for film censorship in his state in response to *The Birth of a Nation*, a film glorifying the Ku Klux Klan that Wilson had approved of
this league	the National Independent Equal Rights League

Edward White (AP/Wide World Photos)

Guinn v. United States

1915

"While ... the [Fifteenth] Amendment gives no right of suffrage, ... its prohibition might measurably have that effect."

Overview

In the 1915 Supreme Court case *Frank Guinn and J. J. Beal v. United States*, Chief Justice Edward White held that the grandfather clause, an amendment to Oklahoma's constitution, limited black suffrage and was therefore invalid. The case also applied to Maryland's constitution, which had a similar clause. The grandfather clause worked in conjunction with a literacy test to deprive African Americans of the right to vote. The literacy test stipulated that all voters be able to read, but the grandfather clause lifted literacy test requirements for anyone who was otherwise qualified to vote anywhere in the United States on January 1, 1866. The clause was particularly galling to African Americans in Oklahoma, as that state had not even existed in 1866. The literacy test additionally discriminated against African Americans, since it was very subjective and was applied by white southern registrars.

The U.S. Supreme Court held that Oklahoma's grandfather clause was unconstitutional, because it violated the spirit of the Fifteenth Amendment, ratified in 1870, which granted former slaves the right to vote. The Court's ruling had little direct effect on the extension of voting rights to African Americans in Oklahoma, however: The state simply passed a new statute, disenfranchising all those who did not register to vote during a brief, two-week window in 1916, except those who had voted in 1914. Thus, all voting whites could still vote, but all of the previously disenfranchised blacks were still disenfranchised, unless they had been able to work their way through the system in a two-week period.

Context

The *Guinn* case was one of the first major court cases in which the National Association for the Advancement of Colored People (NAACP) played a role, filing a brief, and represented one of the few times in the early twentieth century when the federal government appeared on the side of African Americans in a legal battle. *Guinn* was also one of the first challenges to discriminatory voting laws, which had been restricting voting rights to certain segments of American society for more than forty years. The first such laws appeared in the post Civil War Reconstruction period. African Americans and poor whites gained allies in the White House when the Republican Party the party of Abraham Lincoln took power in 1860; meanwhile, southern Democrats supporters of segregationist policies at that time vowed to wrest their power back using any and all means to achieve their ends. Despite the fact that the ratification of the Fifteenth Amendment to the U.S. Constitution in the spring of 1870 had granted all male citizens the right to vote regardless of race, color, or prior slave status, violence and threats of violence were often used and suggested by Democrats over the next decade to keep Republicans, particularly black Republicans, from voting. As a result, all of the southern states had Democratic legislatures by the late 1870s.

Efforts continued in subsequent years to eliminate all African Americans and many poor whites from the voting ranks, leading to the growth of the Populist movement. This biracial groundswell stemmed from a financial crisis and labor unrest in the United States that resulted in the failure of businesses throughout the country, particularly many small farms in the South and the West. Channeling the anger of America's small farmers and other laborers who wanted reform, the Populist movement pushed for policy changes that would empower the nation's workers, both black and white, and protect small businesses from corrupt corporate interests. Reform and Fusion tickets won often in the South (and the West) in the early 1890s. Fusion politics refers to the combined power of the Republican and Populist parties at the end of the nineteenth century. In response, wealthy whites interested in seeing a resurgence of the Democratic Party organized mobs to drive African Americans from the polls. Many states adopted constitutional amendments in the late 1890s and early 1900s designed specifically to disenfranchise blacks and to limit the voting of poor whites. All of the previous restrictions on voting rights were retained and even more were added.

It was in the midst of this political clash that Oklahoma became the forty-sixth state in the Union in late 1907. The region came late into statehood, because much of its land had been set aside for Native American reservations until the 1890s. In 1910 Oklahoma adopted a constitutional amendment that tied the voting rights of its citizens to the

Time Line

1860

- **November 6**
  Abraham Lincoln is the first Republican to be elected president of the United States.

1865

- The end of the Civil War leads to Reconstruction in the American South.

1870

- **Spring**
  The Fifteenth Amendment to the U.S. Constitution is ratified, giving all male citizens the right to vote regardless of race, color, or previous slave status; most African American men are able to vote for a time.

1877

- The Compromise of 1877 removes federal troops from the South and ends any chance that African Americans will receive fair treatment; the South effectively becomes a one-party state, with the Democratic Party being fully behind white supremacy.

1896

- **May 18**
  In its decision in the case of *Plessy v. Ferguson*, the U.S. Supreme Court upholds the legality of "separate but equal" segregation adopted throughout the South.

1898

- **April 25**
  In the case of *Williams v. Mississippi*, the U.S. Supreme Court upholds literacy and understanding qualifications established by some states to determine voter eligibility, because on their face the clauses do not discriminate against African Americans.

1907

- **November 16**
  Oklahoma becomes a state.

1910

- Although the Fifteenth Amendment guarantees all black men the right to vote, an amendment to the Oklahoma constitution effectively bars African Americans from voting in that state.

successful completion of a literacy test. However, certain individuals almost always whites were able to circumvent the literacy test requirement because of an exception known as the grandfather clause, which guaranteed descendants of eligible voters the right to vote without question. The amendment used a date of January 1 of the year after the end of the Civil War as the date for which a voter was required to prove that an ancestor presumably a grandfather was qualified to vote. Prospective voters who were unable to satisfy the terms of the grandfather clause were forced to prove their literacy. Maryland's grandfather clause, tested also in the case of *Guinn v. United States*, was adopted in 1908, just a couple of years before Oklahoma's.

The grandfather clause had little effect on the right to vote for most whites, but it served as a barrier to the ballot box for African American voters. Freedmen and all men of color were not guaranteed the right to vote until the passage of the Fifteenth Amendment in 1870 four years after the date specified in the grandfather clause. The Oklahoma state government claimed that the clause did not discriminate against voters on the basis of their race; the term *race* was not even mentioned in the text. Clearly, however, the voting rights of African Americans, not whites, were most threatened by the terms of the statute. In fact, the grandfather clause and similar voting restrictions generally had loopholes to protect white voters. Typically, a person who owned property or paid sufficient taxes was considered exempt from the clause; because the rate of property ownership was higher among whites than blacks, this exception adversely affected potential black voters.

It should be noted, however, that the grandfather clause (and the literacy test used in Oklahoma) were not the only methods employed to disenfranchise blacks. Among other techniques was the poll tax, an annual per-person fee that had to be paid before a ballot could be cast in any election. In effect, the poll tax added an economic dimension to the social inequities encountered by African Americans seeking to exercise their right to vote. At about a dollar per person, the tax placed a financial burden on a segment of the population with little or no money to spare. In addition to making the payment, voters were required to prove that they had paid the tax each year for as long as they had resided in the state; however, records and receipts for those members of the black community who managed to pay the poll tax were often lost or never entered in official logs. Taken together, these provisions effectively denied the right of suffrage to African Americans in the South.

It was in this context that the case of *Guinn v. United States* came to the Supreme Court. Black citizens of Oklahoma had voiced complaints to the U.S. Justice Department concerning the enormous amount of racial violence surrounding the Oklahoma elections of 1910, which served to discourage blacks from voting. In light of the brutal and discriminatory atmosphere of the elections, U.S. Attorney John Embry, along with fellow U.S. Attorney William R. Gregg, indicted two Oklahoma elections officials, J. J. Beal and Frank Guinn, on criminal charges of depriving people of their rights under the Constitution and federal law. Con-

trary to most expectations, the officials were convicted of civil rights violations on September 29, 1911 despite the fact that they had been enforcing an amendment to the Oklahoma state constitution. The two officials took the case to the U.S. Court of Appeals, claiming that they should not be prosecuted for upholding the law of their state. The Court of Appeals sent the case on to the Supreme Court in 1913, and it was decided on June 21, 1915.

About the Author

Chief Justice Edward Douglass White, Jr., was born November 3, 1845, in Louisiana and served in the Confederate army during the Civil War. After that service, he returned to his parents' sugarcane plantation and began to study law. Practicing in Louisiana after joining the bar in 1868, he briefly served in the state senate and then on the Louisiana Supreme Court before returning to his legal practice in 1880. In 1891, White was elected to the U.S. Senate; three years later he was appointed to the U.S. Supreme Court, and in 1910 he became the Court's chief justice. A southern Democrat, White was the second Catholic to serve as a Supreme Court justice.

Although White had sided with the majority in the 1896 case of *Plessy v. Ferguson*, which upheld segregation in public transportation and in general by establishing the "separate but equal" clause, he went on to author the *Guinn v. United States* decision in 1915. In 1917, White agreed with the majority in *Buchanan v. Warley*, a decision that held a residential segregation law in Louisville, Kentucky, illegal. The common thread between the latter two cases, and the difference between them and *Plessy*, is that the law in the cases of both *Buchanan* and *Guinn* directly and clearly discriminated against African Americans, whereas in *Plessy* the law was explained away by the majority as being unbiased on its face. After *Guinn*, White served as chief justice for another six years. He died on May 19, 1921.

Explanation and Analysis of the Document

At issue in the U.S. Supreme Court case of *Guinn v. United States* was whether grandfather clauses had been deliberately enacted by state governments to deny African Americans their right to vote. Two Oklahoma election officials, Frank Guinn and J. J. Beal, had been charged with violating federal law by conspiring to deprive black Oklahomans of their voting rights in a general election held in 1910. Following the convictions of both men by a jury in an Oklahoma district court a year later, the *Guinn* case was brought before the Supreme Court on appeal in 1913. *Guinn v. United States* forced the highest court in the nation to examine the combined use of grandfather clauses and literacy tests as prerequisites to voting; specifically, the application of such tests in Oklahoma and Maryland was analyzed for fairness amid charges that black voters had been subjected to racial discrimination at the ballot box.

Time Line

1915

- **June 21**
  In *Guinn v. United States*, the Supreme Court voids the grandfather clause as a violation of the Fifteenth Amendment.

1916

- Oklahoma gets around the meaning of the *Guinn* decision by allowing all people who voted in 1914 to be automatically reregistered, while forcing all who had not—namely, African Americans—to register within a two-week window or face a permanent bar to the registration process.

1944

- **April 3**
  In one of the first voting rights victories since the *Guinn* case, the Supreme Court, in *Smith v. Allwright*, strikes down the whites-only primary in Texas, which had made blacks ineligible to vote for the nomination of Democratic Party candidates for the U.S. Senate, the House of Representatives, and the office of governor.

1964

- **January 23**
  The passage of the Twenty-fourth Amendment leads to the end of the poll tax in federal elections.
- **July 2**
  The Civil Rights Act of 1964 is signed by President Lyndon Baines Johnson.

1965

- **August 6**
  The Voting Rights Act of 1965 is passed to enforce the Fifteenth Amendment to the U.S. Constitution.

1966

- **March 24**
  The Supreme Court, endorsing a sweeping view of federal power in *Harper v. Virginia Board of Elections*, holds that the poll tax at the state level violates the equal protection clause of the Fourteenth Amendment.

Before voting, a black voter had to prove his literacy to the satisfaction of a white registrar. Whites were generally exempt from the test by the grandfather clause, which waived the need for a voter to display his literacy if his grandfather had been eligible to vote in 1866. African American voters could not satisfy this requirement because suffrage had not yet been granted to freedmen in 1866. And so blacks, at the discretion of a white registrar, might be asked to read a book in Greek or submit to a general knowledge test about a provision in either the state's constitution or the U.S. Constitution. In some southern states, general knowledge provisions were imposed by election officials, with registrars asking prospective voters such questions as "How many bubbles are there in a bar of soap?" The adequacy of a black voter's response to such questions was determined solely by the registrar.

Before the text of Chief Justice Edward White's opinion in *Guinn v. United States* is a syllabus summarizing the key points of the lower court's decision. Justice White then quotes the laws backing up the Fifteenth Amendment, discusses the election officials' trial, reiterates the jury instructions given at that trial, and lays out the responsibility of the Supreme Court in the case: "Let us at once consider and sift the propositions of the United States, on the one hand, and of the plaintiffs in error, on the other, in order to reach with precision the real and final question to be considered." That question, according to White, boils down to whether or not the state amendment creating the grandfather clause was valid and whether the law itself was invalid because it violated the Fifteenth Amendment. White examines the arguments on each side of the case and ends with justifications for his conclusions.

Justice White's opinion begins by noting that two election officials were charged with violating the federal law by denying "certain negro citizens" the right to vote based on the color of their skin. The Thirteenth Amendment, passed in late 1865, had abolished slavery in the United States, but the South's refusal to guarantee basic human rights to emancipated slaves forced the adoption of the Fourteenth Amendment, granting citizenship to all freedmen. Abuses continued, however, and the Republican Party in the South was seriously weakened because its large African American voting base was being denied the right to vote on a variety of technicalities. The Fifteenth Amendment to the U.S. Constitution was designed to further safeguard the rights of newly freed slaves by removing obstacles to their voting. The chief justice quotes the language of the Fifteenth Amendment, which was ratified soon after the end of the Civil War: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." Black suffrage seems to be spelled out quite clearly by the text of this amendment, but that was not the case. *Guinn v. United States* tested the power of the Fifteenth Amendment against the rights of states to establish their own standards for suffrage.

After stating the law, the Court then looks back at the claims of each side represented in the original case. Representing the United States was U.S. solicitor general John Davis, who appeared before the Court to challenge the Oklahoma amendment. Davis argued that Oklahoma's provision had the effect of denying the right to vote based on race and should be struck down as a violation of the Fifteenth Amendment, regardless of whether the law was explicitly in violation of that constitutional provision. The defense, however, argued for state sovereignty not state sovereignty in terms of states being allowed to ignore the Fifteenth Amendment, but sovereignty in terms of their being able to set their own qualifications for voting. As the law in question did not specifically use race as a standard, the state contended that it should be allowed. The federal government, the defendants argued, should not be able to read a motive into the act or state that the effect of the law made an otherwise lawful act invalid. The defendants also claimed that the fact that no blacks qualified to vote under the law was not due to the law but due to their inability to read. It should be noted that no defense was noted by the Supreme Court as to why a date of January 1, 1866, was picked if the point were not to force all black voters to take the test.

The Supreme Court argues here that suffrage and qualifications put upon suffrage were state issues and that their position in this case did not limit that state power in any way. Of course, state regulations like this one that blatantly violated the Fifteenth Amendment were still being challenged, but otherwise the federal government left most decisions to the states alone. The Court then considers the literacy test, stating that it would not challenge the state's right to administer such a test. The only challenge was the use of the law to try to bypass the intended meaning of the Fifteenth Amendment.

Justice White continues his opinion with the enumeration of three key questions: Did the grandfather clause law violate the Fifteenth Amendment? Did the amendment, choosing January 1, 1866 as the date to use for the grandfather clause, mean what the government said it did? And would the striking down of the grandfather clause make the rest of the literacy test invalid? The rest of Justice White's opinion sought to answer to those questions.

The Court, in answering the first question, notes that the Fifteenth Amendment still allows room for the state to manage the business of voting; state-imposed literacy tests, then, remain lawful. It is important to evaluate this decision in the proper context: It embodies an era during which states wielded great power. The reach of the Fourteenth Amendment to prohibit racial bias at the state level was still very limited, and the use of the amendment to curtail the actions of state legislatures, unless they were directly and blatantly biased, did not occur for another three decades, when the Supreme Court decided *Shelley v. Kraemer* (1948), holding that courts could not enforce racially based private restrictive covenants.

In his explanation of what the Fifteenth Amendment says about suffrage, White holds that the state still has full power over suffrage qualifications, with the exception of those qualifications based on "race, color, or previous condition of servitude." He goes on to say that while no right

Commemorative print marking the enactment on March 30, 1870, of the Fifteenth Amendment (Library of Congress)

to vote is directly created by the amendment, that right might still result when discriminatory rules are struck down by the amendment, which the Court held to be self-executing. White takes exception to the intent of Oklahoma's grandfather clause, pointing out that for a brief period of time prior to the adoption of the clause the hurdles to African American suffrage, while still present, were actually lower. According to White, there was no doubt that the statute had been adopted as an attempt to get around the Fifteenth Amendment. For that reason, the amendment to the Oklahoma constitution ran into direct conflict with the federal constitutional amendment.

Regarding the date the amendment to the Oklahoma Constitution was adopted, White again theorizes that the only possible reason for using the date of January 1, 1866, was to bypass the rights implied in the Fifteenth Amendment. Although the language of the grandfather clause does not refer to skin color or prior slave status, its clear purpose was to avoid granting suffrage to former slaves. As White puts it, the very use of that date shows a "direct and positive disregard of the 15th Amendment." The Court also considered whether anything had occurred in 1866 other than the granting of the right to vote to blacks in some areas (and throughout the nation four years later with the passage of the Fifteenth Amendment) that would cause a state to return its voting status to a time prior to that date. In other words, the opinion states that there was no legal change to suffrage in 1866 other than granting slaves the right to vote. If the date had been based on some other, potentially more reasonable (in the eyes of the Court) state intention, the Court might still have considered the grandfather clause law valid. No such reason was found, however.

Finally the Court examined the literacy test, but not to determine whether it disparately affected African Americans, as that was not a concern of the court at the time. Actually, at this point in history, the Court also ignored laws that produced obvious disadvantages for black voters, such as the white primary created in Texas and other states. There, the Democratic Party was by far the majority party, and so the primary to nominate party candidates was even more important than the election, in which candidates from the various parties squared off against each other. In other decisions, the

Essential Quotes

"The suffrage and literacy tests in the amendment of 1910 to the constitution of Oklahoma are so connected with each other that the unconstitutionality of the former renders the whole amendment invalid."

"Beyond doubt the Amendment does not take away from the state governments in a general sense the power over suffrage which has belonged to those governments from the beginning.… In fact, the very command of the Amendment recognizes the possession of the general power by the state, since the Amendment seeks to regulate its exercise as to the particular subject with which it deals."

"While in the true sense, therefore, the [Fifteenth] Amendment gives no right of suffrage, it was long ago recognized that in operation its prohibition might measurably have that effect."

"We seek in vain for any ground which would sustain any other interpretation but that the provision … [makes the date of 1866] the basis of the right to suffrage conferred in direct and positive disregard of the 15th Amendment."

Supreme Court allowed the Democratic Party to limit primary voting to whites and ignored the connection of the party to the state. It was not until 1944 that the white primary was finally struck down. Thus, the court's decision here to consider the literacy test in the abstract is not surprising.

In *Guinn v. United States*, the literacy test used in Oklahoma was directly intertwined with the state's grandfather clause, and so the question was whether the grandfather clause could be struck down while allowing the literacy test to still operate. Justice White states that, in general, the Court would rely on state court decisions in areas like this, but he also points out that no such decision had yet been made. He asks what the impact of the decision already announced striking down the grandfather clause would be on the literacy test. The Court holds that the statute contradicted itself once the grandfather clause was removed, as without the grandfather clause all people would be subjected to the literacy test, which was the exact opposite of the stated goal of the legislation. The stated goal of the legislation was to limit the number of people who had to take the literacy test, and the elimination of the grandfather clause would have once again forced everyone to take the literacy test. Thus, since the legislation, as necessarily amended by the Supreme Court decision, contradicted itself, it must be struck down as a whole, even though literacy tests generally would be allowed.

Literacy tests were used to deprive African Americans of their right to suffrage through the early 1960s, as were comprehension tests covering the federal and state constitutions. Employed unfairly and disproportionately against blacks but rarely given to whites, these tests swayed the results of elections for decades. A half century after the 1915 decision in *Guinn v. United States*, the Voting Rights Act of 1965 did away with impediments to voting by allowing the federal government to appoint registrars in any state where a significant racial disparity in voting registration existed. After the passage of this law, millions more African Americans registered to vote. In 1915, though, such advances were still fifty years in the future.

At the end of his opinion, Justice White addresses an objection made by the defendants to the charge made against them in court. This argument basically states that since the charge had presumed that the suffrage amendment to the Oklahoma constitution was unconstitutional, it

should be thrown out because it had presumed their guilt. However, the Supreme Court replies that since the Fifteenth Amendment was self-executing and clearly in conflict with the suffrage amendment to the Oklahoma constitution, the charge would be allowed. The final complaint was against a conspiracy statute under which the men were arrested. However, that same day the U.S. Supreme Court had upheld the same statute in another case dealing with Oklahoma one concerning election officials who refused to count the votes cast by African Americans. The officials were convicted, and the conviction was upheld, which in turn meant that the statute was acceptable; therefore, the conviction of the defendants in the *Guinn* case was also upheld. It should be noted that the aforementioned cases involving Oklahoma election officials were rooted somewhat in political considerations. The Republican Party was losing political ground, so party officials pushed for the thorough investigation of alleged voting rights abuses. By the end of the nineteenth century, the Republican Party had practically died out throughout the South; the adoption of new constitutions by some southern states around 1900 compounded the party's woes and proved that their concern was not an idle one. Whether motivated by the fear of the party's demise or by a real concern for the rights of those not being allowed to vote, the Republican Party's escalation of suffrage cases to the U.S. Supreme Court was a necessary step in black enfranchisement.

Audience

There are several different audiences for this Supreme Court decision, the most obvious being the parties involved: the U.S. government and the two Oklahoma election officials named in the case, Frank Guinn and J. J. Beal, who had been convicted of civil rights violations. A broader audience was the South as a whole as well as the state of Maryland, which also had a grandfather clause. The nation's black community and the lawyers and members of the NAACP (who, as noted, had filed a brief) were no doubt interested parties, and this case stands as the first twentieth-century victory for African Americans at the Supreme Court level. Historians, scholars, and students of African American culture represent a modern-day audience, one that can see how the nation took its first halting steps toward equality and how limited those steps really were.

Impact

The decision in the case of *Guinn v. United States* had a limited impact on black voting rights at the time it was handed down. Only a few states had such grandfather clauses, as most preferred to restrict African American suffrage more subtly. Even national leaders who supported segregation were opposed to these clauses owing to their deliberate disregard for the spirit of the law. The voters in Oklahoma were not affected by the decision; the Oklahoma state government simply adopted a law allowing all people who had voted in 1914 to vote again, along with whoever could survive a rigorous registration process that was open for only two weeks. Those states with literacy tests could breathe a sigh of relief as well, since the Supreme Court refused to challenge them directly and generally granted full rights to the state to create their own standards for suffrage, as long as they did not blatantly challenge the Fifteenth Amendment.

The more important effect was a long-term one, as the NAACP and others saw that they could win at the Supreme Court level and so continued to press cases to the highest court. *Guinn* also saw the first brief filed by the NAACP, which helped to validate the group's efforts. The NAACP would come to be the premier organization fighting for African Americans' rights through the court system.

Questions for Further Study

1. What is a grandfather clause as it pertains to voting rights, and how did grandfather clauses interfere with the voting rights of African Americans? What was particularly unfair about Oklahoma's grandfather clause?

2. What methods besides grandfather clauses were used to interfere with black voting rights during this era and beyond?

3. On what basis did the U.S. Supreme Court find the Oklahoma statute in question unconstitutional?

4. What was the short-term effect of the Court's decision? What, if any, was the long-term effect?

5. What role, if any, did party politics play in the events surrounding *Guinn v. United States*. Consider not only the Republican and Democratic parties but the Populist Party as well.

See also Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); *Plessy v. Ferguson* (1896); Civil Rights Act of 1964.

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GUINN V. UNITED STATES

Syllabus

The so-called Grandfather Clause of the amendment to the constitution of Oklahoma of 1910 is void because it violates the Fifteenth Amendment to the Constitution of the United States.

The Grandfather Clause being unconstitutional, and not being separable from the remainder of the amendment to the constitution of Oklahoma of 1910, that amendment as a whole is invalid.

The Fifteenth Amendment does not, in a general sense, take from the States the power over suffrage possessed by the States from the beginning, but it does restrict the power of the United States or the States to abridge or deny the right of a citizen of the United States to vote on account of race, color or previous condition of servitude. While the Fifteenth Amendment gives no right of suffrage, as its command is self-executing, rights of suffrage may be enjoyed by reason of the striking out of discriminations against the exercise of the right.

A provision in a state constitution recurring to conditions existing before the adoption of the Fifteenth Amendment and the continuance of which conditions that amendment prohibited, and making those conditions the test of the right to the suffrage, is in conflict with, and void under, the Fifteenth Amendment.

The establishment of a literacy test for exercising the suffrage is an exercise by the State of a lawful power vested in it not subject to the supervision of the Federal courts.

Whether a provision in a suffrage statute may be valid under the Federal Constitution if it is so connected with other provisions that are invalid as to make the whole statute unconstitutional is a question of state law, but, in the absence of any decision by the state court, this court may, in a case coming from the Federal courts, determine it for itself.

The suffrage and literacy tests in the amendment of 1910 to the constitution of Oklahoma are so connected with each other that the unconstitutionality of the former renders the whole amendment invalid.

The facts, which involve the constitutionality under the Fifteenth Amendment of the Constitution of the United States of the suffrage amendment to the constitution of Oklahoma, known as the Grandfather Clause, and the responsibility of election officers under § 5508, Rev.Stat., and § 19 of the Penal Code for preventing people from voting who have the right to vote, are stated in the opinion.

Mr. Chief Justice White delivered the opinion of the court

This case is before us on a certificate drawn by the court below as the basis of two questions which are submitted for our solution in order to enable the court correctly to decide issues in a case which it has under consideration. Those issues arose from an indictment and conviction of certain election officers of the State of Oklahoma (the plaintiffs in error) of the crime of having conspired unlawfully, willfully and fraudulently to deprive certain negro citizens, on account of their race and color, of a right to vote at a general election held in that State in 1910, they being entitled to vote under the state law and which right was secured to them by the Fifteenth Amendment to the Constitution of the United States. The prosecution was directly concerned with §5508, Rev.Stat., now §19 of the Penal Code which is as follows:

"If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same, or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than five thousand dollars and imprisoned not more than ten years, and shall, moreover, be thereafter ineligible to any office or place of honor, profit, or trust created by the Constitution or laws of the United States."

We concentrate and state from the certificate only matters which we deem essential to dispose of the questions asked.

Suffrage in Oklahoma was regulated by §1, Article III of the Constitution under which the State was admitted into the Union. Shortly after the admission,

there was submitted an amendment to the Constitution making a radical change in that article which was adopted prior to November 8, 1910. At an election for members of Congress which followed the adoption of this Amendment, certain election officers, in enforcing its provisions, refused to allow certain negro citizens to vote who were clearly entitled to vote under the provision of the Constitution under which the State was admitted, that is, before the amendment, and who, it is equally clear, were not entitled to vote under the provision of the suffrage amendment if that amendment governed. The persons so excluded based their claim of right to vote upon the original Constitution and upon the assertion that the suffrage amendment was void because in conflict with the prohibitions of the Fifteenth Amendment, and therefore afforded no basis for denying them the right guaranteed and protected by that Amendment. And upon the assumption that this claim was justified and that the election officers had violated the Fifteenth Amendment in denying the right to vote, this prosecution, as we have said, was commenced. At the trial, the court instructed that, by the Fifteenth Amendment, the States were prohibited from discriminating as to suffrage because of race, color, or previous condition of servitude, and that Congress, in pursuance of the authority which was conferred upon it by the very terms of the Amendment to enforce its provisions, had enacted the following (Rev.Stat., §2004):

"All citizens of the United States who are otherwise qualified by law to vote at any election by the people of any State, Territory, district, … municipality, … or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority to the contrary notwithstanding."

It then instructed as follows:

"The State amendment which imposes the test of reading and writing any section of the State constitution as a condition to voting to persons not on or prior to January 1, 1866, entitled to vote under some form of government, or then resident in some foreign nation, or a lineal descendant of such person, is not valid, but you may consider it insofar as it was in good faith relied and acted upon by the defendants in ascertaining their intent and motive. If you believe from the evidence that the defendants formed a common design and cooperated in denying the colored voters of Union Township precinct, or any of them, entitled to vote, the privilege of voting, but this was due to a mistaken belief sincerely entertained by the defendants as to the qualifications of the voters that is, if the motive actuating the defendants was honest, and they simply erred in the conception of their duty then the criminal intent requisite to their guilt is wanting, and they cannot be convicted. On the other hand, if they knew or believed these colored persons were entitled to vote, and their purpose was to unfairly and fraudulently deny the right of suffrage to them, or any of them entitled thereto, on account of their race and color, then their purpose was a corrupt one, and they cannot be shielded by their official positions."

The questions which the court below asks are these:

"1. Was the amendment to the constitution of Oklahoma, heretofore set forth, valid?"

"2. Was that amendment void insofar as it attempted to debar from the right or privilege of voting for a qualified candidate for a Member of Congress in Oklahoma, unless they were able to read and write any section of the constitution of Oklahoma, negro citizens of the United States who were otherwise qualified to vote for a qualified candidate for a Member of Congress in that State, but who were not, and none of whose lineal ancestors was entitled to vote under any form of government on January 1, 1866, or at any time prior thereto, because they were then slaves?"

As these questions obviously relate to the provisions concerning suffrage in the original constitution and the amendment to those provisions which forms the basis of the controversy, we state the text of both. The original clause, so far as material, was this:

"The qualified electors of the State shall be male citizens of the United States, male citizens of the State, and male persons of Indian descent native of the United States, who are over the age of twenty-one years, who have resided in the State one year, in the county six months, and in the election precinct thirty days, next preceding the election at which any such elector offers to vote."

And this is the amendment:

"No person shall be registered as an elector of this State or be allowed to vote in any election herein, unless he be able to read and write any section of the constitution of the State of Oklahoma; but no person who was, on January 1, 1866, or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation, and no lineal descendant of such person,

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shall be denied the right to register and vote because of his inability to so read and write sections of such constitution. Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this section at the time of registration, provided registration be required. Should registration be dispensed with, the provisions of this section shall be enforced by the precinct election officer when electors apply for ballots to vote."

Considering the questions in the right of the text of the suffrage amendment, it is apparent that they are two-fold, because of the two-fold character of the provisions as to suffrage which the amendment contains. The first question is concerned with that provision of the amendment which fixes a standard by which the right to vote is given upon conditions existing on January 1, 1866, and relieves those coming within that standard from the standard based on a literacy test which is established by the other provision of the amendment. The second question asks as to the validity of the literacy test and how far, if intrinsically valid, it would continue to exist and be operative in the event the standard based upon January 1, 1866, should be held to be illegal as violative of the Fifteenth Amendment.

To avoid that which is unnecessary, let us at once consider and sift the propositions of the United States, on the one hand, and of the plaintiffs in error, on the other, in order to reach with precision the real and final question to be considered. The United States insists that the provision of the amendment which fixes a standard based upon January 1, 1866, is repugnant to the prohibitions of the Fifteenth Amendment because, in substance and effect, that provision, if not an express, is certainly an open, repudiation of the Fifteenth Amendment, and hence the provision in question was stricken with nullity in its inception by the self-operative force of the Amendment, and, as the result of the same power, was at all subsequent times devoid of any vitality whatever.

For the plaintiffs in error, on the other hand, it is said the States have the power to fix standards for suffrage, and that power was not taken away by the Fifteenth Amendment, but only limited to the extent of the prohibitions which that Amendment established. This being true, as the standard fixed does not in terms make any discrimination on account of race, color, or previous condition of servitude, since all, whether negro or white, who come within its requirements enjoy the privilege of voting, there is no ground upon which to rest the contention that the provision violates the Fifteenth Amendment. This, it is insisted, must be the case unless it is intended to expressly deny the State's right to provide a standard for suffrage, or, what is equivalent thereto, to assert: a, that the judgment of the State exercised in the exertion of that power is subject to Federal judicial review or supervision, or b, that it may be questioned and be brought within the prohibitions of the Amendment by attributing to the legislative authority an occult motive to violate the Amendment or by assuming that an exercise of the otherwise lawful power may be invalidated because of conclusions concerning its operation in practical execution and resulting discrimination arising therefrom, albeit such discrimination was not expressed in the standard fixed or fairly to be implied, but simply arose from inequalities naturally inhering in those who must come within the standard in order to enjoy the right to vote.

On the other hand, the United States denies the relevancy of these contentions. It says state power to provide for suffrage is not disputed, although, of course, the authority of the Fifteenth Amendment and the limit on that power which it imposes is insisted upon. Hence, no assertion denying the right of a State to exert judgment and discretion in fixing the qualification of suffrage is advanced, and no right to question the motive of the State in establishing a standard as to such subjects under such circumstances or to review or supervise the same is relied upon, and no power to destroy an otherwise valid exertion of authority upon the mere ultimate operation of the power exercised is asserted. And, applying these principles to the very case in hand, the argument of the Government, in substance, says: no question is raised by the Government concerning the validity of the literacy test provided for in the amendment under consideration as an independent standard, since the conclusion is plain that that test rests on the exercise of state judgment, and therefore cannot be here assailed either by disregarding the State's power to judge on the subject or by testing its motive in enacting the provision. The real question involved, so the argument of the Government insists, is the repugnancy of the standard which the amendment makes, based upon the conditions existing on January 1, 1866, because, on its face and inherently, considering the substance of things, that standard is a mere denial of the restrictions imposed by the prohibitions of the Fifteenth Amendment, and by necessary result, recreates and perpetuates the very conditions which the Amendment was intended to destroy.

From this, it is urged that no legitimate discretion could have entered into the fixing of such standard which involved only the determination to directly set at naught or by indirection avoid the commands of the Amendment. And it is insisted that nothing contrary to these propositions is involved in the contention of the Government that, if the standard which the suffrage amendment fixes based upon the conditions existing on January 1, 1866, be found to be void for the reasons urged, the other and literacy test is also void, since that contention rests not upon any assertion on the part of the Government of any abstract repugnancy of the literacy test to the prohibitions of the Fifteenth Amendment, but upon the relation between that test and the other as formulated in the suffrage amendment, and the inevitable result which it is deemed must follow from holding it to be void if the other is so declared to be.

Looking comprehensively at these contentions of the parties, it plainly results that the conflict between them is much narrower than it would seem to be because the premise which the arguments of the plaintiffs in error attribute to the propositions of the United States is by it denied. On the very face of things, it is clear that the United States disclaims the gloss put upon its contentions by limiting them to the propositions which we have hitherto pointed out, since it rests the contentions which it makes as to the assailed provision of the suffrage amendment solely upon the ground that it involves an unmistakable, although it may be a somewhat disguised, refusal to give effect to the prohibitions of the Fifteenth Amendment by creating a standard which it is repeated, but calls to life the very conditions which that Amendment was adopted to destroy and which it had destroyed.

The questions then are: (1) giving to the propositions of the Government the interpretation which the Government puts upon them and assuming that the suffrage provision has the significance which the Government assumes it to have, is that provision, as a matter of law, repugnant to the Fifteenth Amendment? which leads us, of course, to consider the operation and effect of the Fifteenth Amendment. (2) If yes, has the assailed amendment, insofar as it fixes a standard for voting as of January 1, 1866, the meaning which the Government attributes to it? which leads us to analyze and interpret that provision of the amendment. (3) If the investigation as to the two prior subjects establishes that the standard fixed as of January 1, 1866, is void, what, if any, effect does that conclusion have upon the literacy standard otherwise established by the amendment? which involves determining whether that standard, if legal, may survive the recognition of the fact that the other or 1866 standard has not, and never had, any legal existence. Let us consider these subjects under separate headings.

1. *The operation and effect of the Fifteenth Amendment.* This is its text:

"Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

"Section 2. The Congress shall have power to enforce this article by appropriate legislation."

(a) Beyond doubt, the Amendment does not take away from the state governments in a general sense the power over suffrage which has belonged to those governments from the beginning, and without the possession of which power the whole fabric upon which the division of state and national authority under the Constitution and the organization of both governments rest would be without support and both the authority of the nation and the State would fall to the ground. In fact, the very command of the Amendment recognizes the possession of the general power by the State, since the Amendment seeks to regulate its exercise as to the particular subject with which it deals.

(b) But it is equally beyond the possibility of question that the Amendment, in express terms, restricts the power of the United States or the States to abridge or deny the right of a citizen of the United States to vote on account of race, color or previous condition of servitude. The restriction is coincident with the power, and prevents its exertion in disregard of the command of the Amendment.

But, while this is true, it is true also that the Amendment does not change, modify or deprive the States of their full power as to suffrage except, of course, as to the subject with which the Amendment deals and to the extent that obedience to its command is necessary. Thus, the authority over suffrage which the States possess and the limitation which the Amendment imposes are coordinate, and one may not destroy the other without bringing about the destruction of both.

(c) While, in the true sense, therefore, the Amendment gives no right of suffrage, it was long ago recognized that, in operation, its prohibition might measurably have that effect; that is to say, that, as the command of the Amendment was self-executing and reached without legislative action the

Document Text

conditions of discrimination against which it was aimed, the result might arise that as a consequence of the striking down of a discriminating clause a right of suffrage would be enjoyed by reason of the generic character of the provision which would remain after the discrimination was stricken out. *Ex parte Yarbrough*; *Neal v. Delaware*. A familiar illustration of this doctrine resulted from the effect of the adoption of the Amendment on state constitutions in which, at the time of the adoption of the Amendment, the right of suffrage was conferred on all white male citizens, since, by the inherent power of the Amendment, the word white disappeared, and therefore all male citizens, without discrimination on account of race, color or previous condition of servitude, came under the generic grant of suffrage made by the State.

With these principles before us, how can there be room for any serious dispute concerning the repugnancy of the standard based upon January 1, 1866 (a date which preceded the adoption of the Fifteenth Amendment), if the suffrage provision fixing that standard is susceptible of the significance which the Government attributes to it? Indeed, there seems no escape from the conclusion that to hold that there was even possibility for dispute on the subject would be but to declare that the Fifteenth Amendment not only had not the self-executing power which it has been recognized to have from the beginning, but that its provisions were wholly inoperative, because susceptible of being rendered inapplicable by mere forms of expression embodying no exercise of judgment and resting upon no discernible reason other than the purpose to disregard the prohibitions of the Amendment by creating a standard of voting which on its face was, in substance, but a revitalization of conditions which, when they prevailed in the past, had been destroyed by the self-operative force of the Amendment.

2. *The standard of January 1, 1866, fixed in the suffrage amendment and its significance.*

The inquiry, of course, here is, does the amendment as to the particular standard which this heading embraces involve the mere refusal to comply with the commands of the Fifteenth Amendment as previously stated? This leads us for the purpose of the analysis to recur to the text of the suffrage amendment. Its opening sentence fixes the literacy standard, which is all-inclusive, since it is general in its expression and contains no word of discrimination on account of race or color or any other reason. This, however, is immediately followed by the provisions creating the standard based upon the condition existing on January 1, 1866, and carving out those coming under that standard from the inclusion in the literacy test which would have controlled them but for the exclusion thus expressly provided for. The provision is this:

"But no person who was, on January 1, 1866, or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation, and no lineal descendant of such person, shall be denied the right to register and vote because of his inability to so read and write sections of such constitution."

We have difficulty in finding words to more clearly demonstrate the conviction we entertain that this standard has the characteristics which the Government attributes to it than does the mere statement of the text. It is true it contains no express words of an exclusion from the standard which it establishes of any person on account of race, color, or previous condition of servitude prohibited by the Fifteenth Amendment, but the standard itself inherently brings that result into existence, since it is based purely upon a period of time before the enactment of the Fifteenth Amendment, and makes that period the controlling and dominant test of the right of suffrage. In other words, we seek in vain for any ground which would sustain any other interpretation but that the provision, recurring to the conditions existing before the Fifteenth Amendment was adopted and the continuance of which the Fifteenth Amendment prohibited, proposed by, in substance and effect, lifting those conditions over to a period of time after the Amendment to make them the basis of the right to suffrage conferred in direct and positive disregard of the Fifteenth Amendment. And the same result, we are of opinion, is demonstrated by considering whether it is possible to discover any basis of reason for the standard thus fixed other than the purpose above stated. We say this because we are unable to discover how, unless the prohibitions of the Fifteenth Amendment were considered, the slightest reason was afforded for basing the classification upon a period of time prior to the Fifteenth Amendment. Certainly it cannot be said that there was any peculiar necromancy in the time named which engendered attributes affecting the qualification to vote which would not exist at another and different period unless the Fifteenth Amendment was in view.

While these considerations establish that the standard fixed on the basis of the 1866 test is void, they do not enable us to reply even to the first question asked by the court below, since, to do so, we must consider the literacy standard established by

Document Text

the suffrage amendment and the possibility of its surviving the determination of the fact that the 1866 standard never took life, since it was void from the beginning because of the operation upon it of the prohibitions of the Fifteenth Amendment. And this brings us to the last heading:

3. *The determination of the validity of the literacy test and the possibility of its surviving the disappearance of the 1866 standard with which it is associated in the suffrage amendment.*

No time need be spent on the question of the validity of the literacy test, considered alone, since, as we have seen, its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and, indeed, its validity is admitted. Whether this test is so connected with the other one relating to the situation on January 1, 1866, that the invalidity of the latter requires the rejection of the former, is really a question of state law, but, in the absence of any decision on the subject by the Supreme Court of the State, we must determine it for ourselves. We are of opinion that neither forms of classification nor methods of enumeration should be made the basis of striking down a provision which was independently legal, and therefore was lawfully enacted because of the removal of an illegal provision with which the legal provision or provisions may have been associated. We state what we hold to be the rule thus strongly because we are of opinion that, on a subject like the one under consideration, involving the establishment of a right whose exercise lies at the very basis of government, a much more exacting standard is required than would ordinarily obtain where the influence of the declared unconstitutionality of one provision of a statute upon another and constitutional provision is required to be fixed. Of course, rigorous as is this rule and imperative as is the duty not to violate it, it does not mean that it applies in a case where it expressly appears that a contrary conclusion must be reached if the plain letter and necessary intendment of the provision under consideration so compels, or where such a result is rendered necessary because to follow the contrary course would give rise to such an extreme and anomalous situation as would cause it to be impossible to conclude that it could have been upon any hypothesis whatever within the mind of the lawmaking power.

Does the general rule here govern, or is the case controlled by one or the other of the exceptional conditions which we have just stated, is then the remaining question to be decided. Coming to solve it, we are of opinion that, by a consideration of the text of the suffrage amendment insofar as it deals with the literacy test, and to the extent that it creates the standard based upon conditions existing on January 1, 1866, the case is taken out of the general rule and brought under the first of the exceptions stated. We say this because, in our opinion, the very language of the suffrage amendment expresses, not by implication nor by forms of classification nor by the order in which they are made, but by direct and positive language, the command that the persons embraced in the 1866 standard should not be under any conditions subjected to the literacy test, a command which would be virtually set at naught if on the obliteration of the one standard by the force of the Fifteenth Amendment the other standard should be held to continue in force.

The reasons previously stated dispose of the case and make it plain that it is our duty to answer the first question No, and the second Yes; but before we

Glossary

Ex parte	a Latin term referring to a legal proceeding in which only one party is represented
necromancy	sorcery, usually involving the dead
nullity	the condition of being void
occult	secret or hidden
plaintiff in error	the plaintiff in a case on appeal, who may or may not be the plaintiff in the lower court case whose decision is being appealed
self-executing	a law that does not require further legislative or court action to take effect
Syllabus	the portion of a Supreme Court decision that summarizes the key findings and rulings

Document Text

direct the entry of an order to that effect, we come briefly to dispose of an issue the consideration of which we have hitherto postponed from a desire not to break the continuity of discussion as to the general and important subject before us.

In various forms of statement not challenging the instructions given by the trial court, concretely considered, concerning the liability of the election officers for their official conduct, it is insisted that as, in connection with the instructions, the jury was charged that the suffrage amendment was unconstitutional because of its repugnancy to the Fifteenth Amendment, therefore, taken as a whole, the charge was erroneous. But we are of opinion that this contention is without merit, especially in view of the doctrine long since settled concerning the self-executing power of the Fifteenth Amendment, and of what we have held to be the nature and character of the suffrage amendment in question. The contention concerning the inapplicability of §5508, Rev.Stat., now §19 of the Penal Code, or of its repeal by implication, is fully answered by the ruling this day made in *United States v. Mosley*, No. 180, post.

We answer the first question, No, and the second question, Yes.

And it will be so certified.

William Pickens: "The Kind of Democracy the Negro Expects"

1918

"There should be no 'colored' wages and no 'white' wages."

Overview

"The Kind of Democracy the Negro Expects" is a speech that was first given by the activist William Pickens in 1918 and on a number of occasions in the years immediately after World War I. The entry of the United States into the World War I in April 1917 presented a number of challenges for civil rights organizations like the National Association for the Advancement of Colored People (NAACP). Many African Americans had little enthusiasm for the war effort. They were forced to make use of inferior, segregated facilities and subjected to the wholesale denial of their political and civil rights across most of the South, and the war at best seemed far removed from their daily concerns. At worst, the rhetoric of President Woodrow Wilson, that the conflict was a war for democracy to free oppressed peoples overseas, could be seen as little more than hypocrisy, given the way African Americans were treated at home. Moreover, America's wartime allies, such as Britain, France, and Belgium, had imposed colonial rule on nonwhite countries across Africa and Asia, with little concern or respect for the democratic rights of the indigenous peoples.

Given this environment, civil rights campaigners had to maintain a careful balance, drawing attention to the grievances of African Americans but without appearing unpatriotic. Pickens, an African American educator, civil rights activist, and future field secretary of the NAACP, attempted to reconcile these competing objectives in "The Kind of Democracy the Negro Expects." Seeking to promote black support for the war, he suggested that this backing was also conditional. In the postwar world, African Americans would expect to enjoy the same democratic rights enjoyed by other Americans, and such rights also had to be extended to other nonwhite populations around the world.

Context

At the turn of the twentieth century, the best-known African American spokesperson in the United States was Booker T. Washington. Born a slave in 1856, Washington sought to avoid confrontation with southern whites over issues of civil and political rights by arguing for economic self-help as the most effective form of racial uplift for African Americans. In 1881 he founded Tuskegee Institute in Alabama, which promoted a curriculum of industrial education with an emphasis on training in practical vocational skills, such as building and woodworking, as opposed to academic subjects like English literature or history.

Washington's philosophy reflected not just his own beliefs but also the social and racial climate of his day. The last decades of the nineteenth century and early years of the twentieth century were a time of worsening race relations in the United States, with the political disfranchisement of African Americans and segregation in almost all aspects of daily life becoming commonplace across the South. Black southerners enjoyed little protection under the law, and as late as World War I an average of one African American a week was killed by white lynch mobs in the region, often under horrifying circumstances.

Arguably, Washington achieved the best that was possible under such conditions. Even so, by the early years of the twentieth century a growing number of African Americans in the North began to question his leadership. In particular, the Massachusetts-born educator, scholar, and civil rights advocate W. E. B. Du Bois argued that Washington's program of industrial education condemned African Americans to second-class citizenship as servants and menial laborers. Instead, the most able black students needed to have access to higher education to be trained for careers in law, medicine, teaching, and other professions. Collectively such individuals would be a "talented tenth" (about one-tenth of the population), becoming the leaders of African American communities at national, state, and local levels.

In July 1905 Du Bois and a small group of like-minded individuals formed the Niagara Movement to voice their opposition to Washington. An all-black organization, the movement also sought to protest the denial of black civil and political rights in the United States. From the start, the Niagara group struggled to achieve its objectives because of internal divisions within the movement, the ambitious nature of its program, and the hostility of Washington and his allies. In 1909 the movement folded, but it was succeeded by a new biracial civil rights organization, the National Association for the Advancement of Colored People. Supported by influential liberal whites, like the New

Time Line

1905

- **July**
  The Niagara Movement, an African American civil rights protest organization and forerunner of the NAACP, is formed.

1908

- **August 14**
  Race riots take place in Springfield, Illinois.
- **September 3**
  William Walling publishes an article on the riots, "The Race War in the North," and calls for a new biracial organization to address America's racial problems.

1909

- **February 12**
  The National Negro Committee, forerunner of the NAACP, is formed in New York City in response to Walling's call.

1910

- **May 30**
  The National Association for the Advancement of Colored People is chosen as the name for the new organization.

1910–1930

- During this period, known as the Great Migration, 1.25 million African Americans leave the South, mostly to seek employment in cities of the North, like Chicago, Detroit, New York, and Pittsburgh.

1912

- **November**
  Woodrow Wilson is elected president of the United States.

1914

- **August**
  World War I breaks out.

1915

- **November**
  Booker T. Washington, the most influential African American spokesperson in the United States since the death of Frederick Douglass in 1895, dies.

York newspaper proprietor Oswald Garrison Villard, the association grew steadily over the next decade. This growth reflected the fact that by this time increasing numbers of African Americans had begun to see Washington's leadership as outdated and overly accommodating to the views of white southerners.

World War I (1914 1918) brought further evidence of this mood of increased black assertiveness, a climate that can be attributed to a number of factors. The death of Booker T. Washington in 1915 resulted in the breakup of his network of advisers and supporters known as the Tuskegee Machine. In 1916 the Amenia Conference, held to reconcile Tuskegee supporters with the NAACP, led a number of Washington's allies to join the association. The years from 1910 to 1930 saw the onset and development of what became known as the Great Migration. During this time, some 1.25 million African Americans left the South for the factories of the North, to take advantage of employment opportunities created by the effective end to immigration from Europe in the war years. The migration can also be seen as a sign of generational change, as younger African Americans, further removed from slavery, sought to escape the repressive living conditions of the South in favor of the comparatively more enlightened pattern of race relations that existed in the North.

The war also prompted greater awareness by African Americans of the importance of racial issues in an international context. More than four hundred thousand black Americans enlisted in the U.S. armed forces during the war, many of whom served overseas, mostly in France. Du Bois played a leading role in the organization of four Pan-African Congresses in 1919, 1921, 1923, and 1927. The congress movement sought to work with European imperial powers to improve the economic and political rights of colonial peoples. More controversially, the Universal Negro Improvement Association of Marcus Garvey campaigned for the establishment of an independent black state in Africa, with the implicit threat of the use of force to expel European colonial powers from the continent if necessary. First organized in the United States in 1917, the Universal Negro Improvement Association rapidly gathered support in African American communities, achieving a following of around a million at its peak in the early 1920s, as well as establishing branches in Africa, Latin America, and the Caribbean.

About the Author

William Pickens was born in Anderson County, South Carolina, on January 5, 1881. Both his parents were former slaves. From 1899 to 1902 he attended Talladega College, an African American educational institution in Alabama run by the American Missionary Association. The predominantly white faculty at Talladega sought to instill Christian values in students and trained them to be leaders in racial uplift in the black community. After going on to study the classics at Yale University from 1902 to 1904, Pickens

returned to Talladega to take up a teaching post. At this stage he supported the teachings of Booker T. Washington.

In July 1905 the formation of the Niagara Movement reflected growing opposition to Washington's program by some members of the African American community, particularly in the North. Although he never joined the movement, Pickens was increasingly drawn to the ideas put forward by the new radicals. In doing so, he incurred the displeasure of Washington. The influence of the latter, combined with Pickens's mounting disagreements with what he saw as the excessive paternalism of some white teachers at Talladega, led to his being dismissed from Talladega in 1914.

In June 1915 Pickens secured a position as dean at Morgan College, a Methodist Episcopal Church run school for African Americans in Baltimore. There he became increasingly associated with the NAACP, the biracial civil rights organization that succeeded the Niagara Movement in 1909. In these years Pickens developed a growing reputation as a speaker on civil rights issues. He first delivered "The Kind of Democracy the Negro Expects" in 1918 and gave the speech again on a number of occasions in the early postwar years."

In 1920 Pickens left Morgan to take up a post first as assistant field secretary and later as full field secretary in the NAACP, with responsibility for maintaining and expanding the association's membership. His oratorical skills made him well suited to this position. At the same time, he experienced ongoing difficulties in his relationship with the NAACP's board of directors. He felt he was underpaid and the importance of his work undervalued. This contributed to his briefly considering taking a position with the rival Universal Negro Improvement Association of Marcus Garvey.

Such tensions notwithstanding, Pickens remained with the NAACP until April 1941, when he accepted a temporary position in the U.S. Treasury Department to promote the sale of government bonds to African Americans during World War II. He never returned to the NAACP. Pickens's personal differences with the association's national secretary, Walter White, together with his disagreement with the association's opposition to the establishment of a segregated air base for African American pilots at Tuskegee, Alabama, led the board of directors to terminate his employment with the NAACP in June 1942. Pickens remained with the Treasury Department until his retirement in December 1950. He was buried at sea on April 6, 1954, after suffering a fatal heart attack returning from a holiday cruise to Latin America and the Caribbean on the SS *Mauritania*.

Explanation and Analysis of the Document

In this speech Pickens seeks to explain what African Americans, who had collectively fought for the United States in World War I, had come to expect in a democratic society. In the introduction he considers the term *democracy* and notes that it can mean different things to different groups and individuals. The main body of the speech is divided into five sections: "Democracy in Education," "Democracy in

Time Line

1916

- **November**
  Wilson is reelected as president.

1917

- **April 6**
  The United States enters World War I.
- **May**
  A segregated African American officer training camp is established in Des Moines, Iowa.
- **October 5**
  Emmett J. Scott, former personal secretary to Booker T. Washington, is appointed as special assistant to the secretary of war, to advise on race-related issues.

1918

- Pickens first delivers his speech "The Kind of Democracy the Negro Expects."
- **July**
  W. E. B. Du Bois, NAACP director of publicity and research, publishes "Close Ranks," an editorial in the association journal, *The Crisis*, calling on African Americans to support the U.S. war effort.
- **November 11**
  World War I ends.

1919

- **May**
  Du Bois publishes "Returning Soldiers," an editorial in *The Crisis*, urging African American servicemen returning home from Europe to fight racism in the United States as vigorously as they had fought imperialism abroad.
- **June–December**
  A series of race riots, dubbed the Red Summer by NAACP field secretary James Weldon Johnson, takes place in some twenty-five cities across the United States.

1920

- **August 26**
  Certification of the Nineteenth Amendment to the U.S. Constitution gives equal voting rights to women.

Industry," "Democracy in State," "Democracy without Sexpreferment," and "Democracy in Church." In two concluding paragraphs he discusses the contradictions between democracy and racial segregation and the need to view the "Negro question" in the American South in a global context.

◆ Introduction

Pickens reflects on the widespread use of the term *democracy* in the first paragraph. He notes that "by the extraordinary weight of the presidency of the United States many undemocratic people have had this word forced upon their lips." This is a reference to the stated war aims of President Woodrow Wilson. In his war message to Congress in April 1917, Wilson asked the U.S. Senate and House of Representatives to support his call for a declaration of war against Germany and its allies. He used idealistic language to justify this request. The conflict would be more than just a military struggle. It would bring about a new world order based on peace, freedom, and democracy. He frequently repeated such claims during both the course of the war and the negotiations for the Versailles peace settlement in 1919.

The "undemocratic people" who "have not yet had the right ideal forced upon their hearts" might at first sight be taken as a reference to the governments of Germany and its recently defeated military allies. However, Pickens makes clear that this description also applies to groups and individuals closer to home, referring to an American woman whom he recently heard expressing "alarm" at the thought that democracy might mean that "colored women would have the right to take any vacant seat or space on a street car." Such a person is someone who "believes in a democracy of me-and-my kind, which is no democracy." The phrase *of me-and-my kind* can be seen as a critical observation by Pickens on the campaign for the passage of the Nineteenth Amendment to the U.S. Constitution in 1919 1920, giving women equal voting rights. Some supporters of the amendment argued for white women to be given the vote, while ignoring the rights of their African American counterparts.

This kind of conduct is not only inconsistent but is indeed similar to the values of the German aristocracy, the "Prussian junker" who "has no doubt that he and the other junkers should be free and equal" but denies these rights to others. Pickens thus restates his earlier suggestion that Americans who oppose democratic rights for African Americans at home are no better than the autocratic German regime that the United States has been striving to overthrow.

In a short second paragraph, Pickens reminds his listeners of the loyal support of African Americans for the war effort by referring to the kind of democracy "he is fighting for." This language also conveys the idea that the African American struggle for democracy within the United States is comparable to the struggle for democracy overseas in the war against Germany.

◆ "First: Democracy in Education"

In his first point, Pickens highlights the importance of "equal right and opportunity" in education for all. These rights are the "foundation stones of democracy." "How can we ever hope for democracy," he argues, "if men are artificially differentiated at the beginning, if we try to educate a 'working class' and a 'ruling class,' forcing different race groups into different lines without regard to individual fitness?" This can be seen as a criticism of the industrial education movement associated with Booker T. Washington. At Tuskegee Institute in Alabama, Washington promoted the teaching of practical skills and trades, such as carpentry and bricklaying for male students and cookery and sewing for women. This contrasted with the teaching of traditional academic subjects, such as languages and the humanities, as was practiced at other institutions, like Talladega College, Alabama, attended by Pickens himself. Washington believed industrial education provided the majority of African Americans with the immediate vocational skills they needed to prosper in life. However, this viewpoint was criticized by Pickens and others for neglecting the need to train black students for careers in higher professions, such as law and medicine.

◆ "Second: Democracy in Industry"

Pickens then turns his attention to industry. From around 1910 onward, increasing numbers of African Americans left the South as part of the Great Migration to take advantage of employment opportunities in the factories of the North. Before the war such options had been severely limited because of racial prejudice on the part of both employers and trade unions and competition from large-scale immigration from southern and eastern Europe. Where African Americans were able to get factory jobs, it was often only as strikebreakers or at lower rates of pay than those of white workers. Pickens's comments in this section reflect his concern that such practices must not be allowed to return now that the war is over: "There should be no 'colored' wages and no 'white' wages; no 'man's' wage and no 'woman's' wage."

He argues that the right to equal employment opportunities is not just a matter of fairness but also is in the national interest: "For every man to serve where he is most able to serve is public economy and is to the best interest of the state." He cites Mississippi as an example of a region where this right does not exist. In the Magnolia State, "a caste system" holds African Americans, "the majority of the population," in the "triple chains of ignorance, semi-serfdom and poverty." This is a reference to the sharecropping system, which was widely used in agriculture across the South at this time. Large landowners or planters provided tenant farmers, or sharecroppers, with land for cultivation, together with food and accommodation throughout the year until their crops, usually cotton, were harvested and sold. In theory, landlord and tenant then shared the profits realized. In reality, the high markup and interest rates charged by planters for goods and services meant that tenants typically received little or no reward. In many instances they were compelled to enter into further sharecropping agreements with planters for the following year, in a vain attempt to pay off debts they still owed. Over time this meant that share-

African American infantry unit marching northwest of Verdun, France, in World War I (Library of Congress)

croppers, for the most part African Americans but also including poor whites, became trapped in peonage, or "semi-serfdom" of the kind that Pickens describes.

Pickens suggests that such unjust labor practices damage the economic well-being of the United States. If allowed to prevail throughout the country, these practices would result in the nation's being either "the unwilling prey or the golden goose for the Prussian." He thus implies that the actions of southern planters are not only unjust but also unpatriotic. Similarly, the personal fortunes amassed by wealthy industrialists in the North at the expense of low-paid workers is a form of "industrial junkerism," comparable to the excesses of the Prussian aristocracy.

◆ "Third: Democracy in State"

Here Pickens links the civil rights struggle of African Americans in the United States with that of colonial populations around the world. Equality before the law is "as much for South Africa as for South Carolina." In this section's second paragraph he argues that the denial of civil and political equality is not only wrong but also encourages "other evils," for "discriminating laws are the mother of the mob spirit." This is an obvious reference to the practice of lynching, the unlawful killing of a person by parties unknown. For much of the nineteenth century, lynching was associated with a form of rough justice meted out on the western frontier. From the 1880s onward, it became a crime increasingly confined to the southern states, with the large majority of lynch victims being African Americans.

On July 26, 1918, President Wilson publicly spoke out against "mob actions." At the same time he presided over the spread of segregation in the federal government bureaucracy and the introduction of new measures that required civil service applicants to provide information on their racial ancestry. During Wilson's two terms of office, from 1913 to1921, there was a marked fall in the number of African Americans employed by the civil service. Pickens observes that "if being a Negro unfits a man for holding a government office for which he is otherwise fit," then in the eyes of "an ignorant white man in Tennessee" it also "unfits the same man for claiming a 'white man's' chance in the courts." In making this observation, he tacitly accuses

Essential Quotes

"There should be no 'colored' wages and no 'white' wages; no 'man's' wage and no 'woman's' wage."

("Second: Democracy in Industry")

"The Negro cannot consistently oppose color discrimination and support sex discrimination in democratic government."

("Fourth: Democracy without Sex-preferment")

"Like many other questions our domestic race question, instead of being settled by Mississippi and South Carolina, will now seek its settlement largely on the battlefields of Europe."

("Finally")

the Wilson administration of hypocrisy by suggesting that there is a link between this trend and the persistence of lynching, or "mob actions," in the South.

◆ **"Fourth: Democracy without Sex-preferment"**

Pickens next declares his support for women's rights, noting that "the Negro cannot consistently oppose color discrimination and support sex discrimination in democratic government." He cites the example of the nineteenth-century African American leader Frederick Douglass. A former slave, Douglass consistently campaigned both for the abolition of slavery and in support of women's rights.

Pursuing a by now familiar theme, Pickens continues to link the African American civil rights struggle with high-profile democratic causes of the day. He thus concludes that "the argument against the participation of colored men and of women in self-government is practically one argument." By logical implication, campaigners who favor equal voting rights for women must also support political equality for African Americans.

◆ **"Fifth: Democracy in Church"**

Turning to religion, Pickens warns that the Christian church is "no place for the caste spirit or for snobs." This concern reflects Pickens's own life experience as both a student and a teacher in church-funded schools and colleges for African Americans. During his time as a teacher at Talladega College, Alabama, he supported a 1914 strike by African American students against the perceived patronizing attitudes of some white teachers employed by the American Missionary Association. Referring to church missionary work overseas, he implicitly questions the ability of the American churches to win new nonwhite converts when their congregations at home are segregated along racial lines. Simply put, "colored races the world over will have even more doubt in the future than they have had in the past of the real Christianity of any church which holds out to them the prospect of being united in heaven after being separated on earth."

◆ **"Finally"**

In a concluding section, Pickens develops his attack on racial segregation, or "Jim-Crowing." Held to be lawful under the Constitution by the U.S. Supreme Court in the 1896 landmark ruling of *Plessy v. Ferguson*, by this time the use of segregated facilities in public transport and accommodations was widespread across the South. The wartime influx of African American migrants prompted the further spread of segregationist practices to cities of the North.

In the final paragraph Pickens reminds his audience of the patriotism of African Americans during the war. He also returns to the theme of internationalism that runs throughout the speech, arguing that the "Negro question" in the southern United States is part of a wider "world question."

Audience

The speech was intended to simultaneously convey a variety of messages to different audiences. In addressing African Americans, Pickens sought to promote patriotic support for the nation's war effort by stressing that this support was conditional on more respect for the democratic rights of African Americans, and of nonwhite peoples

globally, when the conflict ended. With respect to the Wilson administration, the speech highlighted that emphasis on democratic freedoms for oppressed peoples overseas had to be matched by greater concern for the rights of persecuted minorities at home. Speaking to whites who are working for the advancement of African Americans, Pickens aimed to point out that such endeavors had to be undertaken in a spirit of genuine equality, rather than one of patronizing condescension. For present-day audiences, the document serves as a timeless reminder to the governments and peoples of all democratic societies that involvement in any war or conflict must be undertaken in a way that is consistent with their core ideals and values.

Impact

Pickens's speech had limited impact in its day. The return to peacetime conditions at the end of 1918 saw few gains for African Americans as a result of their support for the war effort. A southerner with conservative views on race relations, Woodrow Wilson made no effort to secure greater civil and political rights for African Americans. In the South, inferior, segregated schooling continued to be the norm for African Americans until May 1954, when the U.S. Supreme Court ruled it unconstitutional in the *Brown v. Board of Education* decision. In the cities of the North, the growing numbers of African Americans living there as a result of the Great Migration led to increased racial tensions and the spread of segregationist practices. Although women secured equal voting rights in the United States with the passage of the Nineteenth Amendment to the U.S. Constitution in 1920, this advance can be attributed to factors other than the efforts of Pickens and the NAACP.

In the longer term, the speech has taken on greater significance. During World War II, from 1939 to 1945, memories of the painful experiences of World War I contributed to a greater sense of militancy in many African American communities. This new mood was encapsulated in the Double V campaign promoted by the NAACP during the war. First popularized by the African American newspaper the *Pittsburgh Courier*, the slogan called on black communities to fight against both Nazism abroad and racial injustice at home.

Viewed in historical perspective, the document is important as a sign of an increased assertiveness on the part of African American civil rights campaigners during and immediately after World War I. The continuing work of Pickens and other NAACP activists in the interwar years sowed the seeds for the later successes of the civil rights movement in the 1950s and 1960s. The document is also ahead of its time in depicting the campaign for black civil rights within the United States as part of the wider global struggle for independence and equality by nonwhite colonial populations.

See also Niagara Movement Declaration of Principles (1905); *Plessy v. Ferguson* (1896); *Brown v. Board of Education* (1954).

Questions for Further Study

1. Why were African Americans in general indifferent to American participation in World War I? To what extent would that same indifference arise in connection with the Vietnam War, as reflected in Stokely Carmichael's "Black Power" (1966)?

2. What impact did the Great Migration of the early twentieth century have on race relations? To what extent did the migration contribute to the social, political, and intellectual climate that gave rise to Pickens's speech?

3. Pickens tried to walk a fine line between asserting the goals of African Americans for democracy at home without appearing to be unpatriotic. Did he accomplish this goal? If so, how?

4. Pickens places emphasis on democracy in education and on equal rights for women. Compare his views on these issues with those expressed in W. E. B. Du Bois's *The Souls of Black Folk* (1903) and Anna Julia Cooper's "Womanhood: A Vital Element in the Regeneration and Progress of a Race" (1892).

5. Using this document in conjunction with Thomas Morris Chester's Civil War Dispatches (1864) and the events surrounding A. Philip Randolph's "Call to Negro America to March on Washington" (1941), prepare a time line of events bearing on segregation and finally integration of the U.S. armed forces.

Further Reading

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Kevern J. Verney

Document Text

William Pickens: "The Kind of Democracy the Negro Expects"

Democracy is the most used term in the world today. But some of its uses are abuses. Everybody says "Democracy"! But everybody has his own definition. By the extraordinary weight of the presidency of the United States many undemocratic people have had this word forced upon their lips but have not yet had the right ideal forced upon their hearts. I have heard of one woman who wondered with alarm whether "democracy" would mean that colored women would have the right to take any vacant seat or space on a street car, even if they had paid for it. That such a question should be asked, shows how many different meanings men may attach to the one word Democracy. This woman doubtless believes in a democracy of me-and-my-kind, which is no democracy. The most autocratic and the worst caste systems could call themselves democratic by that definition. Even the Prussian junker believes in that type of democracy; he has no doubt that he and the other junkers should be free and equal in rights and privileges. Many have accepted the word Democracy merely as the current password to respectability in political thinking. The spirit of the times is demanding democracy; it is the tune of the age; it is the song to sing. But some are like that man who belonged to one of the greatest political parties: after hearing convincing arguments by the stump-speaker of the opposite party, he exclaimed: "Wa-al, that fellow has convinced my judgment, but I'll be d d if he can Change My Vote!"

It is in order, therefore, for the Negro to state clearly what he means by democracy and what he is fighting for.

First. Democracy in Education. This is fundamental. No other democracy is practicable unless all of the people have equal right and opportunity to develop according to their individual endowments. There can be no real democracy between two natural groups, if one represents the extreme of ignorance and the other the best of intelligence. The common public school and the state university should be the foundation stones of democracy. If men are artificially differentiated at the beginning, if we try to educate a "working class" and a "ruling class," forcing different race groups into different lines without regard to individual fitness, how can we ever hope for democracy in the other relations of these groups? Individuals will differ, but in democracy of education peoples living on the same soil should not be widely diverged in their training on mere racial lines. This would be illogical, since they are to be measured by the same standards of life. Of course, a group that is to live in Florida should be differently trained from a group that is to live in Alaska; but that is geography and general environment, and not color or caste. The Negro believes in democracy of education as first and fundamental: that the distinction should be made between individual talents and not between color and castes.

Second. Democracy in Industry. The right to work in any line for which the individual is best prepared, and to be paid the standard wage. This is also fundamental. In the last analysis there could be very little democracy between multi-millionaires and the abject poor. There must be a more just and fair distribution of wealth in a democracy. And certainly this is not possible unless men work at the occupations for which they are endowed and best prepared. There should be no "colored" wages and no "white" wages; no "man's" wage and no "woman's" wage. Wages should be paid for the work done, measured as much as possible by its productiveness. No door of opportunity should be closed to a man on any other ground than that of his individual unfitness. The cruelest and most undemocratic thing in the world is to require of the individual man that his whole race be fit before he can be regarded as fit for a certain privilege or responsibility. That rule, strictly applied, would exclude any man of any race from any position. For every man to serve where he is most able to serve is public economy and is to the best interest of the state. This lamentable war that was forced upon us should make that plain to the dullest of us. Suppose that, when this war broke out, our whole country had been like Mississippi (and I refer to geography unvidiously), suppose our whole country had been like Mississippi, where a caste system was holding the majority of the population in the triple chains of ignorance, semi-serfdom and poverty. Our nation would be now either the unwilling prey or the golden goose for the Prussian. The long-headed thing for any state is to let every man do his best all of the time. But

Document Text

some people are so short-sighted that [they] only see what is thrust against their noses. The Negro asks American labor in the name of democracy to get rid of its color caste and industrial junkerism.

Third. Democracy in State. A political democracy in which all are equal before the laws; where there is one standard of justice, written and unwritten; where all men and women may be citizens by the same qualifications, agreed upon and specified. We believe in this as much for South Africa as for South Carolina, and we hope that our American nation will not agree with any government, ally or envy, that is willing to make a peace that will bind the Africa[n] Negro to political slavery and exploitation.

Many other evils grow out of political inequality. Discriminating laws are the mother of the mob spirit. The political philosopher in Washington, after publishing his opinion that a Negro by the fault of being a Negro is unfit to be a member of Congress, cannot expect an ignorant white man in Tennessee to believe that the same Negro is, nevertheless, fit to have a fair and impartial trial in a Tennessee court. Ignorance is too logical for that. I disagree with the premises but I agree with the reasoning of the Tennesseean: that if being a Negro unfits a man for holding a government office for which he is otherwise fit, it unfits the same man for claiming a "white man's" chance in the courts. The first move therefore against mob violence and injustice in the petty courts is to wipe out discriminating laws and practices in the higher circles of government. The ignorant man in Tennessee will not rise in ideal above the intelligent man in Washington.

Fourth. Democracy without Sex-preferment. The Negro cannot consistently oppose color discrimination and support sex discrimination in democratic government. This happened to be the opinion also of the First Man of the Negro race in America, Frederick Douglass. The handicap is nothing more nor less than a presumption in the mind of the physically dominant element of the universal inferiority of the weaker or subject element. It is so easy to prove that the man who is down and under, deserves to be down and under. In the first place, he is down there, isn't he? And that is three-fourths of the argument to the ordinary mind; for the ordinary mind does not seek ultimate causes. The argument against the participation of colored men and of women in self-government is practically one argument. Somebody spoke to the Creator about both of these classes and learned that they were "created" for inferior roles. Enfranchisement would spoil a good field-hand, or a good cook. Black men were once ignorant, women were once ignorant. Negroes had no political experience women had no such experience. The argument forgets that people do not get experience on the outside. But the American Negro expects a democracy that will accord the right to vote to a sensible industrious woman rather than to a male tramp.

Fifth. Democracy in Church. The preachings and the practices of Jesus of Nazareth are perhaps the greatest influence in the production of modern democratic ideas. The Christian church is, therefore, no place for the caste spirit or for snobs. And the colored races the world over will have even more doubt in the future than they have had in the past of the real Christianity of any church which holds out to them the prospect of being united in heaven after being separated on earth.

Finally. The great colored races will in the future not be kinder to a sham democracy than to a "scrap-of-paper" autocracy. The private home, private right

Glossary

Prussia	now part of Germany, a formerly independent kingdom with a reputation for a strong militaristic ethos
junker	a member of the Prussian aristocracy
Frederick Douglass	a prominent nineteenth-century African American author, speaker, and abolitionist
"scrap-of-paper" autocracy	probably a reference to the common notion that the Axis powers before and during World War I created governments ruled by one man by routinely invalidating treaties with other nations
Jim-Crowing	a reference to "Jim Crow," the name given to laws and social customs that kept African Americans in inferior segregated positions

Document Text

and private opinion must remain inviolate; but the commonwealth, the public place and public property must not be appropriated to the better use of any group by "Jim-Crowing" and segregating any other group. By the endowments of God and nature there are individual "spheres"; but there are no such widely different racial "spheres." Jesus' estimate of the individual soul is the taproot of democracy, and any system which discourages the men of any race from individual achievement, is no democracy. To fix the status of a human soul on earth according to the physical group in which it was born, is the gang spirit of the savage which protects its own members and outlaws all others.

For real democracy the American Negro will live and die. His loyalty is always above suspicion, but his extraordinary spirit in the present war is born of his faith that on the side of his country and her allies is the best hope for such democracy. And he welcomes, too, the opportunity to lift the "Negro question" out of the narrow confines of the Southern United States and make it a world question. Like many other questions our domestic race question, instead of being settled by Mississippi and South Carolina, will now seek its settlement largely on the battlefields of Europe.

Moorfield Storey, first president of the National Association for the Advancement of Colored People (Library of Congress)

Thirty Years of Lynching in the United States, 1889–1918

1919

"The United States has for long been the only advanced nation whose government has tolerated lynching."

Overview

The unlawful killing of a person or persons by parties unknown, lynching reputedly had its origins in the American Revolution when Charles Lynch of Bedford County, Virginia, formed a vigilante association to rid the region of Tories, or British sympathizers. For much of the nineteenth century it was seen as a form of rough justice meted out to outlaws in frontier communities in the absence of effective legal authorities. Between 1889 and 1918 at least 3,224 people were killed by lynch mobs in the United States; 2,522 were black and 702 white.

After reaching a peak in the late 1880s and early 1890s, the number of lynchings began to decline. At the same time, the lynchings became increasingly shocking in nature, with victims often subjected to prolonged torture before being put to death. One of the most horrifying of such incidents was the 1916 lynching of Jesse Washington in Texas. A mentally impaired African American teenager, Washington was mutilated and burned to death over several hours. The "Waco Horror," as it became known, prompted the National Association for the Advancement of Colored People (NAACP) to set up a committee to initiate an antilynching campaign. NAACP staffers were given the task of collecting details on all reported lynchings since 1889 with a view to book publication. The resulting work, *Thirty Years of Lynching in the United States, 1889 1918*, was intended to provide statistical and factual information to support the association's campaign.

Context

The period 1889 1918 is commonly viewed by scholars as the nadir in the history of U.S. race relations since the end of the Civil War in 1865. In the last decades of the nineteenth century, African Americans lost many of the rights they had secured in the early Reconstruction era, 1865 1877. During this time the passage of the Thirteenth, Fourteenth, and Fifteenth amendments to the U.S. Constitution, in 1865, 1868, and 1870, respectively, had confirmed the abolition of slavery and sought to secure equal citizenship and voting rights for former slaves, or freedmen as they were known. Such safeguards proved ineffective.

By 1877 the white-dominated Democratic Party had regained political power across the South. State Republican Party administrations composed of northern whites, called "carpetbaggers"; southern white unionists, called "scalawags"; and African Americans were ousted at the polls by a combination of fraud, intimidation, and violence. Southern Democrats cited the ignorance and corruption of Republican incumbents as justification for such actions. Although there was only limited substance to such claims, successive Republican administrations from 1877 to 1885 chose not to intervene at the federal level.

Beginning in the late 1880s and early 1890s southern Democrats sought to exclude African Americans from political life on a permanent basis through the passage of new state election laws. Although the Fifteenth Amendment prevented U.S. citizens from being denied the vote on account of "race, color or previous condition of servitude," Democratic state governments found ways to get around such provisions. Instead, they passed laws requiring prospective voters to pass literacy tests or demonstrate a "good understanding" of selected passages from state constitutions. In the case of *Williams v. Mississippi* (1898) the U.S. Supreme Court ruled that such measures were lawful under the Constitution, as they supposedly applied to all voters. In practice, the new laws were used almost exclusively against black voters, and as a result the large majority of African Americans in the South were disfranchised until as late as the early 1960s.

In a previous ruling, *Plessy v. Ferguson* (1896), the Supreme Court had approved state laws requiring racial segregation. Using the concept of "separate but equal," it held that such measures did not violate the equal citizenship rights guaranteed by the Fourteenth Amendment. The reality was very different. The *Plessy* ruling effectively condemned African Americans in the South to greatly inferior facilities and services in almost every aspect of daily life, including schools, theaters, hospitals, public transportation, and even cemeteries.

By this time the economic opportunities open to African Americans in the region were also severely restricted, largely through the widespread use of the sharecropping system in southern agriculture. First introduced in the early postwar years, sharecropping was ostensibly a market compro-

Time Line

1892

- *Southern Horrors: Lynch Law in All Its Phases* is published by the African American antilynching campaigner Ida B. Wells. This and her later booklet, *A Red Record* (1895), are among the first works to draw public attention to the issue of lynching.

1908

- **August 14**
  Race riots in Springfield, Illinois, result in seven deaths, including the lynching of two black men.
- **September 3**
  William Walling publishes an article on the riots, "The Race War in the North," and calls for a new biracial organization to address America's racial problems.

1909

- **February 12**
  The National Negro Committee is formed in New York City in response to Walling's call.

1910

- **May 30**
  The National Association for the Advancement of Colored People (NAACP) is chosen as the name for the new organization.

1915

- D. W. Griffith's epic film *The Birth of a Nation* is released and enjoys extraordinary popularity. Scenes depicting an African American being put to death by the Ku Klux Klan for the attempted rape of a white woman evoke black protests. The NAACP joins a nationwide campaign to have the film banned or censored but achieves only partial success.

1916

- **July**
  The lynching of Jesse Washington in Texas prompts formation of an NAACP antilynching committee.

mise between freed slaves and the former slave-owning planter aristocracy. Lacking the financial resources to hire wage laborers, planters instead provided plots of land for cultivation to freedmen together with food and accommodation over the course of the year. This was on the understanding that when the crops, almost invariably cotton, were harvested, landowner and tenant would divide the proceeds. In practice, the high markups and interest rates charged by planters for the goods supplied meant that black sharecroppers were by then so deeply in debt that they received no share of the profits at all. Worse, money still owed meant they were obliged to continue working for the same landlord in the forthcoming year in a vain attempt to clear their account. By this means large numbers of black farmers in the South became trapped into a permanent system of debt peonage under which they were little better off than in their former slave condition.

The deteriorating status of African Americans was reflected in changing white racial attitudes. Although white southerners had always viewed African Americans as racially inferior, during slavery they were also widely perceived as faithful family retainers. In the early postwar years southern mythology depicted slaves as loyal protectors of the families of planters when the male members of the household were absent in the service of the Confederacy. During the 1880s and 1890s this image began to change. In southern white popular culture African Americans were increasingly depicted as less than human, even bestial in nature. Black men were portrayed as vicious sexual predators, intent on forcing their attentions on white women. This image hardened into the potent myth of the black rapist. Across the South, white communities became increasingly obsessed by the need to protect women from such a threat by any means necessary. It was in this context that a sharp rise in the number of lynchings occurred in the region in the late 1880s and early 1890s.

About the Author

The book has no single author but is rather a digest of factual information and statistical data collected by NAACP researchers on all lynchings in the United States between 1889 and 1918. One of the prime movers of this initiative was John R. Shillady, who became national secretary of the NAACP in January 1918. Born in 1875, the middle-aged Shillady was a veteran social worker and administrator when he joined the association. In addition to experience, he brought considerable energy and enthusiasm to his new job, increasing branch memberships from nine thousand to forty thousand within a year. He took particular interest in the NAACP's antilynching campaign and wrote the foreword for *Thirty Years of Lynching*.

Within a year of the book's publication Shillady narrowly avoided becoming a lynch victim himself. During a visit to Texas in August 1920 he was badly beaten by a white mob. Although Shillady managed to escape, he never fully recovered from the physical and mental trauma. Within

months he resigned his position with the NAACP, despairing of the prospects for any meaningful advance in the nation's troubled race relations. He died in 1943. Shillady was succeeded as national secretary by James Weldon Johnson, the first African American to occupy the position on a permanent full-time basis.

Explanation and Analysis of the Document

The document extract is made up of three parts: a foreword by NAACP secretary John R. Shillady; a "Summation of the Facts Disclosed in Tables," providing a brief overview of the statistical data on lynching in the United States, 1889 1918; and "The Story of One Hundred Lynchings." Not reprinted here are two appendixes: "Analysis of Number of Persons Lynched" and "Chronological List of Persons Lynched in United States 1889 to 1918, Inclusive, Arranged by States." (The various tables referred to in the pamphlet are also not reproduced.) Most of the book thus takes the form of the presentation of statistical information together with press accounts or reports by NAACP researchers on individual lynchings. There is little analytical commentary. A conscious decision was taken to present the information in this way, so as to let the facts speak for themselves.

◆ Foreword

Shillady sets out the moral case against lynching in his foreword. He notes that the United States is the only advanced modern country that tolerates the crime and stresses the need for the rule of law. Such arguments provide strong justification for the NAACP's antilynching campaign.

Shillady concentrates on the case against lynching rather than suggesting measures to solve the problem. This is because any such discussion would have raised difficult legal and political issues. Many Americans shared Shillady's views on lynching, but the NAACP's preferred solution, the passage of a federal antilynching law, was controversial. Some legislators, whose support the association needed, were reluctant to endorse such a measure. These legislators included Republican William Borah of Idaho, chairman of the Senate Judiciary Committee. Borah believed that a federal antilynching law would be unconstitutional. Legal experts consulted by the NAACP expressed similar doubts. This view was initially shared by Moorfield Storey, the first president of the biracial association and a leading constitutional lawyer.

Although Storey ultimately overcame his misgivings and came to support such a law, others did not. Under the U.S. Constitution, murder is a state, rather than a federal, crime. A federal antilynching law could thus be seen as a violation of state sovereignty. Moreover, at this time the new medium of radio was in its infancy and the introduction of television almost three decades in the future. Many Americans perceived their national political leaders as comparatively remote figures. Before America's experience of the New Deal in the 1930s and World War II (1941 1945), there was an expectation that the federal

Time Line

1917

- **July 28**
  The NAACP sponsors a silent parade against lynching in New York City. Up to fifteen thousand people take part.

1918

- **January**
  John R. Shillady is appointed NAACP national secretary.
- **April**
  The Dyer bill introduced in the U.S. House of Representatives attempts to make lynching a federal crime. The NAACP makes repeated unsuccessful attempts to secure the passage of a federal antilynching law.
- **July 26**
  President Woodrow Wilson publicly speaks out against mob actions.

1919

- **April**
  Thirty Years of Lynching in the United States is published.

1920

- **August 20**
  John Shillady is badly beaten by a white mob in Austin, Texas, and never fully recovers.

1923

- In the case of *Moore v. Dempsey* the U.S. Supreme Court rules that federal courts can intervene to protect the procedural rights of defendants tried and convicted in mob-dominated areas.

1929

- *Rope and Faggot: A Biography of Judge Lynch* by NAACP assistant secretary Walter White is published. The book is one of the first scholarly studies on the causes of lynching.

1930

- **November 1**
  The Association of Southern Women for the Prevention of Lynching, headed by Jessie Daniel Ames, holds its first meeting in Atlanta, Georgia.

government would exercise only limited authority over Americans' daily lives. A federal antilynching law, in this view, would have set a dangerous precedent for the creeping centralization of political power.

Shillady is careful to avoid such issues. In the third paragraph he thus cites President Woodrow Wilson's public condemnation of mob actions as support for the NAACP's position. Significantly, however, Wilson here stresses that it is the responsibility of state governors, law-enforcement officers, and local communities to put an end to such actions. He does not endorse the idea of a federal antilynching law.

Wilson, himself a southerner, differed from members of the NAACP on race relations. One of the founding principles of the association was its opposition to racial segregation and a commitment to reversing the 1896 *Plessy* decision. Wilson, in contrast, believed segregation to be a positive good, as did leading members of his administration. He actually presided over the introduction of segregationist practices in the civil service during his two terms of office (1913 1921).

Although educated white southerners like Wilson opposed lynching, they did not support the passage of an antilynching law, which they feared would be but a first step toward further federal intervention to regulate the daily life of citizens in the South. Over time such actions might interfere with other established customs of the region, most notably the system of racial segregation. The Wilsonian alternative to federal action was for southern states themselves to accept responsibility for the suppression of lynching. Unfortunately, as Shillady points out, there was little evidence that this would be effective. In 1918 alone sixty-three African Americans and four whites were lynched in the United States, yet not a single member of any of the lynch mobs was convicted. In only two instances did cases even go to trial, one of which involved the lynching of a white man in the northern state of Illinois.

The principal reason for this failure to prosecute was that many white southerners tacitly supported the actions of lynch mobs. Even in cases of extreme violence, they were unwilling, as witnesses or jurors, to assist in the conviction of a white defendant for the murder of an African American. Shillady notes that lynching still has its apologists. Although they are perhaps less numerous and less vocal than in recent years, he says, they are to be found in all sections of southern society and include individuals held in the highest esteem in the community. James Vardaman, governor of Mississippi (1904 1908), had stated that "if it is necessary every Negro in the state will be lynched; it will be done to maintain white supremacy." Similarly, the renowned Atlanta newspaper publisher John Temple Graves proclaimed before a University of Chicago audience that a lynch mob was an "engine of vengeance, monstrous, lawless, deplorable, but under the uncured defects of the law the fiery terror of the criminal and the chief defense of woman."

This last comment reflects the fact that the most common justification put forward by apologists for lynchings was the need to protect white women from sexual assault by African American men. By this logic, the lynch mob was preferable to a formal trial, where the rape victim would have to relive the horror of her ordeal in court. Moreover, the time-consuming nature of the legal process meant that the conviction and hanging of a rapist was a less effective deterrent to such outrages than the summary public retribution meted out by a lynching party.

◆ Summation of the Facts Disclosed in Tables

The Summation in *Thirty Years of Lynching* highlights key findings from detailed statistical tables contained in the first appendix. These statistics show that in the period 1889 1918, at least 3,224 people were killed by lynch mobs in the United States, of which 2,522, or 78.2 percent, were African Americans. The footnotes (omitted here) point out that a further 181 probable victims have been excluded from this total because of the limited data available on them. This can be seen as an attempt by the authors of the document to avoid allegations of exaggeration or sensationalism. All information provided is based on verifiable fact.

Distribution of the Lynchings This section notes that most lynchings occurred in the South. The facts are presented with little comment. Readers are left to draw their own conclusions. However, this information, together with that already provided on the racial background of lynch victims, dispels any notion that lynching is predominantly a form of rough justice associated with western frontier states. Similarly, the fact that fifty lynch victims were African American women may cast some doubt on any suggestion that nearly all lynchings in the South were related to the crime of rape. The decline in the incidence of lynching from 1914 to 1918, most notably in northern and western states, reinforces the fact that it is now almost exclusively a racially motivated crime confined to the southern states.

Decrease in Lynching during Past Thirty Years This section seems designed to suggest that as of 1919, lynching is regarded as unacceptable by the vast majority of Americans and that, compared with the rest of the nation, the South is lacking in respect for the rule of law and recognition of what constitutes acceptable behavior in a civilized modern society. The numbers of Mexican lynch victims cited for Texas highlights the extent to which other nonwhite groups were vulnerable to the crime. By implication, not just African Americans but also other ethnic minorities could become a potential target for lynch mobs.

Alleged Offenses Which Appear as "Causes" for the Lynchings The statistics show that most lynchings are for alleged offenses other than rape. Moreover, even in the rape-related cases the evidence is weak. Although southern apologists for lynching, like Graves and Vardaman, are not mentioned by name, the arguments put forward by such leaders are here effectively discredited.

◆ The Story of One Hundred Lynchings

The narratives here act to counterbalance the impersonal analysis of the summation by providing details on the

Cartoon depicting "Judge Lynch" (Library of Congress)

suffering of lynch victims. They remind readers that the numerical data on lynching represent more than just statistical information. Every lynching reported is also a personal tragedy for the victim and his or her family.

All cases are well documented. For the most part the information provided is in the form of accounts of lynching as reported in respected newspapers and journals. These accounts often reveal shocking details of individual lynchings. Nonetheless, with the exception of two brief introductory paragraphs that "give concreteness and make vivid the facts of lynching," they are presented without any accompanying commentary expressing horror or moral outrage. The NAACP editors are again careful to avoid any suggestions of bias or sensationalism. In any case, no additional comments are needed. The reports in themselves provide the most compelling testimony for the Association's anti-lynching campaign.

The first introductory paragraph refers to the "lynching sport." The justification for this description is borne out by the accounts that follow, which show that many lynchings clearly occurred with the approval and even active participation of much of the local white community. Lynchings were often public spectacles of entertainment, with large crowds of up to fifteen thousand in attendance (Georgia, 1899; South Carolina, 1911; Texas, 1912; Texas, 1916; Tennessee, 1917; Tennessee, 1918).

In the South Carolina lynching of Will Jackson (1911), the white mob was led by Joshua W. Ashleigh, a local member of the state legislature. Victor B. Chesire published a special edition of the local newspaper he edited, *The Intelligencer*, to provide coverage of the event. He admits that he "went out to see the fun without the least objection to being a party to help lynch the brute." In the 1912 lynching of Dan Davis in Texas, "the crowd jeered the dying man and uttered shocking comments suggestive of a cannibalistic spirit." Some spectators "danced and sang to testify to their enjoyment of the occasion." At the 1917 burning to death of Ell Person in Memphis, Tennessee, the fifteen thousand onlookers included "women, even little children," who "cheered as they poured the gasoline on the axe fiend and struck the match." The mob "fought and screamed and crowded to get a glimpse of him." When the victim died sooner than expected, a "complaint on all sides" went around that "they burned him too quick! They burned him too quick!"

The use of language in the reports is often matter of fact, with no expressions of disapproval or a sense that what has taken place is in any way unusual or wrong. This is despite the fact that lynchings often involved prolonged, sadistic torture. Victims were frequently burned alive and suffered physical mutilation, such as castration and the cutting off of ears, fingers, and toes (Texas, 1897; Georgia,

Essential Quotes

"The United States has for long been the only advanced nation whose government has tolerated lynching. The facts are well known to students of public affairs. It is high time that they became the common property, since they are the common shame, of all Americans."

(Foreword)

"Lynching has had, and to some degree still has, its apologists, who have alleged one or another excuse for it in given cases. But, none of the several pleas which has been made to explain or excuse it can stand the light of reason or find the slightest real justification in a nation governed by law."

(Foreword)

1899; Delaware, 1903; Mississippi, 1904; Georgia, 1904; Texas, 1912; Texas, 1916; Tennessee, 1917; Tennessee, 1918; Georgia, 1918). Neither the journalistic reports nor the crowds of onlookers at lynchings showed any compassion for the suffering of victims. The reporting of phrases such as "slowly roasting" (Tennessee, 1918) and "meat on a hot frying pan" (Tennessee, 1917) has the effect of dramatizing the dehumanization of the victims. After death, their remains were afforded no respect, with body parts being cut off and taken as souvenirs (Georgia, 1899; South Carolina, 1911; Texas, 1916; Tennessee, 1917).

Although some lynch victims stood accused of rape, or attempted rape (Texas, 1897; Georgia, 1899; Delaware, 1903; West Virginia, 1912; Texas, 1912; Texas, 1916), most were alleged to have committed other crimes. A number of these crimes were minor and even trivial offenses. In Louisiana (1901), Louis Thomas was lynched because he "stole six bottles of soda pop" and then struck his white accuser. Five years later, also in Louisiana, William Carr was hanged for "killing a white man's cow," while in 1911 in Georgia another African American was killed for "loitering in a suspicious manner."

Sometimes, lynch victims were either innocent third parties or clearly not guilty of the crimes they were alleged to have committed (Tennessee, 1901; Mississippi, 1904; West Virginia, 1912). Female victims were shown no more compassion than their male counterparts. Mary Turner (Georgia, 1918) and Alma Howze (Mississippi, 1918) were both lynched even though they were both clearly pregnant. In Oklahoma in 1911, Laura Nelson was "raped by members of the mob" before being hanged. Although the members of the lynch mobs were commonly referred to in the press as "parties unknown," it is clear that in many cases they were well-known figures in the community. Still, the account contains only one case, in North Carolina in 1918, where any members of the mob were brought to trial and convicted for their actions.

Audience

Thirty Years of Lynching was widely distributed and addressed all law-abiding Americans, in the North and in the South, in the hope that it would generate public support for the NAACP's antilynching campaign. More specifically, it was aimed at winning the support of members of the United States Senate and House of Representatives for the passage of a federal antilynching law. Within the South it sought to influence moderate political leaders and law-enforcement officers to make greater efforts to reduce the incidence of lynching and to make members of lynch mobs subject to punishment before the law. It provided accurate factual and statistical information for use by NAACP activists at the national, state, and local level and served as a counter to the propaganda disseminated by apologists for lynching.

Impact

The book failed to achieve its immediate objectives. Despite a prolonged campaign by the NAACP for most of the 1920s and 1930s, the passage of a federal antilynching law was never achieved. In the South it continued to be the exception rather than the rule for participants in lynch mobs to be brought to justice before state courts. In other respects, however, *Thirty Years of Lynching* was more successful. Together with the efforts of campaigning groups like the Association of Southern Women for the Prevention

of Lynching, founded in 1930, and the NAACP itself, the book helped change public attitudes. By the end of the 1930s the number of lynchings had dramatically declined, and the crime was increasingly seen as unacceptable in a civilized society. At the state level, southern political leaders and law-enforcement officers made greater efforts to prevent lynchings. Although they were still unlikely to face legal sanctions, members of lynch mobs could no longer take it for granted that they would enjoy community approval for their actions.

Today documented instances of lynching in the United States are rare, but occasional cases are still reported. The perpetrators of such crimes are invariably subject to the full force of the law. In this context the NAACP book is more than just testimony to the memory and suffering of lynch victims of the past. It also serves as a reminder of the potential consequences of extralegal actions by vigilante groups in any society at any time.

See also Emancipation Proclamation (1863); Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); *Plessy v. Ferguson* (1896); Ida B. Wells-Barnett's "Lynch Law in America" (1900).

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Kevern J. Verney

Questions for Further Study

1. Compare this document with Ida B. Wells-Barnett's "Lynch Law in America" (1900). To what extent do the two documents share similar views? How do the documents differ in the way the authors make their cases?

2. Why did many people during this era want to see Congress pass a federal antilynching bill? Why were state laws against murder regarded as inadequate to stop lynching? Why were some people simultaneously horrified by lynching and yet opposed to the passage of such a bill?

3. What conditions led to the emergence and, later, the reemergence of the Ku Klux Klan? For insight, see the entry on the Ku Klux Klan Act (1871).

4. What role did the NAACP play in the campaign against lynching, other than preparation of this document?

5. Woodrow Wilson is often regarded as a progressive president, yet he opposed passage of a federal antilynching bill. What political considerations did Wilson face that led him to take this position?

Document Text

Thirty Years of Lynching in the United States, 1889–1918

Foreword

Until the recent outbreaks in Germany, where, under revolutionary conditions, a few lynchings have taken place, the United States has for long been the only advanced nation whose government has tolerated lynching. The facts are well known to students of public affairs. It is high time that they became the common property, since they are the common shame, of all Americans.

The National Association for the Advancement of Colored People, within the limits of its financial resources, has been carrying on an educational and publicity campaign in the public press, through its own pamphlet publications and the columns of *The Crisis*, and through public meetings, to bring home to the American people their responsibility for the persistence of this monstrous blot upon America's honor. Lynching has had, and to some degree still has, its apologists, who have alleged one and another excuse for it in given cases. But, none of the several pleas which has been made to explain or excuse it can stand the light of reason or find the slightest real justification in a nation governed by law, which has found ample means to cope with lawlessness whenever and wherever the public authorities have taken seriously their oaths of office.

On July 26, 1918, when the nation was at war with the Central Powers, President Wilson appealed to "the governors of all the states, the law officers of every community and, above all, the men and women of every community in the United States, all who revere America and wish to keep her name without stain or reproach, to cooperate, not passively merely, but actively and watchfully, to make an end of this disgraceful evil," saying, "It cannot live where the community does not countenance it."

Despite President Wilson's earnest appeal, made under such extraordinary circumstances, lynchings continued during the remaining period of the war with unabated fury. Sixty-three Negroes, five of them women, and four white men fell victims to mob ruthlessness during 1918 and in no case was any member of the mobs convicted in any court and in only two instances were trials held. In both of these instances the mob members were acquitted. One case was that of the lynchers of the white man, Robert P. Praeger, in Illinois, the other that of the lynchers of a Negro, Will Bird, in Alabama.

The present publication, "Thirty Years of Lynching in the United States, 1889 1918," sums up the facts for this period. It is believed that more persons have been lynched than those whose names are given in Appendix II following. Only such cases have been included as were authenticated by such evidence as was given credence by a recognized newspaper or confirmed by a responsible investigator.

In presenting this material we have refrained from editorial comment, restricting our text to a brief summary of the facts which are more fully illustrated in the tables printed in Appendix I. In addition to the two appendices named, and to the summary of the facts disclosed in the tables, we have included a short summary of the actual happenings in the cases of one hundred persons lynched, as taken from press accounts and, in a few cases, from the reports of our own investigators. These data appear under the heading, *The Story of One Hundred Lynchings*.

Acknowledgment is made to Miss Martha Gruening and to Miss Helen Boardman, who assisted her, for work done in examining the files of leading newspapers and other records for a period of thirty years and in compiling data from which *The Story of One Hundred Lynchings* has been taken.

John R. Shillady, *Secretary*.

National Association for the Advancement of Colored People.

Summation of the Facts Disclosed in Tables

More or less accurate records of lynchings have been kept by the Chicago *Tribune*, Tuskegee Institute and, since 1912, *The Crisis* and the National Association for the Advancement of Colored People. These records go back to 1885. In the present study of the subject, we have confined ourselves to the story of the past thirty years, from 1889 to 1918 inclusive. During these years 3,224 persons have been killed by lynching mobs. Seven hundred and two white persons and 2,522 Negroes have been victims. Of the whites lynched, 691 have been men and 11 women;

of the colored, 2,472 were men and 50 were women. For the whole period, 78.2 per cent, of the victims were Negroes and 21.8 per cent, white persons.

Distribution of the Lynchings

For the thirty years' period as a whole, the North has had 219 victims, the South, 2,834, the West, 156, and Alaska and unknown localities, 15 victims. An examination of Table No. 3 will show that the eight South Atlantic States are responsible for 862 of the total of 2,834 for the South as a whole; the four East South Central States have had 1,014 victims, and the four West South Central States 958. Georgia leads in this unholy ascendancy with 386 victims, followed closely by Mississippi with 373 victims, Texas with 335, Louisiana with 313, Alabama with 276, Arkansas with 214, Tennessee with 196, Florida with 178 and Kentucky with 169. The nine states above named are those which, for the thirty years' period, have each a percentage of the total number of lynchings in excess of five per cent.

Fifty colored women and 11 white women were lynched in 14 states. Thirteen of the 14 states in which women fell victims to mobs were Southern states, Nebraska being the only state outside the South which lynched women.…

While in all sections of the country there has been a progressive decrease in the number of lynchings at each of the five years' periods, this decrease in the North and West has far outrun the decrease in the South. The North and West together have lynched 21 persons during the last five years' period, whereas during the same time 304 persons were lynched in the South.

Georgia began the first five years' period with 61 lynchings and ended the last five years' period with exactly the same number. This number, by the way, was the lowest, with one exception, which Georgia reached during the thirty years. Alabama, on the contrary, began with 84, a number one-third greater than Georgia's, which had been reduced during the last five years' period to 19. Mississippi began with 91 for the first period and ended with 28 in the latter five years' period. Georgia and Texas alone, of all the states, have made no proportionate decrease in the number of lynchings during the thirty years' period. Texas shows an increase during the last five years over her record for three preceding five years' periods.

In considering these facts it should be borne in mind that the number of lynchings has steadily been decreasing. When, therefore. Georgia and Texas show no decrease in the former state and only a small decrease in the latter state, it means that relative to the country as a whole, lynchings have been on the increase in these two states.

Decrease in Lynching during Past Thirty Years

Table No. 8 shows the percentage of decrease in the number of persons lynched during each five years' period. Comparing the five years, 1914 1918, with the five years, 1889 1893, the table shows a decrease of 61.3 per cent, in the total number of persons lynched. The percentage of decrease in the number of whites lynched was 77.6 and of colored, 54.4. Since 1903 the number of whites lynched has been decreasing steadily. The increase for the period 1914 1918 to 61 white persons lynched is largely accounted for by the fact that in 1915, 43 whites were lynched. Twenty-seven of these were Mexicans who were lynched in the state of Texas. Many citizens of Texas look upon Mexicans in somewhat the same way as they look upon Negroes (alas for democracy), so that the lynching of this number of Mexicans would not be regarded by them in the same light as would the lynching of so many white Texans or other white citizens of the United States.

Except in 1915 and in 1909 and 1910, the number of whites lynched in any year since 1903 has been less than ten. The percentage of whites lynched in the first ten years' period of our study was 30 per cent; in the second ten years' period, 12.4 per cent, and in the third ten years' period, 15 per cent.

Alleged Offenses which Appear as "Causes" for the Lynchings

Table No. 6 sums up the known facts regarding the alleged offenses committed by the men and women lynched. It is to be remembered that the alleged offenses given are pretty loose descriptions of the crimes charged against the mob victims, where actual crime was committed. Of the whites lynched, nearly 46 per cent were accused of murder; a little more than 18 per cent were accused of what have been classified as miscellaneous crimes, *i.e.*, all crimes not otherwise classified; 17.4 per cent were said to have committed crimes against property; 8.7 per cent crimes against the person, other than rape,

"attacks upon women," and murder; while 8.4 per cent were accused of rape and "attacks upon women."

Among colored victims, 35.8 per cent were accused of murder; 28.4 per cent of rape and "attacks upon women" (19 per cent of rape and 9.4 per cent of "attacks upon women"); 17.8 per cent of crimes against the person (other than those already mentioned) and against property; 12 per cent were charged with miscellaneous crimes and in 5.6 per cent of cases no crime at all was charged. The 5.6 per cent, classified under "Absence of Crime" does not include a number of cases in which crime was alleged but in which it was afterwards shown conclusively that no crime had been committed. Further, it may fairly be pointed out that in a number of cases where Negroes have been lynched for rape and "attacks upon white women," the alleged attacks rest upon no stronger evidence than "entering the room of a woman" or brushing against her. In such cases as these latter the victims and their friends have often asserted that there was no intention on the part of the victim to attack a white woman or to commit rape. In many cases, of course, the evidence points to *bona fide* attacks upon women.

An examination of Table No. 7 shows that the decreases in succeeding five years' periods in the number of victims charged with rape and "attacks upon women" have been more pronounced than for any other alleged cause.…

It is apparent that lynchings of Negroes for other causes than the so-called "one crime" have for the whole period been a large majority of all lynchings and that for the past five years, less than one in five of the colored victims have been accused of rape or "attacks upon women" (rape, 11 per cent; attacks upon women, 8.8 per cent; total, 19.8 per cent).

The Story of One Hundred Lynchings

To give concreteness and to make vivid the facts of lynching in the United States, we give below in chronological order an account of one hundred lynchings which have occurred in the period from 1894 to 1918. These "stories," as they are technically described in newspaper parlance, have been taken from press accounts and, in a few cases, from the reports of investigations made by the National Association for the Advancement of Colored People. Covering twenty-five years of American history, these accounts serve to present a characteristic picture of the lynching sport, as it was picturesquely defined by Henry Watterson.

The last of the "stories" describes one of the rare events in connection with lynchings, that of the conviction of members of a mob involved in such affairs. In this case no lynching was consummated, it having been prevented by the prompt and public-spirited action of the mayor of the city (Winston-Salem, North Carolina), and members of the "Home Guard" and Federal troops who defended the jail against a mob.

Alabama, 1894

Three Negroes, Tom Black, Johnson Williams and Tony Johnston, were lynched at Tuscumbia, Alabama. They were in the local jail, awaiting trial on the charge of having burnt a barn. A mob of two hundred masked men entered the jail. after having enticed away the jailer with a false message, took the keys from the jailer's wife and secured the three prisoners. They were carried to a near-by bridge. Here a rope was placed around the neck of each victim, the other end being tied to the timbers of the bridge, and they were compelled to jump.

New York *Tribune*, April 23, 1894.…

Texas, 1897

Robert Henson Hilliard, a Negro, for a murder to which he confessed and for alleged rape, was burned to death by a mob at Tyler, Texas. Hilliard confessed the murder but stated that he killed his victim because he had unwittingly frightened her and feared that he would be killed.

A report of the crime and its punishment was written by an eye-witness and printed by a local publishing house. It ended as follows:

"Note: Hilliard's power of endurance was the most wonderful thing on record. His lower limbs burned off before he became unconscious and his body looked to be burned to the hollow. Was it decreed by an avenging God as well as an avenging people that his sufferings should be prolonged beyond the ordinary endurance of mortals?"

The End

"We have sixteen large views under powerful magnifying lenses now on exhibition. These views are true to life and show the Negro's attack, the scuffle, the murder, the body as found, etc. With eight views of the trial and burning. For place of exhibit see street bills. Don't fail to see this."

Breckenridge-Scruggs Co.

Document Text

No indictments were found against any of the mob's members.

Georgia, 1899

Sam Hose, a Negro farm laborer, was accused of murdering his employer in a quarrel over wages. He escaped. Several days later, while he was being bunted unsuccessfully, the charge was added that he raped his employer's wife. He confessed the murder, but refused, even under duress, to confess the other crime.

The following account of the lynching is taken from the New York *Tribune* for April 24, 1899.

"In the presence of nearly 2,000 people, who sent aloft yells of defiance and shouts of joy, Sam Hose (a Negro who committed two of the basest acts known to crime) was burned at the stake in a public road, one and a half miles from here. Before the torch was applied to the pyre, the Negro was deprived of his ears, fingers and other portions of his body with surprising fortitude. Before the body was cool, it was cut to pieces, the bones were crushed into small bits and even the tree upon which the wretch met his fate was torn up and disposed of as souvenirs."

"The Negro's heart was cut in several pieces, as was also his liver. Those unable to obtain the ghastly relics directly, paid more fortunate possessors extravagant sums for them. Small pieces of bone went for 25 cents and a bit of the liver, crisply cooked, for 10 cents."

No indictments were ever found against any of the lynchers.…

Tennessee, 1901

Ballie Crutchfield, a colored woman, was lynched by a mob at Rome, Tennessee, because her brother stole a purse.

The mob took Crutchfield from the custody of the sheriff, and started with him for the place of execution, when he broke from them and escaped.

"This," says the despatch, "so enraged the mob, that they suspected Crutchfield's sister of being implicated in the theft and last night's work was the culmination of that suspicion."

The Coroner's jury found the usual verdict that the woman came to her death at the hands of parties unknown.

New York *Tribune*, March 16, 1901.

Louisiana, 1901

Louis Thomas, at Girard, La., a Negro, broke into a local store and stole six bottles of soda-pop. He was later found by a white man named Brown, disposing of its contents, and on being accused of theft, struck his accuser. Brown procured a rifle and shot the Negro twice through the body, but as neither wound proved fatal, a mob of white men took the Negro from the house where he lay wounded and strung him up.

New York *Tribune*, July 16, 1901.…

Delaware, 1903

George White, a Negro, accused of rape and murder, was taken out of jail at Wilmington, Del., dragged to the scene of his alleged crime and forced to confess. He was tied to a stake, burned and riddled with bullets, even as he was being burned. The Chamber of Commerce of Wilmington, which met a few days later, refused to pass a resolution condemning the lynching but passed one against forest fires.

New York *Tribune*, June 23, 24, 1903.…

Mississippi, 1904

Luther Holbert, a Doddsville Negro, and his wife were burned at the stake for the murder of James Eastland, a white planter, and John Carr, a Negro, The planter was killed in a quarrel which arose when he came to Carr's cabin, where he found Holbert, and ordered him to leave the plantation. Carr and a Negro, named Winters, were also killed.

Holbert and his wife fled the plantation but were brought back and burned at the stake in the presence of a thousand people. Two innocent Negros had been shot previous to this by a posse looking for Holbert, because one of them, who resembled Holbert, refused to surrender when ordered to do so. There is nothing in the story to indicate that Holbert's wife had any part in the crime.

New York *Tribune*, February 8, 1904.…

Georgia, 1904

For the brutal murder of a white family (the Hodges family) at Statesboro', Georgia, two Negroes, Paul Reed and Will Cato, were burned alive in the

presence of a large crowd. They had been duly convicted and sentenced, when the mob broke into the courtroom and carried them away, in spite of the plea of a brother of the murdered man, who was present in the court, that the law be allowed to take its course. None of the lynchers were ever indicted.

Ray Stannard Baker, "Following the Color Line," Chicago *Tribune*, December 31, 1904.

Georgia, 1904

Because of the race prejudice growing out of the Hodges murder by Reed and Cato and their lynching, Albert Roger and his son were lynched at Statesboro', Ga., August 17, for being Negroes. A number of other Negroes were whipped for no other offense.

Ray Stannard Baker, "Following the Color Line," Chicago *Tribune*, December 31, 1904.

Georgia, 1904

On account of the race riots which grew out of the above murder (Hodges) and lynching, McBride, a respectable Negro of Portal, Ga., was beaten, kicked and shot to death for trying to defend his wife, who was confined with a baby, three days old, from a whipping at the hands of a crowd of white men.

Ray Stannard Baker, "Following the Color Line," Chicago *Tribune*, December 31, 1904.…

Louisiana, 1906

For the crime of killing a white man's cow, William Carr, a Negro, was killed at Planquemines, Louisiana. The lynching was conducted in a most orderly manner, Carr being taken from the Sheriff without resistance by a mob of thirty masked men, hurried to the nearest railroad bridge and hanged without Ceremony.

Despatch to New York *Tribune*, March 18, 1906.…

Oklahoma, 1911

At Okemah, Oklahoma, Laura Nelson, a colored woman, accused of murdering a deputy sheriff who had discovered stolen goods in her house, was lynched together with her son, a boy about fifteen. The woman and her son were taken from the jail, dragged about six miles to the Canadian River, and hanged from a bridge. The woman was raped by members of the mob before she was hanged.

The Crisis, July, 1911.…

South Carolina, 1911

Will Jackson was lynched at Honeapath, S. C., for an alleged attack on a white child. He was hanged to a tree by his feet and his body riddled with bullets. His fingers were cut off for souvenirs. The mob was led by Joshua W. Ashleigh, a local member of the State Legislature, and his son, while Victor B. Chesire, editor of a local newspaper, *The Intelligencer*, after taking part in the lynching, got out a special edition telling about it in the following words: "*The Intelligencer* man went out to see the fun without the least objection to being a party to help lynch the brute." The then Governor of the State, Cole Blease, absolutely refused to use the power of his office to bring the lynchers to justice, and the Coroner's jury found that the Negro came to his death "at the hands of parties unknown."

The Crisis, December, 1911.

Georgia, 1911

Two colored men, Allen and Watts, were lynched in Monroe, Georgia, one for an alleged attack on a white woman, the other for "loitering in a suspicious manner." Judge Chas. H. Brand ordered Allen brought to Monroe for trial although it was known that the citizens had organized a mob to lynch him. The Judge was offered troops by the Governor to protect the prisoner but refused. Allen was sent to Monroe in charge of two officers. The train was stopped and he was taken off and shot. The mob then proceeded to Monroe where they stormed the jail, took out Watts and hanged and shot him. The same Judge had refused to ask for troops on a previous occasion, saying that he "would not imperil the life of one man to save the lives of a hundred Negroes."

No indictments were found against the lynchers.

The Crisis, August, 1911.…

Georgia, 1911

T. W. Walker, a colored man of Washington, Ga., killed C. S. Hollinshead, a wealthy planter of the

same place. It was stated that there was no apparent cause for the crime, but a Northern colored paper published the charge that Walker killed Hollinshead for attacking his wife and an Atlanta paper reprinted it. A crowd of white men tried to lynch Walker, who had been sentenced to death, but were so drunk that he succeeded in escaping. He was caught and resentenced to instant execution. Before he could be taken from the court room, a brother of Hollinshead shot and severely wounded him. He was then taken out and hanged, the court announcing that the brother would not be prosecuted. The only arrest made in connection with the affair was that of the Negro editor who published the charge against Hollinshead.

The Crisis, January, 1912.…

West Virginia, 1912

In Bluefield, W. Va., September 4, 1912, Robert Johnson was lynched for attempted rape. When he was accused he gave an alibi and proved every statement that he made. He was taken before the girl who had been attacked and she failed to identify him. She had previously described very minutely the clothes her assailant wore. When she failed to identify Johnson in the clothes he had, the Bluefield police dressed him to fit the description and again took him before her. This time she screamed on seeing him, "That's the man." Her father had also failed to identify him but now he declared himself positive that he recognized Johnson as the guilty man. Thereupon Johnson was dragged out by a mob, protesting his innocence, and after being severely abused, was hung to a telegraph pole. Later his innocence was conclusively established.

"The Lynching of Robert Johnson," James Oppenheim in *The Independent*, October 10, 1912.…

Texas, 1912

Dan Davis, a Negro, was burned at the stake at Tyler, Texas, for the crime of attempted rape, May 25, 1912.

There was some disappointment in the crowd and criticism of those who had bossed the arrangements, because the fire was so slow in reaching the Negro. It was really only ten minutes after the fire was started that smoking shoe soles and twitching of the Negro's feet indicated that his lower extremities were burning, but the time seemed much longer. The spectators had waited so long to see him tortured that they begrudged the ten minutes before his suffering really began.

The Negro had uttered but few words. When he was led to where he was to be burned he said quite calmly, "I wish some of you gentlemen would be Christian enough to cut my throat," but nobody responded. When the fire started, he screamed "Lord, have mercy on my soul," and that was the last word he spoke, though he was conscious for fully twenty minutes after that. His exhibition of nerve aroused the admiration even of his torturers.

A slight hitch in the proceedings occurred when the Negro was about half burned. His clothing had been stripped off and burned to ashes by the flames and his black body hung nude in the gray dawn light. The flesh had been burned from his legs as high as the knees when it was seen that the wood supply was running short. None of the men or boys were willing to miss an incident of the torture. All feared something of more than usual interest might happen, and it would be embarrassing to admit later on not having seen it on account of being absent after more wood.

Something had to be done, however, and a few men from the edge of the crowd, ran after more dry-goods boxes, and by reason of this "public service" gained standing room in the inner circle after having delivered the fuel. Meanwhile the crowd jeered the dying man and uttered shocking comments suggestive of a cannibalistic spirit. Some danced and sang to testify to their enjoyment of the occasion.

Special correspondence of the St. Louis *Post-Despatch*. *The Crisis*, June, September, 1912.…

Texas, 1916

Jesse Washington, a defective Negro boy, of about nineteen, unable to read and write, was employed as farm hand in Robinson, a small town near Waco, Texas. One day, the wife of his employer found fault with him, whereupon he struck her on the head with a hammer and killed her. There is some, but not conclusive, evidence that he raped her. He was arrested, tried, found guilty and sentenced to death by hanging within ten days of the commission of the crime. As the sentence was pronounced, a mob of fifteen hundred white men, who feared the law's delays, broke into the courtroom and seized the prisoner. He was dragged through the streets, stabbed, mutilated and finally burned to death in the presence of a crowd of

15,000 men, women and children. The Mayor and Chief of Police of Waco also witnessed the lynching.

After death what was left of his body was dragged through the streets and parts of it sold as souvenirs. His teeth brought $5 apiece and the chain that had bound him 25 cents a link. No one was ever indicted for participating in the lynching.

Investigation by the National Association for the Advancement of Colored People.…

Tennessee, 1917

On April 30, Antoinette Rappal, a sixteen-year-old white girl, living on the outskirts of Memphis, disappeared on her way to school. On May third her body was found in a river, her head severed from it. On May 6 a Negro wood chopper, Ell Person, was arrested on suspicion. Under third degree methods he confessed to the crime of murder. The Grand Jury of Shelby County immediately indicted him for murder in the first degree.

The prisoner was taken secretly to the State penitentiary at Nashville. It was known that he would be brought back for trial to Memphis. Each incoming train was searched, and arrangements were made for a lynching.

On May 15 the sheriff disappeared from Memphis. He returned on May 18, announcing that he was informed that several mobs were between Arlington and Memphis. The men were reported to be drinking. "I didn't want to hurt anybody and I didn't want to get hurt," he said, "so I went South into Mississippi."

The press did nothing to quell the mob spirit, and on May 21 announced that Ell Person would be brought to Memphis that night. Thousands of persons on foot and in automobiles went to the place that had been prepared for the lynching.

With a knowledge of these conditions, Person was brought back from Nashville, guarded only by two deputies. Without difficulty he was taken from the train, placed in an automobile, and driven to the spot prepared for his death.

The Memphis *Press* reported the lynching in full. We give a few of its statements.

"Fifteen thousand of them men, women, even little children, and in their midst the black-clothed figure of Antoinette Rappal's mother cheered as they poured the gasoline on the axe fiend and struck the match.

"They fought and screamed and crowded to get a glimpse of him, and the mob closed in and struggled about the fire as the flames flared high and the smoke rolled about their heads. Two of them hacked off his ears as he burned; another tried to cut off a toe but they stopped him.

"The Negro lay in the flames, his hands crossed on his chest. If he spoke no one ever heard him over the shouts of the crowd. He died quickly, though fifteen minutes later excitable persons still shouted that he lived when they saw the charred remains move as does meat on a hot frying pan.

"'They burned him too quick! They burned him too quick!' was the complaint on all sides."

Investigation of the burning of Ell Person at Memphis, by James Weldon Johnson. Published by the National Association for the Advancement of Colored People.

Tennessee, 1918

Jim McIlherron was prosperous in a small way. He was a Negro who resented the slights and insults of white men. He went armed and the sheriff feared him. On February 8 he got into a quarrel with three young white men who insulted him. Threats were made and McIlherron fired six shots, killing two of the men.

He fled to the home of a colored clergyman who aided him to escape, and was afterwards shot and killed by a mob. McIlherron was captured and full arrangements made for a lynching. Men, women and children started into the town of Estill Springs from a radius of fifty miles. A spot was chosen for the burning. McIlherron was chained to a hickory tree while the mob howled about him. A fire was built a few feet away and the torture began. Bars of iron were heated and the mob amused itself by putting them close to the victim, at first without touching him. One bar he grasped and as it was jerked from his grasp all the inside of his hand came with it. Then the real torturing began, lasting for twenty minutes.

During that time, while his flesh was slowly roasting, the Negro never lost his nerve. He cursed those who tortured him and almost to the last breath derided the attempts of the mob to break his spirit.

Walter F. White, in *The Crisis*, May, 1918.

Georgia, 1918

Hampton Smith, a white farmer, had the reputation of ill treating his Negro employees. Among those whom he abused was Sidney Johnson, a Negro peon,

Document Text

whose fine of thirty dollars he had paid when he was up before the court for gaming. After having been beaten and abused, the Negro shot and killed Smith as he sat in his window at home. He also shot and wounded Smith's wife.

For this murder a mob of white men of Georgia for a week, May 17 to 24, engaged in a hunt for the guilty man, and in the meantime lynched the following innocent persons: Will Head, Will Thompson, Hayes Turner, Mary Turner, his wife, for loudly proclaiming her husband's innocence, Chime Riley and four unidentified Negroes. Mary Turner was pregnant and was hung by her feet. Gasoline was thrown on her clothing and it was set on fire. Her body was cut open and her infant fell to the ground with a little cry, to be crushed to death by the heel of one of the white men present. The mother's body was then riddled with bullets. The murderer, Sidney Johnson, was at length located in a house at Valdosta.

The house was surrounded by a posse headed by the Chief of Police and Johnson, who was known to be armed, fired until his shot gave out, wounding the Chief. The house was entered and Johnson found dead. His body was mutilated. After the lynching more than 500 Negroes left the vicinity of Valdosta, leaving hundreds of acres of untilled land behind them.

The Lynchings of May, 1918, in Brooks and Lowndes Counties, Georgia, by Walter F. White. Published by the National Association for the Advancement of Colored People.

Mississippi, 1918

On Friday night, December 20, 1918, four Negroes, Andrew Clark, age 15; Major Clark, age 20; Maggie Howze, age 20; and Alma Howze, age 16, were taken from the little jail at Shubuta and lynched on a bridge over the Chickasawha River. They were suspected of having murdered a Dr. E. L. Johnston, a dentist.

An investigation disclosed the following facts: That Dr. Johnston was living in illicit relations with Maggie Howze and Alma Howze. That Major Clark, a youth working on Johnston's plantation wished to marry Maggie. That Dr. Johnston went to Clark and told him to leave his woman alone. That this led to a quarrel, made the more bitter when it was found that Maggie was to have a child by Dr. Johnston; and that the younger sister was also pregnant, said to be by Dr. Johnston.

Shortly after this Johnston was mysteriously murdered. There were two theories as to his death; one that he was killed by Clark, the other that he was killed by a white man who had accused him of seducing a white woman. It was generally admitted that Johnston was a loose character.

Alma Howze was so near to motherhood when lynched that it was said by an eye-witness at her burial on the second day following, that the movements of her unborn child could be detected.

Investigation by the National Association for the Advancement of Colored People.

North Carolina, 1918

Mob Leaders Go To Prison

Realizing that if a lyncher is permitted to remain unpunished the decency of the community is greatly endangered, Judge B. F. Long of the Superior Court sentenced fifteen white men, indicted for participa-

Glossary

"at the hands of parties unknown"	a phrase the authorities commonly used in investigations of lynchings to avoid assigning guilt
bona fide	Latin for "in good faith"; authentic or genuine
Central Powers	in World War I, the German Empire, the Austro-Hungarian Empire, Bulgaria, and the Ottoman Empire
Henry Watterson	a late-nineteenth to early-twentieth-century journalist, editor of the *Louisville Courier-Journal,* and opponent of lynching
posse	from the Latin phrase *posse comitatus,* meaning "power of the county," used to refer to a temporary police force but often associated with mob violence

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tion in a riot in Winston-Salem, Nov. 17, to serve from fourteen months to six years in prison. The men were found guilty of attempting to lynch Russell High, a prisoner in the city jail.

The fifteen men were a part of a mob that for a night and morning terrorized Winston-Salem, and in their efforts to lynch a black man, innocent of the crime of assault for which he had been arrested on suspicion, put life and property in peril and incidentally killed four people, one a little white girl. The Mayor of the city acted with promptitude and courage, railing out the Home Guards and the fire department which played water on the mob. Nearly every policeman was hurt. The Governor rushed troops from Camp Green at Charlotte. For many days cannon guarded the streets. "We don't mean to be sentimental on this matter," a prominent business man is quoted as saying, "but we aren't going to have our city's good name spoilt by a lynching."

Condensed from reports of the North Carolina press.

Cyril Briggs's *Summary of the Program and Aims of the African Blood Brotherhood*

1920

"The Negroes in the United States ... are destined to play a vital part in a powerful world movement for Negro liberation."

Overview

The 1920 *Summary of the Program and Aims of the African Blood Brotherhood* remains one of the first documents to successfully merge black nationalism and international Communism, making it a key document in the history of both African Americans and the Left. Written by a West Indian immigrant named Cyril V. Briggs, the *Summary* enumerates eight goals for the African Blood Brotherhood for African Liberation and Redemption (ABB), a secret, all-black society founded by Briggs to unite people of African descent and counter what Briggs perceived to be the menacing forces of capitalism and white racism.

In his *Summary*, Briggs argues for united opposition of diverging black organizations against lynching and the Ku Klux Klan (KKK), both treacherous outgrowths of white racism in the United States. He also suggests that black children be educated in black history, outlining an early approach to an Afrocentric black studies curriculum. Essential to this project was an emphasis on recovering the history of Africa, even showing how African civilizations rivaled if not surpassed those of Europe.

In addition, Briggs calls for the organization of labor against unfettered, free-market capitalism. Here, however, he suspends his emphasis on race to include white Communists. Briggs's affinity for white Communists led him to break from the other most notable proponent of black nationalism at the time, Marcus Garvey, and forge his unique brand of race-based, class-oriented politics. Briggs's *Summary of the Program and Aims of the African Blood Brotherhood* thus serves as both a thematic link to other insurgent nationalist movements at the time, including Ireland's struggle for independence from Britain in the Irish Easter Rising, and a bold response to white Anglo-Saxon Protestant nativism, embodied most forcefully in the resurgence of the notorious white supremacist group the KKK during World War I.

Context

Issued in 1920, the *Summary of the Program and Aims of the African Blood Brotherhood* came on the heels of one of the most violent years of racial conflict in the United States. Following the end of World War I, returning black soldiers confronted remarkable levels of white violence, all sparked by war-related fears. One such fear was that African American soldiers might upset white political rule in the American South, no longer subordinating themselves to the humiliations of Jim Crow segregation. Partly owing to such fears, more than thirty riots all instigated by whites broke out against blacks in what became known as Red Summer, while lynchings of individual blacks spread across the South.

Another fear that influenced racial politics at the time, one that was more prominent in the North, was that African Americans might steal white jobs. In the second two decades of the nineteenth century, upwards of five hundred thousand African Americans left the South in what has since been termed the Great Migration, seeking jobs. Once white soldiers returned from Europe, however, the black newcomers employed in northern factories were viewed as unwanted intruders who threatened to permanently displace the returning GIs. Not surprisingly, blacks became the target of white working-class violence as early as 1917, when a white mob killed more than two hundred African American workers in East St. Louis, Illinois. Two years later, white mobs attacked African Americans in Chicago after a black swimmer wandered onto a white beach; the incident resulted in over thirty deaths and five hundred injuries.

Compounding racial violence in the Midwest was a surge in nativist sentiment nationally, spearheaded by rural whites fearful of alien immigration. Prior to the 1890s, most immigrants to the United States hailed from northern Europe, a region tending to be Nordic, Protestant, and otherwise culturally similar to the English and Scotch-Irish settlers of the colonial era. Beginning in 1891, however, immigration patterns shifted toward non-Protestant, southern Europeans, including Catholics and Jews from Italy, Poland, Russia, Hungary, and Greece. Afraid of such aliens, a group of Harvard University alumni formed the Immigration Restriction League in 1894, lobbying successfully for quotas on all immigrants to the United States.

Perhaps the most extreme anti-immigrant group in the United States at the time of Cyril Briggs's *Summary* was

Time Line

1914

- **July 28**
  World War I officially begins with Austria-Hungary's declaration of war against Serbia.

1916

- **April 24**
  Irish Republicans in Dublin seek independence for Ireland, beginning a weeklong rebellion against British oppression known as the Easter Rising.

1917

- **November**
  Eight months after the overthrow of the Russian czar, the Communist Party gains control of the former empire in the Russian Revolution.

1918

- **January 8**
  U.S. President Woodrow Wilson unveils his Fourteen Points.
- **September**
  Cyril Briggs founds *The Crusader*.
- **November 11**
  World War I ends as Germany signs an armistice with the Allied forces.

1919

- Briggs founds a secret society called the African Blood Brotherhood for African Liberation and Redemption.
- **March**
  The Communist International (Comintern) forms in Moscow.

1920

- Briggs issues his *Summary of the Program and Aims of the African Blood Brotherhood*.

1921

- Congress passes the first Emergency Quota Act.

1922

- Claude McKay travels to Russia to address the Fourth Comintern.

1925

- The Ku Klux Klan reaches the height of its influence.

the KKK. First organized by Confederate officers intent on restoring white rule to the South after the Civil War, the Klan lost support after the collapse of Reconstruction, only to regain backing in 1915. That year, a group of white southerners angry over the alleged 1914 rape of a white girl by a Jewish pencil factory manager named Leo Frank, and inspired by a romantic movie about the first Klan entitled *Birth of a Nation*, met at Stone Mountain, Georgia, to resurrect the second KKK. Under the leadership of a Texas dentist named Hiram W. Evans, the Klan expanded its target list to include not just African Americans but Jews, Catholics, and immigrants in general. Declared an imperial wizard in 1922, Evans made the Klan's motto "100 per cent Americanism," actively working to cull recruits not simply from the South but from the Midwest and the West. During his tenure, the KKK became a powerful force of hatred in the state politics of Georgia, Texas, Indiana, Colorado, and Oregon. Klansmen even made it to the 1924 Democratic National Convention, forming the extreme right wing of the Democratic Party at the time.

At least some of the Klan's violence stemmed from fears that the white race, and specifically Anglo-Saxon Protestants, risked extinction; this phobia was encouraged by academics who espoused what quickly came to be known as scientific racism. Perhaps foremost among them was Madison Grant, a conservationist who worked to save the redwoods of the Pacific Northwest at the same time that he worked to save the Anglo-Saxon Protestants of the Atlantic Northeast, both groups facing what Grant believed to be impending extinction. The popularity of Grant's book *The Passing of the Great Race*, a celebration of Anglo-Saxon achievements published in 1916, convinced some that the United States would never, in fact, achieve true assimilation. The cultural theorist Randolph S. Bourne penned an essay in 1916 entitled "Trans-National America," arguing that even European immigrants from places like Germany, Scandinavia, and Poland were not assimilating into American society, but rather clinging to older, Continental identities. For Bourne, such reluctance indicated a problem with prevailing notions of America as a liberal, democratic nation-state based not on ethnic or racial identity but on democratic idealism. Such idealism was precisely what President Woodrow Wilson endorsed during his administration, using it to rationalize American involvement in World War I. Bourne opposed American entry into the war and countered Wilsonian idealism with pluralism, or the acceptance and appreciation of ethnic and cultural differences, an idea that also appealed to Cyril Briggs.

Even though Briggs joined Bourne in failing to see an American melting pot, he did see hope for cross-cultural alliances under Communism. The Russian Revolution of 1917 convinced many, including Briggs, that Communism was a viable political alternative to free-market capitalism. After deposing the Russian czar, Communist revolutionaries pulled Russia out of World War I designating it a capitalist war and immediately went about establishing an egalitarian, antiproperty state. By the end of 1919, the newly formed Soviet government established the Commu-

nist International, or Comintern, an agency dedicated to spreading Communist ideals of revolution worldwide. That same year, the American Communist Party formed, inspiring Briggs to synthesize Communist theory with his own interests in racial pluralism and, more specifically, black nationalism. Although he was hardly the first person of color to be inspired by Communism in the United States, Briggs forged a critical link between Communism and black nationalist thought at a moment when most white Communists did not recognize the salience of racial allegiance or racial difference.

Conversely, Briggs's interest in Communism separated him from other proponents of black separatism in the 1920s, perhaps the best known of whom was Marcus Garvey, the father of the Back to Africa movement. In 1922 the African American writer Claude McKay took Briggs's ideas with him to the Soviet Union, addressing the Fourth Comintern in Moscow and initiating the beginnings of a formal relationship between the Soviet Union and the black Left. Raised on black-majority islands and schooled in European political thought, West Indian immigrants to places like Harlem brought with them a militant class politics that coincided with the New Negro Movement, a domestic campaign challenging white cultural hegemony that would absorb some but not all West Indian immigrant intellectuals. In the aftermath of the Russian Revolution of 1917, black West Indians in Harlem joined together to form leftist political groups that would serve as the foundation for a much more radical, Communist-oriented West Indian culture in New York. Briggs saw great potential in coupling the struggle for equality in the United States with the revolutionary spirit of Communism. The idea of black liberation as a global effort informs his *Summary of the Program and Aims of the African Blood Brotherhood*.

About the Author

Born on the small Caribbean island of Nevis on May 28, 1888, Cyril V. Briggs personally confronted many of the same tensions that drove anticolonialist sentiment in the first half of the twentieth century. The illegitimate son of a woman of color and a white overseer, Briggs was dark skinned enough to be rejected from Caribbean white society, yet light skinned enough to earn the description "Angry Blond Negro," noted Mark Solomon in *The Cry Was Unity: Communists and African Americans, 1917 1936*. Frustrated by a lack of opportunity on his home island, Briggs immigrated to the United States in 1905 and settled in New York City, gravitating toward Harlem's growing West Indian community. There, he found others who had grown up in the West Indies with a deep resentment toward European and particularly British imperialism, factors that contributed to an emerging politics of racial solidarity and anticapitalism.

In 1912, Briggs landed a job with the *New York Amsterdam News*, a weekly periodical devoted to issues of interest among the city's African Americans. He took heart in President Woodrow Wilson's Fourteen Points plan issued in January 1918, particularly the promise that colonized peoples be granted "a voice in their own government." That September, Briggs founded *The Crusader*, a magazine dedicated, in Briggs's words, to promoting "Negro power and culture throughout the world," including the idea that human civilization began in Africa, that black achievements were underemphasized in American schools, and that African Americans would be better served by an "independent, separate existence" from whites.

Inspired by the success of *The Crusader* and disappointed in Wilson's failure to work actively for colonial independence, Briggs abandoned hope in traditional struggles for civil rights and social equality, taking inspiration instead from global outbreaks of racial and ethnic nationalism, most notably the Irish Easter Rising of 1916. To Briggs, Ireland's attempt to free itself from British oppression in the Easter Rising indicated that ethnic and racial nationalism was, in fact, a logical strategy for black advancement. He shared this sentiment with Marcus Garvey, a Jamaican stonemason who immigrated to the United States in 1916 and quickly established one of the most dynamic black organizations in American history, the Universal Negro Improvement Association. Both Garvey and Briggs took the Easter Rising to mean that a possible answer to racial injustice in the United States was black nationalism, a position that Briggs articulated forthrightly in 1917, when he identified African Americans as nothing less than a "nation within a nation."

While Garvey adopted a view of black nationalism similar to the one held by Briggs, Briggs differed from Garvey in that he also took an interest in the Russian Revolution, finding Soviet internationalism an attractive model upon which to build his own version of black transnationalism. Briggs attempted to fuse Communism with black nationalism by founding a secret society called the African Blood Brotherhood for African Liberation and Redemption in 1919. Garvey, on the other hand, rejected Communism in favor of black capitalism, which led to a rift between the two activists.

In defiance of Garvey, Briggs joined the Communist Party in 1921, and the ABB merged with the party in 1925, becoming the American Negro Labor Congress. By 1929, Briggs himself was elevated to the central executive committee of the Communist Party of the United States. Though expelled for his black nationalist views, Briggs continued to side with Communist policies, eventually rejoining the Communist Party of the United States in 1948. He died on October 18, 1966.

Explanation and Analysis of Document

The *Summary of the Program and Aims of the African Blood Brotherhood* by Cyril V. Briggs can be viewed as an attempt to rethink the concept of nationhood itself, suggesting that nations need not be bounded by language or geography but can be formed around a shared past or expe-

Barricades in Petrograd, Russia, during the Russian Revolution (Library of Congress)

rience. Issued at its first conference in 1920, the *Summary* outlines the goals of the self-declared secret brotherhood. The document itself is a relatively short list that enumerates nine political objectives, the first of which declares the need for a "liberated race" free from "alien political rule." Here, alien political rule implies both rule by whites over blacks in the United States and rule by colonial powers over the colonized generally. Indeed, one of the more remarkable attributes of the *Summary* is that it foreshadowed the Trinidadian-born activist Stokely Carmichael's Black Power thesis declaring that African Americans lived in what was essentially a domestic colony in 1967. Almost half a century earlier, Briggs had implied as much, drawing a not-so-subtle connection between imperial rule over blacks in the West Indies Briggs's home and white rule over blacks in the United States.

Like Carmichael, Briggs focuses on economic inequality or, as he puts it, the "crushing weight of exploitation." Although Jim Crow segregation might easily have been included in this section, the *Summary* concentrates more on economic inequality, or that which keeps "the many in degrading poverty" so that others presumably white elites can "wallow in stolen wealth." Continued poverty in the otherwise wealthy United States, implies the *Summary*, ties American blacks to blacks around the world. In an interesting refusal to distinguish between, on the one hand, African Americans who could trace their lineage to slavery and recent West Indian immigrants on the other, Briggs notes in his first point that blacks in America, "both native and foreign born," are particularly well suited to play a "vital part" in a larger, global "movement for Negro liberation." Briggs's merger of black natives and immigrants here reflects a larger pan-African sensibility, one that does not place reparations for domestic slavery any higher than general redress for wrongs done to people of African descent generally. Unlike the National Association for the Advancement of Colored People, in other words, Briggs does not see a domestic struggle for civil rights to be as important as a larger, global struggle to achieve a free America and a "free Africa." Although it is subtle, this distinction is important, as it demonstrates a strategic advance in the direction of a true but fledgling black nationalism, one that did not differentiate between blacks from one country or another but rather viewed all people of African descent as comprising their own country.

To make the claim that all people of African descent essentially belonged to the same oppressed nation, Briggs necessarily had to occlude any mention of divisions that existed and had existed over time between African peoples, along with discrimination and injustice imposed by Africans against other Africans. Indeed, implicit in Briggs's claims of black subjugation at the hands of Europeans was a profound de-emphasis on the importance of history in the determination of events particularly any mention of the longstanding role that slavery had played in African societies. That large West African empires like Asante and Dahomey owed their existence to slavery was ignored, as was the fact that African slavery predated slavery in the New World.

The second point of the *Summary* demands racial equality in the political, social, and economic realms. Briggs does not elaborate on whether economic equality means equality of opportunity or result, but given his Socialist leanings the latter was probably the more likely. For political equality, Briggs could have meant equal access to the vote, a right that eluded African Americans in the South, or he might have been referencing the U.S. Supreme Court's distinction between social and political equality, a differentiation it made in *Plessy v. Ferguson* in 1896. In that case, the Court declared that while the Constitution protected political equality, such as the right to vote, it did not guarantee social equality meaning that state laws requiring racial segregation in public places were entirely legal. Of course, such laws did not exist in the northeastern United States, where segregation tended to be de facto (discrimination that occurred in real-life situations) rather than de jure (discrimination stipulated by law), but Briggs's reference to them indicates that he envisioned African Americans in the South eventually joining his Brotherhood.

The third objective of the *Summary* calls for the "fostering of racial self-respect" through increased awareness of the contribution that blacks had made both to "modern civilization" and to the ancient world. Briggs had discussed such contributions at length in *The Crusader*, including notions that Africa was the cradle of civilization and that African people, including Egyptians, had inspired the Greeks. Although Briggs does not elaborate more in his *Summary*, his was clearly a call for Afrocentrism in education, a prescient move, given that black studies departments would not be formed until the late 1960s. Closely tied to this emphasis on education is the eighth point of the *Summary*, which declares that "knowledge is power" and concedes that no racial advancement can occur without overcoming "ignorance." To further the ends of black education, Briggs proposes to send lecturers "throughout America," teaching African Americans, establishing forums, and publishing newspapers.

Even as blacks needed to strive for education, maintains Briggs, so too did they need to unite against the KKK, a white supremacist group that blamed white America's economic and employment woes on the various waves of immigrants among them blacks, Jews, and European Catholics to the United States. Both points 4 and 5 of the *Summary* reference the need to counter the Klan, as the terrorist organization experienced a resurgence upon the return of black soldiers to the United States following World War I. The KKK eschewed cities like New York, opting instead to focus its efforts on rural America, where segregationist sentiment had gone wild. But just as Briggs indicates an interest in ending segregation in the American South (for its denial of social equality), so too does he seem interested in aiding African Americans battling the Klan in the Midwest and West.

To fight the Klan, Briggs advocates organizing the "Negro masses" and establishing a federation of black groups capable of presenting a united front. What precisely Briggs thought this united front might do is unclear, though he does indicate an interest in reaching out to other groups targeted by the KKK, particularly Catholics and Jews. Here, Briggs makes sure to emphasize that any potential alliance between blacks, Catholics, and Jews does not necessarily have to compromise his earlier interest in black nationalism, nor, as he points out in the fifth objective of the *Summary*, would it have to compromise black "identity" or "autonomy." Indeed, "not love or hatred," argues Briggs in point 4, "but IDENTITY OF INTERESTS AT THE MOMENT," warranted reaching across racial lines and bringing in white minorities suffering from violence and discrimination.

Although he is adamant that black/white alliances would not compromise the essentially nationalist character of the ABB, Briggs indicates a much greater interest in reaching out to whites than his stated emphasis on Afrocentrism seems to indicate. In the ninth section of the *Summary*, for example, Briggs calls both for "fellowship and coordination" with "other dark races," presumably people of Asian and South American descent, as well as with "truly class-conscious white workers." Here, Briggs's Communism arguably shines through his racial nationalism, indicating a potentially subversive aspect of his ABB agenda. While it is couched in nationalist terms of blood that might have attracted Garveyites, Briggs's *Summary* could easily have been an attempt to rob Garvey of support, diverting his sheep into the Communist fold. Only white Communists, after all, would be "truly class-conscious," a perspective that Garvey, a black capitalist, did not value.

Further indication of Briggs's dissatisfaction with Garvey was his notion that political struggles and business ventures needed to be kept separate. In objective 6 of the *Summary*, Briggs makes it clear that "individual and corporation enterprises" should not be joined with "mass movements." In all likelihood this was an allusion to Garvey's Black Star Line of ships, funded through the donations of poor black Harlemites, with the ultimate goal of linking blacks throughout the Atlantic world. Ruined by mismanagement and inadequate funding, Garvey's cruise line probably disturbed Briggs, both for its reliance on the meager funds of the black poor and its similarity to a capitalist business venture. Instead, Briggs advocated the endorsement of "cooperative enterprises" not large-scale business ventures, but grassroots organizations that directly benefited the participants.

For blacks caught up in big business, Briggs recommends "industrial unionism," another indication of his Communist leanings. Well aware of the discrimination that black workers suffered at the hands of white-dominated unions, Briggs calls not for the formation of separate, black unions, but rather for the reform of white unions corrupted by greedy, manipulative employers. In point 7, Briggs alludes to a potential alliance between blacks and whites, particularly those "radical and progressive" white union leaders who promised to lead the charge in labor reform.

Audience

The *Summary of the Program and Aims of the African Blood Brotherhood* targeted several audiences. First, it

Essential Quotes

"The Negroes in the United States—both native and foreign born—are destined to play a vital part in a powerful world movement for Negro liberation."

(1)

"Not love or hatred, but IDENTITY OF INTERESTS AT THE MOMENT, *dictates the tactics of practical people."*

(4)

"For the purpose of waging an effective struggle and weakening our enemies wherever possible, we must (a) establish fellowship and coordination of action within the darker masses and (b) between these masses and the truly class-conscious White Workers who seek the abolition of human exploitation."

(9)

sought to sway African Americans in the urban North, the very same blacks who might be tempted to join Marcus Garvey's Universal Negro Improvement Association. Although Briggs and Garvey had not finalized their ideological split by 1920, Briggs's criticism of merging protest with business, something that Garvey succeeded in doing with his Black Star Line, indicates that Briggs hoped to siphon support from Garvey's political machine. Even if blacks did not quit the Universal Negro Improvement Association, for example, they could still work to nudge it away from capitalism and toward Briggs's Socialist nationalism. Only later would Briggs and Garvey become open enemies, decrying one another in the public sphere.

Other targets of Briggs included African Americans in the South and the West. The *Summary*'s opposition to lynching a largely southern phenomenon promised to win support from African Americans in the South, even as Briggs's opposition to the KKK promised to extend the reach of the ABB to the Midwest and West, particularly as the Klan spread its membership to western states like Oregon.

Finally, Briggs's *Summary* appealed to Communists. Although he was interested in black nationalism, Briggs made it clear that an interracial alliance between blacks and "truly class-conscious White Workers" would only help black interests, an appeal that inspired young, black Communists like the writer Claude McKay to merge racial nationalism with Soviet internationalism. Anyone interested in rethinking the boundaries of nationhood, in de-coupling them from geography and linking them to ethnic or racial identity, joined the intended audience of Briggs's *Summary of the Program and Aims of the African Blood Brotherhood*.

Impact

One of the first documents to articulate a pan-African national identity, Cyril Briggs's *Summary of the Program and Aims of the African Blood Brotherhood* had a profound, if subtle, effect on theories of race formation in twentieth-century America. To take just a few examples, Briggs did much to inspire the Communist position that African Americans should form their own nation in the Deep South, a surprising position that became official Soviet policy in 1928. Soviets learned of Briggs's views thanks to the Harlem Renaissance poet Claude McKay, a black Communist who joined the ABB before traveling to Moscow in 1922. Inspired by Briggs, McKay used his position as a reporter for the radical newspaper *The Liberator* to arrange interviews between Briggs and white Communists in New York, hoping to cobble together an interracial Left. When McKay arrived in the Soviet Union in 1922, he was hailed as a hero, toasted by Russian Communist leader Leon Trotsky, and made an honorary member of the Moscow government hierarchy. From this position, McKay successfully spread Briggs's views to the highest echelons of Soviet leadership.

While protégés like McKay spread his views abroad, Briggs's ideas also prefigured black politics at home. Writing at the same time as many of the luminaries of the Harlem Renaissance, Briggs contributed to the then-radical notion that African American culture was unique and valuable and that African civilization itself predated and in many cases prefigured European civilization. Such claims not only coincided with the New Negro Movement but also foreshadowed the explosion of Afrocentrism that would emerge in the United States following the devolution of the civil rights movement in the 1960s.

Briggs's emphasis on the distinctive nature and contribution of black culture to Western civilization would become a core axiom of black nationalism, foreshadowing the formation of African American studies departments at colleges across the United States in the 1960s and 1970s. By the close of the twentieth century, prominent black scholars such as Cornel West were advocating a merger of black culture and Socialism reminiscent of Briggs, while scholars such as Paul Gilroy were reframing the concept of black studies around a transnational, diasporic portrait of people of African descent across the Atlantic world, much like Briggs had advocated. Even Briggs's emphasis on the African roots of Western civilization reemerged as a topic of intense scholarly debate in the 1980s and 1990s, following the publication of Cornell University historian Martin Bernal's book *Black Athena*. Although it was criticized by some, the book presented a case very similar to the one that Briggs had endorsed in 1920, suggesting that much of Greek culture came from Egypt.

See also *Plessy v. Ferguson* (1896); Marcus Garvey: "The Principles of the Universal Negro Improvement Association" (1922); Alain Locke's "Enter the New Negro" (1925); Stokely Carmichael's "Black Power" (1966).

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Questions for Further Study

1. To what extent would Cyril Briggs have approved of Eldridge Cleaver's "Education and Revolution," written in 1969?

2. Using this document in connection with Martin R. Delany's *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States* (1852) and such documents as Malcolm X's "After the Bombing" speech (1965) and Stokely Carmichael's "Black Power" (1967), trace the history of black nationalism in the United States. Do you believe that black nationalism is still a potent force in the twenty-first century? Why or why not?

3. What impact did the events surrounding World War I have on Briggs and on the black nationalist movement?

4. What objections did Briggs and the African Blood Brotherhood have to capitalism? What was the appeal of Communism to the brotherhood?

5. What do you think the attitude of W. E. B. Du Bois (*The Souls of Black Folk*) and Alain Locke ("Enter the New Negro") would have been to Briggs's *Summary*? Why?

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Anders Walker

Document Text

Cyril Briggs's *Summary of the Program and Aims of the African Blood Brotherhood*

1) **A Liberated Race** in the United States, Africa, and elsewhere. Liberated not merely from alien political rule, but also from the crushing weight of exploitation, which keeps the many in degrading poverty that the few may wallow in stolen wealth. The Negroes in the United States both native and foreign born are destined to play a vital part in a powerful world movement for Negro liberation. Just as the Negro in the United States can never hope to win genuine equality with his white neighbors under the system of exploitation, so, too, a free Africa is impossible until commercial exploitation is abolished. The ABB proposes (1) to develop and organize the political and economic strength of the Negro in the North for the purpose of eliminating peonage, disfranchisement, etc., in the South and raising the status of the Negro in that section of the country, and (2) to organize the national strength of the entire Negro group in America for the purpose of extending moral and financial aid and, where necessary, leadership to our blood-brothers on the continent of Africa and in Haiti and the West Indies in their struggle against white capitalist exploitation.

2) **Absolute Race Equality**. In this question are inextricably bound the issues of Political Equality, Social Equality, and Economic Equality. Let one be denied and the whole principle of racial equality is denied.

3) **The Fostering of Racial Self-Respect** by the dissemination of the true facts concerning the Negro's contributions to modern civilization and the predominant party played in the ancient world by the African peoples.

4) **Organized and Uncompromising Opposition to the Ku Klux Klan** and all other movements or tendencies inimical to the true interests of the Negro masses. To effectively oppose the bigotry and prejudice of the Ku Klux Klan we must (a) organize the Negro masses; (b) create a strong Negro Federation out of the existing organizations that we may present a United Front; and (c) for the purpose of fighting the Klan ally ourselves with all groups opposed to its vicious activities, viz: the workers, particularly the Jewish workers and the Catholic workers, at whom, with the Negro, the Klan's activities are especially directed. As for the purpose of throwing off our oppression, the enemies of the Imperialist system are our natural allies by virtue of being in the same camp and opposed to the same enemy, so the enemies of the Klan are our friends in that they fight the foe we fight. The Negro masses must get out of their minds the stupid idea that it is necessary for two groups to love each other before they can enter into an alliance against their common enemy. Not love or hatred, but IDENTITY OF INTERESTS AT THE MOMENT, dictates the tactics of practical people.

5) **A United Negro Front** with which to oppose the Ku Klux Klan and all other organizations and tendencies antagonistic to the Negro. This can be done only by bringing all Negro organizations into a Federation with a program to which any serious and intelligent Negro organization could subscribe. Their identity would not be lost. Their autonomy practically unimpaired. And the race organized and effective for the first time in its history.

6) **Industrial Development** along genuine cooperative lines whereby the benefits will be equally distributed among the masses participating, and not appropriated by a few big stockholders and dishonest and inefficient officials drawing exorbitant salaries. The ABB is sternly opposed to the foisting of individual and corporation enterprises upon mass movements for the reason that (a) such procedure is manifestly dishonest and misleading. Enterprises supported by mass movements should be of such a nature as to equally benefit everyone in the movement, not merely a handful of officials; (b) the ABB does not consider any commercial enterprise good enough to base the sacred Liberation Movement upon the mere chances of success or failure. No movement so based can long survive the collapse of its commercial enterprises. We believe in fostering and encouraging cooperative enterprises that will benefit the many rather than the few, but without basing the movement upon them.

7) **Higher Wages for Negro Labor, Shorter Hours, and Better Living Conditions.** To gain for Negro Labor the full reward of its toil and to prevent exploitation either on the job or at the source of supplies we must encourage industrial unionism among our people and at the same time fight to break down the prejudice in the unions which is stimulated and

Document Text

encouraged by the employers. This prejudice is already meeting the attack of the radical and progressive element among white union men and must eventually give way before the united onslaught of Black and White Workers. Wherever it is found impossible to enter the existing labor unions, independent unions should be formed, that Negro labor be enabled to protect its interests.

8) **Education**. That "Knowledge is Power" was never more true than today when on every hand it is being demonstrated that races or groups advance by virtue of their acquirement of knowledge or lag behind because of their failure to overcome ignorance. The ABB proposes to send lecturers throughout America, establish forums, newspapers, etc., etc.

9) **Cooperation with Other Darker Races and with the Class-Conscious White Workers**. For the purpose of waging an effective struggle and weakening our enemies wherever possible, we must (a) establish fellowship and coordination of action within the darker masses and (b) between these masses and the truly class-conscious White Workers who seek the abolition of human exploitation.

The ABB submits the above summary of its program and aims, confident that it will receive the earnest attention of the race and that it will earn their active support.

Glossary

Ku Klux Klan	formed in the wake of the Civil War, a group that promoted white supremacy through lynching, violence, and intimidation
peonage	a system by which debtors can pay off their debt by working for their creditors

A Ku Klux Klan parade down Pennsylvania Avenue in Washington, D.C., in the mid-1920s (Library of Congress)

Walter F. White: "The Eruption of Tulsa"

1921

"All that was lacking to make the scene a replica of modern 'Christian' warfare was poison gas."

Overview

The race riot in Tulsa, Oklahoma, of May 31 June 1, 1921, "the night Tulsa died," stands as one of the more disgraceful episodes in American history. Among its first chroniclers was Walter F. White, whose article "The Eruption of Tulsa" appeared in *The Nation* magazine on July 29 that year. The riot was sparked by a rumor of a sexual assault that was picked up by a city newspaper. Events quickly spiraled out of control as mobs gathered. On the night of May 31 and continuing until noon the following day, gangs of white and black citizens waged open warfare on one another, with white gangs shooting black citizens in public and torching and vandalizing homes and businesses in Tulsa's black Greenwood district. Roughly thirty-five blocks in Greenwood, including more than twelve hundred homes and numerous businesses, were destroyed by fire, and some ten thousand people were left homeless. Although the official death toll was put at thirty-nine, few who have studied the event, including White, believe this figure. According to an American Red Cross investigation, the number was at least three hundred, and some investigators place the number much higher, perhaps in the thousands. Suspicions remain that many of those killed in the rioting were buried in mass graves.

Context

The broad context for the Tulsa race riot was the legacy of slavery in the United States and the complex racial politics of the post Civil War era, when so-called Black Codes enforced racial segregation and a crucial U.S. Supreme Court case, *Plessy v. Ferguson* (1896), provided legal justification for segregation. But in the early years of the twentieth century, several more specific developments conspired to create the conditions that would erupt in violence in Tulsa. White alludes to many of these conditions in his article.

One development was the reemergence of the Ku Klux Klan. The Klan had been formed in 1866 in Tennessee and in the ensuing years opposed Reconstruction in the South and launched efforts to deny African Americans their rights under the Civil Rights Act of 1866 and other legislation. The Klan's power ebbed in later decades as many of its leaders were arrested, tried, and convicted for crimes against African Americans. The Klan experienced a rebirth after 1915, however, in part because of the enormous popularity of D. W. Griffith's film *The Birth of a Nation*, based on a 1905 book by Thomas Dixon titled *The Clansman*. The movie, still considered a classic for its technical brilliance if not its message, romanticized the Klan by depicting its members as defenders of a white American way of life and portraying African Americans as drunkards and rapists.

By the early 1920s the Klan had some three million members, many of them prominent representatives of the middle class, and the group successfully influenced the election of public officials in Indiana, Oregon, and other states, including Oklahoma. In Tulsa, numerous judges, lawyers, doctors, teachers, entertainers, bankers, and businessmen were Klan members. The Klan and its sympathizers enforced their views through violence and intimidation, particularly lynching. The actions of lynch mobs are often thought of as spontaneous outbreaks of violence, but in fact many were planned events, with newspapers announcing their time and place, agents selling train tickets to the sites, and families packing picnic lunches to watch the gruesome spectacles. This lynch-mob mentality would play a major role in the Tulsa riot.

A second development was the newfound voice of the African American community. In 1905 black leaders began the Niagara Movement to combat segregation, disenfranchisement, and lynchings. The movement gained prominence in 1908 after a race riot broke out in Springfield, Illinois, when a white woman claimed that a black man had tried to rape her a charge she later recanted. These and other events led to the formation of the National Association for the Advancement of Colored People (NAACP) in 1909. At roughly the same time, Marcus Garvey, a black nationalist, was gaining prominence as the founder of the Universal Negro Improvement Association, which by the early 1920s boasted nearly a million members and was the largest nonreligious black organization in the United States. Garvey's central message was one of black pride and self-help the belief that only blacks could improve their own condition through enterprise. Then, in 1919, the African Blood Brotherhood, a black liberation and self-

Time Line

1901

- Oil is first discovered near Tulsa, Oklahoma, laying the foundation for black economic prosperity.

1908

- **August**
  Racial violence erupts in Springfield, Illinois, after a white woman claims that she was raped by a black man.

1909

- **February 12**
  The National Association for the Advancement of Colored People is formed in part as a response to the Springfield riot.

1917

- **April 6**
  The United States declares war on Germany, entering World War I; four hundred thousand African Americans serve in the military during the war.

1918

- **November 11**
  The armistice ending hostilities of World War I is signed.

1919

- **May 10**
  Racial violence breaks out in Charleston, South Carolina, beginning the "Red Summer" of 1919; racial riots erupt in numerous U.S. cities into October.

1921

- **May 31**
  The Tulsa race riot erupts, continuing into June 1.
- **July 29**
  Walter F. White publishes "The Eruption of Tulsa" in *The Nation*.

1997

- **April**
  Oklahoma House Joint Resolution 1035 creates the Oklahoma Commission to Study the Tulsa Race Riot of 1921.

defense organization with ties to the Communist Party, was formed. Many white Americans looked on these developments with trepidation.

This emphasis on black economic development would play a role in the Tulsa riot. Many African Americans were leaving the Deep South to find greater economic opportunity in the North and Midwest, often placing themselves in competition with whites for jobs at a time when the nation was experiencing unemployment, inflation, and a sharp economic downturn. (The U.S. gross domestic product the total value of goods and services was just shy of $90 billion in 1920; in 1921 the figure was down to $74 billion.) Many black Oklahomans were enjoying some measure of prosperity because of the state's oil boom, which had begun in 1901 with the discovery of oil in the state, accelerated after 1905 with further oil strikes, and in the span of just two decades turned Tulsa from a backwater village into a thriving city. The Greenwood section of northeast Tulsa was a prosperous black commercial and residential district so prosperous that the black leader Booker T. Washington called it the "Negro Wall Street." The relative affluence in Tulsa's black district, with its groceries, restaurants, shops, professional offices, newspapers, churches, hospitals, a library, and even a few millionaires, was a source of racial tension born of jealousy and a belief among many whites that African Americans living in Tulsa's "Little Africa" did not know their "proper" place.

A third development was World War I. After the United States declared war on Germany in April 1917, the administration of President Woodrow Wilson did a masterly job of convincing Americans that war was the only option. They responded enthusiastically to his calls for sacrifice. But one of the side effects of the war was an exaggerated patriotism. Anyone who looked different, spoke with an accent, or had a German name was looked on with suspicion. The wave of immigration to the United States that preceded the war immigration from such places as Italy, eastern Europe, and Russia contributed to a growing sense that America was being "overrun" by potentially subversive elements. The Russian Revolution of 1917 did not help, for many Americans feared that Communists were infiltrating the United States. Labor unrest in the years immediately after World War I was ascribed to Jews, Bolsheviks (Communists), and people who were not white and not Protestant; radical labor organizations often targeted disaffected African Americans for recruitment. In this climate, Tulsa's African American community was barely tolerated prior to the night of May 31, 1921.

Adding to the resentment and climate of hostility was the large number of race riots that had taken place in the war's immediate aftermath when some blacks were lynched while still wearing their military uniforms and ships bearing blacks returning from the war were attacked by mobs. Tensions ran particularly high in 1919. Between May and October, racial violence broke out in at least thirty-four American cities a period that the African American author and NAACP director James Weldon Johnson called the Red Summer of 1919. Many of these riots were relatively small in scale, but oth-

ers in Charleston, South Carolina; Longview, Texas; Philadelphia, Pennsylvania; Washington, D.C.; Knoxville, Tennessee; Norfolk, Virginia; Omaha, Nebraska; Chicago, Illinois; and Elaine, Arkansas were major events, with loss of life and widespread property damage. These events, combined with labor agitation and bombings perpetrated by Communists and anarchists, fueled a climate of fear and suspicion that could erupt in violence anywhere.

The fuse in Tulsa was lit on the late afternoon of May 30. A nineteen-year-old shoe shiner named Dick Rowland needed to use a restroom. The only one available for a "colored" person was on the top floor of the nearby Drexel Building in downtown Tulsa. He entered an elevator operated by seventeen-year-old Sarah Page, who was white. It is unclear what exactly happened in the elevator, for no copy of Page's statement to the police exists, but it appears that Rowland may have tripped upon entering the elevator or may have accidentally stepped on Page's foot and in an effort to regain his balance, he threw out his hand and grabbed her arm. Another version of the story is that Page somehow slipped, and Rowland reached out to steady her. In either case, Page apparently cried out. A clerk in a clothing store on the first floor of the building heard the cry, saw a young black man hurriedly leaving the building, found Page in a distraught frame of mind, and summoned the police. The police did not regard the incident as serious, but the following morning they pursued Rowland to his mother's home in Greenwood and took him to the Tulsa County Courthouse for questioning.

Matters might have ended there, but in its afternoon edition of May 31 the *Tulsa Tribune* ran a story with the headline "Nab Negro for Attacking Girl in an Elevator." The incident, thus, tapped into the "rape myth," common at the time, which perpetuated the notion that white women needed to be protected from black sexual predators. Additionally, the paper ran a second story claiming that a lynch mob was forming, though it is unknown what the paper's source of information was. Interestingly, the second story was removed from the paper's later edition and then removed from its archives; no copy of the story has been found. In response, a crowd of white people began gathering at the courthouse. Many were just curious onlookers, but many others were outraged at what they believed had been an assault on a white woman by a black man. By early evening the growing crowd had all the earmarks of a lynch mob.

Over the next several hours, white and black citizens began arming themselves. Small teams of armed blacks appeared at the courthouse and in the surrounding area, offering to help the sheriff protect Rowland from the mob, but they were turned away. In response to what appeared to be a "Negro uprising," bands of whites took up arms, and the size of the crowd around the courthouse swelled to perhaps two thousand. Sometime after 10:00 PM a shot rang out, sparking gunfire that left several whites and blacks dead on the streets. Matters escalated as bands of whites pursued blacks to the Greenwood section, looting stores for guns and ammunition along the way and attempting to seize weapons from the National Guard armory. Meanwhile, Greenwood's residents were panicking, either gathering weapons or fleeing north away from the city. Throughout the night, groups of whites and blacks fired on each other across the railroad tracks that separated Greenwood from the white part of town. Fires were set in two dozen black-owned businesses at the edge of Greenwood. Some white and Hispanic Tulsans took up arms to come to the defense of the black community, but the sheer number of rioters overwhelmed them.

Matters escalated again after sunup at about 5:00 AM on June 1. White gangs gathered to launch an all-out assault on Greenwood, firing indiscriminately on any blacks who had not yet fled. There were reports that planes were dropping firebombs into the community, and throughout the early morning, fires spread throughout Greenwood. Meanwhile, African Americans, many of them injured, were being held at detention centers, and local hospitals treated some eight hundred people who were injured in the rioting, near-

Time Line

2000

- **February 5**
  The Oklahoma Commission recommends that reparations be paid to the survivors of the Tulsa race riot.

2001

- **February 28**
  The Oklahoma Commission issues its report, *Tulsa Race Riot: A Report by the Oklahoma Commission to Study the Tulsa Race Riot of 1921*.
- **April 7**
  The Tulsa Reparations Commission is formed.

2003

- **April 28**
  A lawsuit on behalf of the survivors of the Tulsa riot is filed in U.S. District Court; the case is dismissed in 2004.

2004

- **June 21**
  The U.S. Tenth Circuit Court of Appeals hears an appeal of the 2003 lawsuit; on September 8 the court rules that the statute of limitations has passed.

2009

- The John Hope Franklin Tulsa-Greenwood Race Riot Claims Accountability bill is introduced to the U.S. Congress.

ly all of them white. People in the city's white section were threatened with violence and vandalism if they did not turn over black cooks and housekeepers to the rioters.

Finally, at about 9:00 AM on June 1, Oklahoma National Guard troops began arriving from Oklahoma City. Tulsa was placed under martial law, and by noon the violence had come to an end. Greenwood, though, was a smoking war zone. On June 7, the Tulsa City Commission passed a fire ordinance saying that the Greenwood commercial district could not be rebuilt, but the district was, in fact, later rebuilt. A grand jury was convened with a view to charging the perpetrators of the riot, but, as quoted in the "Tulsa Race Riot" Web site by Scott Ellsworth, the grand jury concluded that "there was no mob spirit among the whites, no talk of lynching and no arms. The assembly was quiet until the arrival of armed Negroes, which precipitated and was the direct cause of the entire affair." Many white Tulsans were horrified by what had been wrought in their city and opened their homes to homeless blacks, and the American Red Cross provided food and tents for the homeless. But a sense of shame settled over the city, and the Tulsa riot became a largely forgotten event until the 1990s.

About the Author

Walter Francis White, one of the most prominent civil rights leaders of the first half of the twentieth century, was born on July 1, 1893, in Atlanta, Georgia. After graduating from Atlanta University in 1916, he joined the staff of the NAACP in New York City in 1918. He worked under James Weldon Johnson as the NAACP's assistant national secretary until 1931, when he became the executive director a position he held until his death. Throughout his career, he led the NAACP's fight against discrimination, lynching, disenfranchisement, and segregation. He was instrumental in creating the organization's Legal Defense Fund, which sought equal justice in the courts. He was the motivating force behind President Harry Truman's order to desegregate the military after World War II, and under his direction the Legal Defense Fund led the efforts to erase segregated schooling that culminated in the 1954 U.S. Supreme Court case *Brown v. Board of Education*.

White was the author of numerous essays that appeared in national magazines. During his early years in the NAACP, he investigated lynchings and riots, often traveling incognito to the sites of these events and putting himself in great personal danger in the process, though his ability to "pass" as white because of his light complexion helped gain him access to the police, politicians, and others. In 1919, for example, he traveled to Arkansas to investigate the riot that had taken place in Elaine in October of that year and fled the town in the face of threats. Seventy-nine African Americans were arrested, tried, and convicted for their role in that riot. As a result of White's efforts, the U.S. Supreme Court eventually overturned the convictions on the ground that armed observers in the courtroom and an armed mob outside the courthouse had a tendency to intimidate the jury.

White was also a prominent figure in the Harlem Renaissance, the flowering of black culture and art that was centered in the Harlem neighborhood of New York City in the 1920s and 1930s. He was the author of several books, including *Fire in the Flint* (1924), *Flight* (1926), *Rope and Faggot* (1929), *A Rising Wind* (1945), and *How Far the Promised Land* (1955). His autobiography, *A Man Called White*, was published in 1948. A novel titled *Blackjack* was left unfinished when he died on March 21, 1955, in New York City.

Explanation and Analysis of the Document

White begins his article by sketching in broad strokes the events that happened in Tulsa. He notes that the incident was sparked by the report of a "hysterical white girl" and suggests that her account of what happened in the elevator was dubious, given that she was of "doubtful reputation" and that the alleged attack occurred in "open daylight" in a city of one hundred thousand people (though he later acknowledges the 1920 U.S. Census figure of seventy-two thousand). White ironically refers to "100-per-cent Americans" who acted on the report without bothering to verify it, causing death and destruction. In the second paragraph, White laments the "grip" that mob violence can have on the "throat of America," where that violence can break out anywhere and at any time.

Beginning with the third paragraph, White traces the backdrop for the event. He provides statistics on Tulsa, including its dramatic population growth and its prosperity as a result of the state's oil boom. In the fifth paragraph he notes that African Americans had shared in the prosperity, to the "bitter resentment" of "the lower order of whites," who believed that the city's African Americans were "presumptuous" in their prosperity. Many of these whites, immigrants from southern states, were themselves "lethargic and unprogressive by nature." White then proceeds to detail that prosperity, noting that Tulsa was home to at least three black millionaires and several others with substantial assets. Because of changes in the value of the dollar from inflation, $25,000 in 1921 is equivalent to about $287,000 today.

White goes on to discuss the supposed "radical" views of Tulsa's black population and dismisses this belief by noting that the community simply wanted an end to "'Jim-Crow' [railroad] cars, lynching, peonage." "Jim Crow" is the informal name given to laws designed to keep African Americans in subservient positions, such as laws requiring them to ride in separate railroad cars. "Peonage" refers to a system that requires debtors to work for their creditors until the debt is discharged. Although White provides no particulars about peonage, it was well known at the time that many blacks in the surrounding area and throughout Oklahoma were virtual slaves on their own land because of debts owed to the white establishment. White asserts that black efforts to emancipate themselves from these conditions fostered resentment on the part of whites.

The seventh paragraph details the rough-and-tumble nature of life in Tulsa at that time, where justice was as like-

Black detainees are led to the Convention Hall following the race riot in Tulsa, Oklahoma. (AP/Wide World Photos)

ly to be enacted at the end of a gun or noose as in the courtroom. White notes that corruption and vice permeated the city and that large numbers of people were interested not in the community's civic life but in making money and getting away with illegal activities. He claims that 6 percent of the county's residents were under indictment, with little likelihood that their cases would ever come to trial. White provides further startling facts in the eighth paragraph. When a white man charged with murder was lynched, the police directed traffic so that onlookers could get a view of the event. Insurance companies refused to do business in Tulsa because the risk was too great. All of this, in White's view, fostered disrespect for the law among both blacks and whites.

Paragraphs 9 through 12 detail the events of the riot: the incident in the elevator, the newspaper account of the alleged assault, the gathering of a lynch mob and the fears in the black community that Rowland would fall into the hands of the mob, and the escalating violence. White repeats the claim that airplanes were used to drop incendiary bombs on the Greenwood community, a charge that would later be investigated and found to likely have been true. White makes his account more graphic and dramatic by focusing on the fates of individuals, such as an aged couple who were shot in their home and a prominent doctor who was shot to death while being taken to a detention center. This man had been described by the "Mayo brothers" (Charles and William Mayo, famous as the founders of the Mayo Clinics) as "the most able Negro surgeon in America."

In the thirteenth paragraph, White addresses the number of casualties. He rejects the official body count and calls attention to the activities of gravediggers, which suggest that the death toll was much greater than that given by the authorities. He notes that at least some victims of the riot were "incinerated" in their homes and that there were reports of truckloads of bodies being dumped in the nearby Arkansas River, though he acknowledges that this rumor could not be confirmed. In more recent years, the charge that the dead were hastily buried in mass graves has been raised. Some efforts have been made to investigate the matter using archaeological methods, but no systematic search for these graves has been made, and the results have been inconclusive.

In the final paragraph White grows more rhetorical. He refers to the riot's "horrible carnage" and suggests that it was worse than the crimes being ascribed to the "Bolsheviki," or Bolsheviks, referring to the political party in Russia regarded as synonymous with Communism. He uses the word "pogroms," referring to organized or spontaneous rioting directed against a religious or ethnic group and again associated with Russia. White concludes by noting the willingness of Tulsa's black population (which he asserts to be fifteen thousand but which most sources put at ten or eleven thousand) to come to the defense of Dick Rowland, and he suggests that a "nationwide Tulsa" might be necessary to "wake" the United States to racial injustice.

Audience

White's account was published in *The Nation*, which had been founded in 1865 and, in the twenty-first century, remains the oldest continuously published weekly magazine in America. It was founded in New York City at the end of the Civil War to celebrate the North's victory, and throughout its history the magazine has espoused liberal and progressive causes. Thus, White's article would have been read by Americans who likely sympathized with the magazine's stand on such issues as civil rights, imperialism,

Essential Quotes

"[Tulsa's] reign of terror stands as a grim reminder of the grip mob violence has on the throat of America, and the ever-present possibility of devastating race conflicts where least expected."

(Paragraph 2)

"The Negroes of Tulsa and other Oklahoma cities are pioneers; men and women who have dared, men and women who have had the initiative and the courage to pull up stakes in other less-favored States and face hardship in a newer one for the sake of greater eventual progress. That type is ever less ready to submit to insult."

(Paragraph 6)

"All that was lacking to make the scene a replica of modern 'Christian' warfare was poison gas."

(Paragraph 11)

"One story was told me by an eye-witness of five colored men trapped in a burning house. Four burned to death. A fifth attempted to flee, was shot to death as he emerged from the burning structure, and his body was thrown back into the flames. There was an unconfirmed rumor afloat in Tulsa of two truck loads of dead Negroes being dumped into the Arkansas River, but that story could not be confirmed."

(Paragraph 13)

"There is a lesson in the Tulsa affair for every American who fatuously believes that Negroes will always be the meek and submissive creatures that circumstances have forced them to be during the past three hundred years."

(Paragraph 14)

war, trade unionism, and other issues of concern to liberals and progressives. During its history, most of its editors have drawn the attention of the FBI and other authorities, who have suspected the magazine of subversive tendencies. It is noteworthy that an African American was able to publish his article in a "white" magazine at a time when the work of African American writers usually appeared in organs published by and for African Americans.

Impact

It is difficult to assess any particular impact that White's article had at the time. The article was one of a flurry of reports about the events in Tulsa, and it was one small piece of the mosaic of efforts on the part of White, the NAACP, and other African American leaders to call the nation's attention to violence and injustice against their race. Ulti-

mately, White's article, along with oral histories of the riot and other documents, would have an effect. For decades, the riot had merited barely a mention in history books, and in Oklahoma the event was seemingly purged from the state's collective memory. Few efforts were made at an official level to right the wrongs done in 1921. Although Greenwood was rebuilt (and became a thriving center for jazz music), most of the African Americans who had lived there fled. In the shadow of the event's utter shamefulness, the riot was forgotten, at least as far as any official commemoration was concerned. But as the seventy-fifth anniversary of the riot approached in 1996, many Oklahomans came to believe that it was time to document the riot and set the record straight. The goal was to improve race relations and, possibly, provide reparations for the riot's survivors and the descendants of those who lost their lives. Approximately 124 survivors were known at that time, 45 of them living in Tulsa. Many of them had been young boys who had passed ammunition to adults attempting to fend off the assaults.

In April 1997, Oklahoma House Joint Resolution 1035 created the Oklahoma Commission to Study the Tulsa Race Riot of 1921. On February 28, 2001, the commission delivered its report, *Tulsa Race Riot: A Report by the Oklahoma Commission to Study the Tulsa Race Riot of 1921*. On one level, the report achieved its aim. The state legislature went on record as accepting moral responsibility for the Tulsa riot. The report created a comprehensive record of the riot, and, in connection with the commission's investigation, numerous books were published, Web sites and physical exhibits about the riot were created, a documentary film titled *Before They Die!* was produced, and the occurrence of the riot was brought to the nation's attention through television and newspaper reports, news radio stories, magazine articles, talk shows, and other documentaries.

The Oklahoma legislature, however, declined to pay reparations. While deploring the events, members of the legislature argued that the state's taxpayers should not be forced to pay reparations for events they did not cause. They further argued that the riot was not the result of government action. Although the sheriff, other local authorities, and the National Guard may have been culpable in failing to prevent the riot or may have been slow to respond, the rioters, the legislature argued, were private citizens, not government actors. In this way they distinguished the matter from the government's payment of reparations to the survivors of the Japanese internment during World War II, an action of the federal government.

The Tulsa Reparations Commission, formed shortly after the report was released in 2001, thought differently. In 2003 the new commission filed suit in U.S. District Court, asking for reparations and naming the city of Tulsa, its police chief and police department, and the state of Oklahoma as defendants. In March 2004, U.S. District Court Judge James O. Ellison dismissed the suit, ruling that the statute of limitations had long passed. Ellison made clear that the event was a horrible tragedy and indicated that he was not happy about his ruling, but the law, he said, gave him no choice. The plaintiffs in the case, led by Harvard lawyer Charles J. Ogletree, Jr., argued that the statute of limitations should run from the time the commission issued its report. Most of the riot's survivors were unaware of the full scope of the riot and had been barred from pursuing legal claims in the past. Ellison rejected this argument.

In response to the district court's ruling, the plaintiffs appealed to the U.S. Tenth Circuit Court of Appeals. The court heard the appeal on June 21, 2004, and issued its ruling on September 8 of that year. The court affirmed the district court's ruling, holding that while the statute of limitations can be recalibrated under extraordinary circumstances, such conditions did not exist in this case. On March 9, 2005, the plaintiffs petitioned the U.S. Supreme Court to hear the case on appeal, but the Court declined to do so. In 2007 the

Questions for Further Study

1. Summarize the social, economic, and political events that laid the foundation for the eruption of violence in Tulsa, Oklahoma.

2. Racial violence was sometimes sparked by competition for jobs, particularly during tough economic times. To what extent were the concerns of labor, sometimes expressed by the radical labor movement, involved in the violence that erupted in Tulsa?

3. Why do you think people in the state of Oklahoma decided to revisit the Tulsa race riot after so many years? Do you believe that doing so was a positive step, or did it just reopen old wounds?

4. What is your position on the issue of paying reparations to the survivors of those affected by the Tulsa riot?

5. Why do you believe that so much racial violence erupted in the wake of World War I?

Tulsa-Greenwood Race Riot Claims Accountability bill was submitted to the U.S. House of Representatives with a view to providing legislative relief to the survivors. After the death of John Hope Franklin, a prominent black historian and the son of one of the riot's survivors, the bill was renamed the John Hope Franklin Tulsa-Greenwood Race Riot Claims Accountability bill of 2009. As of 2010, the bill was in committee in the House of Representatives. Walter F. White's dramatic account of the events in Tulsa became part of the historical record in efforts to heal the wounds the riot opened nearly a century ago.

See also Niagara Movement Declaration of Principles (1905); *Plessy v. Ferguson* (1896); *Brown v. Board of Education* (1954).

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Michael J. O'Neal

Document Text

Walter F. White: "The Eruption of Tulsa"

A hysterical white girl related that a nineteen-year-old colored boy attempted to assault her in the public elevator of a public office building of a thriving town of 100,000 in open daylight. Without pausing to find whether or not the story was true, without bothering with the slight detail of investigating the character of the woman who made the outcry (as a matter of fact, she was of exceedingly doubtful reputation), a mob of 100-per-cent Americans set forth on a wild rampage that cost the lives of fifty white men; of between 150 and 200 colored men, women and children; the destruction by fire of $1,500,000 worth of property; the looting of many homes; and everlasting damage to the reputation of the city of Tulsa and the State of Oklahoma.

This, in brief, is the story of the eruption of Tulsa on the night of May 31 and the morning of June 1. One could travel far and find few cities where the likelihood of trouble between the races was as little thought of as in Tulsa. Her reign of terror stands as a grim reminder of the grip mob violence has on the throat of America, and the ever-present possibility of devastating race conflicts where least expected.

Tulsa is a thriving, bustling, enormously wealthy town of between 90,000 and 100,000. In 1910 it was the home of 18,182 souls, a dead and hopeless outlook ahead. Then oil was discovered. The town grew amazingly. On December 29, 1920, it had bank deposits totaling $65,449,985.90; almost $1,000 per capita when compared with the Federal Census figures of 1920, which gave Tulsa 72,076. The town lies in the center of the oil region and many are the stories told of the making of fabulous fortunes by men who were operating on a shoe-string. Some of the stories rival those of the "forty-niners" in California. The town has a number of modern office buildings, many beautiful homes, miles of clean, well-paved streets, and aggressive and progressive business men who well exemplify Tulsa's motto of "The City with a Personality."

So much for the setting. What are the causes of the race riot that occurred in such a place?

First, the Negro in Oklahoma has shared in the sudden prosperity that has come to many of his white brothers, and there are some colored men there who are wealthy. This fact has caused a bitter resentment on the part of the lower order of whites, who feel that these colored men, members of an "inferior race," are exceedingly presumptuous in achieving greater economic prosperity than they who are members of a divinely ordered superior race. There are at least three colored persons in Oklahoma who are worth a million dollars each; J. W. Thompson of Clearview is worth $500,000; there are a number of men and women worth $100,000; and many whose possessions are valued at $25,000 and $50,000 each. This was particularly true of Tulsa, where there were two colored men worth $150,000 each; two worth $100,000; three $50,000; and four who were assessed at $25,000. In one case where a colored man owned and operated a printing plant with $25,000 worth of printing machinery in it, the leader of the mob that set fire to and destroyed the plant was a linotype operator employed for years by the colored owner at $48 per week. The white man was killed while attacking the plant. Oklahoma is largely populated by pioneers from other States. Some of the white pioneers are former residents of Mississippi, Georgia, Tennessee, Texas, and other States more typically southern than Oklahoma. These have brought with them their anti-Negro prejudices. Lethargic and unprogressive by nature, it sorely irks them to see Negroes making greater progress than they themselves are achieving.

One of the charges made against the colored men in Tulsa is that they were "radical." Questioning the whites more closely regarding the nature of this radicalism, I found it means that Negroes were uncompromisingly denouncing "Jim-Crow" [railroad] cars, lynching, peonage; in short, were asking that the Federal constitutional guaranties of "life, liberty, and the pursuit of happiness" be given regardless of color. The Negroes of Tulsa and other Oklahoma cities are pioneers; men and women who have dared, men and women who have had the initiative and the courage to pull up stakes in other less-favored States and face hardship in a newer one for the sake of greater eventual progress. That type is ever less ready to submit to insult. Those of the whites who seek to maintain the old white group control naturally do not relish seeing Negroes emancipating themselves from the old system.

A third cause was the rotten political conditions in Tulsa. A vice ring was in control of the city, allowing

open operation of houses of ill fame, of gambling joints, the illegal sale of whiskey, the robbing of banks and stores, with hardly a slight possibility of the arrest of the criminals, and even less of their conviction. For fourteen years Tulsa has been in the absolute control of this element. Most of the better element, and there is a large percentage of Tulsans who can properly be classed as such, are interested solely in making money and getting away. They have taken little or no interest in the election of city or county officials, leaving it to those whose interest it was to secure officials who would protect them in their vice operations. About two months ago the State legislature assigned two additional judges to Tulsa County to aid the present two in clearing the badly clogged dockets. These judges found more than six thousand cases awaiting trial. Thus in a county of approximately 100,000 population, six out of every one hundred citizens were under indictment for some sort of crime, with little likelihood of trial in any of them.

Last July a white man by the name of Roy Belton, accused of murdering a taxicab driver, was taken from the county jail and lynched. According to the statements of many prominent Tulsans, local police officers directed traffic at the scene of the lynching, trying to afford every person present an equal chance to view the event. Insurance companies refuse to give Tulsa merchants insurance on their stocks; the risk is too great. There have been so many automobile thefts that a number of companies have canceled all policies on care in Tulsa. The net result of these conditions was that practically none of the citizens of the town, white or colored, had very much respect for the law.

So much for the general causes. What was the spark that set off the blaze? On Monday, May 30, a white girl by the name of Sarah Page, operating an elevator in the Drexel Building, stated that Dick Rowland, a nineteen-year-old colored boy, had attempted criminally to assault her. Her second story was that the boy had seized her arm as he entered the elevator. She screamed. He ran. It was found afterwards that the boy had stepped by accident on her foot. It seems never to have occurred to the citizens of Tulsa that any sane person attempting criminally to assault a woman would have picked any place in the world rather than an open elevator in a public building with scores of people within calling distance. The story of the alleged assault was published Tuesday afternoon by the Tulsa Tribune, one of the two local newspapers. At four o'clock Commissioner of Police J. M. Adkison reported to Sheriff [Willard] McCullough that there was talk of lynching Rowland that night. Chief of Police John A. Gustafson, Captain Wilkerson of the Police Department, Edwin F. Barnett, managing editor of the Tulsa Tribune, and numerous other citizens all stated that there was talk Tuesday of lynching the boy.

In the meantime the news of the threatened lynching reached the colored settlement where Tulsa's 15,000 colored citizens lived. Remembering how a white man had been lynched after being taken from the same jail where the colored boy was now confined, they feared that Rowland was in danger. A group of colored men telephoned the sheriff and proffered their services in protecting the jail from attack. The sheriff told them that they would be called upon if needed. About nine o'clock that night a crowd of white men gathered around the jail, numbering about 400 according to Sheriff McCullough. At 9:15 [PM] the report reached "Little Africa" that the mob had stormed the jail. A crowd of twenty-five armed Negroes set out immediately, but on reaching the jail found the report untrue. The sheriff talked with them, assured them that the boy would not be harmed, and urged them to return to their homes. They left, later returning, 75 strong. The sheriff persuaded them to leave. As they complied, a white man attempted to disarm one of the colored men. A shot was fired, and then in the words of the sheriff "all hell broke loose." There was a fusillade of shots from both sides and twelve men fell dead two of them colored, ten white. The fighting continued until midnight when the colored men, greatly outnumbered, were forced back to their section of the town.

Around five o'clock Wednesday morning the [white] mob, now numbering more than 10,000, made a mass attack on Little Africa. Machine-guns were brought into use; eight aeroplanes were employed to spy on the movements of the Negroes and according to some were used in bombing the colored section. All that was lacking to make the scene a replica of modern "Christian" warfare was poison gas. The colored men and women fought gamely in defense of their homes, but the odds were too great. According to the statements of onlookers, men in uniform, either home guards or ex-service men or both, carried cans of oil into Little Africa, and, after looting the homes, set fire to them. Many are the stories of horror told to me not by colored people but by white residents. One was that of an aged colored couple, saying their evening prayers before retiring in their little home on Greenwood Avenue. A mob broke into the house, shot both of the old peo-

Document Text

ple in the backs of their heads, blowing their brains out and spattering them over the bed, pillaged the home, and then set fire to it.

Another was that of the death of Dr. A. C. Jackson, a colored physician. Dr. Jackson was worth $100,000; had been described by the Mayo brothers "the most able Negro surgeon in America"; was respected by white and colored people alike, and was in every sense a good citizen. A mob attacked Dr. Jackson's home. He fought in defense of it, his wife and children and himself. An officer of the home guards who knew Dr. Jackson came up at that time and assured him that if he would surrender he would be protected. This Dr. Jackson did. The officer sent him under guard to Convention Hall, where colored people were being placed for protection. En route to the hall, disarmed, Dr. Jackson was shot and killed in cold blood. The officer who had assured Dr. Jackson of protection stated to me, "Dr. Jackson was an able, clean-cut man. He did only what any red-blooded man would have done under similar circumstances in defending his home. Dr. Jackson was murdered by white ruffians."

It is highly doubtful if the exact number of casualties will ever be known. The figures originally given in the press estimate the number at 100. The number buried by local undertakers and given out by city officials is ten white and twenty-one colored. For obvious reasons these officials wish to keep the number published as low as possible, but the figures obtained in Tulsa are far higher. Fifty whites and between 150 and 200 Negroes is much nearer the actual number of deaths. Ten whites were killed during the first hour of fighting on Tuesday night. Six white men drove into the colored section in a car on Wednesday morning and never came out. Thirteen whites were killed between 5:30 AM and 6:30 AM Wednesday. O. T. Johnson, commandant of the Tulsa Citadel of the Salvation Army, stated that on Wednesday and Thursday the Salvation Army fed thirty-seven Negroes employed as grave diggers and twenty on Friday and Saturday. During the first two days these men dug 120 graves in each of which a dead Negro was buried. No coffins were used. The bodies were dumped into the holes and covered over with dirt. Added to the number accounted for were numbers of others men, women, and children who were incinerated in the burning houses in the Negro settlement. One story was told me by an eyewitness of five colored men trapped in a burning house. Four burned to death. A fifth attempted to flee, was shot to death as he emerged from the burning structure, and his body was thrown back into the flames. There was an unconfirmed rumor afloat in Tulsa of two truck loads of dead Negroes being dumped into the Arkansas River, but that story could not be confirmed.

What is America going to do after such a horrible carnage one that for sheer brutality and murderous anarchy cannot be surpassed by any of the crimes now being charged to the Bolsheviki in Russia? How much longer will America allow these pogroms to continue unchecked? There is a lesson in the Tulsa affair for every American who fatuously believes that Negroes will always be the meek and submissive creatures that circumstances have forced them to be during the past three hundred years. Dick Rowland was only an ordinary bootblack with no standing in the community. But when his life was threatened by a mob of whites, every one of the 15,000 Negroes of Tulsa, rich and poor, educated and illiterate, was willing to die to protect Dick Rowland. Perhaps America is waiting for a nationwide Tulsa to wake her. Who knows?

Glossary

Bolsheviki	usually spelled Bolsheviks, referring to the political party in Russia regarded as synonymous with Communism
Citadel	the name given to any church building used by the Salvation Army
forty-niners	gold prospectors who migrated to California during the gold rush of 1849
Mayo brothers	Charles and William Mayo, famous as the founders of the Mayo Clinic
peonage	a system that requires debtors to work for their creditors until the debt is discharged
pogroms	organized or spontaneous rioting directed against a religious or ethnic group, usually associated with Communist Russia

Marcus Garvey (Library of Congress)

Marcus Garvey: "The Principles of the Universal Negro Improvement Association"

1922

"We represent a new line of thought among Negroes."

Overview

Long before the term *Black Power* became a rallying cry for dispossessed communities throughout the African diaspora, the noted Jamaican activist Marcus Mosiah Garvey gained international recognition for opposing power arrangements that adversely affected the life chances and experiences of African-descended peoples. Presenting universal truths that transcended geographical, class, and national boundaries, Garvey built a global, Pan-African movement that galvanized blacks from the dirt roads of Clarksdale, Mississippi, to the impoverished streets of Kingston, Jamaica. No small factor in Garvey's massive appeal was the self-determinist impulse, a dominant theme in his classic 1922 speech "The Principles of the Universal Negro Improvement Association" (UNIA). Over the course of this energetic and impassioned address, which Garvey delivered in New York City on November 25, 1922, the UNIA leader assails the arrogance of white privilege, decries those who embrace a politics of apathy, and reminds his followers of the transformative power of self-love and self-respect. Three important aspects of the UNIA political agenda can be gauged from this text: the strong emphasis Garvey placed on the need for blacks both to pursue a political agenda independent of whites and to engage in the politics of statecraft and nation building and the strong humanist impulse undergirding the Garvey movement.

Context

Commonly referred to as the New Negro era, the 1920s was a time of great political and cultural upheaval in black America. The massive migration of southern blacks to the urban North, the explosion of artistic expression associated with the Harlem Renaissance, and the meteoric rise of Marcus Garvey's UNIA transformed the contours of black political thought, as well as African Americans' and West Indians' expectations of what was politically possible in the contemporary world. No leader benefited more from the growing militancy of African Americans than Marcus Garvey. To capture the attention of black Americans disgruntled that their sacrifices during World War I had not brought racial democracy to the United States or the rest of the West, Garvey preached a message of race pride, Pan-African unity, and self-determination. Transformative change for people of African descent, he regularly informed his followers, could be achieved only through their own initiatives. "It is of no use for the Negro," Garvey once remarked (as quoted in *Marcus Garvey Papers*), "to continue to depend on the good graces of the other races of the world, because we are living in a selfish, material age, when each and every race is looking out for itself." Toward the goal of empowering his race, Garvey organized the UNIA, formed various economic cooperatives and initiatives, hosted international conventions, and started a newspaper, *The Negro World*, with a large readership that spanned the globe. Such endeavors gave Garvey a huge following, particularly in the United States, where hundreds of thousands of African Americans and West Indians championed his program.

Garvey's message, though, was not entirely new. In the nineteenth century, one of the earliest proponents of black nationalism was Henry Highland Garnett, an abolitionist and orator who supported the emigration of African Americans to Mexico, the West Indies, or the African nation of Liberia. At about the same time, Edward Wilmot Blyden, an educator, writer, and diplomat, traveled to Liberia, where he came to believe that the only hope for African Americans was for them to return to Africa. One of the most prominent black nationalists from the same time period was Martin R. Delany. Delany, born in Virginia in 1812, pursued numerous careers throughout his life: physician, educator, political candidate, journalist, author, and African explorer. He edited one of the earliest African American newspapers, *The Mystery*, and worked briefly alongside Frederick Douglass on *The North Star* newspaper. Early on he adopted Douglass's integrationist approach, but he later broke with Douglass by proposing a program of black separatism and black emigration, most of these views developed in his 1852 book *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States, Politically Considered*. Later, after the Civil War, Henry McNeal Turner, a bishop in the African Episcopal Methodist Church, faced entrenched racism in his native Georgia. He and a number of other African Americans were elected to the Georgia legislature in 1868.

Time Line

1887

- **August 17**
  Malchus Mosiah Garvey, Jr., is born in St. Ann's Bay, Jamaica.

1914

- **August**
  Garvey founds the Universal Negro Improvement Association (UNIA).

1917

- **May**
  Garvey founds the New York division of the UNIA.

1919

- **June 27**
  The Black Star Line is incorporated by the members of the UNIA with Garvey as president.
- **November**
  The Bureau of Investigation, forerunner of the FBI, launches an investigation of Garvey and UNIA.

1922

- **January 12**
  Garvey, along with other Black Star Line officials, is arrested on mail fraud charges.
- **November 25**
  Garvey delivers his address "The Principles of the Universal Negro Improvement Association" to an audience in Liberty Hall in New York City.

1923

- **June 23**
  Garvey is sentenced to five years in prison for using the mails to deceive the public.

1925

- **February 8**
  Garvey begins serving a five-year sentence in the Atlanta Federal Penitentiary.

1927

- **November**
  President Calvin Coolidge commutes Garvey's sentence, and he is released from prison and deported to Jamaica.

Initially, the legislature refused to seat them, backing down only under protests from Washington, D.C. Turner became so discouraged about the lack of racial progress that he supported the Back to Africa movement and black nationalism. He often shocked listeners with his fiery oratory and his belief that God was black.

Thus, when Marcus Garvey created the UNIA in Jamaica in 1914 (under the name Universal Negro Improvement and Conservation Association and African Communities League), the foundations for the black nationalism he espoused had already been laid. He returned to New York City to create the New York division of the UNIA, which originally had just thirteen members. Three months later the organization had 3,500 members. On August 17, 1918, Garvey founded *The Negro World*, a weekly newspaper that published articles of interest not only to African Americans but to members of the African diaspora around the world. By 1920 the organization had more than eleven hundred divisions in at least forty countries and claimed four million members. On August 13, 1920, at the organization's first convention, it published the "Declaration of Rights of the Negro Peoples of the World."

Garvey was of the opinion that the political and economic freedom of blacks in the West depended on their connection to an African nation-state with the political leverage to protect the rights of African-descended peoples regardless of their nationality. Accordingly, he directed his attention to helping Liberia develop into a world power. Late in the spring of 1920, he dispatched Elie Garcia, the auditor-general of the UNIA, to Monrovia, Liberia, where he communicated the organization's Pan-African goals to government officials, queried about the possibility of forming a UNIA colony on unsettled land, and stated the association's willingness to lend financial support to the country. Liberia's secretary of state, Edwin Barclay, informed Garcia of the government's interest in giving the association facilities for promoting industry, agriculture, and business projects.

The Liberian agenda, however, proved to be problematic. Even though the country had its share of financial and political problems, Garvey had faith that Liberia could develop into a world power if its leaders embraced a partnership with the UNIA. To realize his agenda, Garvey created the Liberian Construction Loan in the fall of 1920 with the purpose of building colleges, universities, industrial plants, railroad tracks, and roads and to provide opportunities for artisans and craftsmen to develop industries. An industrially developed Liberia, Garvey believed, would give men and women who wanted to start off independently the opportunity to build fortunes. Many women and men in the UNIA were interested in leaving the United States for Liberia, but several things stood in their way. The UNIA lacked the resources to facilitate the migration of interested parties to Liberia.

By 1921, Garvey's Black Star Line (BSL), a steamship line, faced serious financial trouble owing to the postwar recession, its ships' constant mechanical troubles, and administrative ineptitude. Even if the BSL had the capital to purchase vessels capable of making trips from the Unit-

ed States to West Africa, the UNIA would have still had problems overcoming certain diplomatic concerns. Garvey's Pan-African vision included not only a more economically and politically stable Liberia but also a continent loosened from England's and France's colonial yoke. As was to be expected, France and England saw Garvey's political agenda as antithetical to their imperialistic designs and activities. Not wishing to provoke these powers, Liberia's president, C. D. B. King, protected his country's national interest by gradually disassociating itself from the UNIA. Nevertheless, Garvey continued to place Liberia at the center of his political program, spreading his Pan-African message as he toured various sections of the United States.

Garvey also met with resistance from elements of the black American community, some of whom dismissed him as a racist demagogue and were contemptuous of his political style, approach, and plans. W. E. B. Du Bois, James Weldon Johnson, and A. Philip Randolph, among other leaders, dismissed his program as impractical, impossible, and detrimental to the black liberation struggle in America. In their writings and in their speeches, these leaders attacked Garvey's physical characteristics, his Jamaican background, and his working-class followers. On rare occasions, some critics managed to speak honestly about Garvey's strengths and weaknesses. Garvey's goals, Du Bois admitted in 1921, were feasible, but his methods according to Du Bois were wasteful, ineffective, and possibly illegal. So disturbed were some black activists by Garvey's political agenda, his focus on race pride, and his ruminations on color divisions within the black community that they happily assisted the federal government in its effort to have Garvey deported after he was convicted of mail fraud.

Garvey delivered many of his orations at Liberty Hall in New York City; the UNIA required each branch of the organization to maintain a "Liberty Hall" for its members so that by 1927 there were some fourteen hundred Liberty Halls throughout the world. Garvey delivered his address to UNIA members on November 25, 1922, in an effort to boost the spirits and determination of the UNIA.

About the Author

Garvey was born Malchus Mosiah Garvey on August 17, 1887, in St. Ann's Bay, Jamaica, where he excelled as a student at the local Anglican Church school. Not until the age of fourteen did Garvey begin to view the world in black and white. One of his closest playmates had been a white girl. Her parents, according to Garvey, sent her to Edinburgh and informed their daughter that she was never to communicate with Garvey because of his race.

Garvey moved to Kingston, Jamaica, in 1906. Over the next four years, he gained invaluable political experience as vice president of the Kingston Typographical Union, publisher of *Garvey's Watchman*, and assistant secretary of the National Club. These activities fed his desire to explore the world, so he followed a path trodden by many West Indians by embarking for Latin America. There he labored as a timekeeper on a banana plantation in Costa Rica, started two newspapers, and stayed abreast of the condition of Jamaican workers. Further travel would enrich Garvey's Pan-African consciousness. A brief return to Jamaica in 1911 was followed by a two-year stay in London, where he attended classes at Birkbeck College, formed a relationship with the noted Pan-Africanist Duse Muhammad Ali, and built contacts with West African students. As Garvey traveled and engaged the world, he increasingly envisioned himself as the one who could lead his people toward the path of true liberation and freedom.

Upon his return to Jamaica, Garvey and his future wife, Amy Ashwood, formed the UNIA with the express purpose of improving the material and educational conditions of blacks in Jamaica and the world over. Foremost on their agenda was creating an industrial school in Kingston in the vein of Booker T. Washington's Tuskegee Institute. Unable to persuade locals to aid his endeavor, Garvey departed for the United States in 1916 in the hope of raising funds for the UNIA's proposed industrial school. Two months after settling in New York, he embarked on an extensive tour of black communities in various parts of the country. Nothing impressed him more than African Americans' entrepreneurial accomplishments in the face of Jim Crow segregation and economic hardships. After a year on the road, Garvey returned to Harlem in May 1917. After his return, he concentrated less on the development of an industrial school in Jamaica and more on building an international movement with the economic and political capacity to lift African-descended peoples the world over.

Garvey incorporated the New York chapter of the UNIA in June 1918. Two months later he launched the organization's official organ, *The Negro World*, one of the most successful papers in the black world, with subscribers in the United States, the West Indies, Latin America, and Africa. Garvey was a powerful speaker, as his listeners learned when he delivered "The Principles of the Universal Negro Improvement Association" in 1922. He had less success as a business entrepreneur. In 1919 he started the BSL, but the company was plagued by problems that eventually led to his indictment and conviction for mail fraud in 1923. According to U.S. law, any immigrant convicted of criminal activity could be immediately deported to his or her country of origin. So starting in 1919, the Justice Department planted agents in the New York UNIA and in other major divisions and branches across the

Time Line

1929

- **September**
  Garvey founds the People's Political Party, the first modern political party in Jamaica.

1940

- **June 10**
  Garvey dies in London after having two strokes.

country in order to uncover any criminal activity committed by Garvey. Because of the UNIA's shoddy bookkeeping practices, Bureau of Investigation assistant director J. Edgar Hoover and his associates focused on the BSL's promotional practices. On January 12, 1922, Garvey, along with other BSL officials, was arrested on mail fraud charges for allegedly advertising and selling stock in a nonexistent ship supposedly purchased to transport prospective colonists to Liberia. Garvey vehemently denied cheating his people, but he was nevertheless convicted in 1923.

In 1925 Garvey began serving a five-year prison sentence, but President Calvin Coolidge commuted his sentence in 1927 and he was deported to Jamaica. Over the next decade Garvey continued to travel, speak, and write, and he attained elective office in Jamaica. He returned to London in 1935, where he lived and worked until his death on June 10, 1940.

Explanation and Analysis of the Document

Garvey's address gives voice to the deep humanism that pervaded his political ideas. Contrary to the opinion of his opponents, Garvey asserts that his message of race pride should not be interpreted as antiwhite. One of his first points of emphasis is that the UNIA aims not simply to improve the life chances and experiences of African-descended peoples but also to create a more humane and just world. He notes in the first paragraph that the "association adopts an attitude not of hostility to other races and peoples of the world, but an attitude of self respect, of manhood rights on behalf of 400,000,000 Negroes of the world." He goes on to emphasize this message in the second paragraph, stating that "we represent peace, harmony, love, human sympathy, human rights and human justice, and that is why we fight so much." Here Garvey lends support to such contemporary writers as Anthony Bogues, Tony Martin, and Sylvia Winters, who argue that one of the central elements of the black radical tradition has been its deep humanism, that is, its focus on eliminating all forms of human oppression.

In the second paragraph, Garvey also highlights the fact that people of African descent fought in the Revolutionary War, the Civil War, the Spanish American War, and World War I, thereby reminding his audience that African Americans have long been loyal Americans, willing to fight and even die for their country. He makes reference to the "heights of Mesopotamia," a region that corresponds roughly to modern-day Iraq, but it is unclear what precise location he means. The region had not been called Mesopotamia for centuries, so perhaps he is referring to the struggles for ascendancy in the region in the early medieval period. More likely, he is thinking of the efforts of black soldiers in the Middle East during World War I, using "Mesopotamia" as a kind of figure of speech for the region. He regards the fight for emancipation of the race as analogous to these conflicts.

In the third paragraph, Garvey suggests that recent expressions of African consciousness represent a "new line of thought." He continues by saying that it does not make any difference whether this line of thought is seen as "reactionary" or "advanced," for in either case it represents a quest for liberty and freedom. Again, he stresses that the organization's goal is uplift for all people, yet he acknowledges that the role of government, in his view, is to "place race in control, even as other races are in control of their own governments." In the fourth paragraph, he suggests that this goal is by no means unreasonable. It was not unreasonable for George Washington or for the "Liberals of France," a reference to the French Revolution in the late eighteenth century. Nor was it unreasonable for the people of Russia, led in part by Leo Tolstoy, one of czarist Russia's greatest novelists and a prominent proponent of anarchism, to "sound the call of liberty" in their nation. In paragraph 5, Garvey seems to momentarily digress by noting that the UNIA does not promote church building or building new social institutions (such as the Young Men's Christian Association or the Young Women's Christian Association), noting that these institutions already exist. Further, he states that the UNIA has little interest in politics, observing that already there are enough politicians. Rather, he says, the UNIA is "engaged in nation building."

In paragraph 6, Garvey returns to the theme of human rights. He states that "misunderstanding" has arisen about the goals and aims of the UNIA. He emphasizes that the organization believes in the rights not only of the "brown race" but of all races, and he stresses that the rights of whites, the yellow race (Asians), and others are worthy of consideration. He goes on, though, to suggest that the other races have denied those of African descent their proper place in the civilizations of the world. The UNIA's goal is not to disrupt existing societies or governments but to "free our motherland from the grasp of the invader," leading to "industrial, political, social and religious emancipation." To that end, the organization aims to unite the world's 400,000,000 blacks a figure that he uses repeatedly in the speech to enable them "to give expression to their own feeling." He stresses that a key goal is political freedom in Africa.

In paragraph 8, Garvey turns to the distinction between the UNIA and other black movements. The UNIA, he says, seeks "independence of government." Other organizations "seek to make the Negro a secondary part of existing governments." He argues that these other movements would leave blacks in a secondary position, without constitutional rights. Having lived in London, he is equipped to talk about British institutions that claim to be trying to improve the condition of blacks, but he asserts that equality will never be achieved until a black has the same chance as any other person to become a president or premier or to become a street cleaner.

Here he lays out why the New Negro must be concerned with nation building: "You and I can live in the United States of America for 100 more years," he explains to the audience, "and our generations may live for 200 years or for 5000 more years, and so long as there is a black and white population, when the majority is on the side of white race, you and I will never get political justice or get politi-

cal equality in this country." Consequently, he maintained that the UNIA would focus its attention on nation-building in Africa: "The U.N.I.A. refuses to recognize any political or social system in Africa except that which we are about to establish for ourselves."

Garvey reiterates that he is not preaching a message of hate, what he calls in paragraph 9 "propaganda of hate." He even goes so far as to say "we love the white man" and that "we love all humanity." He acknowledges that just as Africa has things that Europeans want, so too does Europe have things that Africans want. Garvey wants to ensure, though, that if Africa sells its oil, diamonds, precious metals, and rubber to Europeans, it does so under the terms of a fair deal, not colonial exploitation. In paragraph 10, he emphasizes that if it takes power, scientific intelligence, and education to "redeem a race," then the world's 400 million blacks have what it takes for that redemption.

In paragraph 11, Garvey turns to a martial metaphor. Again he refers to the sacrifices of blood that blacks have offered "fighting for the white man." He asserts that blacks will make similar sacrifices to fight for a free Africa under the UNIA's Pan-African flag whose colors were red, black, and green. He continues the martial metaphor in paragraphs 12 and 13, where he insists that blacks will "march out" to redeem their motherland. African Americans, he says, will not forget the blessings of America and those of civilization. He alludes to the nation's history of slavery, with its "bloody carnage and massacre," but he insists that a united black race will now be able to defend itself. He concludes with a cry to the people of Africa, telling them to "hold the fort, for we are coming."

Edwin Barclay, president of Liberia (Library of Congress)

Audience

Written during a period of great upheaval for the UNIA, which had seen its primary economic venture, the Black Star Line, collapse in April of 1922, Garvey's address was designed to lift the spirits of the UNIA's loyal rank and file. Times had been extremely rough for the UNIA in recent months. Combined with the BSL's collapse, Garvey had been arrested for mail fraud, the UNIA's Liberian plans had been suspended, and the organization's 1922 convention had been rife with internal debates. Thus, in addition to clarifying the UNIA's political agenda, Garvey was attempting to rally his troops. "We should say to the millions who are in Africa to hold the fort," he thundered in the concluding paragraph, "for we are coming 400,000,000 strong."

Impact

Garvey's followers fed off his determined spirit, whose essence is captured in this 1922 speech. Notwithstanding various trials and tribulations, the Garvey movement remained strong for the remainder of the decade. Vibrant chapters were formed throughout the United States, making the UNIA the most visible and active organization of the New Negro era. To many of his enemies Garvey was a racist demagogue who profited from the emotions and ignorance of his people, but for many women and men suffering under an oppressive and unyielding order Garvey was a divinely chosen leader whose racial program blazed a path toward political freedom and self-consciousness.

Long after Garvey's address and his 1927 deportation from the United States, his influence still bore an imprint on African American political culture. Supporters followed Garvey's activities in Jamaica and then London through careful reading of *The Negro World* and Garvey's second paper, *The Blackman*. Finding an audience receptive to a race-first analysis proved difficult for Garvey during the Great Depression years as more blacks shifted toward the left of the political spectrum, but Garvey's ideas enjoyed a revival as decolonization, civil rights, and Black Power struggles intensified in the 1950s and 1960s. Now claiming their native son, Jamaica celebrated the UNIA leader as a national hero who raised the consciousness of African people. Noted Pan-Africanist and Ghanaian president Kwame Nkrumah named the nation's first fleet of ships after Garvey's Black Star Line. A profound love and appreciation for Garvey's life, work, and dedication was also evident in black communities across the United States as his influence surfaced in the activities of Elijah Muhammad's Nation of Islam, in the political rhetoric of Malcolm X, and in the nationalist lyrics of hip-hop

Essential Quotes

"We represent peace, harmony, love, human sympathy, human rights and human justice, and that is why we fight so much."

(Paragraph 2)

"We represent a new line of thought among Negroes. Whether you call it advanced thought or reactionary thought, I do not care. If it is reactionary for people to seek independence in government, then we are reactionary. If it is advanced thought for people to seek liberty and freedom, then we represent the advanced school of thought among the Negroes of this country."

(Paragraph 3)

"The Universal Negro Improvement Association stands for the Bigger Brotherhood; the Universal Negro Improvement Association stands for human rights, not only for Negroes, but for all races. The Universal Negro Improvement Association believes in the rights of not only the black race, but the white race, the yellow race and the brown race."

(Paragraph 6)

"We are not preaching a propaganda of hate against anybody. We love the white man; we love all humanity, because we feel that we cannot live without the other. The white man is as necessary to the existence of the Negro as the Negro is as necessary to his existence. There is a common relationship that we cannot escape."

(Paragraph 9)

activists like Public Enemy and the aptly named group Black Star (comprised of Mos Def and Talib Kweli). Popular black bookstores in New York, Atlanta, Philadelphia, Washington, D.C., and other metropolises sell hundreds of Garvey books and posters to black women and men, young and old, who still carry and hold on to his vision of a world in which the children of Africa will one day experience complete political, social, and economic freedom.

See also Henry Highland Garnet's Address to the Slaves of the United States of America (1843); Martin R. Delany: *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States* (1852); Henry McNeal Turner's Speech on His Expulsion from the Georgia Legislature (1868).

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Claudrena N. Harold

Questions for Further Study

1. Describe the social, economic, and political circumstances that gave rise to Garvey and the UNIA.

2. Summarize the intellectual foundations of the black nationalist movement that were in place by the time Garvey delivered his address. Who were some of Garvey's predecessors in espousing black nationalism?

3. Why do you think that prominent African Americans such as W. E. B. Du Bois, A. Philip Randolph, and James Weldon Johnson opposed Garvey? What strain of thinking did Garvey represent that was opposed to that of these other figures?

4. Garvey was known as a highly flamboyant figure who, for example, affected military uniforms. He was also convicted of mail fraud. To what extent do you believe these personal factors undermined his message? Do you believe that Garvey was a serious figure or a gadfly?

5. How did the UNIA resemble—or differ from—other African American organizations such as the NAACP? What goals did the UNIA pursue that Garvey may have felt were not being pursued by other black organizations?

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Marcus Garvey: "The Principles of the Universal Negro Improvement Association"

Over five years ago the Universal Negro Improvement Association placed itself before the world as the movement through which the new and rising Negro would give expression of his feelings. This Association adopts an attitude not of hostility to other races and peoples of the world, but an attitude of self respect, of manhood rights on behalf of 400,000,000 Negroes of the world.

We represent peace, harmony, love, human sympathy, human rights and human justice, and that is why we fight so much. Wheresoever human rights are denied to any group, wheresoever justice is denied to any group, there the U.N.I.A. finds a cause. And at this time among all the peoples of the world, the group that suffers most from injustice, the group that is denied most of those rights that belong to all humanity, is the black group of 400,000,000. Because of that injustice, because of that denial of our rights, we go forth under the leadership of the One who is always on the side of right to fight the common cause of humanity; to fight as we fought in the Revolutionary War, as we fought in the Civil War, as we fought in the Spanish American War, and as we fought in the war between 1914 18 on the battle plains of France and of Flanders. As we fought on the heights of Mesopotamia; even so under the leadership of the U.N.I.A., we are marshaling the 400,000,000 Negroes of the world to fight for the emancipation of the race and of the redemption of the country of our fathers.

We represent a new line of thought among Negroes. Whether you call it advanced thought or reactionary thought, I do not care. If it is reactionary for people to seek independence in government, then we are reactionary. If it is advanced thought for people to seek liberty and freedom, then we represent the advanced school of thought among the Negroes of this country. We of the U.N.I.A. believe that what is good for the other folks is good for us. If government is something that is worthwhile; if government is something that is appreciable and helpful and protective to others, then we also want to experiment in government. We do not mean a government that will make us citizens without rights or subjects with no consideration. We mean a kind of government that will place race in control, even as other races are in control of their own governments.

That does not suggest anything that is unreasonable. It was not unreasonable for George Washington, the great hero and father of the country, to have fought for the freedom of America giving to this great republic and this great democracy; it was not unreasonable for the Liberals of France to have fought against the anarchy to give to the world French Democracy and French Republicanism; it was no unrighteous cause that led Tolstoi to sound the call of liberty in Russia, which has ended in giving to the world the social democracy of Russia, an experiment that will probably prove to be a boon and a blessing to mankind. If it was not an unrighteous cause that led Washington to fight for the independence of this country, and led the Liberals of France to establish the Republic, it is therefore not an unrighteous cause for the U.N.I.A. to lead 400,000,000 Negroes all over the world to fight the liberation of our country.

Therefore the U.N.I.A. is not advocating the cause of church building, because we have a sufficiently large number of churches among us to minister to the spiritual needs of the people, and we are not going to compete with those who are engaged in so splendid a work; we are not engaged in building any new social institutions, and Y.M.C.A.'s or Y.W.C.A.'s, because there are enough social workers engaged in those praise-worthy efforts. We are not engaged in politics because we have enough local politicians, Democrats, Socialists, Soviets, etc., and the political situation is well taken care of. We are not engaged in domestic politics, in church building or in social uplift work, but we are engaged in nation building.…

I desire to remove the misunderstanding that has been created in the minds of millions of peoples throughout the world in their relationship to the organization. The Universal Negro Improvement Association stands for the Bigger Brotherhood; the Universal Negro Improvement Association stands for human rights, not only for Negroes, but for all races. The Universal Negro Improvement Association believes in the rights of not only the black race, but the white race, the yellow race and the brown race. The Universal Negro Improvement Association believes that the white man has as much right to be considered, the yellow man has as much right to be considered, the brown man has as much right to be considered as well

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as the black man of Africa. In view of the fact that the black man of Africa has contributed as much to the world as the white man of Europe, and the brown man and yellow man of Asia, we of the Universal Negro Improvement Association demand that the white, yellow and brown races give to the black man his place in the civilization of the world. We ask for nothing more than the rights of 400,000,000 Negroes. We are not seeking, as I said before, to destroy or disrupt the society or the government of other races, but we are determined that 400,000,000 of us shall unite ourselves to free our motherland from the grasp of the invader. We of the Universal Negro Improvement Association are determined to unite 400,000,000 Negroes for their own industrial, political, social and religious emancipation.

We of the Universal Negro Improvement Association are determined to unite the 400,000,000 Negroes of the world to give expression to their own feeling; we are determined to unite the 400,000,000 Negroes of the world for the purpose of building a civilization of their own. And in that effort we desire to bring together the 15,000,000 of the United States, the 180,000,000 in Asia, the West Indies and Central and South America, and the 200,000,000 in Africa. We are looking toward political freedom on the continent of Africa, the land of our fathers.…

The difference between the Universal Negro Improvement Association and the other movements of this country, and probably the world, is that the Universal Negro Improvement Association seeks independence of government, while the other organizations seek to make the Negro a secondary part of existing governments. We differ from the organizations in America because they seek to subordinate the Negro as a secondary consideration in a great civilization, knowing that in America the Negro will never reach his highest ambition, knowing that the Negro in America will never get his constitutional rights. All those organizations which are fostering the improvement of Negroes in the British Empire know that the Negro in the British Empire will never reach the height of his constitutional rights. What do I mean by constitutional rights in America? If the black man is to reach the height of his ambition in this country if the black man is to get all of his constitutional rights in America then the black man should have the same chance in the nation as any other man to become president of the nation, or a street cleaner in New York. If [the] black man in the British Empire is to have all his constitutional rights it means that the Negro in the British Empire should have at least the same right to become premier of Great Britain as he has to become [a] street cleaner in the city of London. Are they prepared to give us such political equality? You and I can live in the United States of America for 100 more years, and our generations may live for 200 years or for 5000 more years, and so long as there is a black and white population, when the majority is on the side of white race, you and I will never get political justice or get political equality in this country. Then why should a black man with rising ambition, after preparing himself in every possible way to give expression to that highest ambition, allow himself to be kept down by racial prejudice within a country? If I am as educated as the next man, if I am as prepared as the next man, if I have passed through the best schools and colleges and universities as the other fellow, why should I not have a fair chance to compete with the other fellow for the biggest position in the nation? I have feelings, I have blood, I have senses like the other fellow; I have ambition, I have hope. Why should he, because of some racial prejudice, keep me down and why should I concede to him the right to rise above me and to establish himself as my permanent master? That is where the U.N.I.A. differs from other organizations. I refuse to stultify my ambition, and every true Negro refuses to stultify his ambition to suit any one, and therefore the U.N.I.A. decides if America is not big enough for two presidents, if England is not big enough for two kings, then we are not going to quarrel over the matter; we will leave one president in America, we will leave one king in England, we will leave one president in France and we will have one president in Africa. Hence, the Universal Negro Improvement Association does not seek to interfere with the social and political systems of France, but by the arrangement of things today the U.N.I.A. refuses to recognize any political or social system in Africa except that which we are about to establish for ourselves.

We are not preaching a propaganda of hate against anybody. We love the white man; we love all humanity, because we feel that we cannot live without the other. The white man is as necessary to the existence of the Negro as the Negro is as necessary to his existence. There is a common relationship that we cannot escape. Africa has certain things that Europe wants, and Europe has certain things that Africa wants, and if a fair and square deal must bring white and black with each other, it is impossible for us to escape it. Africa has oil, diamonds, copper, gold and rubber and all the minerals that Europe wants, and there must be some kind of relationship between

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Africa and Europe for a fair exchange, so we cannot afford to hate anybody.…

The question often asked is what does it require to redeem a race and free a country? If it takes man power, if it takes scientific intelligence, if it takes education of any kind, or if it takes blood, then the 400,000,000 Negroes of the world have it.…

If we have been liberal minded enough to give our life's blood in France, in Mesopotamia and elsewhere, fighting for the white man, whom we have always assisted, surely we have not forgotten to fight for ourselves, and when the time comes that the world will again give Africa an opportunity for freedom, surely 400,000,000 black men will march out on the battle plains of Africa, under the colors of the red, the black and the green.

We shall march out, yes, as black American citizens, as black British subjects, as black French citizens, as black Italians or as black Spaniards, but we shall march out with a greater loyalty, the loyalty of race. We shall march out in answer to the cry of our fathers, who cry out to us for the redemption of our own country, our motherland, Africa.

We shall march out, not forgetting the blessings of America. We shall march out, not forgetting the blessings of civilization. We shall march out with a history of peace before and behind us, and surely that history shall be our breastplate, for how can man fight better than knowing that the cause for which he fights is righteous? How can man fight more gloriously than by knowing that behind him is a history of slavery, a history of bloody carnage and massacre inflicted upon a race because of its inability to protect itself and fight? Shall we not fight for the glorious opportunity of protecting and forever more establishing ourselves as a mighty race and nation, never more to be disrespected by men? Glorious shall be the battle when the time comes to fight for our people and our race.

We should say to the millions who are in Africa to hold the fort, for we are coming 400,000,000 strong.

Glossary

breastplate	a piece of armor that covers and protects the chest
Liberals of France	the leaders of the late-eighteenth-century French Revolution
Mesopotamia	a region in the Middle East that corresponds roughly with modern-day Iraq
Tolstoi	Leo Tolstoy, a nineteenth-century Russian novelist and anarchist
West Indies	the islands of the Caribbean
Y.M.C.A.	Young Men's Christian Association
Y.W.C.A.	Young Women's Christian Association

A band at the Savoy Ballroom (Library of Congress)

Alain Locke's "Enter the New Negro"

1925

"The intelligent Negro of today is resolved not to make discrimination an extenuation for his shortcomings in performance, individual or collective."

Overview

In March 1925, Alain Locke edited "Harlem: Mecca of the New Negro," a special issue of the journal *Survey Graphic*. In addition to work by a number of prominent African American writers, the issue contained his own essay "Enter the New Negro," which highlighted the social, cultural, and artistic growth of African Americans, urged black artists and writers to look to African and African American history for inspiration, and expressed his belief that art and literature could break down racial barriers. Locke was eminently qualified to speak to this subject. He was America's first black Rhodes Scholar and later earned a PhD in philosophy from Harvard University. In 1925 Locke was early in a long and distinguished career as a professor at Howard University, and he would go on to write several highly regarded books and scholarly articles about African American culture and art. He was one of the leading figures in the Harlem Renaissance, the term given to the flourishing of African American culture in the 1920s and 1930s, much of it centered in the Harlem district of Manhattan in New York City and, in fact, he is often referred to as the "Father of the Harlem Renaissance." His passion and profound intellect contributed significantly to the vitality of the movement.

Locke's essay is not to be confused with his book *The New Negro*, which was also published in 1925. This anthology, an expansion of the *Survey Graphic* issue, included literary works by writers such as Jean Toomer, Zora Neale Hurston, Countee Cullen, Langston Hughes, and Claude McKay. Additionally, it included political and social analysis by James Weldon Johnson, E. Franklin Frazier, Walter White, and W. E. B. Du Bois. Because of Locke's essay and anthology expounding the achievements and aspirations of the "New Negro," the Harlem Renaissance is sometimes referred to as the New Negro Movement.

Context

Two major developments in African American history formed the backdrop for Locke's essay. One was the Great Migration, the term given to the movement of African Americans to northern and midwestern cities during the 1910s and 1920s, in part to escape the entrenched racism in the South, in part to seek employment in burgeoning industrial cities. During the Civil War, only about 8 percent of blacks lived in the North or Midwest. In 1900 still only about 10 percent lived in states that were not formerly slave states. That would change dramatically in the first decades of the new century. From 1910 to 1920, for example, the black population of Chicago grew from 44,000 to 110,000. In 1914 the black population of New York City was 50,000; in 1930 it was 165,000. In 1910 the black population of Detroit was 6,000; by 1929 the figure was 120,000. Cleveland, Boston, Baltimore, Cincinnati, Indianapolis, and other major cities experienced similarly rapid black population growth; so did smaller cities such as Dayton and Toledo in Ohio; Omaha, Nebraska; and Flint, Michigan. This growth was part of a national urbanizing trend and a corresponding decline in the rural population. In 1910 the majority of Americans lived in rural areas, defined at the time as communities with populations under 2,500. Thus, 49.9 million people lived in rural areas, while 42 million lived in urban areas; by 1920 the balance had shifted, with 54.1 million living in urban areas and 51.5 million living in rural areas. This trend continued throughout the 1920s so that by 1930, 68.9 million lived in urban areas to just 53.8 million in rural areas.

Typifying this urbanization was a city like Tulsa, Oklahoma. When Oklahoma achieved statehood in 1907, the city's population was a mere 7,000; by 1920 the city's population had increased more than tenfold, to 72,000. Included in that population were 11,000 African Americans, who were enjoying some measure of prosperity because of the state's oil boom. The black section of Tulsa, called the Greenwood district, was so prosperous that the black leader Booker T. Washington called its commercial district, with its restaurants, groceries, stores, professional offices, newspapers, churches, hospitals, and a library, the "Negro Wall Street."

Oil contributed to Tulsa's growth, but a number of other factors conspired to shift the nation's black population northward and westward. In the late 1910s, for example, a boll weevil infestation devastated southern cotton crops, forcing many black sharecroppers off their land. Then the outbreak of World War I opened large numbers of jobs in

Time Line

1885

- **September 13**
  Alain Locke is born in Philadelphia, Pennsylvania.

1910

- The Great Migration begins; in time, over four million African Americans would leave the South for the North and Midwest.

1904

- Large numbers of African Americans begin moving to Harlem in New York City.

1909

- **February 12**
  The National Association for the Advancement of Colored People is formed.

1913

- The building that would become the Apollo Theater is built in Harlem.

1917

- **April 6**
  The United States declares war on Germany, entering World War I; four hundred thousand African Americans serve in the military during the war.

1918

- Locke joins the philosophy faculty of Howard University in Washington, D.C.
- **November 11**
  The armistice ending World War I is signed.

1919

- Race riots plague numerous American cities, including Cleveland, Ohio; Omaha, Nebraska; and Elaine, Arkansas.

1922

- Claude McKay publishes *Harlem Shadows*, a poetry collection regarded as among the first major literary productions of the Harlem Renaissance.

1923

- Blues singer Bessie Smith revives the failing Columbia Record Company with her album *Down Hearted Blues*; Club De Luxe in Harlem reopens as the Cotton Club.

northern defense industry plants. The war, plus the Immigration Act of 1924, curtailed the flow of immigrants to the United States, increasing the demand for labor in northern factories. In 1927 major flooding in Mississippi again forced many southern blacks off their land. Often, black families heading north simply purchased the cheapest available train ticket, explaining why, for example, many Mississippians ended up in Chicago. In all, from 1910 to 1930 about 4.1 million African Americans left the South for opportunities in the North and Midwest.

The result of the Great Migration was the urban concentration of African Americans who had previously lived in relative isolation from one another in rural areas. Many who migrated were by definition ambitious and energetic, looking for a better life for themselves and their families. In their new communities, they formed a critical mass of culture in the broadest sense of the term: art, literature, music, church life, and dance as well as political and social awareness. Organizations such as the National Association for the Advancement of Colored People and Marcus Garvey's Universal Negro Improvement Association, along with new periodicals such as *Opportunity: A Journal of Negro Life*, were giving voice to the aspirations of African Americans. The new communities provided an audience for African American achievement. The result was the emergence of a black artistic and intellectual class under the leadership not only of Locke but also of W. E. B. Du Bois, James Weldon Johnson, and Walter White. In addition to a flowering of poetry and fiction by such writers as Langston Hughes, Jean Toomer, Countee Cullen, Zora Neale Hurston, Claude McKay, Arna Bontemps, and numerous others more popular forms of black culture flourished, led by a roster of black jazz and blues singers and musicians whose names are still recognized today: Billie Holiday, Duke Ellington, Count Basie, Louis Armstrong, Eubie Blake, Fats Waller, Josephine Baker, Billy Strayhorn, Lena Horne, and dozens more. Much of this popular culture was centered in New York City's Harlem neighborhood, the site of such cultural magnets as the Apollo Theater, the Savoy Ballroom, and the Cotton Club. Black Swan Records recorded the work of numerous black musicians.

Ironically, Harlem, with its stately homes and facilities such as the Polo Grounds (home of the New York Giants) and an opera house, had been a bedroom community for Manhattan's white upper class in the nineteenth century. It became a largely black community after a financial crash caused real estate values in Harlem to plummet and Philip Payton, Jr., the owner of the Afro-American Realty Company, opened the district to black tenants. Some white property barons resisted this demographic shift by buying up apartment buildings and evicting black tenants; Payton and others retaliated by buying up buildings of their own and evicting whites.

The Harlem Renaissance was by no means a unified movement with a manifesto and shared aims. On the one hand, the Harlem Renaissance encompassed those who were drawn to popular forms of entertainment and culture and who sought patrons exclusively among the emerging black middle class. More conservative elements, though,

wanted to see greater integration of black culture with mainstream white culture and sought white patrons for their work; one of the key events in the Harlem Renaissance was a 1924 gathering hosted by the journal *Opportunity* that included a number of white publishers who were taking an interest in black literature and wanted to publish it. The conservative element feared that a great deal of black popular literature and entertainment played into stereotypes about African Americans. They were also troubled by the militancy of many blacks, especially those who espoused the doctrines of Socialism and Communism. This tension between the black intelligentsia and those who preferred "Stompin' at the Savoy" (the name of a 1930s big-band hit song), rather than undermining the movement, contributed to its vitality, for the spirit of the Harlem Renaissance reached throughout the entire black community, from the Harvard-trained professional to the factory worker though that spirit would be dampened by the onset of the Great Depression in 1929.

Such a movement demanded intellectual underpinnings. These underpinnings were provided by such writers as Du Bois, the author of the 1903 book *The Souls of Black Folk*, and, later, Alain Locke. "Enter the New Negro," along with *The New Negro*, was a key document in the flowering of black culture during the 1920s. The essay was published in the same year as other important events affecting African Americans. That year, A. Philip Randolph organized the Brotherhood of Sleeping Car Porters, the first largely African American labor union; Cullen, one of the finest black poets in this era, published his first collection, *Color*; and the singer and dancer Josephine Baker performed overseas in *La revue nègre*, expanding the audience for African American artists to France, where she was wildly popular.

About the Author

Alain Locke was born on September 13, 1885, in Philadelphia. His given name was Allen, but he changed it to the French "Alain" because of his love of French literature. His father had earned a law degree at Howard University but worked as a postal clerk in the city; his mother was a schoolteacher. He was raised in a cultured environment and as a child attended the progressive Ethical Cultural School and then graduated second in his class from Philadelphia's Central High School. An early bout with rheumatic fever left him with heart damage, so he spent much of his time in sedentary activities such as reading and playing the violin and piano.

After studying at the Philadelphia School of Pedagogy, Locke entered Harvard University, graduating magna cum laude in just three years. At Harvard he was a member of Phi Beta Kappa, a prestigious national honorary society for top students, and won the Bowdoin Prize for the best essay in English. He did not feel much of a connection with other African American students at Harvard. Biographers Leonard Harris and Charles Molesworth report that in a letter to his mother he said that he could not understand how they could "come up here in a broad-minded place like this and stick together like they were in the heart of Africa." He also wrote that he found his black peers "coarse." It was this separateness that would motivate him to stress America's multiculturalism and come to regard art as a way of dissolving racial barriers.

Time Line

1925

- **March** Locke publishes "Enter the New Negro" in the journal *Survey Graphic*.
- Locke publishes *The New Negro*, an anthology of work by African American writers.

1954

- **June 9** Alain Locke dies in New York City.

In 1907 Locke became the first African American Rhodes Scholar, a prestigious award that entitles the recipient to study at England's Oxford University. At Oxford's Hertford College the only one that would accept a black student he studied literature, Greek, Latin, and philosophy and earned a bachelor's degree in literature in 1910. Afterward he studied philosophy for a year at the University of Berlin in Germany. In 1912 he took a position teaching literature at Howard University, but in 1916 he returned to Harvard to study philosophy, completing a PhD in 1918. He returned to Howard, where he was appointed chair of the philosophy department and remained there until 1953.

During his distinguished career at Howard, Locke was the author of numerous books and journal articles whose topics broadly spanned philosophy, art, and cultural studies. Among them were *The New Negro*, as well as *Negro Art: Past and Present* and *The Negro and His Music* (both 1936). He also edited *The Negro in Art: A Pictorial Record of the Negro Artist and of the Negro Theme in Art* (1940). In 1942 he published a pioneering social sciences anthology, *When Peoples Meet: A Study in Race and Culture Contacts*, which he coedited with Bernhard Stern. Throughout the late 1940s and early 1950s he was in high demand as a visiting scholar until he retired in 1953 but not before he was able to secure a chapter of Phi Beta Kappa at Howard. After his retirement, he moved to New York City to finish what was to have been his major work, *The Negro in American Culture*. Unfortunately, the heart problems that had plagued him as a child recurred, and before he could finish the book, he died on June 9, 1954.

Explanation and Analysis of the Document

"Enter the New Negro" is a sophisticated, densely written analysis of the "New Negro," the African American who is shedding the cultural stereotypes and limitations of the

past and asserting a new identity not just in the political and social spheres but in art and literature as well. It draws heavily on Locke's background as a student of both literature and philosophy. It was not in any sense a strident "call to arms" but rather a closely reasoned appeal to African Americans and to white Americans to recognize the fundamental change that was taking place in African American culture and in the psychology of the black community.

◆ Paragraphs 1–6

Locke begins by asserting that a change has taken place in the life of the American Negro. He refers to the sociologist, the philanthropist, and the race leader as the three "norns" who have traditionally examined issues surrounding blacks; the reference is to the three goddesses in Norse mythology who presided over human destiny. He argues that a transformation is taking place that the "norns" cannot account for. He then argues in paragraph 2 that the "New Negro" is not really new, that the "Old Negro" was more a creature of myth, a "historical fiction" and that the Old Negro contributed to this myth by "social mimicry," or trying to fit in. He refers to the Old Negro as a "formula" who was regarded as someone to be defended, kept down, helped up, or kept in his place. Locke maintains that even the "thinking Negro" has fallen into the trap of this kind of stereotyping, which leads to "little true social or self-understanding." In paragraph 3 he notes that the focus of attention in race issues has been on the Civil War and Reconstruction; that focus on the North-South axis has blinded people to the East, with its implications of a new day dawning.

In the fourth paragraph, Locke cites the example of the Negro spiritual. He argues that formerly this form of music was limited by the "stereotypes of Wesleyan hymn harmony," a reference to John Wesley, the founder of Methodism in the eighteenth century. Now, though, Negro spirituals have come out of hiding and are regarded as folk music, a significant form of cultural expression. In the same way, African Americans have emerged from the "tyranny of social intimidation" and are undergoing "something like a spiritual emancipation" through self-understanding. Thus, says Locke, African American life is entering a "new dynamic phase." He alludes to the growing urbanization of the nation and with it the growth of the "Young Negro's" greater opportunities for art and self-expression. As an example he incorporates a quotation from "Youth," a poem by Langston Hughes whose imagery again suggests the dawn of a new day. Locke concludes this section by stating that the New Negro can no longer be seen through the "dusty spectacles" of past controversies the black "mammy," the "Uncle Tom" of Harriet Beecher Stowe's novel *Uncle Tom's Cabin*, and "Sambo," a name that during the Civil War era became a racial slur. Locke maintains that it is time to put aside these and other stereotypes, to "scrap the fictions" and "garret the bogeys" (that is, to consign them to the attic), and face a new reality.

◆ Paragraphs 7–14

Locke next outlines some of the specific changes that have rendered old conceptions of African Americans obsolete. Again he refers to the Great Migration of blacks to the North and Midwest and their centers of industry, so the issues, he says, are no longer sectional. He suggests that the problems faced by blacks in their new surroundings are not entirely racial. Finally, he points to "class differentiation" in the black community, making it "ridiculous" to regard the black population "en masse," that is, as a homogeneous whole. In paragraph 8, Locke goes on to point out that "the Negro too, for his part, has idols of the tribe to smash," meaning that certain cherished views have to be cast aside. While it may be true, Locke says, that the white population denigrated blacks to excuse its treatment of them, blacks have too often excused themselves because of this treatment. The "intelligent Negro" does not use discrimination as an excuse for his shortcomings and wants to be seen as an equal, not an object of sentiment or "social discounts" or a victim of "self-pity." He refers to changes in attitude as a "bitter weaning" but one that will allow both black and white to see each other with "new mutual attitudes." In paragraph 10, Locke concedes that greater knowledge will not necessarily lead to greater liking or treatment, but an effort of will is needed on the part of the "more intelligent" people of both races, who, in Locke's view, are out of touch with one another.

Thus, in paragraph 10, Locke begins to argue that the notion that the lives of blacks and whites are separate is increasingly a fiction. In paragraph 11 he cites the example of interracial councils in the South there were some eight hundred local councils under the auspices of the Commission on Interracial Cooperation based in Atlanta yet he notes that in the North, black laborers have little "interplay" with their communities and the white business community. Locke calls for this to change but observes that it already is changing, that close cooperation is replacing "long-distance philanthropy," at least among "enlightened minorities of both race groups." In paragraph 12 he says that the New Negro is responding to this new democratic element in American culture and is no longer allowing discrimination in the social sphere to fetter him. Locke then specifically refers to New York as a center where intellectual contacts have been made, in large part through the "enrichment of American art and letters." In paragraph 13 he comments on the importance of this cultural contact as a way of offsetting the past. The conditions, he says, that are "moulding a New Negro are moulding a new American attitude." In the concluding paragraph of this section, Locke cautions that the new condition is "delicate" and runs the risk of engendering antagonism and prejudice. Now that the Negro has been "weaned," it is important for the public not to treat him paternalistically. Although the New Negro's outer life, where he participates in American institutions and democracy, is "well and finally formulated," his inner life and psychology are still undergoing formation.

◆ Paragraphs 15–21

Locke explores the psychology of the New Negro. At first that psychology was based on a "warped social perspective," but Locke believes that he is witnessing "the development of a more positive self-respect and self-

Flood waters fill the streets of Greenville, Mississippi, in April 1927. (AP/Wide World Photos)

reliance" that is, a "race pride." His overall theme here is that African Americans are evolving past sentimental stereotypes and the need to be a "ward" of others. In paragraph 16, he expresses the hope that the prejudice of the past will convert from a handicap to an incentive. He notes that many African Americans, in adopting a newly militant posture, are turning leftward in their politics, that is, to Socialism and radicalism. In paragraph 17 he turns to the issue of separatism, such as that advocated by figures such as Marcus Garvey (sponsor of the Back to Africa movement), and characterizes such separatism as undesirable. He illustrates the tensions in African Americans' views of themselves through current poetry. Claude McKay's poem "To the Intrenched Classes" serves as an example of "defiant ironic challenge," referring to McKay's vision of a future of eroding possibilities. In contrast, he quotes from James Weldon Johnson's "O Southland!" as an example of "appeal" to the South to shed its historical limitations with regard to African Americans. Between these two extremes of "defiance and appeal" is Johnson's poem "To America." Locke's appeal is for African Americans to adopt this middle ground between "cynicism and hope."

◆ Paragraphs 22–25

Locke concludes his essay with an appeal to African American writers to follow "constructive channels." In paragraph 23 he urges these writers to serve as an "advance-guard" for Africa in its contact with the twentieth century and charges them with "rehabilitating the race." He goes on specifically to refer to the events taking place in Harlem, the home of African Americans' "Zionism." He uses this word as a figure of speech, comparing the African American's search for a home to that of the Jews. Later, in paragraph 24, he asserts that "the future development of Africa is one of the most constructive and universally helpful missions that any modern people can lay claim to." He notes some of the cultural developments taking place in Harlem and the neighborhood's ability to attract people from all over the world. All of these social and cultural achievements are creating a "group consciousness" that is healthy for the black community.

Paragraph 25 concludes the essay with a further appeal. He states that the black race can rehabilitate itself through its "artistic endowments and cultural contributions, past and prospective." He points out that African Americans have already made significant contributions to the nation's cultural life. He wants the African American to no longer be a "beneficiary and ward" and instead become a "conscious contributor." Locke expresses hope that the New Negro will in time "celebrate his full initiation into American democracy," but if he does not, he will at least take pride in his own "Coming of Age."

Essential Quotes

"The mind of the Negro seems suddenly to have slipped from under the tyranny of social intimidation and to be shaking off the psychology of imitation and implied inferiority. By shedding the old chrysalis of the Negro problem we are achieving something like a spiritual emancipation."

(Paragraph 4)

"The day of 'aunties,' 'uncles' and 'mammies' is equally gone. Uncle Tom and Sambo have passed on."

(Paragraph 6)

"The intelligent Negro of today is resolved not to make discrimination an extenuation for his shortcomings in performance, individual or collective; he is trying to hold himself at par, neither inflated by sentimental allowances nor depreciated by current social discounts."

(Paragraph 8)

"[The New Negro] resents being spoken for as a social ward or minor, even by his own, and to being regarded a chronic patient for the sociological clinic, the sick man of American Democracy."

(Paragraph 15)

"It must be increasingly recognized that the Negro has already made very substantial contributions, not only in his folk-art, music especially, which has always found appreciation, but in larger, though humbler and less acknowledged ways. For generations the Negro has been the peasant matrix of that section of America which has most undervalued him, and here he has contributed not only materially in labor and in social patience, but spiritually as well."

(Paragraph 25)

Audience

"Enter the New Negro" was published in a special issue of *Survey Graphic*. The nonprofit, mainstream journal was launched in 1921, and through 1932 it was the illustrated supplement to *The Survey*, the nation's premier social work journal. In 1933 it became a separate publication and survived until 1952. *Survey Graphic* published articles on a host of contemporary issues, including trade unionism, anti-Semitism, the rise of Fascism, poverty, and political and education reform. The roots of the journal were progressive, and it was never shy about taking on controversial issues. Its emphasis was on the role that government played in shaping the lives of individuals. Its audi-

ence, which was relatively small compared with that of other mainstream publications, consisted primarily of middle-class professionals who took an interest in issues pertaining to social welfare and who themselves were in a position to make decisions that affected the lives of all Americans. Later, during the 1930s, the journal played an important role in visually documenting the hardships of the Great Depression.

Impact

It is difficult to trace the immediate impact of a single article or book announcing the views of a movement such as the Harlem Renaissance. "Enter the New Negro" was part of a welter of books and articles examining the issue of race before, during, and after the 1920s. The climate for these publications was ripe. The nation had put aside the hardships and privations of World War I. In 1919 women were granted the right to vote, bringing the issue of civil rights to the national consciousness. But that year, too, numerous race riots plagued American cities; in some instances, blacks were attacked or lynched while still wearing their military uniforms. At the same time, the Progressive movement was still making its influence felt. Trade unionism, for example, was gaining more traction at a time when American workers were competing for jobs and there was considerable labor unrest. The 1920s, often called the Roaring Twenties, was a time of growing prosperity and seemingly endless possibilities. In this climate of growing freedom, of the casting off of old traditions and old ways of thinking, African American writers were determined to find a place in American culture and society. Writers such as Alain Locke were showing them how, and why. His work helped launch the careers of writers such as Zora Neale Hurston, whose short story "Spunk" appeared in the anthology.

In a sense, Locke's work lit a fire under other African American writers. *Fire!!* was a black literary magazine launched in 1926 by a group of African American writers who defiantly called themselves the Niggerati (a play on the word *literati*): Wallace Thurman, Zora Neale Hurston, Aaron Douglas, John P. Davis, Richard Bruce Nugent, Gwendolyn Bennett, Countee Cullen, and Langston Hughes. Hughes explained the title by saying that it conveyed the desire to burn up old, conventional ideas and showcase the talent of younger writers. The magazine, which its founders said was inspired by Locke's work, lasted for only a single issue, and critical reaction to it exemplified differing views about the role of African American literature. While some critics applauded the magazine for its unique perspective, others, particularly some members of the black intelligentsia (Du Bois's "Talented Tenth") found some of its topics, such as homosexuality, vulgar and were troubled by what they regarded as the stereotyped use of southern vernacular. Despite differing views about the merits of any particular writer's work, in the years following the publication of Locke's essay, a tidal wave of fiction, poetry, and drama flowed from the pens of African American writers. No longer was American literature the sole province of New England's white middle and upper classes. African American literature was now part of the national cultural landscape.

See also Marcus Garvey: "The Principles of the Universal Negro Improvement Association" (1922); James Weldon Johnson's "Harlem: The Culture Capital" (1925).

Questions for Further Study

1. Describe the demographic trends in the United States that contributed to the Harlem Renaissance.

2. According to Locke, what is "the New Negro"? What does he mean by this term? What characteristics describe the African American community during this era?

3. Describe some of the racial stereotypes and racial attitudes that Locke believes have to be overcome.

4. Locke and W. E. B. Du Bois were arguably the two foremost African American intellectuals in the early decades of the twentieth century. Compare this document with Du Bois's *The Souls of Black Folk* (1903). Do they make any arguments that are similar? Do the two documents have different emphases? Explain.

5. Similarly, compare this document with James Weldon Johnson's "Harlem: The Culture Capital." Do the two writers express attitudes toward the Harlem Renaissance that are fundamentally the same or different? Explain.

6. Just three years earlier, Marcus Garvey published "The Principles of the Universal Negro Improvement Association." What do you think Locke's reaction to those principles was?

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Michael J. O'Neal

Document Text

Alain Locke's "Enter the New Negro"

In the last decade something beyond the watch and guard of statistics has happened in the life of the American Negro and the three norns who have traditionally presided over the Negro problem have a changeling in their laps. The Sociologist, The Philanthropist, the Race-leader are not unaware of the New Negro but they are at a loss to account for him. He simply cannot be swathed in their formulae. For the younger generation is vibrant with a new psychology; the new spirit is awake in the masses, and under the very eyes of the professional observers is transforming what has been a perennial problem into the progressive phases of contemporary Negro life.

Could such a metamorphosis have taken place as suddenly as it has appeared to? The answer is no; not because the New Negro is not here, but because the Old Negro had long become more of a myth than a man. The Old Negro, we must remember, was a creature of moral debate and historical controversy. His has been a stock figure perpetuated as an historical fiction partly in innocent sentimentalism, partly in deliberate reactionism. The Negro himself has contributed his share to this through a sort of protective social mimicry forced upon him by the adverse circumstances of dependence. So for generations in the mind of America, the Negro has been more of a formula than a human being a something to be argued about, condemned or defended, to be "kept down," or "in his place," or "helped up," to be worried with or worried over, harassed or patronized, a social bogey or a social burden. The thinking Negro even has been induced to share this same general attitude, to focus his attention on controversial issues, to see himself in the distorted perspective of a social problem. His shadow, so to speak, has been more real to him than his personality. Through having had to appeal from the unjust stereotypes of his oppressors and traducers to those of his liberators, friends and benefactors he has subscribed to the traditional positions from which his case has been viewed. Little true social or self-understanding has or could come from such a situation.

We have not been watching in the right direction; set North and South on a sectional axis, we have not noticed the East till the sun has us blinking.

Recall how suddenly the Negro spirituals revealed themselves; suppressed for generations under the stereotypes of Wesleyan hymn harmony, secretive, half-ashamed, until the courage of being natural brought them out and behold, there was folk-music. Similarly the mind of the Negro seems suddenly to have slipped from under the tyranny of social intimidation and to be shaking off the psychology of imitation and implied inferiority. By shedding the old chrysalis of the Negro problem we are achieving something like a spiritual emancipation. Until recently, lacking self-understanding, we have been almost as much of a problem to ourselves as we still are to others. But the decade that found us with a problem has left us with only a task. The multitude perhaps feels as yet only a strange relief and a new vague urge, but the thinking few know that in the reaction the vital inner grip of prejudice has been broken.

With this renewed self-respect and self-dependence, the life of the Negro community is bound to enter a new dynamic phase, the buoyancy from within compensating for whatever pressure there may be of conditions from without. The migrant masses, shifting from countryside to city, hurdle several generations of experience at a leap, but more important, the same thing happens spiritually in the life-attitudes and self-expression of the Young Negro, in his poetry, his art, his education and his new outlook, with the additional advantage, of course, of the poise and greater certainty of knowing what it is all about. From this comes the promise and warrant of a new leadership. As one of them has discerningly put it:

> We have tomorrow
> Bright before us
> Like a flame.
> Yesterday, a night-gone thing
> A sun-down name.
> And dawn today
> Broad arch above the road we came.
> We march!

This is what, even more than any "most creditable record of fifty years of freedom," requires that the Negro of today be seen through other than the dusty spectacles of past controversy. The day of "aunties," "uncles" and "mammies" is equally gone. Uncle Tom and Sambo have passed on, and even the "Colonel"

and "George" play barnstorm roles from which they escape with relief when the public spotlight is off. The popular melodrama has about played itself out, and it is time to scrap the fictions, garret the bogeys and settle down to a realistic facing of facts.

First we must observe some of the changes which since the traditional lines of opinion were drawn have rendered these quite obsolete. A main change has been, of course, that shifting of the Negro population which has made the Negro problem no longer exclusively or even predominantly Southern. Why should our minds remain sectionalized, when the problem itself no longer is? Then the trend of migration has not only been toward the North and the Central Midwest, but city-ward and to the great centers of industry the problems of adjustment are new, practical, local and not peculiarly racial. Rather they are an integral part of the large industrial and social problems of our present-day democracy. And finally, with the Negro rapidly in process of class differentiation, if it ever was warrantable to regard and treat the Negro en masse it is becoming with every day less possible, more unjust and more ridiculous.

The Negro too, for his part, has idols of the tribe to smash. If on the one hand the white man has erred in making the Negro appear to be that which would excuse or extenuate his treatment of him, the Negro, in turn, has too often unnecessarily excused himself because of the way he has been treated. The intelligent Negro of today is resolved not to make discrimination an extenuation for his shortcomings in performance, individual or collective; he is trying to hold himself at par, neither inflated by sentimental allowances nor depreciated by current social discounts. For this he must know himself and be known for precisely what he is, and for that reason he welcomes the new scientific rather than the old sentimental interest. Sentimental interest in the Negro has ebbed. We used to lament this as the falling off of our friends; now we rejoice and pray to be delivered both from self-pity and condescension. The mind of each racial group has had a bitter weaning, apathy or hatred on one side matching disillusionment or resentment on the other; but they face each other today with the possibility at least of entirely new mutual attitudes.

It does not follow that if the Negro were better known, he would be better liked or better treated. But mutual understanding is basic for any subsequent cooperation and adjustment. The effort toward this will at least have the effect of remedying in large part what has been the most unsatisfactory feature of our present stage of race relationships in America, namely the fact that the more intelligent and representative elements of the two race groups have at so many points got quite out of vital touch with one another.

The fiction is that the life of the races is separate and increasingly so. The fact is that they have touched too closely at the unfavorable and too lightly at the favorable levels.

While inter-racial councils have sprung up in the South, drawing on forward elements of both races, in the Northern cities manual laborers may brush elbows in their everyday work, but the community and business leaders have experienced no such interplay or far too little of it. These segments must achieve contact or the race situation in America becomes desperate. Fortunately this is happening. There is a growing realization that in social effort the cooperative basis must supplant long-distance philanthropy, and that the only safeguard for mass relations in the future must be provided in the carefully maintained contacts of the enlightened minorities of both race groups. In the intellectual realm a renewed and keen curiosity is replacing the recent apathy; the Negro is being carefully studied, not just talked about and discussed. In art and letters, instead of being wholly caricatured, he is being seriously portrayed and painted.

To all of this the New Negro is keenly responsive as an augury of a new democracy in American culture. He is contributing his share to the new social understanding. But the desire to be understood would never in itself have been sufficient to have opened so completely the protectively closed portals of the thinking Negro's mind. There is still too much possibility of being snubbed or patronized for that. It was rather the necessity for fuller, truer, self-expression, the realization of the unwisdom of allowing social discrimination to segregate him mentally, and a counter-attitude to cramp and fetter his own living and so the "spite-wall" that the intellectuals built over the "color-line" has happily been taken down. Much of this reopening of intellectual contacts has entered in New York and has been richly fruitful not merely in the enlarging of personal experience, but in the definite enrichment of American art and letters and in the clarifying of our common vision of the social tasks ahead.

The particular significance in the reestablishment of contact between the more advanced and representative classes is that it promises to offset some of the unfavorable reactions of the past, or at least to re-

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surface race contacts somewhat for the future. Subtly the conditions that are moulding a New Negro are moulding a new American attitude.

However, this new phase of things is delicate; it will call for less charity but more justice; less help, but infinitely closer understanding. This is indeed a critical stage of race relationships because of the likelihood, if the new temper is not understood, of engendering sharp group antagonism and a second crop of more calculated prejudice. In some quarters, it has already done so. Having weaned the Negro, public opinion cannot continue to paternalize. The Negro today is inevitably moving forward under the control largely of his own objectives. What are these objectives? Those of his outer life are happily already well and finally formulated, for they are none other than the ideals of American institutions and democracy. Those of his inner life are yet in process of formation, for the new psychology at present is more of a consensus of feeling than of opinion, of attitude rather than of program. Still some points seem to have crystallized.

Up to the present one may adequately describe the Negro's "inner objectives" as an attempt to repair a damaged group psychology and reshape a warped social perspective. Their realization has required a new mentality for the American Negro. And as it matures we begin to see its effects; at first, negative, iconoclastic, and then positive and constructive. In this new group psychology we note the lapse of sentimental appeal, then the development of a more positive self-respect and self-reliance; the repudiation of social dependence, and then the gradual recovery from hyper-sensitiveness and "touchy" nerves, the repudiation of the double standard of judgment with its special philanthropic allowances and then the sturdier desire for objective and scientific appraisal; and finally the rise from social disillusionment to race pride, from the sense of social debt to the responsibilities of social contribution, and offsetting the necessary working and commonsense acceptance of restricted conditions, the belief in ultimate esteem and recognition. Therefore the Negro today wishes to be known for what he is, even in his faults and shortcomings, and scorns a craven and precarious survival at the price of seeming to be what he is not. He resents being spoken for as a social ward or minor, even by his own, and to being regarded a chronic patient for the sociological clinic, the sick man of American Democracy. For the same reasons he himself is through with those social nostrums and panaceas, the so-called "solutions" of his "problem," with which he and the country have been so liberally dosed in the past. Religion, freedom, education, money in turn, he has ardently hoped for and peculiarly trusted these things; he still believes in them, but not in blind trust that they alone will solve his life-problem.

Each generation, however, will have its creed and that of the present is the belief in the efficacy of collective efforts in race cooperation. This deep feeling of race is at present the mainspring of Negro life. It seems to be the outcome of the reaction to proscription and prejudice; an attempt, fairly successful on the whole, to convert a defensive into an offensive position, a handicap into an incentive. It is radical in tone, but not in purpose and only the most stupid forms of opposition, misunderstanding or persecution could make it otherwise. Of course, the thinking Negro has shifted a little toward the left with the world-trend, and there is an increasing group who affiliate with radical and liberal movements. But fundamentally for the present the Negro is radical on race matters, conservative on others, in other words, a "forced radical," a social protestant rather than a genuine radical. Yet under further pressure and injustice iconoclastic thought and motives will inevitably increase. Harlem's quixotic radicalisms call for their ounce of democracy today lest tomorrow they be beyond cure.

The Negro mind reaches out as yet to nothing but American wants, American ideas. But this forced attempt to build his Americanism on race values is a unique social experiment, and its ultimate success is impossible except through the fullest sharing of American culture and institutions. There should be no delusion about this. American nerves in sections unstrung with race hysteria are often fed the opiate that the trend of Negro advance is wholly separatist, and that the effect of its operation will be to encyst the Negro as a benign foreign body in the body politic. This cannot be even if it were desirable. The racialism of the Negro is no limitation or reservation with respect to American life; it is only a constructive effort to build the obstructions in the stream of his progress into an efficient dam of social energy and power. Democracy itself is obstructed and stagnated to the extent that any of its channels are closed. Indeed they cannot be selectively closed. So the choice is not between one way for the Negro and another way for the rest, but between American institutions frustrated on the one hand and American ideals progressively fulfilled and realized on the other.

There is, of course, a warrantably comfortable feeling in being on the right side of the country's pro-

fessed ideals. We realize that we cannot be undone without America's undoing. It is within the gamut of this attitude that the thinking Negro faces America, but the variations of mood in connection with it are if anything more significant than the attitude itself. Sometimes we have it taken with the defiant ironic challenge of McKay:

> Mine is the future grinding down today
> Like a great landslip moving to the sea,
> Bearing its freight of debris far away
> Where the green hungry waters restlessly
> Heave mammoth pyramids and break and roar
> Their eerie challenge to the crumbling shore.

Sometimes, perhaps more frequently as yet, in the fervent and almost filial appeal and counsel of Weldon Johnson's:

> O Southland, dear Southland!
> Then why do you still cling
> To an idle age and a musty page,
> To a dead and useless thing.

But between defiance and appeal, midway almost between cynicism and hope, the prevailing mind stands in the mood of the same author's To America, an attitude of sober query and stoical challenge:

> How would you have us, as we are?
> Or sinking heath the load we bear,
> Our eyes fixed forward on a star,
> Or gazing empty at despair?
> Rising or falling? Men or things?
> With dragging pace or footsteps fleet?
> Strong, willing sinews in your wings,
> Or tightening chains about your feet?

More and more, however, an intelligent realization of the great discrepancy between the American social creed and the American social practice forces upon the Negro the taking of the moral advantage that is his. Only the steadying and sobering effect of a truly characteristic gentleness of spirit prevents the rapid rise of a definite cynicism and counter-hate and a defiant superiority feeling. Human as this reaction would be, the majority still deprecate its advent, and would gladly see it forestalled by the speedy amelioration of its causes. We wish our race pride to be a healthier, more positive achievement than a feeling based upon a realization of the shortcomings of others. But all paths toward the attainment of a sound social attitude have been difficult; only a relatively few enlightened minds have been able as the phrase puts it "to rise above" prejudice. The ordinary man has had until recently only a hard choice between the alternatives of supine and humiliating submission and stimulating but hurtful counter-prejudice. Fortunately from some inner, desperate resourcefulness has recently sprung up the simple expedient of fighting prejudice by mental passive resistance, in other words by trying to ignore it. For the few, this manna may perhaps be effective, but the masses cannot thrive on it.

Fortunately there are constructive channels opening out into which the balked social feelings of the American Negro can flow freely.

Without them there would be much more pressure and danger than there is. These compensating interests are racial but in a new and enlarged way. One is the consciousness of acting as the advance-guard of the African peoples in their contact with Twentieth Century civilization; the other, the sense of a mission of rehabilitating the race in world esteem from that loss of prestige for which the fate and conditions of slavery have so largely been responsible. Harlem, as we shall see, is the center of both these movements; she is the home of the Negro's "Zionism." The pulse of the Negro world has begun to beat in Harlem. A Negro newspaper carrying news material in English, French and Spanish, gathered from all quarters of America, the West Indies and Africa has maintained itself in Harlem for over five years. Two important magazines, both edited from New York, maintain their news and circulation consistently on a cosmopolitan scale. Under American auspices and backing, three pan-African congresses have been held abroad for the discussion of common interests, colonial questions and the future cooperative development of Africa. In terms of the race question as a world problem, the Negro mind has leapt, so to speak, upon the parapets of prejudice and extended its cramped horizons. In so doing it has linked up with the growing group consciousness of the dark-peoples and is gradually learning their common interests. As one of our writers has recently put it: "It is imperative that we understand the white world in its relations to the nonwhite world." As with the Jew, persecution is making the Negro international.

As a world phenomenon this wider race consciousness is a different thing from the much asserted rising tide of color. Its inevitable causes are not of our making. The consequences are not necessarily

Document Text

damaging to the best interests of civilization. Whether it actually brings into being new Armadas of conflict or argosies of cultural exchange and enlightenment can only be decided by the attitude of the dominant races in an era of critical change. With the American Negro his new internationalism is primarily an effort to recapture contact with the scattered peoples of African derivation. Garveyism may be a transient, if spectacular, phenomenon, but the possible role of the American Negro in the future development of Africa is one of the most constructive and universally helpful missions that any modern people can lay claim to.

Constructive participation in such causes cannot help giving the Negro valuable group incentives, as well as increased prestige at home and abroad. Our greatest rehabilitation may possibly come through such channels, but for the present, more immediate hope rests in the revaluation by white and black alike of the Negro in terms of his artistic endowments and cultural contributions, past and prospective. It must be increasingly recognized that the Negro has already made very substantial contributions, not only in his folk-art, music especially, which has always found appreciation, but in larger, though humbler and less acknowledged ways. For generations the Negro has been the peasant matrix of that section of America which has most undervalued him, and here he has contributed not only materially in labor and in social patience, but spiritually as well. The South has unconsciously absorbed the gift of his folk-temperament. In less than half a generation it will be easier to recognize this, but the fact remains that a leaven of humor, sentiment, imagination and tropic nonchalance has gone into the making of the South from a humble, unacknowledged source. A second crop of the Negro's gifts promises still more largely. He now becomes a conscious contributor and lays aside the

Glossary

argosies	fleets of merchant ships
Armadas	fleets of naval ships
changeling	a child secretly exchanged for another in infancy
chrysalis	the pupa of a butterfly enclosed in a cocoon
Garveyism	a reference to the views of Marcus Garvey, the founder of the Universal Negro Improvement Association
"How would you have us …"	from James Weldon Johnson's poem "To America"
idols of the tribe	a figure of speech, coined by Sir Francis Bacon, referring to deceptive beliefs
"Mine is the future …"	from Claude McKay's poem "To the Intrenched Classes"
norns	goddesses in Norse mythology that preside over human destiny
"O Southland, dear Southland! …"	from James Weldon Johnson's poem "O Southland"
Sambo	a commonly used racial slur in the nineteenth century
Uncle Tom	a character in Harriet Beecher Stowe's *Uncle Tom's Cabin*; often used disparagingly to refer to a black person who submits to whites
"We have tomorrow …"	from the poem "Youth" by Langston Hughes
Wesleyan	a reference to John Wesley, the eighteenth-century founder of the Methodist denomination
Zionism	a reference to the movement among Jews to create a homeland in Palestine

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status of a beneficiary and ward for that of a collaborator and participant in American civilization. The great social gain in this is the releasing of our talented group from the arid fields of controversy and debate to the productive fields of creative expression. The especially cultural recognition they win should in turn prove the key to that revaluation of the Negro which must precede or accompany any considerable further betterment of race relationships. But whatever the general effect, the present generation will have added the motives of self-expression and spiritual development to the old and still unfinished task of making material headway and progress. No one who understandingly faces the situation with its substantial accomplishment or views the new scene with its still more abundant promise can be entirely without hope. And certainly, if in our lifetime the Negro should not be able to celebrate his full initiation into American democracy, he can at least, on the warrant of these things, celebrate the attainment of a significant and satisfying new phase of group development, and with it a spiritual Coming of Age.

James Weldon Johnson's "Harlem: The Culture Capital"

1925

"Harlem is more than a Negro community;
it is a large scale laboratory experiment in the race problem."

Overview

The 1920s witnessed a virtual explosion of African American artistic expression of all kinds, which centered in Harlem on New York's Upper West Side. More popularly known as the Harlem Renaissance, this cultural movement attracted many of the most accomplished black writers, artists, actors, and musicians of the early twentieth century. James Weldon Johnson was one of the movement's most respected contributors and, in the eyes of many, its godfather and most illustrious statesman. Like thousands of other black Americans who moved to Harlem from the South during the three decades prior to the Great Depression, Johnson was optimistic that "Black Manhattan" would offer economic, cultural, and racial liberation for himself and others. Indeed, Johnson viewed Harlem as a model for black advancement that could be achieved with unprecedented speed and with a minimum of racial tension. His essay "Harlem: The Culture Capital" was included in Professor Alain Locke's famous 1925 anthology, *The New Negro*, which served to introduce some young black authors but also featured the work of older and better-known writers like Johnson. An illustrated draft of Johnson's essay had also appeared in the limited circulation magazine *Survey Graphic* earlier that year. In 1930 he completed his much-anticipated book on the full history of African Americans in New York, called *Black Manhattan*, which was built around both versions of this article.

Context

The migration of hundreds of thousands of African Americans from the mostly rural South to northern industrial centers in the two decades before World War I helped change in dramatic ways the black experience in American life. It began as early as the 1890s, with a trickle of black families seeking better economic conditions, and reached flood tide with World War I and the subsequent restrictions on immigration, which would create job opportunities in unprecedented numbers. Some families simply relocated to cities in the South, but many, especially those from the Southeast, chose to move northward to Philadelphia, New York, and Boston. Those further west, in states like Arkansas and Tennessee, were more likely to find new homes in Chicago, Detroit, or Cleveland. But the most spectacular growth in black urban populations occurred in New York City in Harlem. By 1905 there were already sixty thousand African Americans in the city, and most of them were in the crowded neighborhoods of San Juan Hill and the Tenderloin in west-central Manhattan. Five years later, they were the majority in the once solidly middle-class white Harlem, north of 130th Street. Just before the outbreak of World War I, the black population of Harlem alone had surpassed fifty thousand.

In the 1920s, thousands more southern blacks and significant numbers from the West Indies would eventually extend black Harlem from 115th Street north to 155th Street, between the Harlem River and Amsterdam Avenue. Just before the beginning of the Great Depression, Harlem's black population was almost one hundred seventy thousand, making it, in James Weldon Johnson's words, "the most important black city in the world."

Population growth in Harlem was only part of the story. Black restaurants, speakeasies, jazz clubs, cabarets, stores, and churches quickly followed. The Harlem branch of the New York Public Library had a black staff, and the Harlem Young Men's Christian Association was one of the few branches that catered to African Americans. Even many police officers walking their beats were black. The newly formed National Association for the Advancement of Colored People (NAACP) established its headquarters nearby in lower Manhattan, and so did the National Urban League. Harlem was also the home of the most influential black labor union, the Brotherhood of Sleeping Car Porters, led by the young Socialist A. Philip Randolph. The black nationalist and Pan-Africanist Marcus Garvey relocated his United Negro Improvement Association from Jamaica to Harlem, where it startled everyone with its appeal to working class blacks.

In little more than a decade, Harlem had clearly become the showcase for the "new Negro." The young Langston Hughes spoke for many new arrivals in Harlem when he expressed amazement at just how black Harlem was when he first emerged from the subway station at 135th Street and Lenox Avenue in 1921. As Hughes soon learned, how-

Time Line

1871

- **June 17**
  James Weldon Johnson is born in Jacksonville, Florida.

1900

- Johnson writes the lyrics to "Lift Every Voice and Sing," to music composed by his brother J. Rosamond Johnson.
- **August 15 and16**
  Riots in the San Juan Hill District and the Tenderloin ghetto of Manhattan's West Side help push many African Americans seeking better living conditions north toward Harlem.

1902

- **Summer**
  Johnson and his brother Rosamond publish their first big hit song, "Under the Bamboo Tree."

1909

- **February 12**
  The National Association for the Advancement of Colored People (NAACP) is founded in New York City.

1910

- **September 29**
  The Committee on Urban Conditions among Negroes, a forerunner of the National Urban League, is founded in New York to assist the thousands of blacks recently arrived from the South.

1912

- Johnson publishes his only novel, *The Autobiography of an Ex-Colored Man*; a second edition would appear to great critical acclaim in the 1920s, at the height of the Harlem Renaissance.

1916

- **May**
  A year after the death of Booker T. Washington, whom he admired greatly, Johnson is elected vice president of the New York chapter of the NAACP, with national offices in Manhattan.

ever, whites still owned the most important stores and shops, and most of the clerks who worked in them were white as well. Even more disappointing was that some of the jazz clubs were white owned and catered to segregated audiences composed of whites who were eager to sample the mysteries of Harlem life. Still, it was a heady experience for Hughes and other recent arrivals to find for the first time a city of black people within a city controlled by whites.

Hughes was only one of many young black writers and artists attracted to the cultural excitement of Harlem. Between World War I and the Great Depression, Claude McKay, Zora Neale Hurston, Aaron Douglas, Wallace Thurman, Duke Ellington, and others added to the artistic flowering that came to be known as the Harlem Renaissance. Johnson was older than all of them, and his ties to Harlem were much deeper.

By the time Langston Hughes arrived in Harlem, it had been the city of residence for James Weldon Johnson for several years. Almost a generation older than Hughes, Johnson had visited New York from his native Florida as early as 1884, but his adult association with the city began in the late 1890s as a fledgling musician who, with his brother, hoped to establish himself as a songwriter. Johnson became a full-time resident in 1902. As a poet, journalist, and civil rights activist, he emerged as a dapper, sophisticated, and popular member of Harlem's intellectual elite.

Thus, it was altogether fitting, and perhaps strategically astute, that Alain Locke included Johnson's essay in *The New Negro*. In fact, "Harlem: The Culture Capital" helped set the tone of literary legitimacy for a group of younger black writers who had not yet established their own careers. Johnson was always willing to encourage young artists personally. He also used his influence as the executive secretary of the NAACP in the 1920s to advance the cause of the black artistic community generally.

About the Author

James Weldon Johnson, poet, novelist, essayist, anthologist, lyricist, diplomat, civil rights activist, and educator, was born in Jacksonville, Florida, in 1871 to Helen Louise Diller, a native of the Bahamas, and James Johnson. He was educated in the segregated public schools of Jacksonville and graduated from Georgia's Atlanta University in 1894 with a degree in music. At age twenty-three he became the principal of his former school in Jacksonville, while he simultaneously pursued careers as a journalist and lawyer. He was the first African American admitted to the Florida bar.

But his first love proved to be songwriting, often in collaboration with his brother Rosamond. Together the Johnson brothers visited New York several times in the late 1890s in an effort to market their songs and musical productions. They enjoyed modest commercial successes (as when their "Under the Bamboo Tree" sold four hundred thousand copies), but they are perhaps best remembered for the lyrics (by James) and the music (by Rosamond) of the Negro national anthem, "Lift Every Voice and Sing,"

which they wrote for a school celebration of Abraham Lincoln's birthday.

Johnson's musical career inevitably led him to become a permanent resident of New York City, where he stayed for the next thirty years, except for a brief stint as a U.S. consul, first in Venezuela and then in Nicaragua, from 1906 through 1912. While on diplomatic assignment he also wrote his only novel, *The Autobiography of an Ex-Colored Man*, which received mostly positive reviews. In 1910, while on leave in New York from the consular service, he married Grace Nail, the daughter of John B. Nail, a pioneering African American entrepreneur in Manhattan, whose son, John E. Nail, would be among the first black investors in Harlem real estate. In 1912, Johnson took an official leave from his consular post, to which he never returned. Johnson and his wife split time between New York and Jacksonville, Florida, during 1913, finally settling in Harlem in 1914. During this time, he wrote tightly reasoned editorials often on racial issues for the black newspaper the *New York Age* and dabbled in local Republican politics. But Johnson was also an accomplished poet whose work had been published several times and appeared most dramatically on the *New York Times* editorial page in 1913 on the fiftieth anniversary of the Emancipation Proclamation, in the form of a forty-one-stanza poem, "Fifty Years," that garnered rave reviews from, among others, the African American novelist Charles Chesnutt. Johnson would later author several volumes of his own poetry and edit a handful of others.

Johnson, whose career had often been identified with Booker T. Washington, surprised some by joining the NAACP in 1916 and was shortly thereafter elected the president of the New York City chapter. His association with this organization brought him into close contact with such civil rights luminaries as the mercurial W. E. B. Du Bois and the obstinate Oswald Villard, who eventually helped persuade Johnson to be the NAACP's field secretary. In 1920 he was chosen the organization's first black executive secretary, a post that he held for the next decade. Johnson proved to be a brilliantly effective administrator who instinctively understood how to deal with an organization full of strong-willed personalities and to reach an institutional consensus among competing strategies and agendas. Nowhere were his administrative and diplomatic talents more evident than in using the NAACP to encourage young African American writers and artists whose maverick personalities sometimes made them difficult to deal with. A 1924 banquet at the integrated Civic Club in Manhattan brought together black writers and white publishers in an event that was legendary in the history of the Harlem Renaissance and inspired the publication of Alain Locke's anthology of black poetry and prose, *The New Negro*, in 1925. Johnson's essay on Harlem appeared in that anthology.

Johnson's tenure at the NAACP came at a crucial moment in the civil rights movement. He took an active role in its unsuccessful initiative to pressure Congress into passing an antilynching bill and was also an outspoken crit-

Time Line

1916

- **December** Johnson is named field secretary in the national offices of the NAACP.

1917

- The black nationalist Marcus Garvey founds the first American branch of his United Negro Improvement Association in Harlem. The association has impressive popular appeal to working-class African Americans but is almost universally rejected by the black intelligentsia of Harlem, including Johnson.

1920

- Johnson becomes the first black executive secretary of the NAACP, and its membership soars.
- Harlem's population of black residents exceeds seventy thousand for the first time.

1921

- "Shuffle Along," the first musical produced, written, and acted by African Americans in Manhattan, becomes a blockbuster hit that sets the tone, content, and pace for other Harlem productions in the 1920s.

1924

- Charles Johnson of the National Urban League organizes the famous Civic Club banquet where Professor Alain Locke, acting as master of ceremonies, introduces many African American writers to white publishers and the public.

1925

- Locke edits *The New Negro*, a groundbreaking anthology of poetry and prose by black writers, most of whom are identified with the Harlem Renaissance. Johnson's essay "Harlem: The Culture Capital" is included in the volume.

Time Line

1930

- Johnson resigns his NAACP post and completes his *Black Manhattan*, a history of African Americans in New York City. He accepts the post of professor of creative literature at Fisk University in Nashville, Tennessee.

1935

- Destructive Harlem riots and the debilitating effects of the Great Depression help erode the image of Harlem as a model black community and weaken its reputation as the cultural capital of African Americans.

1938

- **June 26**
  James Weldon Johnson dies in a tragic automobile crash while on vacation in Maine.

ic of racial violence and prejudice of all kinds. On his watch, the NAACP expanded its chapter base into the South and West and became the premier civil rights advocacy group in the world. Johnson resigned from the NAACP in 1930 to become a professor of literature at Fisk University in Nashville, Tennessee, but found opportunities to return to his beloved New York on many occasions. He died as a result of injuries sustained in an automobile accident while on vacation in Maine in 1938.

Explanation and Analysis of the Document

In "Harlem: The Culture Capital," Johnson describes the past, present, and what he envisions as the future of the New York City neighborhood that black intellectuals considered the black capital. His observations chronicle the transitions in the ethnic makeup of Harlem and the migration of blacks from other parts of the city, in search of economic opportunity and financial security. Johnson closes with an optimistic vision of Harlem's prospects for ongoing prosperity and stability.

◆ Paragraphs 1 and 2

In the first two paragraphs of his essay, Johnson sounds a glowingly optimistic note about the brief past and promising future of black Harlem, which he describes as the "great Mecca" for the curious and enterprising who have in a very short period of time come from all parts of the United States and even from Africa and the Caribbean Islands. He points out at some length that although Harlem is heavily populated by blacks, it is not a ghetto or a slum but rather a "city within a city," where the quality of housing and high levels of commercial activity are virtually identical to the districts mostly white that lie immediately to its south and north. For Johnson, this curious circumstance of a neighborhood that is identified only by the skin color of its residents and not by the condition of its streets or the appearance of its buildings makes Harlem a unique experiment in racial uplift.

Johnson is careful to set Harlem apart in at least two ways from other neighborhoods in New York and elsewhere where blacks may live but where there is less potential for racial advancement. First, because blacks moved into Harlem while it was still thoroughly middle class, there was no inherited legacy of poverty, squalor, or urban decay. Second, unlike other urban black districts, Harlem had an unusually large critical mass of blacks who sought the same goals and had the same ambitions as other racial and ethnic groups. Johnson's upbeat appraisal of Harlem has not been supported by recent scholarship. Most historians today would point out that statistical evidence some of which would not have been readily available to Johnson in the 1920s suggests that if Harlem was not a ghetto in 1920 or even 1925, it was getting dangerously close by 1930 and beyond. Johnson's glowing account was, however, not necessarily the product of undiluted racial boosterism but more likely a reflection of his conviction that racial progress was inevitable and well under way in the Harlem he describes here.

◆ Paragraphs 3 and 4

The third and fourth paragraphs offer a brief and informative history of black residential patterns on Manhattan's West Side in the pre-Harlem years of the very late nineteenth century, a history in which Johnson himself had participated as a young aspiring musician and lyricist. It is important to note that in this and other sections of his essay Johnson is both historian and autobiographer, a chronicler of important developments but also a participant in the events he describes. Johnson accurately points out that the move northward by black residents of Manhattan was slow but inexorable. By 1890 the center of the black district on Manhattan's West Side had moved as far north as 30th Street; by 1900 roughly when Johnson first came to New York the northward migration had reached 53rd Street, and there were already obvious stirrings of black culture, especially in music and theater. Johnson himself regularly patronized the Marshall Hotel on 53rd Street and was among the regular celebrity figures there. (His reference to Cole and Johnson, for example, is to himself and Bob Cole, with whom he teamed to write songs.) At least in terms of popular stage and music, it is clear that there was a significant artistic movement under way in midtown Manhattan twenty years before the center of Negro culture moved to Harlem.

◆ Paragraphs 5–7

In the next three paragraphs, Johnson accurately, though without much detail, describes the initial move-

Harlem River, which separates the Bronx from Manhattan, in the first decade of the twentieth century (Library of

ment of black people from the midtown Manhattan on the West Side to Harlem. He is correct in asserting that the initial wave of blacks to Harlem in the first decade of the twentieth century was in response to cheaper and better housing that was available in upper Harlem because that district had been hopelessly overbuilt by real estate investors hoping to sell to middle-class white residents. Not mentioned in Johnson's account (but discussed briefly in his autobiography) was the influence of the 1900 riots in midtown Manhattan, which also encouraged African Americans to look elsewhere for housing. Black real estate entrepreneurs (his example being Philip Payton, an aggressive investor) were important brokers in helping to find black tenants for available rental properties near 135th Street, east of Lenox Avenue (today known as Malcolm X Boulevard), an arrangement that initially created very little attention. But the eventual spread of the black migration west of Lenox Avenue and ultimately farther south and north encountered intermittent white resistance, mostly through property owners' associations that attempted to block the proliferation of black residential growth through evictions and collusion with lending institutions. For their part, black investors formed their own associations to facilitate the purchase and rental of Harlem property; Johnson's in-laws, his wife's father (J. B. Nail) and brother (J. E. Nail), were early investors in Harlem real estate.

◆ Paragraphs 8 and 9

For Johnson, the real stimulus for black interest in Harlem came as a result of the labor shortage created by World War I and the subsequent decline in immigration. In his account, government and private labor contractors descended on the South in search of willing workers to replace those displaced by military service. Newspaper editorials and advertisements in black northern newspapers like the *Chicago Defender* are not mentioned in Johnson's account but were also influential in stimulating interest in this steady northern migration of southern blacks, known as the Great Migration. Johnson's description of this phenomenon is predictably optimistic, almost charming at times, as he portrays the migrants, laden with baggage and full of hope for a better life. He compares them to immigrants from Europe, who also sought the promise of a better life in New York. Johnson, however, virtually ignores the large numbers of blacks who came from the South but wound up in other cities, like Chicago, Pittsburgh, Cleveland, and Detroit, which many scholars are beginning to discover had their own versions of Harlem. Johnson is also careful to point out that Harlem-bound black migrants found well-paying jobs in abundance and used their newfound affluence to buy property in unprecedented numbers. His account of "Pig Foot Mary," who sold soul food on Lenox Avenue and saved enough money to buy a five-story apartment house on 137th Street, is legendary in Harlem lore.

◆ Paragraphs 10 and 11

Johnson's argument in these two paragraphs is not simply that Harlem offered jobs and economic progress to thousands but also that it helped create a nascent black middle class that embraced the American dream of property ownership and financial security. His assertion that "today Negro Harlem is practically owned by Negroes" is only partially cor-

Essential Quotes

"In the make-up of New York, Harlem is not merely a Negro colony or community, it is a city within a city, the greatest Negro city in the world."

(Paragraph 2)

"Fifteen years ago barely a half dozen colored men owned real property in all Manhattan. And down to ten years ago the amount that had been acquired in Harlem was comparatively negligible. Today, Negro Harlem is practically owned by Negroes."

(Paragraph 11)

"To my mind, Harlem is more than a Negro community; it is a large scale laboratory experiment in the race problem."

(Paragraph 17)

rect, however. His statistics about black property ownership are accurate enough, but most modern historians would be skeptical about his suggestion that Harlem blacks owned Harlem, especially in the 1920s and 1930s. The Harlem riots of 1935, which Johnson would not have known about or anticipated in 1925, are a telling reminder of just how fragile economic prosperity could be for many African Americans in Harlem and elsewhere. The riots, which began as protests over charges of police brutality and were fueled by frustrations about widespread unemployment in Harlem, quickly turned violent and helped focus public attention on the deteriorating economy of the entire area.

◆ Paragraphs 12–15

These four paragraphs are devoted to the future of Harlem, which, in Johnson's mind at least, is bright indeed. He turns first to the question of whether "Negroes are going to be able to hold Harlem." His answer is succinct and optimistic: It is unlikely, he believes, that there would be a large-scale black migration from such a prosperous area. But if blacks were to leave Harlem, it would be because their property became so valuable that they could sell at a profit and not because they were forced out as undesirable residents or because their property had lost its value. In short, property in Harlem, often purchased by Negroes at discounted prices, would be a springboard for prosperity even if they left. Such a circumstance, Johnson argues, would actually mean that black property owners had reached the happy position of owning land "so valuable they can no longer afford to live on it." But, he asks rhetorically, is it likely that Harlem property owners could, in an economic downturn, be unable to keep the property he thinks is vital to their long-term security? With equal conviction he insists that Harlem blacks, thanks to their diversified and entrepreneurial economy, are much better protected from catastrophic loss than are African Americans in other urban areas. In fact, Johnson maintains, Harlem's unique makeup of cultural, financial, and religious institutions makes it the most stable black community in the world. For Johnson, Harlem is not another ethnic quarter whose ties to the larger metropolitan center are vague and weak; rather, Harlem "is not alien… ; it is not Italian or Yiddish; it is English. Harlem talks American, reads American, thinks American."

◆ Paragraphs 16–18

Johnson's last three paragraphs are devoted to his conclusion that Harlem is best seen not as a Negro residential area but rather as a "large scale laboratory experiment in the race problem." In his mind, there is very little chance that Harlem will be a source of racial tension because whites and blacks have learned to live and work together in ways that do not exist elsewhere in New York or anywhere in the United States, for that matter. The old friction between white residents and Negro intruders is a thing of the past for Johnson. Moreover, he insists that the record of crime in Harlem is the lowest of virtually any area in New York. Put simply, Johnson is convinced that "the Negro's advantages and opportunities are greater in Harlem than in any other place in the country."

Part of Johnson's optimism about Harlem stems from his upbeat personality and his own background of personal

success. As one of the most accomplished African Americans of his time — in many ways more talented and certainly more versatile than the great Du Bois himself — it was simply not in his nature to be skeptical about the progress of his race. He was a modern man to be sure, but he was also of the old school of civil rights advocates who believed that once black people had demonstrated that they were the intellectual, artistic, commercial, and athletic equal of whites, their day in the sun would quickly follow. In 1925, when he wrote "Harlem: The Culture Capital," he thought that African Americans were very close to achieving that goal and that Harlem would be the crucible of their final and most glorious achievement. For him Harlem was his beloved home, but more important, he hoped it would be the birthplace of the "new Negro."

Audience

James Weldon Johnson's essay was written originally for a special edition of a limited-circulation artistic magazine, *Survey Graphic*, in 1925, but it was revised for publication in the famous and influential anthology of black literature entitled *The New Negro* later that same year. Some of Johnson's audience was undoubtedly black, but *The New Negro* was also intended to convince white readers (and publishers) that the rumors of black literary talent (and black progress generally) centered in Harlem were based on fact. Johnson had cultivated white audiences of various kinds for years; he knew how to reach them, and he understood what many of them wanted to hear. As a longtime resident of Harlem and as a leader of its intellectual elite, he also believed every word he wrote. He was only one of the contributors to *The New Negro*, but he may have been its most reassuring voice.

Impact

Johnson was one of the most respected black leaders of his time and arguably the most universally talented. The fact that his essay was included in the *Survey Graphic* issue as well as in *The New Negro* is testimony to his influence and skill as an author and a civil rights activist. It also sent a clear message to younger authors that he was a reliable source of aid and encouragement. Johnson had an impressive ability to find common ground among diverse constituencies. He was among the few who could maintain cordial relationships between such adversaries as Booker T. Washington and W. E. B. Du Bois, and he saw no contradiction in advancing his own optimistic views of black progress while encouraging more skeptical writers like Claude McKay and Langston Hughes to find their literary voices. His accomplishments were prodigious, and his faith that others could do the same was lifelong. Today, against the backdrop of modern historical scholarship, he is easily read as naive in his hope for black progress and unrealistic in his conviction that it could be achieved in the same way that other ethnic groups had won respect. Almost a century later, it is clear that Harlem never really came close to Johnson's ideal, but in the 1920s his positive and disarming message was comforting to many. For that reason, his essay was widely read and admired, as was his longer history of blacks in New York, entitled *Black Manhattan*, published in 1930.

See also Alain Locke's "Enter the New Negro" (1925).

Further Reading

Books

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Questions for Further Study

1. Johnson's essay invites comparison with Alain Locke's essay "Enter the New Negro" and, in fact, was published in Locke's 1925 anthology, *The New Negro*. What different perspectives do the two writers take on the Harlem Renaissance?

2. Describe the social and economic factors that gave rise to the Harlem Renaissance.

3. In Johnson's view, what distinguished Harlem from other neighborhoods in which African Americans lived? Why were these differences important?

4. Why, in Johnson's view, was Harlem a "large scale laboratory experiment in the race problem"? What did he mean by this expression? In your opinion, was he correct?

5. In your opinion, was Johnson perhaps naive and unrealistic about the future of the black community? Why or why not?

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Orson Cook

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James Weldon Johnson's "Harlem: The Culture Capital"

In the history of New York, the significance of the name Harlem has changed from Dutch to Irish to Jewish to Negro. Of these changes, the last has come most swiftly, throughout colored America, from Massachusetts to Mississippi, and across the continent to Los Angeles and Seattle, its name, which as late as fifteen years ago had scarcely been heard, now stands for the Negro metropolis. Harlem is indeed the great Mecca for the sight-seer, the pleasure-seeker, the curious, the adventurous, the enterprising, the ambitious and the talented of the whole Negro world; for the lure of it has reached down to every island of the Carib Sea and has penetrated even into Africa.

In the make-up of New York, Harlem is not merely a Negro colony or community, it is a city within a city, the greatest Negro city in the world. It is not a slum or a fringe, it is located in the heart of Manhattan and occupies one of the most beautiful and healthful sections of the city. It is not a "quarter" of dilapidated tenements, but is made up of new-law apartments and handsome dwellings, with well-paved and well-lighted streets. It has its own churches, social and civic centers, shops, theaters and other places of amusement. And it contains more Negroes to the square mile than any other spot on earth. A stranger who rides up magnificent Seventh Avenue on a bus or in an automobile must be struck with surprise at the transformation which takes place after he crosses One Hundred and Twenty-fifth Street. Beginning there, the population suddenly darkens and he rides through twenty-five solid blocks where the passers-by, the shoppers, those sitting in restaurants, coming out of theaters, standing in doorways and looking out of windows are practically all Negroes: and then he emerges where the population as suddenly becomes white again. There is nothing just like it in any other city in the country, for there is no preparation for it; no change in the character of the houses and streets: no change, indeed, in the appearance of the people, except their color.

Negro Harlem is practically a development of the past decade, but the story behind it goes back a long way. There have always been colored people in New York. In the middle of the last century they lived in the vicinity of Lispenard, Broome and Spring Streets. When Washington Square and lower Fifth Avenue were the center of aristocratic life, the colored people, whose chief occupation was domestic service in the homes of the rich, lived in a fringe and were scattered in nests to the south, east and west of the square. As late as the 80's the major part of the colored population lived in Sullivan, Thompson, Bleecker, Grove, Minetta Lane and adjacent streets. It is curious to note that some of these nests still persist. In a number of the blocks of Greenwich Village and Little Italy may be found small groups of Negroes who have never lived in any other section of the city. By about 1890 the center of colored population had shifted to the upper Twenties and lower Thirties west of Sixth Avenue. Ten years later another considerable shift northward had been made to West Fifty-third Street.

The West Fifty-third Street settlement deserves some special mention because it ushered in a new phase of life among colored New Yorkers. Three rather well appointed hotels were opened in the street and they quickly became the centers of a sort of fashionable life that hitherto had not existed. On Sunday evenings these hotels served dinner to music and attracted crowds of well dressed diners. One of these hotels, the Marshall, became famous as the headquarters of Negro talent. There gathered the actors, the musicians, the composers, the writers, the singers, dancers and vaudevillians. There one went to get a close up of Williams and Walker, Cole and Johnson, Ernest Hogan, Will Marion Cook, Jim Europe, Alda Overton, and of others equally and less known. Paul Laurence Dunbar was frequently there whenever he was in New York. Numbers of those who love to shine by the light reflected from celebrities were always to be found. The first modern jazz band ever heard in New York, or perhaps anywhere, was organized at the Marshall. It was a playing-singing-dancing orchestra, making the first dominant use of banjos, saxophones, clarinets and trap drums in combination, and was called the Memphis Students. Jim Europe was a member of that band, and out of it grew the famous Clef Club, of which he was the noted leader, and which for a long time monopolized the business of "entertaining" private parties and furnishing music for the new dance craze. Also in the Clef Club was "Buddy" Gilmore, who originated trap drumming as it is now practiced, and set hundreds of white men to

juggling their sticks and doing acrobatic stunts while they manipulated a dozen other noise making devices aside from their drums. A good many well-known white performers frequented the Marshall and for seven or eight years the place was one of the sights of New York.

The move to Fifty-third Street was the result of the opportunity to get into newer and better houses. About 1900 the move to Harlem began, and for the same reason. Harlem had been overbuilt with large, new law apartment houses, but rapid transportation to that section was very inadequate the Lenox Avenue Subway had not yet been built and landlords were finding difficulty in keeping houses on the east side of the section filled. Residents along and near Seventh Avenue were fairly well served by the Eighth Avenue Elevated. A colored man in the real estate business at this time, Philip A. Payton, approached several of these landlords with the proposition that he would fill their empty or partially empty houses with steady colored tenants. The suggestion was accepted, and one or two houses on One Hundred and Thirty-fourth Street east of Lenox Avenue were taken over. Gradually other houses were filled. The whites paid little attention to the movement until it began to spread west of Lenox Avenue; they then took steps to check it. They proposed through a financial organization, the Hudson Realty Company, to buy all properties occupied by colored people and evict the tenants. The Negroes countered by similar methods. Payton formed the Afro-American Realty Company, a Negro corporation organized for the purpose of buying and leasing houses for occupancy by colored people. Under this counter stroke the opposition subsided for several years.

But the continually increasing pressure of colored people in the west over the Lenox Avenue dead line caused the opposition to break out again, but in a new and more menacing form. Several white men undertook to organize all the white people of the community for the purpose of inducing financial institutions not to lend money or renew mortgages on properties occupied by colored people. In this effort they had considerable success, and created a situation which has not yet been completely overcome, a situation which is one of the hardest and most unjustifiable the Negro property owner in Harlem has to contend with. The Afro-American Realty Company was now defunct, but two or three colored men of means stepped into the breach. Philip A. Payton and J. C Thomas bought two five-story apartments, dispossessed the white tenants and put in colored. J. B. Nail bought a row of five apartments and did the same thing. St. Philip's Church bought a row of thirteen apartment houses on One Hundred and Thirty-fifth Street, running from Seventh Avenue almost to Lenox.

The situation now resolved itself into an actual contest. Negroes not only continued to occupy available apartment houses, but began to purchase private dwellings between Lenox and Seventh Avenues. Then the whole movement, in the eyes of the whites, took on the aspect of an "Invasion"; they became panic-stricken and began fleeing as from a plague. The presence of one colored family in a block, no matter how well bred and orderly, was sufficient to precipitate a flight. House after house and block after block was actually deserted. It was a great demonstration of human beings running amuck. None of them stopped to reason why they were doing it or what would happen if they didn't. The banks and lending companies holding mortgages on these deserted houses were compelled to take them over. For some time they held these houses vacant, preferring to do that and carry the charges than to rent or sell them to colored people. But values dropped and continued to drop until at the outbreak of the war in Europe[;] property in the northern part of Harlem had reached the nadir.

In the meantime the Negro colony was becoming more stable; the churches were being moved from the lower part of the city; social and civic centers were being formed, and gradually a community was being evolved. Following the outbreak of the war in Europe, Negro Harlem received a new and tremendous impetus. Because of the war thousands of aliens in the United States rushed back to their native lands to join the colors and immigration practically ceased. The result was a critical shortage in labor. This shortage was rapidly increased as the United States went more and more largely into the business of furnishing munitions and supplies to the warring countries. To help meet this shortage of common labor, Negroes were brought up from the South. The government itself took the first steps, following the practice in vogue in Germany of shifting labor according to the supply and demand in various parts of the country. The example of the government was promptly taken up by the big industrial concerns, which sent hundreds, perhaps thousands, of labor agents into the South, who recruited Negroes by wholesale. I was in Jacksonville, Fla., for a while at that time, and I sat one day and watched the stream of migrants passing to take the train. For

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hours they passed steadily, carrying flimsy suit cases, new and shiny, rusty old ones, bursting at the seams, boxes and bundles and impedimenta of all sorts, including banjos, guitars, birds in cages and what not. Similar scenes were being enacted in cities and towns all over that region. The first wave of the great exodus of Negroes from the South was on. Great numbers of these migrants headed for New York or eventually got there, and naturally the majority went up into Harlem. But the Negro population of Harlem was not swollen by migrants from the South alone; the opportunity for Negro labor exerted its pull upon the Negroes of the West Indies, and those islanders in the course of time poured into Harlem to the number of twenty-five thousand or more.

These new-comers did not have to look for work; work looked for them, and at wages of which they had never even dreamed. And here is where the unlooked for, the unprecedented, the miraculous happened. According to all preconceived notions, these Negroes suddenly earning large sums of money for the first time in their lives should have had their heads turned; they should have squandered it in the most silly and absurd manners imaginable. Later, after the United States had entered the war and even Negroes in the South were making money fast, many stories in accord with the tradition came out of that section. There was the one about the colored man who went into a general store and on hearing a phonograph for the first time promptly ordered six of them, one for each child in the house. I shall not stop to discuss whether Negroes in the South did that sort of thing or not, but I do know that those who got to New York didn't. The Negroes of Harlem, for the greater part, worked and saved their money. Nobody knew how much they had saved until congestion made expansion necessary for tenants and ownership profitable for landlords, and they began to buy property. Persons who would never be suspected of having money bought property. The Rev. W. W. Brown, pastor of the Metropolitan Baptist Church, repeatedly made "Buy Property" the text of his sermons. A large part of his congregation carried out the injunction. The church itself set an example by purchasing a magnificent brownstone church building on Seventh Avenue from a white congregation. Buying property became a fever. At the height of this activity, that is, 1920 21, it was not an uncommon thing for a colored washerwoman or cook to go into a real estate office and lay down from one thousand to five thousand dollars on a house. "Pig Foot Mary" is a character in Harlem. Everybody who knows the corner of Lenox Avenue and One Hundred and Thirty-fifth Street knows "Mary" and her stand, and has been tempted by the smell of her pigsfeet, fried chicken and hot corn, even if he has not been a customer. "Mary," whose real name is Mrs. Mary Dean, bought the five-story apartment house at the corner of Seventh Avenue and One Hundred and Thirty-seventh Street at a price of $42,000. Later she sold it to the Y.W.C.A. for dormitory purposes. The Y.W.C.A. sold it recently to Adolph Howell, a leading colored undertaker, the price given being $72,000. Often companies of a half dozen men combined to buy a house these combinations were and still are generally made up of West Indians and would produce five or ten thousand dollars to put through the deal.

When the buying activity began to make itself felt, the lending companies that had been holding vacant the handsome dwellings on and abutting Seventh Avenue decided to put them on the market. The values on these houses had dropped to the lowest mark possible and they were put up at astonishingly low prices. Houses that had been bought at from $15,000 to $20,000 were sold at one third those figures. They were quickly gobbled up. The Equitable Life Assurance Company held 106 model private houses that were designed by Stanford White. They are built with courts running straight through the block and closed off by wrought iron gates. Every one of these houses was sold within eleven months at an aggregate price of about two million dollars. Today they are probably worth about 100 per cent more. And not only have private dwellings and similar apartments been bought but big elevator apartments have been taken over. Corporations have been organized for this purpose. Two of these, the Antillian Realty Company, composed of West Indian Negroes, and the Sphinx Securities Company, composed of American and West Indian Negroes, represent holdings amounting to approximately $750,000. Individual Negroes and companies in the South have invested in Harlem real estate. About two years ago a Negro institution of Savannah, Ga., bought a parcel for $115,000 which it sold a month or so ago at a profit of $110,000.

I am informed by John E. Nail, a successful colored real estate dealer of Harlem and a reliable authority, that the total value of property in Harlem owned and controlled by colored people would at a conservative estimate amount to more than sixty million dollars. These figures are amazing, especially when we take into account the short time in which they have been piled up. Twenty years ago Negroes

were begging for the privilege of renting a flat in Harlem. Fifteen years ago barely a half dozen colored men owned real property in all Manhattan. And down to ten years ago the amount that had been acquired in Harlem was comparatively negligible. Today Negro Harlem is practically owned by Negroes.

The question naturally arises, "Are the Negroes going to be able to hold Harlem?" If they have been steadily driven northward for the past hundred years and out of less desirable sections, can they hold this choice bit of Manhattan Island? It is hardly probable that Negroes will hold Harlem indefinitely, but when they are forced out it will not be for the same reasons that forced them out of former quarters in New York City. The situation is entirely different and without precedent. When colored people do leave Harlem, their homes, their churches, their investments and their businesses, it will be because the land has become so valuable they can no longer afford to live on it. But the date of another move northward is very far in the future. What will Harlem be and become in the meantime? Is there danger that the Negro may lose his economic status in New York and be unable to hold his property? Will Harlem become merely a famous ghetto, or will it be a center of intellectual, cultural and economic forces exerting an influence throughout the world, especially upon Negro peoples? Will it become a point of friction between the races in New York?

I think there is less danger to the Negroes of New York of losing out economically and industrially than to the Negroes of any large city in the North. In most of the big industrial centers Negroes are engaged in gang labor. They are employed by thousands in the stockyards in Chicago, by thousands in the automobile plants in Detroit, and in those cities they are likely to be the first to be let go, and in thousands, with every business depression. In New York there is hardly such a thing as gang labor among Negroes, except among the longshoremen, and it is in the longshoremen's unions, above all others, that Negroes stand on an equal footing. Employment among Negroes in New York is highly diversified: in the main they are employed more as individuals than as nonintegral parts of a gang. Furthermore, Harlem is gradually becoming more and more a self-supporting community. Negroes there are steadily branching out into new businesses and enterprises in which Negroes are employed. So the danger of great numbers of Negroes being thrown out of work at once, with a resulting economic crisis among them, is less in New York than in most of the large cities of the North to which Southern migrants have come.

These facts have an effect which goes beyond the economic and industrial situation. They have a direct bearing on the future character of Harlem and on the question as to whether Harlem will be a point of friction between the races in New York. It is true that Harlem is a Negro community, well defined and stable; anchored to its fixed homes, churches, institutions, business and amusement places; basing its own working, business and professional classes. It is experiencing a constant growth of group consciousness and community feeling. Harlem is, therefore, in many respects, typically Negro. It has many unique characteristics. It has movement, color, gayety, singing, dancing, boisterous laughter and loud talk. One of its outstanding features is brass band parades. Hardly a Sunday passes but that there are several of these parades of which many are gorgeous with regalia and insignia. Almost any excuse will do the death of an humble member of the Elks, the laying of a cornerstone, the "turning out" of the order of this or that. In many of these characteristics it is similar to the Italian colony. But withal, Harlem grows more metropolitan and more a part of New York all the while, why is it then that its tendency is not to become a mere "quarter"?

I shall give three reasons that seem to me to be important in their order. First, the language of Harlem is not alien; it is not Italian or Yiddish; it is English. Harlem talks American, reads American, thinks American, Second, Harlem is not physically a "quarter." It is not a section cut off. It is merely a zone through which four main arteries of the city run. Third, the fact that there is little or no gang labor gives Harlem Negroes the opportunity for individual expansion and individual contacts with the life and spirit of New York. A thousand Negroes from Mississippi put to work as a gang in a Pittsburgh steel mill will for a long time remain a thousand Negroes from Mississippi. Under the conditions that prevail in New York they would all within six months become New Yorkers. The rapidity with which Negroes become good New Yorkers is one of the marvels to observers.

These three reasons form a single reason why there is small probability that Harlem will ever be a point of race friction between the races in New York. One of the principal factors in the race riot in Chicago in 1919 was the fact that at that time there were 12,000 Negroes employed in gangs in the stockyards. There was considerable race feeling in Harlem at the time of the hegira of white residents due to the "invasion," but that feeling, of course, is no more. Indeed, a number of the old white residents who didn't go or

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could not get away before the housing shortage struck New York are now living peacefully side by side with colored residents. In fact, in some cases white and colored tenants occupy apartments in the same house. Many white merchants still do business in thickest Harlem. On the whole, I know of no place in the country where the feeling between the races is so cordial and at the same time so matter-of-fact and taken for granted. One of the surest safeguards against an outbreak in New York such as took place in so many Northern cities in the summer of 1919 is the large proportion of Negro police on duty in Harlem.

To my mind, Harlem is more than a Negro community; it is a large scale laboratory experiment in the race problem. The statement has often been made that if Negroes were transported to the North in large numbers the race problem with all or its acuteness and with new aspects would be transferred with them. Well, 175,000 Negroes live closely together in Harlem, in the heart of New York 75,000 more than live in any Southern city and do so without any race friction. Nor is there any unusual record of crime. I once heard a captain of the 38th Police Precinct (the Harlem precinct) say that on the whole it was the most law abiding precinct in the city. New York guarantees its Negro citizens the fundamental rights of American citizenship and protects them in the exercise of those rights. In return the Negro loves New York and is proud of it, and contributes in his way to its greatness. He still meets with discriminations, but possessing the basic rights, he knows that these discriminations will be abolished.

I believe that the Negro's advantages and opportunities are greater in Harlem than in any other place in the country, and that Harlem will become the intellectual, the cultural and financial center for Negroes of the United States, and will exert a vital influence upon all Negro peoples.

Glossary

Cole and Johnson	Bob Cole and Billy Johnson, theatrical impresarios who produced the first-ever all-black musical play, *A Trip to Coontown*, and other musical plays
Elevated	an above-ground commuter train
Elks	a fraternal organization
hegira	an exodus of people, referring specifically to Muhammad's flight from Mecca to Medina in 622, marking the start of the Islamic calendar
Mecca	a city in Saudi Arabia, the holiest site of Islam; often used as a figure of speech for a place that draws people to it
new-law apartments	a reference to apartments built according to stricter construction standards under New York City's Tenement House Act of 1901
Paul Laurence Dunbar	a seminal African American poet of the late nineteenth and early twentieth centuries
war in Europe	World War I
West Indies	the islands in the Caribbean Sea
Williams and Walker	the vaudeville musical comedy team of Bert Williams and George Walker
Y.W.C.A.	the Young Women's Christian Association, a support organization for women; the first African American YWCA was formed in Dayton, Ohio, in 1889

Alice Moore Dunbar-Nelson: "The Negro Woman and the Ballot"

1927

"When she got the ballot she slipped quietly ... into the political party of her male relatives."

Overview

In 1927 the writer, educator, and activist Alice Moore Dunbar-Nelson published an article titled "The Negro Woman and the Ballot" in the African American magazine *The Messenger*, in which she posed the question What have black women done with their vote? Dunbar-Nelson believed that black women had accomplished not nearly enough as a result of their enfranchisement in 1920, and she encouraged them to start exercising their power as voters without bowing to pressure from their male peers or loyalty to the Republican Party. She noted that African American women had already demonstrated their power as a group in the congressional elections of 1922, in which their votes had helped oust Republican legislators in Delaware, New Jersey, and Michigan who had failed to support the antilynching legislation known as the Dyer bill. Dunbar-Nelson concluded her article by positing that when black women have realized that their children's futures could be helped or hindered by the way they voted, perhaps they would set aside allegiance to the Republican Party and use their ballot power to better the condition of all African Americans.

Context

Women in the United States had been agitating for the right to vote since the early nineteenth century. By mid-century, Lucretia Mott, Elizabeth Cady Stanton, Susan B. Anthony, and others had emerged as leading advocates for women's suffrage. In their nationwide movement, suffragists marched and picketed, gave lectures, published articles, submitted petitions, faced verbal and physical abuse, and sometimes even went to prison. In 1870 the Fifteenth Amendment to the Constitution extended the right to vote to African American men but not to women of any race. Women would still have to wait and work toward their enfranchisement. And work they did, although different factions went about it in different ways. Some worked for state voting rights, while others pressed for a national constitutional amendment. By 1918, fifteen states, most of them in the West, had granted women full suffrage (the right to vote in all elections), and women had limited voting rights in about two dozen other states. However, by this time most national women's suffrage organizations had become united behind the push for a constitutional amendment that would grant full suffrage to women.

When President Woodrow Wilson changed his stance and announced his support of the women's suffrage amendment in early 1918, the political atmosphere began to shift. In 1919 Congress passed the Nineteenth Amendment, which granted full suffrage to women. In August 1920 Tennessee became the thirty-sixth and final state needed to ratify the amendment. On August 26, Secretary of State Bainbridge Colby certified the amendment's adoption. Finally, women had been granted the right to vote in all elections nationwide.

In the congressional elections of 1922, women were given the opportunity to make a broad-based statement in support of the Dyer bill, the first piece of antilynching legislation ever to have reached the Senate for a vote. After the Civil War, white supremacists had sought ways to infringe upon the newly won rights of African Americans. Lynching had existed since the days of British rule, and its victims had included many white people and Native Americans. In the South during the late nineteenth and early twentieth centuries, lynching became one of the cruelest and more frequent forms of violence practiced against African Americans, who comprised the majority of its victims. In April 1918, Leonidas C. Dyer, a Republican congressman from Missouri, introduced a bill in the House of Representatives that would prohibit lynching and make it a federal offense. He was motivated by the horrible riots including lynching and other violent acts that took place in July of 1917 in East St. Louis, Illinois directly across the Mississippi River from Dyer's district in St. Louis. The Dyer bill was sponsored by the National Association for the Advancement of Colored People (NAACP). Despite bitter opposition, the House passed a somewhat modified form of the Dyer bill by a substantial majority on January 26, 1922, and it moved on to the Senate for consideration.

A women's organization called the Anti-Lynching Crusaders was founded in the late spring of 1922, and that summer it launched a national campaign that pressed for passage of the Dyer bill in the Senate. The Anti-Lynching

Time Line

1918

- **April**
  Congressman Leonidas C. Dyer, a Republican representative from Missouri, introduces his antilynching bill, known as the Dyer bill, in the House of Representatives.

1920

- **August 26**
  The Nineteenth Amendment to the U.S. Constitution is adopted, giving all adult female citizens of the United States the right to vote.

1922

- **January 26**
  The Dyer bill passes the House of Representatives by a vote of 230 to 119.
- **Summer**
  The Anti-Lynching Crusaders organizes its political consciousness-raising and fund-raising program, which will last through the end of the year.
- **November**
  The Dyer bill is tabled because of a filibuster by Senator Oscar W. Underwood of Alabama, the Democratic Senate minority leader.

1922–1923

- Alice Dunbar-Nelson breaks with her long-standing allegiance to the Republican Party and joins the Democratic Party after Republican senators show a lack of support for the Dyer bill.

1927

- **April**
  "The Negro Woman and the Ballot" appears in the magazine *The Messenger*.

1928

- Dunbar-Nelson delivers speeches urging voters to cast their ballots for the Democratic presidential candidate Alfred E. Smith.

Crusaders set forth to raise money for its parent organization, the NAACP, and to educate the American public about the horrific practice of lynching. The campaign was to be completed on or before January 1, 1923. The organization was headed by the president of the National Association of Colored Women, Mary B. Talbert (referred to as "Mrs. Mary B. Talbot" in "The Negro Woman and the Ballot"). Although the Anti-Lynching Crusaders consisted largely of African American women, white women were encouraged to join, and some worked for the cause. At the end of a five-month campaign, all funds were turned over to the NAACP.

Because of the inaction of Republican senators and a filibuster by Democratic Senate minority leader Oscar W. Underwood of Alabama, the Senate did not vote on the Dyer bill in 1922. Congressman Dyer reintroduced the bill in the House of Representatives in 1923 and again in every succeeding congressional session in the 1920s but failed to gain congressional support. Further interest in antilynching legislation had to wait until the 1930s. But the Republican failure to secure passage of the Dyer bill in the Senate had not come without a political price.

In the early 1920s, most African American voters still were members of the Republican Party, the party of Abraham Lincoln, who had issued the Emancipation Proclamation in 1863. Because Lincoln, the first Republican president, had taken up the cause of emancipation, many African Americans felt they owed allegiance to his party. During Reconstruction some black Republicans were voted into Congress. The Republican Party also kept blacks' allegiance because Republicans seemed to be the only ones who cared anything for African American issues or helping to secure their rights, especially through the Civil Rights Act of 1875. However, the seeming indifference of Republican politicians toward the fate of the Dyer bill in the Senate disheartened many African Americans. The filibuster by a southern Democrat had not been surprising, since many politicians from the Deep South touted white-supremacist views.

Many African American women, as Dunbar-Nelson noted in "The Negro Woman and the Ballot," made their disappointment known in the congressional elections of 1922, especially in Delaware, New Jersey, and Michigan, by voting down those Republican legislators who had let the Dyer bill fade away. Indeed, Republican apathy about the Dyer bill caused many African Americans, a good number of them women, to switch their support to the Democratic Party, which at the national level had begun to embrace progressive values regardless of the views of some reactionary Democrats, mostly from the South. Dunbar-Nelson freely admitted that her own disappointment in her Republican congressional representatives had caused her to become a Democrat.

Women, both white and black, had worked tirelessly for the right to vote, and black women in particular had urged the passage of antilynching legislation. After the failure of the Dyer bill in the Senate, women proved that their vote counted when those legislators seen as careless with the power vested in them by their constituents were sent home.

Several years later in "The Negro Woman and the Ballot," Dunbar-Nelson examined what she thought it would take for African American women to build upon their display of political strength in 1922.

About the Author

Alice Moore Dunbar-Nelson was born Alice Ruth Moore, on July 19, 1875, in New Orleans, Louisiana. Her father, Joseph Moore, was a seaman who had some white ancestry. Her mother, Patricia Wright, a former slave turned seamstress, had Native American and African American blood. In Creole society, the light skin and reddish hair that Alice had inherited helped her socially and allowed her sometimes to pass for white when she desired to partake of the activities of high culture limited to whites.

After Dunbar-Nelson graduated from a two-year teaching program at Straight College (now Dillard University) in 1892, she taught at a New Orleans elementary school. In 1895, when she was just twenty, she published her first book, a collection of poetry, short stories, reviews, and essays titled *Violets and Other Tales*. Poetry from this book, along with her picture, was featured in the *Boston Monthly Review*, a literary magazine, and attracted the attention of the prominent African American poet Paul Laurence Dunbar. At first the two maintained an epistolary relationship, but they finally met in person in 1897. They were wed in March 1898 in New York City.

The Dunbars moved to Washington, D.C., where they became a celebrated literary couple. In 1899, Dunbar-Nelson published another collection of short fiction, *The Goodness of St. Rocque and Other Stories*, as the companion volume to her husband's *Poems of Cabin and Field*. In 1902 the couple separated after four tumultuous years. Because Paul Dunbar suffered from medically induced alcoholism and drug addiction, he occasionally flew into rages during which he physically abused his wife. That Dunbar-Nelson sometimes critiqued her husband's poetry written in African American dialect hardly eased tensions between the two. Four years after his separation from his wife, Dunbar died of tuberculosis. While Dunbar-Nelson's relationship with her husband at his death was not amicable, she would be honored for the rest of her life as the widow of Paul Dunbar.

After Dunbar-Nelson separated from her husband, she moved to Wilmington, Delaware, where she was joined by her mother, sister, and her sister's children. She started teaching at Howard High School, and in addition to teaching and administrative duties there, she studied at Cornell University, Columbia University, and the University of Pennsylvania. She edited two works, *Masterpieces of Negro Eloquence* (1914) and *The Dunbar Speaker and Entertainer* (1920). During these years, Dunbar-Nelson was involved in several relationships, including one with the principal of Howard High School, Edwina B. Kruse, and a secret marriage to fellow teacher Henry Arthur Callis on January 19, 1910. Callis was younger than Dunbar-Nelson by twelve years, and the marriage did not last long.

In 1916 Dunbar-Nelson married the journalist Robert J. Nelson. This union would last for the rest of her life, even though she would continue to have romantic affairs with both women and men. Dunbar-Nelson became even more of a political and social activist after she married Nelson. She participated in the movement for women's suffrage and World War I relief efforts. Together, the couple published the *Wilmington Advocate*, a liberal black newspaper, from 1920 to 1922. During this period, Dunbar-Nelson was also a member of the State Republican Committee of Delaware, and she chaired the Delaware branch of the Anti-Lynching Crusaders. She also became active in the Federation of Colored Women's Clubs. After the demise of the Dyer bill in the Senate, Dunbar-Nelson switched her allegiance to the Democratic Party and encouraged other African Americans to do the same. Beginning in 1924, she started to organize Democratic black women voters.

Dunbar-Nelson cofounded the Industrial School for Colored Girls in Marshallton, Delaware, where from 1924 to 1928 she served on the staff. From 1926 to 1930 she wrote columns regularly for various newspapers. Instead of the society gossip typical of female columnists of that time, Dunbar-Nelson wrote incisive pieces that addressed politics and cultural issues. She also traveled extensively as a public speaker, in part because of her position as executive secretary from 1928 to 1931 of the American Friends Inter-Racial Peace Committee.

In 1928 Dunbar-Nelson, along with many other middle-class African American women who previously had been Republicans, worked for the nomination of Alfred E. Smith as the Democratic presidential candidate. She gave speeches in support of Smith, whom she saw as the best presidential candidate for African Americans. One can only wonder how she must have viewed the victory of the Republican candidate Herbert Hoover that November.

In 1921 and again from 1926 to 1931, Dunbar-Nelson kept a diary in which she expressed her frustration with her literary career and other matters. She continued to write poetry and short fiction and completed two novels, and she was welcomed into the circle of Harlem Renaissance writers; however, she never found the success as an author that she had achieved as a journalist. In her diary she also gave voice to her concerns about personal financial instability. In 1932 Robert Nelson obtained a political appointment to the Pennsylvania Athletic Commission, a position that offered him a more steady income. The couple moved to Pennsylvania, where Dunbar-Nelson, finally living comfortably, continued to be active socially and politically. Her health, however, began to fail, and she died of a heart condition on September 18, 1935, at the University of Pennsylvania Hospital.

Explanation and Analysis of the Document

In late August 1920, the Nineteenth Amendment to the Constitution, which gave women the right to vote, was ratified. In the first paragraph of "The Negro Woman and the

Suffragists march on Pennsylvania Avenue in Washington, D.C., in March 1913. (Library of Congress)

Ballot," Dunbar-Nelson puts forth the question that "friend and foe alike are asking": What has the African American woman done with her right to vote in the six years she has had it? Dunbar-Nelson's aim in posing this question was to encourage African American women not to waste this right by being "just another vote" for the Republicans without evaluating issues and candidates for themselves. Blind Republican faith, according to her, was not the way to go.

In paragraph 2, Dunbar-Nelson acknowledges that "six years is a very short time in which to ask for results from any measure or condition, no matter how simple." She gives the examples of how at six a human being is still a mere child and how structures meant to last centuries could rarely be finished within six years. Likewise, she notes that most trees would not reach anything approaching their potential size in six years and that a nation only six years old stands for "but the beginnings of an idea." Was it fair, then, Dunbar-Nelson asks, to expect much of the African American woman in the six years she has been able to vote? Regardless of the question's fairness, people have persisted in asking it, and Dunbar-Nelson therefore offers an answer.

Before proceeding to her answer, Dunbar-Nelson in paragraph 4 asks what African American women who worked to gain the vote thought would be achieved by having this right. Dunbar-Nelson says that for these women "it seemed as if the ballot would be the great objective of life." All their social, economic, and racial troubles stemming from political decisions made for them by men would be overcome by gaining the right to vote. They would "step into the dominant place, politically, of the race" and rectify the injustices that African American men had allowed to stand. According to Dunbar-Nelson, African American men had given up their political power in return for "cheap political office and little political preferment," while the "great issues affecting the race" had taken a backseat. Women, it would seem, would not let this happen if they got the vote.

In paragraph 6, Dunbar-Nelson observes that as a rule black men had not wanted black women to have the vote. Although she is unsure exactly why, she accuses the black man of having hidden "behind the grandiloquent platitude of his white political boss." If black men had been thinking about the progress of African Americans, surely they would not have kept half of their race from voting. This was not the point, though, says Dunbar-Nelson. The point was that women, both white and black, had been given the franchise. Here she revisits a facet of her original question: How has the African American woman exercised her right to vote such that she has made an "appreciable difference"

in bettering the situation of all African Americans? In paragraph 7, Dunbar-Nelson recalls that ideally the African American woman, when she got the vote, should not have been swayed in ways that the black man had been. She would be "independent," since she had come "into the political game with a clean slate." She would not allow Republican political pressure to influence her vote, since gratitude to Abraham Lincoln did not require "blind G.O.P. allegiance." Unquestioning loyalty to the Republican Party, according to Dunbar-Nelson, was what had made African American men's votes "a joke" instead of a bastion of political strength and had led everyone to believe all black men were Republicans by default.

Nevertheless, many African American women, like their male peers, became Republicans. As Dunbar-Nelson eloquently puts it in paragraph 8, they "slipped quietly, safely, easily, and conservatively into the political party of [their] male relatives." In the next paragraph, Dunbar-Nelson names only black women in New York City and "a sporadic break here and there" by voters elsewhere as exceptions. However, she notes that the flavor of Republicanism of many black women was often not particularly conservative. Dunbar-Nelson uses the word *conservative* to mean "restrained." Rather than restrained, these women were often "zealous," "virulent," and even "vituperative" when they expressed their political views. Some even might have forsaken a friendship over a difference of political opinion. These observations notwithstanding, Dunbar-Nelson states in paragraph 10 that the answer to her opening question as to what African American women have done with their right to vote must be that thus far their voting record has "by and large been a disappointment." Their votes in accordance with the Republican Party's policies may even have contributed to the problems facing their communities.

Still, Dunbar-Nelson maintains that there was room for hope in the form of "two bright lights." One of them, the brightest by far, was the ballot power demonstrated by African American women during the congressional elections of 1922. Dunbar-Nelson claims that their votes helped decide the outcome of elections in New Jersey, Delaware, and Michigan, in which legislators who had not actively supported the Dyer bill failed to be reelected. The other "bright light" Dunbar-Nelson characterizes as dim in comparison with the show of strength in the 1922 congressional elections support for school bond measures. In elections involving school bond measures, many African American women had voted for what was best for their communities and had not allowed party pressure to sway them. However, Dunbar-Nelson observes, "the ripple" resulting from these elections was "so slight" that it barely stirred up discontent with the Republican Party.

In paragraph 13, Dunbar-Nelson laments that all too often young voters have submitted to the political status quo in exchange for preferred places in their communities and "easy social relations." Quite pointedly, she observes that "we still persecute socially those who disagree with us politically." Dunbar-Nelson views this as having been as true of women as of men and hardly limited to African

Alfred E. Smith and his wife voting in 1928 (Library of Congress)

Americans. As she notes, young women living with fathers, brothers, and uncles tended to defer to their political preferences. In the following paragraph, she adds that women's deference to men's political views was often true for older voters as well, judging by her encounters with hundreds of women across the United States. She blames men for having repeatedly mocked women's ideas, hopes, and "high ideals."

Essential Quotes

"It has been six years since the franchise as a national measure has been granted to women. The Negro woman has had the ballot in conjunction with her white sister, and friend and foe alike are asking the question, What has she done with it?"

(Paragraph 1)

"To those colored women who worked, fought, spoke, sacrificed, traveled, pleaded, wept, cajoled, all but died for the right of suffrage for themselves and their peers, it seemed as if the ballot would be the great objective of life.… That with the granting of the ballot the women would step into the dominant place, politically, of the race. That all the mistakes which men had made would be rectified."

(Paragraph 4)

"The Negro woman was going to be independent.… The name of Abraham Lincoln was not synonymous with … blind G.O.P. allegiance.… She would break up the tradition that one could tell a black man's politics by the color of his skin."

(Paragraph 7)

"And when she got the ballot she slipped quietly, safely, easily, and conservatively into the political party of her male relatives. Which is to say, that with the exception of New York City, and a sporadic break here and there, she became a Republican."

(Paragraphs 8 and 9)

"When the Negro woman finds that the future of her children lies in her own hands—if she can be made to see this—she will strike off the political shackles she has allowed to be hung upon her, and win the economic freedom of her race. Perhaps some Joan of Arc will lead the way."

(Paragraphs 15 and 16)

Nevertheless, Dunbar-Nelson in paragraph 15 expresses hope that African American women might break out of the confines of party allegiance and male influence and vote for what they believe, particularly if something "near and dear" to them were to be threatened. Blind party allegiance could not help African Americans, and the ballot was one of the few instruments by which they could assert their power: "Whatever the Negro may hope to gain …

must be won at the ballot box." Dunbar-Nelson states that once black women have realized that with their votes they might control the future of their children, they would cast votes in the best interest of their families and communities.

In her concluding paragraph, Dunbar-Nelson calls for "some Joan of Arc" to "lead the way." In other words, she was hoping for a leader like the "Maid of Orléans" the peasant girl Joan of Arc, who, in the early fifteenth century, led the French army to several important victories during the Hundred Years' War, thus contributing to the coronation of Charles VII. Perhaps a woman of courage and divine inspiration would come forth to lead African American women in their struggle for economic freedom and political empowerment.

Audience

Dunbar-Nelson's article primarily targeted African American women. The magazine in which it was published, *The Messenger*, supported writers of the Harlem Renaissance and published literature, articles on political issues, and commentary on black theater. Although *The Messenger* was not as widely read as some African American periodicals of the 1920s, it had a national circulation and featured pieces by famous poets and writers as well as those new literary voices.

The issues that Dunbar-Nelson brought up in "The Negro Woman and the Ballot" without doubt reflected the content of the speeches she delivered when she campaigned for Alfred E. Smith, the Democratic Party's presidential candidate in 1928. Certainly, she would have spoken to her audiences about supporting "men and measures, not parties" and how important it was for a young woman not to allow a "father, sweetheart, brother, or uncle" to influence her vote. The ideas that Dunbar-Nelson expressed in her article in *The Messenger* found a wider audience through her speeches on behalf of Smith's campaign.

Impact

Dunbar-Nelson's work, although popular among African American publishers at the time, did not attract the attention of white publishers. Nonetheless, Dunbar-Nelson became one of the older and more traditional voices of the Harlem Renaissance of the 1920s and 1930s. She also is considered one of the founders of the African American short-story tradition. Her contributions to literature and journalism as well as education, politics, and social activism continue to attest to the varied abilities and achievements of educated African American women and men during the late nineteenth and early twentieth centuries.

See also Emancipation Proclamation (1863); Fifteenth Amendment to the U.S. Constitution (1870).

Further Reading

Books

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Questions for Further Study

1. According to Dunbar-Nelson, "what have Negro women done with the vote?"

2. What impact did the fate of the Dyer bill, proposed to combat lynching, have on the voting patterns of women and on the Republican Party?

3. What was Dunbar-Nelson's attitude toward the Republican Party? Was she opposed to the party? Explain her views on party allegiance.

4. Dunbar-Nelson was concerned not only with suffrage issues but gender issues as well. What can we learn from this essay about her views on gender relations? Do you think that her personal life contributed in any way to her views on gender?

5. In the 2008 presidential election, the voter turnout rate among eligible black women was 68.8 percent, up from 63.7 percent in 2004 (according to Pew Research). Additionally, this turnout rate in 2008 was the highest of any demographic group. What do you think Dunbar-Nelson's reaction to these statistics, in both years, would have been?

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Angela M. Alexander

Document Text

Alice Moore Dunbar-Nelson: "The Negro Woman and the Ballot"

It has been six years since the franchise as a national measure has been granted women. The Negro woman has had the ballot in conjunction with her white sister, and friend and foe alike are asking the question, What has she done with it?

Six years is a very short time in which to ask for results from any measure or condition, no matter how simple. In six years a human being is barely able to make itself intelligible to listeners; is a feeble, puny thing at best, with undeveloped understanding, no power of reasoning, with a slight contributory value to the human race, except in a sentimental fashion. Nations in six years are but the beginnings of an idea. It is barely possible to erect a structure of any permanent value in six years, and only the most ephemeral trees have reached any size in six years.

So perhaps it is hardly fair to ask with a cynic's sneer, What has the Negro woman done with the ballot since she has had it? But, since the question continues to be hurled at the woman, she must needs be nettled into reply.

To those colored women who worked, fought, spoke, sacrificed, traveled, pleaded, wept, cajoled, all but died for the right of suffrage for themselves and their peers, it seemed as if the ballot would be the great objective of life. That with its granting, all the economic, political, and social problems to which the race had been subject would be solved. They did not hesitate to say those militantly gentle workers for the vote that with the granting of the ballot the women would step into the dominant place, politically, of the race. That all the mistakes which the men had made would be rectified. The men have sold their birthright for a mess of pottage, said the women. Cheap political office and little political preferment had dazzled their eyes so that they could not see the great issues affecting the race. They had been fooled by specious lies, fair promises and large-sounding words. Pre-election promises had inflated their chests, so that they could not see the post-election failures at their feet.

And thus on and on during all the bitter campaign of votes for women.

One of the strange phases of the situation was the rather violent objection of the Negro man to the Negro woman's having the vote. Just what his objection racially was, he did not say, preferring to hide behind the grandiloquent platitude of his white political boss. He had probably not thought the matter through; if he had, remembering how precious the ballot was to the race, he would have hesitated at withholding its privilege from another one of his own people.

But all that is neither here nor there. The Negro woman got the vote along with some tens of million other women in the country. And has it made any appreciable difference in the status of the race? … The Negro woman was going to be independent, she had averred. She came into the political game with a clean slate. No Civil War memories for her, and no deadening sense of gratitude to influence her vote. She would vote men and measures, not parties. She could scan each candidate's record and give him her support according to how he had stood in the past on the question of race. She owed no party allegiance. The name of Abraham Lincoln was not synonymous with her for blind G.O.P. allegiance. She would show the Negro man how to make his vote a power, and not a joke. She would break up the tradition that one could tell a black man's politics by the color of his skin.

And when she got the ballot she slipped quietly, safely, easily, and conservatively into the political party of her male relatives.

Which is to say, that with the exception of New York City, and a sporadic break here and there, she became a Republican. Not a conservative one, however. She was virulent and zealous. Prone to stop speaking to her friends who might disagree with her findings on the political issue, and vituperative in campaigns.

In other words the Negro woman has by and large been a disappointment in her handling of the ballot. She has added to the overhead charges of the political machinery, without solving racial problems.

One of two bright lights in the story hearten the reader. In the congressional campaign of 1922 the Negro woman cut adrift from party allegiance and took up the cudgel (if one may mix metaphors) for the cause of the Dyer Bill. The Anti-Lynching Crusaders, led by Mrs. Mary B. Talbot, found in several states New Jersey, Delaware, and Michigan particularly that its cause was involved in the congres-

Document Text

sional election. Sundry gentlemen had voted against the Dyer Bill in the House and had come up for re-election. They were properly castigated by being kept at home. The women's votes unquestionably had the deciding influence in the three states mentioned and the campaign conducted by them was of a most commendable kind.

School bond issues here and there have been decided by the colored woman's votes but so slight is the ripple on the smooth surface of conservatism that it has attracted no attention from the deadly monotony of the blind faith in the "Party of Massa Linkun."

As the younger generation becomes of age it is apt to be independent in thought and in act. But it is soon whipped into line by the elders, and by the promise of plums of preferment or of an amicable position in the community or of easy social relations for we still persecute socially those who disagree with us politically. What is true of the men is true of the women. The very young is apt to let father, sweetheart, brother, or uncle decide her vote.…

Whether women have been influenced and corrupted by their male relatives and friends is a moot question. Were I to judge by my personal experience I would say unquestionably so, I mean a personal experience with some hundreds of women in the North Atlantic, Middle Atlantic, and Middle Western States. High ideals are laughed at, and women confess with drooping wings how they have been scoffed at for working for nothing, for voting for nothing, for supporting a candidate before having first been "seen." In the face of this sinister influence it is difficult to see how the Negro woman could have been anything else but "just another vote."

All this is rather a gloomy presentment of a well-known situation. But it is not altogether hopeless. The fact that the Negro woman CAN be roused when something near and dear to her is touched and threatened is cheering. Then she throws off the influence of her male companion and strikes out for herself. Whatever the Negro may hope to gain for himself must be won at the ballot box, and quiet "going along" will never gain his end. When the Negro woman finds that the future of her children lies in her own hands if she can be made to see this she will strike off the political shackles she has allowed to be hung upon her, and win the economic freedom of her race.

Perhaps some Joan of Arc will lead the way.

Glossary

Anti-Lynching Crusaders	a women's group organized to stop lynching
Dyer Bill	a bill first introduced in the U.S. House of Representatives, aimed at making lynching a federal offense
G.O.P.	"Grand Old Party," the nickname of the Republican Party
Joan of Arc	a French peasant girl who, in the early fifteenth century, led the French army to several important victories during the Hundred Years' War
Massa Linkun	mimicking southern black dialect, a reference to President Abraham Lincoln
"sold their birthright for a mess of pottage"	exchanged something of value for immediate gain, a reference to the story of Jacob and Esau in Genesis 25:29–34

President Franklin D. Roosevelt appeals to American industry for cooperation as he addresses several thousand members of the National Recovery Administration's code authorities at Constitution Hall, Washington, D.C., in March 1934. (AP/Wide World Photos)

John P. Davis: "A Black Inventory of the New Deal"

1935

"On every hand the New Deal has used slogans for the same raw deal."

Overview

John Preston Davis's essay "A Black Inventory of the New Deal" is a scathing indictment of President Franklin Delano Roosevelt's early programs to combat the economic woes of the Great Depression. Published in May of 1935 in *The Crisis*, the magazine of the National Association for the Advancement of Colored People (NAACP), this essay challenged African Americans to create their own solutions to their dire economic situation rather than relying on a government that had systematically failed to come through for them.

Davis's essay was published at the time of a conference held at Howard University in Washington, D.C., titled "The Position of the Negro in Our National Economic Crisis." The conference was organized by Davis and Ralph Bunche, who was a professor of political science at Howard University and would later become a key architect of the United Nations. Like Davis, most of the participants in the conference were highly critical of Roosevelt's New Deal, noting that the government programs had severely negative impacts on African Americans. "A Black Inventory of the New Deal" serves as a reminder that oft-celebrated historical achievements have not always included all Americans.

Context

In November 1932 Americans elected Franklin Delano Roosevelt as their new president. The nation was in the grip of the Great Depression, and former President Herbert Hoover's strategy for turning the economy around seemed one of complete failure. As America anxiously watched the new administration form its own ideas for bringing the nation back to financial health, most felt a renewed sense of optimism.

Living in a segregated society in the Jim Crow South and many places in the North, African Americans suffered immensely during the depression. Black tenant farmers in the South languished as crop prices fell, and black workers in the industrial North were the first to be let go as the unemployment rate climbed. Although most black voters had supported the Republican Party in the 1932 election, Roosevelt's Democratic administration showed signs of promise for the plight of African Americans. In the summer of 1933, Roosevelt created a position for a special adviser on "the economic status of negroes" to serve under the secretary of the Department of the Interior, Harold Ickes. Roosevelt would go on in later years to create what became known as the "Black Cabinet," an advisory group of prominent African American community leaders who counseled his administration regarding the concerns of black Americans. In a more direct show of support, for the first time, the government initiated programs to provide direct relief to the public. Two of these important programs were initiated, respectively, by the Agricultural Adjustment Act (AAA) and the National Industrial Recovery Act (NIRA), both passed in 1933. These sweeping initiatives were intended to help farmers and industrial workers through government intervention.

Not long after their creation, however, it became apparent that these two programs had considerable flaws. One component of the NIRA was to develop industry-specific standards that would govern competition, pricing, wages, and work hours in each industry. The idea was to promote efficiency and fairness in practices and to provide workers with a minimum wage and maximum work period for every given job category. However, as business leaders worked with government representatives to develop these industrial codes, it became clear that African Americans were being systematically discriminated against, especially in the South. Black workers in Atlanta, Georgia, protested against the industrial codes in August of 1933, but, despite such protests, southern business interests won concessions from the government that perpetuated racial discrimination.

Similarly, the AAA resulted in appalling consequences for black farmers, because many did not own their land but farmed as tenants, or sharecroppers. In order to increase farmers' income, the government paid farmers incentives to leave land fallow. Unfortunately, southern landowners fired their black tenant farmers first, as fewer crops grown meant fewer farmers needed. Just as black workers in the North protested against the NIRA, tenant farmers in the South, black and white, joined together to form the Southern Tenant Farmers Union in 1934, bringing the plight of African American farmers to the public's attention.

Time Line

1932

- **November 8**
  Franklin Delano Roosevelt is elected to his first term as president of the United States.

1933

- **May 12**
  Congress approves the Agricultural Adjustment Act (AAA).
- **May 18**
  Roosevelt signs the Tennessee Valley Authority Act.
- **June 16**
  Congress approves the National Industrial Recovery Act (NIRA).
- **June**
  John P. Davis creates the Negro Industrial League in order to represent black workers at National Recovery Administration hearings in Washington, D.C.
- **Fall**
  Davis organizes the Joint Committee on Negro Affairs, a coalition of African American organizations, to address racial discrimination in New Deal programs.

1934

- **July**
  The Southern Tenant Farmers Union forms in Arkansas.

1935

- **January**
  Congress begins discussion of the Social Security program.
- **May**
  Davis publishes "A Black Inventory of the New Deal" in *The Crisis* magazine.
- **May 18–20**
  Davis and Ralph Bunche hold a conference at Howard University titled "The Position of the Negro in Our National Economic Crisis," during which most participants criticize Roosevelt's New Deal programs.

In 1935 economic recovery in the United States seemed nowhere in sight. Unemployment was a staggering 20 percent, and the promises of the Roosevelt administration appeared unfulfilled. Still, African Americans remained loyal to the Democratic Party; in the 1934 midterm elections, Democrats won formerly Republican seats largely because of the increase in black voters. In Chicago, Arthur W. Mitchell became the first black Democrat ever elected to Congress. Nevertheless, while African Americans might have supported Roosevelt and his party, many were growing more and more disillusioned with the administration's unproductive policies. John P. Davis's "A Black Inventory of the New Deal" gave voice to the increasingly urgent demand from the black community for tangible strides to be made in America's move toward racial equality.

About the Author

John Preston Davis was born on January 19, 1905, and grew up in Washington, D.C., where his father worked in the office of the secretary of war during the administration of the Democratic president Woodrow Wilson, who served as chief executive from 1913 to 1921. Young Davis attended Paul Laurence Dunbar High School, a prestigious school for blacks, and graduated from Bates College in Maine in 1926, where he was nominated for a Rhodes Scholarship. Davis participated in the artistic and literary movement known as the Harlem Renaissance, replacing W. E. B. Du Bois as editor of *The Crisis* magazine. Along with Langston Hughes, Zora Neale Hurston, and Wallace Thurman, the leading black authors living in New York City at the time, he produced *Fire!!*, a publication dedicated to showcasing the works of young African American writers. Davis received a master's degree in journalism from Harvard University in 1927 and served as Fisk University's director of publicity until 1928. He went on to earn a law degree from Harvard in 1933.

Davis and several of his peers at Harvard, including Robert Weaver, grew increasingly concerned with the U.S. government's response to the deepening economic crisis that was the Great Depression. In the summer of 1933 Davis and Weaver traveled back to their hometown of Washington, D.C., in order to give voice to the plight of African Americans. The two men created the Negro Industrial League to call attention to the need for equitable treatment of black Americans in New Deal programs. Davis and Weaver's example led many civil rights organizations to form the Joint Committee on National Recovery, an organization dedicated to exposing racial injustice in the implementation of federal programs. In 1934 the NAACP sent Davis to the South to interview black farmers, an experience that exposed Davis to the inequalities of the New Deal program that resulted from the AAA.

In 1935, Davis became executive secretary of the National Negro Congress, which he had helped found. The organization sought to unite African Americans across class lines and involved the support of the Communist Party.

This affiliation became a political liability following the Nazi-Soviet Nonaggression Pact of 1939, and more conservative organizations withdrew from the National Negro Congress. Davis remained its executive secretary until 1942. The next year he filed the first lawsuit in Washington, D.C., to challenge the district's segregated school system. Davis sued on behalf of his five year-old son, Michael, who was refused admittance by Noyes Elementary School. In response to the suit, Congress appropriated funds to build a new black school across the street from Davis's house. Later in life, Davis turned to the literary world once again, founding *Our World* a magazine dedicated to the African American community in 1946, and publishing *The American Negro Reference Book* in 1964. He died on September 11, 1973.

Time Line

1935

- **May 27**
  In its ruling in *Schechter Poultry Corp. v. United States*, the U.S. Supreme Court invalidates the National Recovery Administration, judging it an overextension of legislative power.

1936

- **February**
  The National Negro Congress holds its first meeting in Chicago, Illinois.

Explanation and Analysis of the Document

Davis was an outspoken critic of the New Deal programs put forward by Franklin Roosevelt to ameliorate the effects of the Great Depression. In his article "A Black Inventory of the New Deal," he surveys two years of New Deal efforts and their effects on black Americans.

◆ Paragraphs 1–4

Davis sets the tone in the very first paragraph, stating clearly that his goal is to assess the impact that the Roosevelt administration's early New Deal policies have had on African Americans. He then systematically evaluates key measures enacted by the government, showing how, in fact, they have had mostly negative effects on black Americans. Davis next cites government statistics demonstrating that the number of black families receiving aid increased during Roosevelt's time in office. He argues that this is evidence that the administration's policies have created more poverty among African Americans. The increase in the number of people receiving public assistance is not, in Davis's eyes, a sign of growing government concern for the poor but rather the direct result of failed policy, particularly those programs aimed at relief for the rural poor.

Davis then turns to a lengthy discussion of the National Recovery Administration. The NIRA generated a wide range of programs aimed at providing direct relief to the public and stimulating the economy. The legislation had the support of many industrial leaders, including Gerard Swope, the president of General Electric, who helped to draft it. The National Recovery Administration, an administrative body created by the NIRA, monitored each industry's development of standardized codes for wage rates, prices, and work hours. The idea behind the codes was that workers would achieve better wages and job security, while manufacturers within each industry would be able to compete fairly against each other.

Davis states in paragraphs 3 and 4 that the National Recovery Administration as yet failed to live up to its promises. He specifically mentions problems with the "code-making process." During the 1933 code hearings in Washington, D.C., which Davis attended, it became clear that companies in the South were excluding black workers from the protective features of the labor codes. Southern manufacturers relied upon a racially based wage system, where black workers were paid less than white laborers for comparable work. Therefore, they vigorously fought the idea of national wage standards. As Davis points out, southern companies employed a variety of tactics to evade the codes. One early argument was for the existence of "occupational and geographical differentials"; southern interests used a vast array of statistics and figures to "prove" that black workers were less efficient than whites and that equal wages would result in massive layoffs and plant closures. Sometimes employers changed the job categories of black workers so that they were not covered by the codes. As Davis points out, these maneuvers were effective; the National Recovery Administration approved regional wage differentials in the codes, and because enforcement occurred at the local level, code violators often went unpunished even when they were caught. Thus, while the federal intent behind the codes was to eliminate racial bias in wages and hours for each industry, its implementation resulted in the continuation of "the inferior status of the Negro."

The problem was not just with the implementation of the law, however. Davis notes that even with an increased wage rate, African American workers were still disproportionately affected by layoffs or the reduction of work hours. He cites the case of longshoremen, who might earn a high hourly wage but work very infrequently. Davis also comments on the problem of the rising cost of living; one of the by-products of the codes was that the prices for food and other necessities were set above market value. This increase in the cost of living disproportionately affected poor Americans, including African Americans. Davis also comments in paragraph 4 on the practices of "speed-up and stretch-out" in assembly-line manufacturing. Speeding up the line involved increasing the rate at which parts moved past a worker (forcing the individual to work more quickly), while stretching out called for assigning more tasks or machines to a given worker, thus adding to his responsibilities (and thus his output) while keeping his pay the same. Because both

"speed-up" and "stretch-out" increased the productivity of workers, they reduced the number of workers needed; as Davis notes, African American employees were always the first to be let go. Thus the promises of gains for workers under the NIRA went unfulfilled for black Americans.

◆ Paragraphs 5–7

Davis next turns his attention to the Agricultural Adjustment Administration, another government agency created during Roosevelt's early New Deal legislation. Just as the NIRA created a new government entity, the National Recovery Administration, the AAA created the Agricultural Adjustment Administration to implement the policies outlined in the legislation. The act gave the government substantial authority over agricultural production and prices. For example, it allowed the secretary of agriculture to reduce the production of a given commodity or to remove acreage from production altogether, through the use of incentives. The goal of the program was to prop up the prices of agricultural products and thus help raise the income and buying power of farmers.

The vast majority of black farmers were sharecroppers, or tenant farmers who did not own their land but rather paid rent to the landowner. Sharecroppers would pay their rent either with proceeds from the sale of the crops they raised or with crop liens loans against the value of future crops. The Great Depression brought sharply lower prices for most commodities, which translated into drastically lower income for these farmers, many of whom could no longer meet their rent obligations. As Davis points out, although the Agricultural Adjustment Administration's goal was to improve the lot of farmers, it actually worsened their plight. The crop reduction program was a particular problem. Under the administration, the government paid incentives to farmers to keep part of their land idle. As Davis remarks in paragraph 5, "Although the contract with the government provided that the land owner[s] should not reduce [their] number of … tenants" under this program, many of them did. Uncultivated land meant fewer farmers were needed to tend to crops, and black sharecroppers were the first to be turned out.

Just as there were problems with local enforcement of the National Recovery Administration codes, corruption was rampant in the South in terms of implementing AAA policies. The government mandated that landowners pay a portion of the government incentive for crop reduction to its tenants, but many landowners simply kept all of the money for themselves. Local authorities refused to enforce the law, as Davis explains. This widespread abuse was one of the primary motivators behind the creation of the Southern Tenant Farmers Union, an organization of sharecroppers in Arkansas that sought to change government policies and step up enforcement. Davis uses an old frontier-era phrase, "root hog or die," which means, in essence, that one must either work or starve.

◆ Paragraphs 8–14

Davis then takes up the Public Works Administration (PWA), which was also created by the NIRA. The PWA was a job-creation program designed to put people to work building roads, dams, bridges, and other infrastructure. The program was headed by the secretary of the Department of the Interior, Harold Ickes, an advocate of racial equality. Ickes ordered that all PWA contracts include a nondiscrimination clause. However, just as was the case with the codes, southern interests found ways to circumvent the contractual language. Robert C. Weaver, one of Davis's peers at Harvard and a member of Ickes's staff, developed a quota system to aid in enforcement. PWA contract recipients would be required to hire a minimum percentage of black skilled workers based on the proportion of such workers in the local population. Davis notes several problems with this idea, including the tensions placed on unions. This was a significant problem; blacks were excluded from many of the skilled trade unions, and the government had to negotiate with local unions as well as individual contractors who employed black workers.

The PWA and other New Deal programs also funded public housing. Unfortunately, most of these housing projects were segregated, upholding the status quo of racial inequality in America. Davis criticizes two specific programs: the Subsistence Homestead projects and the Tennessee Valley Authority model towns. Part of the NIRA, the Subsistence Homesteads were designed to be communities based on the older American idea of the family subsistence farm, where families grew enough to sustain themselves but not to bring cash crops to market. Roosevelt's version, however, located these communities near urban centers, so that homesteaders of the 1930s could hold a part-time job in the city while living in a modern home in a rural environment. Aimed at poor rural families, the homestead project had much to offer African Americans. However, the earliest communities were designated for whites only, angering many black activists. In particular, the Arthurdale project in West Virginia, mentioned by Davis in paragraph 11, aroused virulent protest from civil rights activists. Under pressure from Ickes and others, the administration developed several black homestead projects. Thus, as Davis notes, the Subsistence Homestead program perpetuated the Jim Crow segregation of the South.

Similarly, the Tennessee Valley Authority (TVA) built segregated communities, including the model towns of Norris, Tennessee, and Dayton, Ohio. Roosevelt created the TVA to devise a regional development program for flood control and power supply in the Tennessee River basin. Part of the TVA's development program included the creation of housing in planned communities based on a social vision similar to that of the Subsistence Homestead program. The TVA model communities were to be examples of self-contained, self-sustaining rural towns tied to cooperative industries. Norris, Tennessee, was one such community. As Davis notes, Norris functioned more as a "company town" for workers building the Norris Dam; the government supplied housing and power, ran the town store, and controlled all aspects of town life, not to mention providing the monthly paycheck. While the all-black Dayton communities were "ghettoes," Norris was "lily-white," designated as a whites-only town. To make

White and black sharecroppers attend a convention of the Southern Tenant Farmers Union in Memphis, Tennessee, in September 1937. (AP/Wide World Photos)

matters worse, Davis remarks, the TVA hired relatively few blacks and had no plan for ameliorating the conditions of African Americans in the region. The TVA's planned communities, to Davis, were examples of "utter planlessness."

◆ **Paragraphs 15–18**

In early 1935 Congress began to consider various options for a federal program of unemployment insurance and old-age pension, which would eventually become the Social Security Act of 1935. Davis refers to this debate, commenting that members of the Roosevelt administration proposed to exempt domestic and agricultural workers from the program. Treasury secretary Henry Morgenthau suggested excluding these workers in order to prevent the Social Security program from being underfunded. Because Roosevelt had insisted that the plan finance itself, this provision was included in the initial Social Security Act. As a result, vast numbers of African Americans were excluded from one of the most sweeping reforms in American history.

Following his dissection of the impact of New Deal programs on black Americans, Davis discusses how the black community has responded to this litany of injustice. In paragraph 16, he references the "Don't Buy Where You Can't Work" campaigns, which began in Chicago in 1929 but spread to many cities by the mid-1930s. These campaigns encouraged African Americans to boycott establishments that refused to hire blacks and generated public protests on the streets of many cities. The Garvey Movement, as embodied in the Universal Negro Improvement Association, had been around since World War I. One of the first organizations involved in black rights, the Universal Negro Improvement Association emphasized pride in African heritage and roots under the leadership of the Jamaican immigrant and activist Marcus Garvey. By the depression, Garvey's organization had lost much of its popularity, but its message of racial pride found receptive ears in the mid-1930s. The National Movement for Establishment of a 49th State was a movement to create a separate, black state within the United States. Davis brings up these examples to show that African Americans were exerting their power and becoming increasingly intolerant of discrimination.

Essential Quotes

"A worker cannot eat a wage rate."

(Paragraph 4)

"The fairest summary that can be made of T.V.A. is that for a year or so it has furnished bread to a few thousand Negro workers. Beyond that everything is conjecture which is most unpleasant because of the utter planlessness of those in charge of the project."

(Paragraph 14)

"On every hand the New Deal has used slogans for the same raw deal."

(Paragraph 15)

"On the problem of relief of Negroes from poverty there is little room for disagreement. The important thing is that throughout America as never before Negroes awake to the need for a unity of action on vital economic problems which perplex us."

(Paragraph 21)

"One thing is certain: the Negro may stand still but the depression will not. And unless there is concerted action of Negroes throughout the nation the next two years will bring even greater misery to the millions of underprivileged Negro toilers in the nation."

(Paragraph 22)

Having emphasized black separatism in paragraph 16, Davis goes on to highlight interracial protests. As the depression deepened in the 1930s, the Communist Party organized the growing masses of jobless Americans into Unemployed Councils, radical groups that employed a variety of tactics to demand relief. Bread riots, street demonstrations, and rent strikes were commonplace in cities such as New York and Detroit. These protestors were of various ethnicities, including Jewish immigrants as well as black Americans. Davis mentions the sharecroppers unions, specifically the Southern Tenant Farmers Union, an interracial group that had thirty thousand members by 1937. He also notes the interracial nature of labor activism. In the years leading up to the publication of "A Black Inventory of the New Deal," labor unrest had been increasing. In 1934 alone, two men were killed in the Electric Auto-Lite strike in Toledo, Ohio, a massive strike that left three dead, and the West Coast Longshoremen's strike resulted in the killing of four strikers. As Davis points out, many of these struggles involved black and white workers fighting on the same side.

◆ Paragraphs 19–22

At the end of his essay, Davis points to the future. He comments on the upcoming (May 18 20, 1935) conference at Howard University but indicates that the conference cannot act by itself. One can see the seeds of the National Negro Congress in Davis's call for existing organizations from a variety of sectors ("church, civic, fraternal, professional and trade union") to come together as a

"mighty arm of protest." He uses the All India Congress as an example of such an organization. The All India Congress Committee arose out of nineteenth-century calls for home rule in India and the later nonviolent protests and Indian independence movement led by the activist Mahatma Gandhi. Divided by caste and religious differences, India overcame such differences to achieve independence and serve as a model for other repressed groups. Davis pointedly states that African Americans are responsible for overcoming their own divisions and must take responsibility for solving the economic and social problems that face them.

Audience

Davis's piece was published in *The Crisis*, the magazine of the NAACP. Founded in 1910, *The Crisis* was one of the oldest publications dedicated to advancing the cause of black civil rights in America. At the time of Davis's article, the magazine had recently experienced a change in editorial oversight. W. E. B. Du Bois, founder of *The Crisis*, had resigned over differences of opinion with the NAACP's vision for the black rights movement; Du Bois advocated a separatist position, while the NAACP favored integration. The new editors, George Streator and Roy Wilkins, gave more editorial room to young authors such as Davis. However, *The Crisis* continued to be read widely by both white and black audiences interested in issues of racial justice. The publication's circulation vastly exceeded the NAACP's membership.

Although segregation was ingrained in American society during the depression years, there was a vibrant and active movement comprising liberal progressive whites and activist African Americans dedicated to moving the nation forward in terms of racial justice. Organizations such as the National Urban League aimed at aiding the status of black Americans, and the Commission on Interracial Cooperation in Atlanta sought to bring black and white community leaders together in dialogue. By the 1930s, there was a growing cadre of educated, progressive-minded black and white people who were eager to address the myriad problems facing the African American community. These people would likely have read Davis's article, as well as similar pieces in magazines such as *Opportunity*, published by the Urban League, and *The Journal of Negro Life*.

Impact

Davis's critique of Roosevelt's New Deal programs gained him increased recognition as a black activist and leader. It also positioned him at odds with the more conservative African American figures who sought to work within the Roosevelt administration to effect change, such as Robert C. Weaver. Davis and Bunche, along with A. Philip Randolph, head of the Brotherhood of Sleeping Car Porters union, formed the National Negro Congress based on the vision Davis outlined in his essay. The congress hoped to forge a union that crossed boundaries of class and partisanship. Its increasingly leftist bent alienated many of its more moderate members, and cold war politics led to its demise in 1947.

Davis's position outside the political mainstream translated into his having little direct impact on the electoral landscape in his time. Despite the very real deficiencies of Roosevelt's policies, African American voters overwhelmingly supported the president in the 1936 election. In 1932 a majority of blacks had voted for the Republican candidate, Herbert Hoover, but four years later the Democratic Party could claim the allegiance of most black voters. Despite the racial inequities of the New Deal, African Americans saw in Roosevelt a president who cared about them.

It is with historical hindsight that Davis's essay has become important for a wider American audience. This

Questions for Further Study

1. What impact did the Great Depression have on African Americans? How did that impact differ in kind or degree from the impact felt by white Americans?

2. Did the New Deal of President Franklin Roosevelt alleviate the plight of African Americans? Why or why not?

3. Davis discusses the concept of self-help for African Americans. In what way was this message similar to that advocated by, for example, John S. Rock in "Whenever the Colored Man Is Elevated, It Will Be by His Own Exertions" (1858)?

4. In what sense did Davis's report prefigure that arguments made in A. Philip Randolph's "Call to Negro America to March on Washington" (1941)?

5. Discuss the history of trade unionism as it affected African Americans in the pre–World War II era.

document catalogs what are now well-established negative effects of New Deal programs on the African American community, effects that were minimized by many in the government and the public in 1935. One of the lasting impacts of this essay is its reminder to modern audiences that even the most well intentioned of public policies can sometimes have negative consequences for some citizens.

See also Robert Clifton Weaver: "The New Deal and the Negro: A Look at the Facts" (1935).

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Karen Linkletter

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John P. Davis: "A Black Inventory of the New Deal"

It is highly important for the Negro citizen of America to take inventory of the gains and losses which have come to him under the "New Deal." The Roosevelt administration has now had two years in which to unfold itself. Its portents are reasonably clear to anyone who seriously studies the varied activities of its recovery program. We can now state with reasonable certainty what the "New Deal" means for the Negro.

At once the most striking and irrefutable indication of the effect of the New Deal on the Negro can be gleaned from relief figures furnished by the government itself. In October, 1933, six months after the present administration took office, 2,117,000 Negroes were in families receiving relief in the United States. These represented 17.8 per cent of the total Negro population as of the 1930 census. In January, 1935, after nearly two years of *recovery measures*, 3,500,000 Negroes were in families receiving relief, or 29 per cent of our 1930 population. Certainly only a slight portion of the large increase in the number of impoverished Negro families can be explained away by the charitable, on the grounds that relief administration has become more humane. As a matter of fact federal relief officials themselves admit that grave abuses exist in the administration of rural relief to Negroes. And this is reliably borne out by the disproportionate increase in the number of urban Negro families on relief to the number of rural Negro families on relief. Thus the increase in the number of Negroes in relief families is an accurate indication of the deepening of the economic crisis for black America.

The promise of N.R.A. to bring higher wages and increased employment to industrial workers has glimmered away, In the code-making process occupational and geographical differentials at first were used as devices to exclude from the operation of minimum wages and maximum hours the bulk of the Negro workers. Later, clauses basing code wage rates on the previously existing wage differential between Negro and white workers tended to continue the inferior status of the Negro. For the particular firms, for whom none of these devices served as an effective means of keeping down Negro wages, there is an easy way out through the securing of an exemption specifically relating to the *Negro* worker in the plant. Such exemptions are becoming more numerous as time goes on. Thus from the beginning relatively few Negro workers were even theoretically covered by N.R.A. labor provisions.

But employers did not have to rely on the code-making process. The Negro worker not already discriminated against through code provisions had many other gauntlets to run. The question of importance to him as to all workers was, "as a result of all of N.R.A.'s maneuvers will I be able to buy more?" The answer has been "No." A worker cannot eat a wage rate. To determine what this wage rate means to him we must determine a number of other factors. Thus rates for longshoremen seem relatively high. But when we realize that the average amount of work a longshoreman receives during the year is from ten to fifteen weeks, the wage rate loses much of its significance. When we add to that fact the increase in the cost of living as high as 40 per cent in many cases the wage rate becomes even more chimerical. For other groups of industrial workers increases in cost of living, coupled with the part time and irregular nature of the work, make the results of N.R.A. negligible. In highly mechanized industries speed-up and stretch-out nullify the promised result of N.R.A. to bring increased employment through shorter hours. For the workers are now producing more in their shorter work periods than in the longer periods before N.R.A. There is less employment. The first sufferer from fewer jobs is the Negro worker. Finally the complete break-down of compliance machinery in the South has cancelled the last minute advantage to Negro workers which N.R.A.'s enthusiasts may have claimed.

The Agricultural Adjustment Administration has used cruder methods in enforcing poverty on the Negro farm population. It has made violations of the rights of tenants under crop reduction contracts easy; it has rendered enforcement of these rights impossible. The reduction of the acreage under cultivation through the government rental agreement rendered unnecessary large numbers of tenants and farm laborers. Although the contract with the government provided that the land owner should not reduce the number of his tenants, he did so. The federal courts have now refused to allow tenants to enjoin such evictions. Faced with this Dred Scott

decision against farm tenants, the A.A.A. has remained discreetly silent. Farm laborers are now jobless by the hundreds of thousands, the conservative government estimate of the decline in agricultural employment for the year 1934 alone being a quarter of a million. The larger portion of these are unskilled Negro agricultural workers now without income and unable to secure work or relief.

But the unemployment and tenant evictions occasioned by the crop reduction policies of the A.A.A. is not all. For the tenants and sharecroppers who were retained on the plantations the government's agricultural program meant reduced income. Wholesale fraud on tenants in the payment of parity checks occurred. Tenants complaining to the Department of Agriculture in Washington have their letters referred back to the locality in which they live and trouble of serious nature often results. Even when this does not happen, the tenant fails to get his check. The remainder of the land he tills on shares with his landlord brings him only the most meagre necessities during the crop season varying from three to five months. The rest of the period for him and his family is one of "root hog or die."

The past year has seen an extension of poverty even to the small percentage (a little more than 20 per cent) of Negro farmers who own their own land. For them compulsory reduction of acreage for cotton and tobacco crops, with the quantum of such reduction controlled and regulated by local boards on which they have no representation, has meant drastic reduction of their already low income. Wholesale confiscation of the income of the Negro cotton and tobacco farmer is being made by prejudiced local boards in the South under the very nose of the federal government. In the wake of such confiscation has come a tremendous increase in land tenantry as a result of foreclosures on Negro-owned farm properties.

Nor has the vast public works program, designed to give increased employment to workers in the building trades, been free from prejudice. State officials in the South are in many cases in open rebellion against the ruling of P.W.A. that the same wage scales must be paid to Negro and white labor. Compliance with this paper ruling is enforced in only rare cases. The majority of the instances of violation of this rule are unremedied. Only unskilled work is given Negroes on public works projects in most instances. And even here discrimination in employment is notorious. Such is bound to be the case when we realize that there are only a handful of investigators available to seek enforcement.

Recently a move has been made by Negro officials in the administration to effect larger employment of Negro skilled and unskilled workers on public works projects by specifying that failure of a contractor to pay a certain percentage of his payroll to Negro artisans will be evidence of racial discrimination. Without doubting the good intentions of the sponsors of this ingenious scheme, it must nevertheless be pointed out that it fails to meet the problem in a number of vital particulars. It has yet to face a test in the courts, even if one is willing to suppose that P.W.A. high officials will bring it to a test. Percentages thus far experimented with are far too low and the number of such experiments far too few to make an effective dent in the unemployment conditions of Negro construction industry workers. Moreover the scheme gives aid and comfort to employer-advocates of strike-breaking and the open shop; and, while offering, perhaps, some temporary relief to a few hundred Negro workers, it establishes a dangerous precedent which throws back the labor movement and the organization of Negro workers to a considerable degree. The scheme, whatever its Negro sponsors may hope to contrary, becomes therefore only another excuse for their white superiors maintaining a "do-nothing" policy with regard to discrimination against Negroes in the Public Works Administration.

The Negro has no pleasanter outlook in the long term social planning ventures of the new administration. Planning for subsistence homesteads for industrially stranded workers has been muddled enough even without consideration of the problem of integrating Negroes into such plans. Subsistence Homesteads projects are overburdened with profiteering prices for the homesteads and foredoomed to failure by the lack of planning for adequate and permanent incomes for prospective homesteaders.

In callous disregard of the interdiction in the constitution of the United States against use of federal funds for projects which discriminate against applicants solely on the ground of color, subsistence homesteads have been planned on a strictly "lily-white" basis. The more than 200 Negro applicants for the first project at Arthurdale, West Virginia were not even considered, Mr. Bushrod Grimes (then in charge of the project) announcing that the project was to be open only to "native white stock." As far north as Dayton, Ohio, where state laws prohibit any type of segregation against Negroes, the federal government has extended its "lily-white" policy. Recently it has established two Jim-Crow projects for Negroes. Thus the new administration seeks in its

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program of social planning to perpetuate ghettoes of Negroes for fifty years to come.

An even more blatant example of this policy of "lily-white" reconstruction is apparent in the planning of the model town of Norris, Tennessee, by the Tennessee Valley Authority. This town of 450 model homes is intended for the permanent workers on Norris Dam. The homes are rented by the federal government, which at all times maintains title to the land and dwellings and has complete control of the town management. Yet officials at T.V.A. openly admit that no Negroes are allowed at Norris.

T.V.A. has other objectionable features. While Negro employment now approaches an equitable proportion of total employment, the payroll of Negro workers remains disproportionately lower than that of whites. While the government has maintained a trade school to train workers on the project, no Negro trainees have been admitted. Nor have any meaningful plans matured for the future of the several thousand Negro workers who in another year or so will be left without employment, following completion of work on the dams being built by T.V.A.

None of the officials of T.V.A. seems to have the remotest idea of how Negroes in the Tennessee Valley will be able to buy the cheap electricity which T.V.A. is designed to produce. They admit that standards of living of the Negro population are low, that the introduction of industry into the Valley is at present only a nebulous dream, that even if this eventuates there is no assurance that Negro employment will result. The fairest summary that can be made of T.V.A. is that for a year or so it has furnished bread to a few thousand Negro workers. Beyond that everything is conjecture which is most unpleasant because of the utter planlessness of those in charge of the project.

Recovery legislation of the present session of Congress reveals the same fatal flaws which have been noted in the operation of previous recovery ventures. Thus, for example, instead of genuine unemployment insurance we have the leaders of the administration proposing to exclude from their plans domestic and agricultural workers, in which classes are to be found 15 out of every 23 Negro workers. On every hand the New Deal has used slogans for the same raw deal.

The sharpening of the crisis for Negroes has not found them unresponsive. Two years of increasing hardship has seen strange movement among the masses. In Chicago, New York, Washington and Baltimore the struggle for jobs has given rise to action on the part of a number of groups seeking to boycott white employers who refuse to employ Negroes. "Don't Buy Where You Can't Work" campaigns are springing up everywhere. The crisis has furnished renewed vigor to the Garvey Movement. And proposals for a 49th State are being seriously considered by various groups.

In sharp contrast with these strictly racial approaches to the problem, have been a number of interracial approaches. Increasing numbers of unemployed groups have been organized under radical leadership and have picketed relief stations for bread. Sharecroppers unions, under Socialist leadership in Arkansas, have shaken America into a consciousness of the growing resentment of southern farm tenants and the joint determination of the Negro and white tenants to do something about their intolerable condition.

In every major strike in this country Negro union members have fought with their white fellow workers in a struggle for economic survival. The bodies of ten Negro strikers killed in such strike struggles offer mute testimony to this fact. Even the vicious policies of the leaders of the A. F. of L. in discrimination against Negro workers is breaking down under the pressure for solidarity from the ranks of whites.

This heightening of spirit among all elements of black America and the seriousness of the crisis for them make doubly necessary the consideration of the social and economic condition of the Negro at this time. It was a realization of these conditions which gave rise to the proposal to hold a national conference on the economic status of Negroes under the New Deal at Howard University in Washington, D.C., on May 18, 19 and 20. At this conference, sponsored by the Social Science Division of Howard University and the Joint Committee on National Recovery, a candid and intelligent survey of the social and economic condition of the Negro will be made. Unlike most conference it will not be a talk-rest. For months nationally known economists and other technicians have been working on papers to be presented. Unlike other conferences it will not be a one-sided affair. Ample opportunity will be afforded for high government officials to present their views of the "New Deal." Others not connected with the government, including representatives of radical political parties, will also appear to present their conclusions. Not the least important phase will be the appearance on the platform of Negro workers and farmers themselves to offer their own experience under the New Deal. Out of such a conference can and will come a clear-cut analysis of the problems faced by Negroes and the nation.

But a word of caution ought to be expressed with regard to this significant conference. In the final

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analysis it cannot and does not claim to be representative of the mass opinion of Negro citizen[s] in America. All it can claim for itself is that it will bring together on a non-representative basis well informed Negro and white technicians to discuss the momentous problem it has chosen as its topic. It can furnish a base for action for any organization which chooses to avail itself of the information developed by it. It cannot act itself.

Thus looking beyond such a conference one cannot fail to hope that it will furnish impetus to a national expression of black America demanding a tolerable solution to the economic evils which it suffers. Perhaps it is not too much to hope that public opinion may be moulded by this conference to such an extent that already existing church, civic, fraternal, professional and trade union organizations will see the necessity for concerted effort in forging a mighty arm of protest against injustice suffered by the Negro. It is not necessary that such organizations agree on every issue. On the problem of relief of Negroes from poverty there is little room for disagreement. The important thing is that throughout America as never before Negroes awake to the need for a unity of action on vital economic problems which perplex us.

Such a hope is not lacking in foundation upon solid ground. Such an instance as the All India Congress of British India furnishes an example of what repressed groups can do to better their social and economic status. Perhaps a *"National Negro Congress"* of delegates from thousands of Negro organizations (and white organizations willing to recognize their unity of interest) will furnish a vehicle for channeling public opinion of black America. One thing is certain: the Negro may stand still but the depression will not. And unless there is concerted action of Negroes throughout the nation the next two years will bring even greater misery to the millions of underprivileged Negro toilers in the nation.

Glossary

A. F. of L.	the American Federation of Labor, an umbrella organization for labor unions
Agricultural Adjustment Administration	a federal agency created by the Agricultural Adjustment Act that paid farmers to reduce crop production to raise prices
All India Congress of British India	the All India Congress Committee, which led the struggle for Indian independence from British rule
code-making process	a reference to Title I, Section 3, of the National Industrial Recovery Act, which permitted trade or industrial associations to seek presidential approval of codes of fair competition
Dred Scott decision	a reference to the 1858 U.S. Supreme Court decision in *Dred Scott v. Sandford*, which denied citizenship rights to African Americans
Garvey Movement	a reference to the black nationalism of Marcus Garvey, the founder of the United Negro Improvement Association
homestead	land acquired from U.S. public lands by filing a record and living on and cultivating it
New Deal	the name given to the legislative programs of the Franklin Roosevelt administration to alleviate the effects of the Great Depression
N.R.A.	the National Recovery Administration, created by the National Industrial Recovery Act; enacted changes in the American economy but was declared unconstitutional in 1935
open shop	place of employment where the employee is not required to join or pay dues to a labor union as a condition of hiring or continued employment
P.W.A.	Public Works Administration: a New Deal agency created to provide funds for public-works projects to increase employment during the Great Depression
relief	welfare payments

Robert Clifton Weaver (AP/Wide World Photos)

Robert Clifton Weaver: "The New Deal and the Negro: A Look at the Facts"

1935

"The present economic position of the colored citizen was not created by recent legislation alone."

Overview

Robert Clifton Weaver's article "The New Deal and the Negro: A Look at the Facts" is a spirited defense of President Franklin Delano Roosevelt's New Deal programs in the face of mounting criticism from the African American community. Published in the July 1935 issue of *Opportunity Journal*, the oldest official magazine of the National Urban League, Weaver's essay acknowledged problems of discrimination in some of the Great Depression era relief efforts, yet argued that these efforts had, in fact, greatly alleviated the economic woes facing the black community.

As a member of the Roosevelt administration, Weaver sought to improve the status of African Americans through government programs rather than by more radical means. Not everyone in the black community agreed, however; by 1935 the deepening problems of unemployment, racial tensions evidenced by a riot in Harlem in March, and growing rural poverty in the South led many black leaders to conclude that the U.S. government was incapable of coming to the aid of African Americans. "The New Deal and the Negro: A Look at the Facts" is a statistics-filled plea to logic in an emotional era.

Context

When U.S. president Franklin Delano Roosevelt took the oath of office in 1933, the nation was in the depths of the Great Depression. Unemployment figures were staggering, reaching nearly 50 percent in urban areas such as Chicago, Illinois, and Detroit, Michigan, and as high as 90 percent in Gary, Indiana. In the South, farmers faced continued crop price deterioration; following the stock market crash of 1929, cotton prices slipped from eighteen to six cents per pound. While all Americans were affected by the depression, African Americans suffered substantially for a variety of reasons. Employed primarily as domestic and agricultural workers, blacks were the first to be laid off when jobs were cut, as these positions were either temporary or expendable in a weak economy. White workers crowded out black workers for increasingly scarce jobs. By 1932 urban black unemployment was over 50 percent, and tenant farmers in the South found themselves increasingly without any means of earning a living.

At the same time, the black intellectual class spawned by the Harlem Renaissance movement began to exert its influence in the political sphere in new ways. The National Association for the Advancement of Colored People (NAACP), a prominent civil rights organization, began to turn its focus from fighting for rights within the court system to working with the federal government for more direct intervention to help the public. The incoming Roosevelt administration signaled that it was interested in addressing the concerns of the African American community. In 1933 Roosevelt began to bring in a series of black advisers to his cabinet to provide him with guidance regarding the status of African Americans. Robert Weaver was one such adviser, hired to serve as a member of the Department of the Interior's staff. These and other key appointments, later known as Roosevelt's "Black Cabinet," led many observers to believe that this administration would not forget the plight of the African American.

In the early years of his presidency, Roosevelt enacted a wide range of relief programs aimed at countering the effects of the Great Depression. These included direct relief payments to the public through federal grants to states, work programs designed to create jobs, farm subsidies and land-use reforms, rural development and housing projects, and plans for industrial organization and control to instill order on wages, prices, and competitive practices. Many of these programs held out particular promise for African Americans locked in rural poverty, unemployed owing to patterns of segregation and exclusion from certain job categories, or suffering from wage discrimination if employed.

The increasing prominence of black intellectuals and like-minded white progressives turned the public spotlight on Roosevelt's New Deal programs. The black community itself was involved in a very heated debate over the direction of the civil rights movement, notably the issue of segregation. African American journals such as *The Crisis* and *Opportunity* carried numerous articles about segregation. The black scholar, editor, and civil rights activist W. E. B. Du Bois of the NAACP advocated a position of voluntary segregation for blacks, stating that desegregation would not become a reality for a long time. In the meantime, argued

Time Line

1933

- **March 4**
  Franklin Delano Roosevelt takes the oath of office as president of the United States.
- **May 12**
  Congress approves the Agricultural Adjustment Act and the Federal Emergency Relief Act.
- **May 18**
  President Roosevelt signs the Tennessee Valley Authority Act.
- **June 16**
  Congress approves the National Industrial Recovery Act, creating the National Recovery Administration.
- **June**
  Weaver and John P. Davis attend National Recovery Administration hearings in Washington, D.C., to represent black workers.
- **Summer**
  President Roosevelt creates a new position in the Department of the Interior—special adviser on the economic status of Negroes—and Weaver is brought on board as an assistant.

1934

- The Federal Emergency Relief Administration creates the Submarginal Land Purchase Program.

1935

- **March**
  Congress passes the Emergency Relief Appropriations Act.
- **March 19**
  Rioting in Harlem injures fifty-seven residents and seven police officers.
- **May 18–20**
  John P. Davis and Ralph Bunche hold a conference at Howard University titled "The Position of the Negro in Our National Economic Crisis," during which most participants criticize Roosevelt's New Deal programs.
- **July**
  Weaver publishes his essay "The New Deal and the Negro: A Look at the Facts."

Du Bois, blacks should gain the resources they needed in order to unite and have power in the present. Others in the NAACP, including Walter White, took the opposite position, stating that succumbing to segregation was a mistake that only perpetuated the legacy of Jim Crow "separate but equal" discrimination in the South as well as continued segregation in areas of the North.

As African Americans within the Roosevelt administration and in outside organizations evaluated the impacts of various New Deal programs, it became apparent that there were some glaring problems with the implementation and, in some cases, design, of the recovery efforts. African Americans were excluded from certain relief programs entirely, prevented from legitimately claiming benefits in certain cases, and actually grew worse off because of the ways in which various New Deal programs were implemented. Some black intellectuals became increasingly disaffected with the Roosevelt administration. In May 1935 black activists held a conference at Howard University in Washington, D.C., during which most presenters attacked New Deal programs for their negative impacts on African Americans. For instance, Weaver's longtime friend and fellow Harvard graduate John P. Davis a black activist, lawyer, and founding member of the National Negro Congress had penned a sharp condemnation of the Roosevelt administration's representation of blacks in New Deal recovery programs. Titled "A Black Inventory of the New Deal," Davis's article, which was published in the May 1935 issue of *The Crisis*, argued that the relief efforts under President Roosevelt had actually worsened the plight of the African American community. In addition, frustrated blacks in Harlem had rioted in March of the same year, signaling the growing dissatisfaction with government's ability to deal with the problem of African American poverty. In this tension-filled environment, Robert C. Weaver served as a public spokesperson for the White House, writing articles such as "The New Deal and the Negro: A Look at the Facts" to both champion and reveal the inadequacies of the New Deal programs with which he was personally involved.

About the Author

Robert Clifton Weaver was born December 29, 1907, and raised in Washington, D.C., where his father worked for the U.S. Postal Service. He attended the prestigious Paul Laurence Dunbar High School, an elite black school in the nation's segregated capital. Weaver went on to Harvard University, completing his PhD in economics in 1934. In 1933 he joined the incoming Roosevelt administration as part of the Department of the Interior, where he worked on Secretary Harold Ickes's staff. In that capacity, Weaver was instrumental in ensuring that blacks were placed in supervisory roles in the Civilian Conservation Corps, a New Deal program that provided job training and relief for unemployed workers. Weaver also developed an antidiscrimination policy for the Public Works Administration (PWA), which required a minimum number of skilled black

workers on federal projects overseen by this agency. In 1938 Weaver became special assistant in charge of race relations to Nathan Straus, the director of the U.S. Housing Authority. He continued to fight discrimination against African Americans, securing language prohibiting discrimination on the basis of race in PWA housing contracts.

As an increasingly prominent member of the Roosevelt administration, Weaver functioned as a leader in the president's "Black Cabinet." This group of African American advisers gained much publicity (both negative and positive) during the New Deal years, and by the beginning of World War II, Weaver and the other black intellectuals working in Washington had become well known. In 1940, as the United States began to inch its way toward involvement in the war, Weaver was named special administrative assistant on race relations to the Labor Division of the National Defense Advisory Commission, where he worked on the integration of black workers into the war effort. One of the by-products of segregation was the inferior education and job training afforded African Americans, a problem that made it difficult to integrate blacks into the military. On April 11, 1941, Weaver was named chief of the Negro Employment and Training Branch of the Labor Division in order to begin redressing this issue. From 1942 to 1944, he served as chief of the Minority Groups Service in the War Manpower Commission. Weaver retired from federal service on May 1, 1944.

After World War II, Weaver taught at several institutions and was New York's rent commissioner from 1955 to 1959. By 1960 he was a nationally recognized expert in public housing. The following year President John F. Kennedy appointed him administrator of the Housing and Home Finance Agency. Weaver became the first black member of a presidential cabinet when President Lyndon B. Johnson, Kennedy's successor, named him secretary of the newly created Department of Housing and Urban Development in 1966. Weaver retired from government service in 1968 and later served as president of Bernard Baruch College and professor of urban affairs at Hunter College, both in New York City. He died on July 17, 1997.

Explanation and Analysis of the Document

Weaver opens "The New Deal and the Negro: A Look at the Facts" by stating that an intelligent assessment of the New Deal is impossible without considering conditions that existed before its programs were implemented. If, as some argued, the New Deal made matters worse for black Americans, that would require showing that they were better off before the government initiated its relief efforts.

In paragraphs 2 4, Weaver addresses his first subject: unemployment. One of the complaints against Roosevelt's direct relief program, the Federal Emergency Relief Agency (FERA), was that it created a huge mass of black Americans who were barely surviving on government assistance. FERA was established in May 1933, disbursing federal funds to the states for food, child care, blankets, and other

Time Line

1936

- **November** Roosevelt receives overwhelming support from African Americans in the presidential election, winning his bid for a second term in office.

forms of direct relief. With so many African Americans receiving this public assistance, some black leaders worried that government policies were contributing to the development of a permanent black underclass. Weaver argues that the chronic unemployment problem among African Americans was not the result of government policy but of demographic factors. Long-standing practices of segregation and discrimination meant that blacks were primarily employed in farming or domestic service (janitorial work for men and housekeeping for women). Once the economy began to deteriorate, workers in these industries were among the first to be idled, as Weaver notes. Worse yet, recovery in domestic service jobs typically lagged behind other types of work, as employers waited to rehire workers until they were certain of their own financial status.

Weaver shows how government policies have helped and would continue to help black Americans who were disproportionately affected by the depression. Although he states that a general recovery will eventually result in increased demand for domestic workers, he places more emphasis in paragraph 5 on the "creation of direct employment opportunities" for those on relief, which includes agricultural and other workers. FERA included a federal jobs program; Harry Hopkins, head of FERA, was adamant that the government not merely hand out money to those in need but allow Americans to feel that they were earning their government assistance. This philosophy of maintaining the spirit of a work ethic dominated most New Deal programs. Weaver's comments reflect this sentiment as well; using labor union statistics in paragraph 6, he emphasizes the successful reduction in the unemployment rate that federal relief provided, illustrating that many Americans found gainful employment as a result of government programs. Direct aid to the large numbers of blacks on assistance, he says, is a necessary by-product of the economic situation.

In paragraph 7, Weaver acknowledges the existence of "many abuses under the relief set-up." Because FERA gave the states the authority to distribute funds, many states in the segregated South funneled aid only to white recipients. One program, in particular, discriminated against African Americans when it was implemented: the National Recovery Administration (NRA). Created in June 1933, the NRA sought to bring government and industry together to develop guidelines for American manufacturers. The goal was to ensure protection for workers in the form of minimum wages and maximum hours as well as to create conditions that would favor fair competition within industries. Although the majority of black Americans worked in agricultural and

Police round up suspects attempting to flee during the March 1935 Harlem riot. (AP/Wide World Photos)

domestic jobs, which were excluded from the NRA, some two million black workers stood to benefit from the provisions of the NRA. Unfortunately, as southern manufacturers participated in the hearings to develop wage codes and production standards, many of them argued that the NRA codes should allow for regional differences, such as the lower cost of living in their area. In effect, this allowed southern manufacturers to exempt black workers from the codes even though this was not explicitly stated in racial terms. Weaver and fellow Harvard graduate John P. Davis attended many of the NRA hearings in Washington to testify on behalf of black workers. The NAACP and other black rights organizations soon after joined to protect the interests of African Americans in the implementation of the NRA.

In paragraph 8, Weaver points out that the plight of African Americans in the South is particularly troublesome. He notes that just as there were structural problems with respect to domestic workers before the depression, there were inherent problems with the agricultural system in the South before the beginning of the New Deal. Tenant farming, or sharecropping, was a long-standing institution in the rural South. Sharecroppers would rent land from the owner, making payments by using the proceeds from whatever crop they grew or from liens against future crop sales. As agricultural prices fell in the 1920s, sharecroppers either could not make enough money from their crop sales or were simply told by the landowner not to grow anything and leave. As Weaver points out, tenant farmers in the South were already in trouble before the depression.

Although Weaver acknowledges that the problems faced by black farmers in the South arose before the New Deal, he states in paragraph 9 that certain elements of the administration's policies have exacerbated these problems. Specifically, Weaver mentions the crop-reduction programs that were part of the Agricultural Adjustment Administration (AAA). In an effort to boost sagging crop prices and thus help farmers, the Roosevelt administration paid farmers *not* to grow crops on part of their land. The resulting reduction in the supply of a given crop would, it was hoped, raise the price, allowing farmers to earn more money per acre of crop produced. The problem was that tenant farmers suffered immensely: White landowners simply fired them in order to reduce their crop production. Furthermore, although landowners were required by AAA policy to

share their incentive payments with their tenant farmers, few white landowners did so, keeping the money for themselves instead. Weaver remarks that these kinds of abuses were indicative of a resistance "as old as the system," a resistance that reflects the history of slavery and Jim Crow segregation in the South. He uses another example of abuse of a federal assistance program: Following a massive flood of the Mississippi River in 1927, the government provided federal loans to southern farmers to purchase feed, seed, and fertilizer in order to get back on their feet. According to Weaver, similar violations of the law existed then, reflecting a larger problem than the AAA itself.

Weaver argues in paragraph 10 that the solution to the problems facing black tenant farmers in the South lies in changing the sharecropping system itself by providing African Americans with broader opportunities for land ownership. Until the cycle of dependency was broken, Weaver states, government aid programs would not be successful. He mentions "the new program for land utilization, rural rehabilitation, and spreading land ownership" as a possible first step in the right direction. The Roosevelt administration initiated a number of programs aimed at reforming land use and ownership. The National Industrial Recovery Act of 1933 set aside twenty-five million dollars for developing "subsistence homesteads," which were family farms located near urban centers. Specifically designed not to compete with commercial agricultural enterprises, these homesteads were intended to allow workers to produce enough to feed themselves and their families while finding part-time employment in a nearby industrial center. The subsistence homestead was one New Deal approach to ending the cycle of rural poverty in the South.

In 1934 FERA created its Submarginal Land Purchase Program. Under this aid program, the federal government would help farmers who were living on poor-quality land to relocate, allowing the government to retire land that was no longer productive for agricultural purposes. Another program was the Tennessee Valley Authority, created to bring a number of improvements to the Tennessee River valley area, including flood control and electrical power for the region. In addition to these infrastructure projects, the Tennessee Valley Authority set aside funds for building planned communities that were envisioned as being self-sustaining through a mix of agricultural and industrial production.

The "new program" to which Weaver refers is the Emergency Relief Appropriations Act, passed in March 1935. This law created the Resettlement Administration, a new agency that took over the Subsistence Homestead program, FERA's and AAA's land use functions, and other programs related to rural rehabilitation and land distribution. Weaver comments that these programs would help African Americans only if they could sidestep the kind of systemic patterns of discrimination historically experienced by other such reforms. In fact, the Resettlement Administration became highly controversial by 1936, as charges of government efforts to socialize land distribution led the agency to abandon many of its more ambitious efforts to change patterns of land ownership in the South.

Weaver then states in paragraph 11 that the New Deal benefited African Americans in three key areas: housing, employment, and education. The first agency he singles out as an example of success is the PWA, created in 1933 as part of the National Industrial Recovery Act. The PWA invested federal funds in infrastructure projects, such as road and bridge building, in order to create jobs for unemployed urban Americans. Another important component of the program was its development of public housing. As Weaver notes in paragraphs 12 and 13, several of these housing developments were targeted for poor urban black communities. Weaver's statements regarding the planned projects illustrate the segregated nature of American society during the 1930s. The first federal housing projects in the nation were developed in Atlanta. The University project, located near Spelman and Morehouse colleges, was designated for black residents only. At this point in the article, Weaver does not mention Techwood, which was a whites-only project built at the same time. Thurman Street was another blacks-only project located in Alabama. Some black activists, notably John P. Davis, criticized the PWA for perpetuating segregation in the South through these kinds of housing projects.

As a Department of the Interior employee, Weaver was actively involved in devising policies related to the implementation of PWA programs. Largely as a result of his efforts, PWA housing contracts were modified to include the clause he describes in paragraph 14, which required that these contracts employ a certain percentage of black skilled workers. The percentage for each contract was based on the percentage of African Americans who belonged to a given occupational category in the 1930 census. Weaver and his staff calculated the required quota for each contract based on the census data for a given community and monitored contractors to ensure compliance. Weaver's efforts were highly successful, allowing African Americans to have access to union jobs that had formerly remained closed to them. Here, he uses the Techwood development, the all-white housing project in Atlanta, as a case study. Even though the project employed a significant number of black workers, it failed to mirror the actual proportion of skilled black workers in the area. Still, Weaver remains positive in his assessment of his efforts to promote what later became known as affirmative action.

Beginning with paragraph 15, Weaver addresses the second of the key benefits of New Deal programs for African Americans: education. FERA included funding for an Emergency Education Program aimed at helping unemployed teachers. Like many New Deal benefits, this program sought to provide alternative work opportunities rather than direct financial aid. The program reemployed teachers in a number of areas, including literacy education, vocational training, and general education courses for adults in a wide variety of subjects that might help them develop outside interests or new skills. Some of the funds, however, were used as direct aid in the form of emergency salaries to particularly impoverished rural communities. These communities were predominantly populated by African Americans. Weaver notes that government spend-

Essential Quotes

"The present economic position of the colored citizen was not created by recent legislation alone. Rather, it is the result of the impact of a new program upon an economic and social situation."

(Paragraph 1)

"Although it is regrettable that the economic depression has led to the unemployment of so many Negroes and has threatened the creation of a large segment of the Negro population as a chronic relief load, one is forced to admit that Federal relief has been a godsend to the unemployed."

(Paragraph 6)

"We can admit that we have gained from the relief program and still fight to receive greater and more equitable benefits from it."

(Paragraph 7)

"In the execution of some phases of the Recovery Program, there have been difficulties, and the maximum results have not been received by the Negroes. But, given the economic situation of 1932, the New Deal has been more helpful than harmful to Negroes."

(Paragraph 17)

ing on emergency aid in these rural southern areas breaks the trend seen in other New Deal programs, where the "status quo," the result of the legacies of slavery and Jim Crow segregation, led to abuse and discrimination. The fact that the South spent proportionately more on this type of assistance than the percentage of blacks in the population shows Weaver that, at least in the area of education, southern states saw the need for overcoming these legacies.

In paragraph 16, Weaver mentions the FERA college scholarship program, which made funds available to employ some 10 percent of students part time at public universities. These funds were administered by each university's administration and allowed many students who could otherwise not afford to attend college to do so. He states that black and white students appear to have benefited equally from this particular program.

Last, Weaver turns to New Deal programs designed to spur employment. In paragraph 17, he reiterates many of his earlier arguments, returning to his case for structural forces causing the economic woes facing African Americans; in his words, "the New Deal has been more helpful than harmful to Negroes." Weaver changes the tenor of his argument in the latter part of his essay; he states that African Americans have found jobs within the Roosevelt administration, making the point that the New Deal programs themselves have created new and lucrative positions for African Americans like himself. He notes the fifteen jobs created by his own Department of the Interior and the PWA and then extends his evidence to include the various staffers and clerical workers in the White House. Weaver was also concerned with providing benefits to black professionals through his role with the Department of the Interior and the PWA. He comments that federal housing projects have included the services of black architects and technicians, arguing that the New Deal programs have increased employment opportunities for professional blacks. Weaver closes with a claim of the promises of the New Deal to help African Americans and calls for an "intelligent appraisal" of the facts in order to accurately assess the recovery plan's efficacy as well as the areas for improvement.

Audience

Weaver's essay was published in the July 1935 issue of *Opportunity*, the journal of the National Urban League. The magazine was one of several mainstream publications targeting black readers, but white liberals interested in fighting discrimination also read it. *Opportunity* and the other journals, including *The Crisis*, had published a number of articles critical of President Roosevelt's New Deal programs. Weaver wrote his essay in part to counter these negative portrayals of the administration's policies.

Weaver's audience was educated, politically progressive, and reform minded. The fact-driven nature of his essay reflects his understanding of this audience; Weaver assumed that readers of *Opportunity* would want to see detailed evidence supporting his assertions that government programs were, in fact, helping to alleviate the problems facing black Americans. He also acknowledges that an "intelligent appraisal" of these programs would improve their implementation in many respects. This type of measured assessment, which draws on evidence rather than emotional appeal, would have appealed to the journal's readers.

Impact

Weaver wrote numerous articles that were published in prominent black magazines such as *The Crisis* and *Opportunity*, as well as pieces for scholarly publications such as the *Journal of Education*. As an insider in the Roosevelt administration, he wrote as an advocate of the president's New Deal programs, but he also pointed out their flaws. In this essay and others, Weaver was careful not only to demonstrate the positive attributes of recovery initiatives but also to indicate where improvements were already being made and could be made in the future.

Weaver's essay provided an effective counter to the more critical articles on the New Deal appearing in black periodicals during the 1930s. African Americans shifted their electoral support to the Democratic Party in 1936, voting overwhelmingly for Roosevelt in that year's presidential election, despite having voted primarily Republican just four years earlier. Many historians believe that even with the criticisms of Roosevelt's New Deal in *The Crisis* and *Opportunity*, African Americans believed, for the most part, that the recovery programs had helped them. Articles such as Weaver's, showing the tangible benefits of New Deal programs as well as the reality of their flaws and limitations, helped to maintain Roosevelt's overwhelmingly positive image in the black community.

See also John P. Davis: "A Black Inventory of the New Deal" (1935).

Further Reading

Articles

Hill, Walter B., Jr. "Finding a Place for the Negro: Robert C. Weaver and the Groundwork for the Civil Rights Movement." *Prologue* 37, no. 1 (Spring 2005): 42 51.

Questions for Further Study

1. Summarize the events and economic developments that gave rise to Weaver's "The New Deal and the Negro: A Look at the Facts."

2. In the 1930s a number of observers referred to the New Deal as a "raw deal" for African Americans. On what basis did they make that judgment? How and why did the Great Depression disproportionately affect African Americans?

3. Compare this document with John P. Davis's "A Black Inventory of the New Deal," written the same year. To what extent do the two writers' positions differ? Are their arguments similar in any significant ways? Explain.

4. In the modern era, African Americans have tended to heavily support Democrats for high office, particularly the presidency. Why did African American allegiance shift from the Republican Party ("the party of Lincoln") to the Democrats during the 1930s?

5. Using this document and the events surrounding it alongside Davis's "A Black Inventory of the New Deal" and A. Philip Randolph's "Call to Negro America to March on Washington for Jobs and Equal Participation in National Defense" (1941), prepare a time line of key economic events that affected African Americans (and all Americans) throughout the 1930s and 1940s.

Books

Kirby, John B. *Black Americans in the Roosevelt Era: Liberalism and Race*. Knoxville: University of Tennessee Press, 1980.

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Web Sites

"African Americans." New Deal Network Web site.
http://newdeal.feri.org/texts/browse.cfm?MainCatID=40.

"'Please Help Us Mr. President': Black Americans Write to FDR." History Matters Web site.
http://historymatters.gmu.edu/d/137/.

Karen Linkletter

Document Text

Robert Clifton Weaver: "The New Deal and the Negro: A Look at the Facts"

It is impossible to discuss intelligently the New Deal and the Negro without considering the status of the Negro prior to the advent of the Recovery Program. The present economic position of the colored citizen was not created by recent legislation alone. Rather, it is the result of the impact of a new program upon an economic and social situation.

Much has been said recently about the occupational distribution of Negroes. Over a half of the gainfully employed colored Americans are concentrated in domestic service and farming. The workers in these two pursuits are the most casual and unstable in the modern economic world. This follows from the fact that neither of them requires any great capital outlay to buy necessary equipment. Thus, when there is a decline in trade, the unemployment of workers in these fields does not necessitate idle plants, large depreciation costs, or mounting overhead charges. In such a situation, the employer has every incentive to dismiss his workers; thus, these two classes are fired early in a depression.

The domestic worker has loomed large among the unemployed since the beginning of the current trade decline. This situation has persisted throughout the depression and is reflected in the relief figures for urban communities where 20 per cent of the employables on relief were formerly attached to personal and domestic service. Among Negroes the relative number of domestics and servants on relief is even greater.…

In … [a sample of 30 American] cities, 43.4 per cent of the Negroes on relief May 1, 1934, were usually employed as domestics. The demand for servants is a derived one; it is dependent upon the income and employment of other persons in the community. Thus, domestics are among the last rehired in a period of recovery.

The new work program of the Federal Government will attack this problem of the domestic worker from two angles. Insofar as it accelerates recovery by restoring incomes, it will tend to increase the demand for servants. More important, however, will be its creation of direct employment opportunities for all occupational classes of those on relief.

Although it is regrettable that the economic depression has led to the unemployment of so many Negroes and has threatened the creation of a large segment of the Negro population as a chronic relief load, one is forced to admit that Federal relief has been a godsend to the unemployed. The number of unemployed in this country was growing in 1933. According to the statistics of the American Federation of Labor, the number of unemployed increased from 3,216,000 in January, 1930, to 13,689,000 in March, 1933. In November, 1934, the number was about 10,500,000, and although there are no comparable current data available, estimates indicate that current unemployment is less than that of last November. Local relief monies were shrinking; and need and starvation were facing those unable to find an opportunity to work. A Federal relief program was the only possible aid in this situation. Insofar as the Negro was greatly victimized by the economic developments, he was in a position to benefit from a program which provided adequate funds for relief.

It is admitted that there were many abuses under the relief set-up. Such situations should be brought to light and fought. In the case of Negroes, these abuses undoubtedly existed and do exist. We should extend every effort to uncover and correct them. We can admit that we have gained from the relief program and still fight to receive greater and more equitable benefits from it.…

The recent depression has been extremely severe in its effects upon the South. The rural Negro poor before the period of trade decline was rendered even more needy after 1929. Many tenants found it impossible to obtain a contract for a crop, and scores of Negro farm owners lost their properties. The displacement of Negro tenants (as was the case for whites) began before, and grew throughout the depression. Thus, at the time of the announcement of the New Deal, there were many families without arrangements for a crop an appreciable number without shelter.…

The problems facing the Negro farmer of the South are not new. They have been accentuated by the crop reduction program. They are, for the most part, problems of a system, and their resistance to reform is as old as the system. This was well illustrated by the abuses in the administration of the Federal feed, seed, and fertilizer laws in 1928 1929. These abuses were of the same nature as those which con-

front the A.A.A. [the Agricultural Adjustment Administration] in its dealings with Negro tenants.

The southern farm tenant is in such a position that he cannot receive any appreciable gains from a program until steps are taken to change his position of absolute economic dependence upon the landlord. Until some effective measure for rehabilitating him is discovered, there is no hope. The new program for land utilization, rural rehabilitation, and spreading land ownership may be able to effect such a change. Insofar as it takes a step in that direction, it will be advantageous to the Negro farmer. The degree to which it aids him will depend upon the temper of its administration and the extent to which it is able to break away from the *status quo*.

In listing some of the gains which have accrued to Negroes under the New Deal, there will be a discussion of three lines of activity: housing, employment, and emergency education. These are chosen for discussion because each is significant in itself, and all represent a definite break from the *status quo* in governmental activity, method, and policy. They do not give a complete picture; but rather, supply interesting examples of what is, and can be, done for Negroes.

The Housing Division of the Federal Emergency Administration of Public Works has planned 60 Federal housing projects to be under construction by December 31, 1935. Of these, 28 are to be developed in Negro slum areas and will be tenanted predominantly or wholly by Negroes. Eight additional projects will provide for an appreciable degree of Negro occupancy. These 36 projects will afford approximately 74,664 rooms and should offer accommodations for about 23,000 low income colored families. The estimated total cost of these housing developments will be $64,428,000, and they represent about 29 per cent of the funds devoted to Federal slum clearance developments under the present allotments.

Projects in Negro areas have been announced in seven cities: Atlanta, Cleveland, Detroit, Indianapolis, Montgomery, Chicago, and Nashville. These will cost about $33,232,000, and will contain about 20,000 rooms. Two of these projects, the University development at Atlanta and the Thurman Street development in Montgomery, are under construction. These are among the earliest Federal housing projects to be initiated by the P.W.A.

After a series of conferences and a period of experience under the P.W.A., it was decided to include a clause in P.W.A. housing contracts requiring the payment to Negro mechanics of a given percentage of the payroll going to skilled workers. The first project to be affected by such a contractual clause was the Techwood development in Atlanta, Georgia. On this project, most of the labor employed on demolition was composed of unskilled Negro workers. About 90 per cent of the unskilled workers employed laying the foundation for the Techwood project were Negroes, and, for the first two-month construction period, February and March, 12.7 per cent of the wages paid [to] skilled workers was earned by Negro artisans.…

Under the educational program of the F.E.R.A., out of a total of 17,879 teachers employed in 13 southern states, 5,476 or 30.6 per cent were Negro. Out of a total of 570,794 enrolled in emergency classes, 217,000 or 38 per cent were Negro. Out of a total of $886,300 expended in a month (either February or March, 1935) for the program, Negroes received $231,320 or 26.1 per cent. These southern states in which 26.1 per cent of all emergency salaries were paid to Negro teachers, ordinarily allot only 11.7 per cent of all public school salaries to Negro teachers. The situation may be summarized as follows: Six of the 13 states are spending for Negro salaries a proportion of their emergency education funds larger than the percentage of Negroes in those states. The area as a whole is spending for Negro salaries a proportion of its funds slightly in excess of the percentage of Negroes in the population. This development is an example of Government activity breaking away from the *status quo* in race relations.

There is one Government expenditure in education in reference to which there has been general agreement that equity has been established. That is the F.E.R.A. college scholarship program. Each college or university not operated for profit, received $20 monthly per student as aid for 12 per cent of its college enrollment. Negro and white institutions have benefited alike under this program.

In the execution of some phases of the Recovery Program, there have been difficulties, and the maximum results have not been received by the Negroes. But, given the economic situation of 1932, the New Deal has been more helpful than harmful to Negroes. We had unemployment in 1932. Jobs were being lost by Negroes, and they were in need. Many would have starved had there been no Federal relief program. As undesirable as is the large relief load among Negroes, the F.E.R.A. has meant much to them. In most of the New Deal set-ups, there has been some Negro representation by competent Negroes. The Department of the Interior and the P.W.A. have appointed some fifteen Negroes to jobs of responsibility which pay good salaries. These per-

Document Text

sons have secretarial and clerical staffs attached to their offices. In addition to these new jobs, there are the colored messengers, who number around 100, and the elevator operators for the Government buildings, of whom there are several hundred. This is not, of course, adequate representation; but it represents a step in the desired direction and is greater recognition than has been given Negroes in the Federal Government during the last 20 years. Or again, in the Nashville housing project, a Negro architectural firm is a consultant; for the Southwest side housing project in Chicago, a Negro is an associate architect. One of the proposed projects will have two Negro principal architects, a Negro consultant architect, and a technical staff of about six Negro technicians. In other cities competent colored architects will be used to design housing projects.

This analysis is intended to indicate some advantages accruing to the Negro under the Recovery Program, and to point out that the New Deal, insofar as it represents an extension of governmental activity into the economic sphere, is a departure which can do much to reach the Negro citizens. In many instances it has availed itself of these opportunities. An intelligent appraisal of its operation is necessary to assure greater benefits to colored citizens.

Glossary

American Federation of Labor	an umbrella organization for a number of labor unions
crop reduction program	a federal program that paid farmers not to raise crops as a way of boosting crop prices by decreasing supply
F.E.R.A.	the Federal Emergency Relief Administration, a New Deal government agency whose goal was to provide relief to unemployed workers and their families
New Deal	the name given to the legislative initiatives of the Roosevelt administration to alleviate the effects of the Great Depression
P.W.A.	the Public Works Administration, a New Deal government agency whose goal was to increase employment by funding public works projects

Charles Hamilton Houston's "Educational Inequalities Must Go!"

1935

"The ultimate objective of the association is the abolition of all forms of segregation in public education."

Overview

In October 1935 Charles Hamilton Houston published "Educational Inequalities Must Go!" in *The Crisis*, the official publication of the National Association for the Advancement of Colored People (NAACP). His purpose was to announce the long-range, carefully orchestrated legal strategy that would culminate with the U.S. Supreme Court's 1954 ruling in *Brown v. Board of Education of Topeka*, which held that segregation in public education was unconstitutional. The NAACP had been established in 1909 to fight for equal rights for African Americans. During the first twenty-five years of its operations, it relied on lobbying, demonstrations, and public education to promote its objectives. Litigation was deployed on a case-by-case basis, and some significant victories were won.

In the early 1930s, the NAACP embarked on a dramatic change in direction. The organization's leaders decided to launch a legal campaign in which court cases would be used systematically to attack segregation. The organization hired Houston, who was then the dean of Howard University's law school, to lead the campaign in 1935. In "Educational Inequalities Must Go!" Houston announced the beginning of the legal campaign.

Context

In 1896 the U.S. Supreme Court ruled in *Plessy v. Ferguson* that laws requiring segregation in public transportation did not violate the Fourteenth Amendment to the U.S. Constitution as long as the separate facilities provided for blacks were equal to those available to whites. By the 1930s segregation was firmly entrenched, especially in the South, where schools, restaurants, hotels, theaters, and public transportation were segregated. Elevators, parks, public restrooms, hospitals, drinking fountains, prisons, and places of worship were also segregated. Whites and blacks were born in separate hospitals, educated in separate schools, and buried in segregated graveyards.

Segregation was codified in state and local laws, and lynching and other forms of racial violence were routine. There were, in effect, two criminal justice systems: one for whites and another for blacks. In the North, African Americans resided in segregated neighborhoods that were perpetuated by "redlining" (the practice of drawing a red line on a map around black neighborhoods) and racially restrictive covenants that prohibited white homeowners from selling their homes to blacks. There were "black jobs" and "white jobs," with African Americans confined to the lowest-paying and least desirable occupations.

In 1922 Charles Garland, the son of a Boston millionaire, donated $800,000 to establish a fund to support radical causes. The Garland Fund, as it became known, was administered by a group of liberal activists that included James Weldon Johnson, the executive secretary of the NAACP, and Roger Baldwin, the founder of the American Civil Liberties Union, as well as the civil liberties lawyer and free speech advocate Morris Ernest, the *New York Herald* columnist Lewis Gannett, and the Socialist Party leader Norman Thomas. Garland turned over his inheritance with a request that it be given away as quickly as possible to unpopular causes, without regard to race, creed, or color. A Committee on Negro Work was formed, and it recommended that the fund award a grant of $100,000 to the NAACP to carry out a large-scale legal campaign to secure the constitutional rights of southern blacks. The grant was announced with an explanation that it would be used to defend civil liberties and assist in campaigns against specific handicaps facing African Americans, including the unequal apportionment of school funds, the barring of blacks from juries, Jim Crow laws, racially restrictive covenants, and disenfranchisement. The NAACP indicated that it would find a lawyer to review the relevant legal authorities, develop an overall strategy, and supervise the handling of the cases that would be filed.

The NAACP hired a recent Harvard graduate, Nathan Margold, to survey the laws requiring segregation and to recommend how a legal challenge might be mounted. The Margold Report, as it became known, contained a comprehensive analysis of laws and applicable legal precedents beginning with *Plessy v. Ferguson*. After analyzing the post-*Plessy* decisions, the report worked its way through the laws governing segregation up to the 1930s. Despite the weight of legal precedent supporting segregation, Margold suggested a means by which the legal obstacles might be

Time Line

1895

- **September 3**
  Charles Hamilton Houston is born in Washington, D.C.

1896

- **May 18**
  The U.S. Supreme Court rules in *Plessy v. Ferguson* that laws requiring segregated facilities do not violate the U.S. Constitution.

1919

- Houston enrolls in Harvard Law School.

1923

- After graduating from Harvard Law School, Houston earns a doctor of juridical science degree from Harvard and wins a fellowship to study in Spain at the University of Madrid, where he earns a doctor of civil law degree.

1924

- Houston is admitted to the bar of the District of Columbia.

1929

- **July 1**
  Houston is appointed vice dean of the Howard University School of Law.

1935

- Houston joins the National Association for the Advancement of Colored People (NAACP) as special counsel.
- **October**
  Houston publishes "Educational Inequalities Must Go!" in *The Crisis*.

1936

- **January 15**
  In *Pearson v. Murray* the Maryland Court of Appeals upholds a lower court ruling that the University of Maryland must admit African Americans to its law school if there is no other law school available to them.

overcome. He concluded that the "separate but equal" doctrine as practiced was unconstitutional. In the case of public schools, for example, conspicuous inequalities existed in the resources allocated to white schools compared with those provided to schools that served black students. However, there were Supreme Court decisions holding that absolute equality in funding was not required as long as some provision was made for both races. Margold's main conclusion was that segregation as practiced was unconstitutional under the rationale in *Plessy*. The system was, in reality, separation *and* discrimination, for the facilities provided for blacks were always separate but never equal. Margold contended that segregation coupled with discrimination resulting from governmental actions was as much a denial of equal protection of the laws as was segregation coupled with discrimination required by an explicit statutory enactment.

Margold took a job with the U.S. Department of the Interior in 1933, so the NAACP began searching for a full-time attorney to conduct the campaign. After considering several candidates, Walter White, the NAACP's executive director, chose Charles Houston as the ideal candidate for the position. Houston concluded that Margold's legal analysis was sound, but the 1930s courts were not prepared to respond favorably to a direct challenge to *Plessy*; consequently, a different legal strategy was devised, one that would be far more gradual and methodical than the direct challenge Margold proposed. Thus, the strategy that was adopted was not to ask the courts to overturn *Plessy* but to insist that blacks be treated equally with whites.

A few months before he joined the NAACP, Houston prepared a memorandum for the Garland Fund and the NAACP in which he outlined the equalization strategy. By this time, it was known that only $10,000 of the original $100,000 grant would be forthcoming, based on losses that had occurred during the Great Depression. With this tiny budget, Houston set out to transform the foundations of the American legal system.

Because of the diminished grant funds, the NAACP lowered its sights to legal challenges against discrimination in education and public transportation. After considering what the legal campaign would entail, however, Houston recommended an even narrower focus. He noted in a memorandum that a budget of $10,000 would make it exceedingly difficult to execute an effective program on a national scale on both issues. Although resources would be severely limited, Houston predicted that carefully targeted suits would stimulate public interest and encourage the affected communities of African Americans to continue the fight for equal rights after the NAACP led the way with test cases.

Houston presented two separate budget proposals. One was based on an assumption that the entire effort would focus on education cases. The second proposed an equal division of the funds between education and transportation litigation. Houston believed that education was the more important goal because of the immediate benefits the black community would receive. He thus recommended a two-pronged attack: The first involved the unequal apportion-

ment of school funds. The second focused on disparities in teacher salaries. Houston explained that his goal was to work out model procedures that the local communities could apply to similar cases in the future.

About the Author

Charles Hamilton Houston was born in Washington, D.C., on September 3, 1895. His father, William Houston, was a lawyer who had obtained a law degree from Howard University, while his mother, Mary Houston, was a hairdresser. Houston attended segregated public schools in Washington before enrolling at Amherst College in Massachusetts in 1911. He was elected to Phi Beta Kappa during his senior year, and he delivered one of the commencement addresses. After graduating in 1915, Houston returned to Washington without any specific plans for a career. When the United States entered World War I, Houston decided to join the military. He enlisted in the segregated officers training corps that was established in Fort Des Moines, Iowa. In October 1917, Houston was among the 440 African Americans who received commissions as officers in the U.S. Army. At Fort Meade, Houston and the other black officers were harassed, humiliated, and subjected to the army's institutionalized racism, which continued after they were shipped to France.

Houston was almost lynched in France when he and a companion stumbled upon a heated dispute between a black serviceman and a group of white American soldiers. Houston and his companion found themselves surrounded by an angry mob of soldiers who shouted racial epithets and threats. The hostilities ended only after a military policeman intervened and restored order. Houston never forgot the incident and pledged at that point never to be caught again without knowing his rights. He would study law and fight for the rights of African Americans.

After his tour of duty, Houston enrolled in Harvard Law School in 1919. During his first year he joined the staff of the prestigious *Harvard Law Review*, an honor accorded to a limited number of students who receive the highest grades. Houston's performance on the *Law Review* staff resulted in his election to the editorial board, making him the first African American student to serve in that capacity.

In 1922 Houston graduated cum laude. The following fall he became a candidate for the advanced degree of doctor of juridical science. He received that degree in 1923 and was awarded a Sheldon Traveling Fellowship, which he used to study law at the University of Madrid in Spain through 1924. In addition to studying international law, Houston used the time abroad to travel in Europe and North Africa. He returned to Washington, was admitted to practice in the District of Columbia, and joined his father's law firm as well as the faculty at Howard Law School.

Houston was appointed resident vice dean in charge of the law school on July 1, 1929. He began almost immediately to upgrade the facility's quality of instruction. By late 1930 the law school employed four full-time professors and one full-time librarian, had developed a library of ten thousand volumes, and was fully accredited by the American Bar Association. In 1931 the school was elected to membership by the American Association of Law Schools. Houston's plans went beyond improving legal education for African American students. He intended to train a generation of black lawyers who would serve on the front lines in the war against discrimination. He urged his students to become highly skilled social engineers with a strong commitment to social justice and to use the Constitution as an engine of progress. Under Houston's leadership, the Howard Law School became the West Point of the civil rights movement.

Time Line

1938

- **November 12**
  In *Missouri ex rel. Gaines v. Canada*, the U.S. Supreme Court rules that Missouri must educate African American law students within its state borders.

1948

- **January 12**
  In *Sipuel v. Board of Regents of Oklahoma*, the U.S. Supreme Court rules that if a state does not have a law school for black students, it must admit them to its white law school.

1950

- **April 22**
  Houston dies in Washington, D.C.
- **June 5**
  In *McLaurin v. Board of Regents of Oklahoma*, the U.S. Supreme Court rules that students in graduate schools of education must be treated equally. That same day, in the case of *Sweatt v. Painter*, the Court rules that a separate law school in Texas for black students is not equal and that African Americans must be admitted to the white law school.

1954

- **May 17**
  The Supreme Court rules in *Brown v. Board of Education* that the "separate but equal" doctrine violates the Fourteenth Amendment guarantee of equal protection.

Norman Thomas, Socialist Party leader and one of the board members of the Garland Fund (Library of Congress)

Houston applied for a leave of absence from Howard and moved to New York in 1935 to join the NAACP, where he developed the legal strategy that would be used to attack the "separate but equal" doctrine in higher education. In this position, he was intimately involved with several landmark cases that chipped away at the doctrine. He died on April 22, 1950, before his efforts could bear full fruit in the Supreme Court decision in *Brown v. Board of Education*.

Explanation and Analysis of the Document

In this 1935 article published in *The Crisis*, Houston announces what would become the NAACP's legal strategy. The approach was carried out over several years in hundreds of cases and ultimately resulted in the reversal of the *Plessy* doctrine and the end of formal segregation. Focusing on inequalities in education, Houston proposes that a series of suits be filed demanding that states comply with the letter of *Plessy* by providing equal allocations of financial and other resources for black students in segregated schools.

Houston's essay is relative simple and uncomplicated. In the opening sentence, he vigorously announces the NAACP's intention: "The National Association for the Advancement of Colored People is launching an active campaign against race discrimination in public education." He explains that the NAACP's campaign would encompass all levels of education, from elementary school to graduate school, and he notes that the organization had already begun legal action to have African American students admitted to graduate schools in Maryland and Virginia efforts that would culminate in such cases as *Pearson v. Murray* in 1936. The goal was to end segregation in education but, failing that, to ensure that black schools were made equal to those attended by white students in terms of facilities, funding, and faculty. This was what was meant by the equalization strategy using the "separate but equal" doctrine of the *Plessy* case against itself by demanding the "equal" part of "separate but equal."

◆ "Linked to Other Objectives"

In this section, Houston notes that the NAACP's campaign was one component of a wider effort to dismantle the Jim Crow system the formal and informal system of segregation and discrimination that had been in place since the late nineteenth century. He states, "It ties in with the antilynching fight because there is no use educating boys and girls if their function in life is to be the playthings of murderous mobs." Houston continues by pointing out that educational improvements had to be part of a broader effort to improve all aspects of blacks' lives, and he regrets the impact of the Great Depression of the 1930s on skilled black workers, who often lost their jobs first because they had been the ones most recently hired.

◆ "Specific Objectives"

In this section, Houston specifies the NAACP's plan of attack, including the objective of equality in school terms, payment of teachers, transportation of students, buildings and equipment, per capita spending for students, and graduate and professional training. He goes on to explain that inequalities existed in both segregated and nonsegregated schools. Even in those schools that were integrated, African American teachers encountered professional obstacles, and black students were often, for example, denied access to extracurricular activities. At the graduate school level, segregation was largely confined to the South. He concludes this section of the article by arguing that the U.S. Supreme Court had supported this uneven system in ruling that "separate but equal" schools did not violate the equal protection clause of the Fourteenth Amendment, citing indirectly the 1896 case of *Plessy v. Ferguson*. In the decades that followed, this landmark case played a key role in maintaining the Jim Crow system that reduced African Americans to second-class status.

◆ "Inequalities Glaring"

In "Inequalities Glaring," Houston cites examples of educational inequities, often by referring to the findings of other researchers. He notes in particular the "glaring" imbalance in funding for white and black schools. The disparities were bad enough in 1900, but by the time Houston was writing, they had worsened sometimes by a factor of twenty. In the

Federal employees waiting for treatment at a Public Health Service dispensary with clearly marked waiting rooms for blacks and whites (Library of Congress)

mid-1930s, as many as 230 U.S. counties made no provision for educating African American students of high school age.

◆ "No Graduate Training"

In "No Graduate Training," Houston observes that in seventeen southern states, black students had no opportunities for professional or graduate study, though some states did provide scholarship funds, often inadequate, to send black students to other states willing to admit them. This problem, in Houston's view, was easy to attack from a legal perspective. In the South, certain states provided separate elementary schools, high schools, and colleges for black and white students, but difficulties arose in comparing the extent to which facilities were or were not truly equal. When a state funded white graduate students but provided no funding for black students, the inequality was clear and easier to confront. For this reason, the NAACP's immediate focus would be on graduate education.

◆ "Unwise Attempt"

In this section, Houston describes one such case, that involving a young black woman trying to gain admission to graduate school at the University of Virginia. He quotes Virginia newspapers that conceded that the student had an "abstract" right to attend the university, but they questioned why she would want to attend school where she was "not wanted." Houston asserts that because the university was a public institution, this question was irrelevant. Further, he responds to the notion that attending a school where they were not wanted could damage black students' "self-respect," noting that students could retain their self-respect by asserting their constitutional rights. They might have to endure "snubs and insults," but they had to do so in other settings throughout the South all the time. Houston concludes this section by leveling criticism at white southern "liberals" who paid "lip service" to equal rights; these same southerners expressed concern that the NAACP's actions would disturb "amicable race relations" and thus took no action to ensure that "amicable" relations are based on equal rights.

◆ "Cannot Surrender Rights"

The final section of Houston's article picks up the theme of "amicable race relations" by suggesting that the

goal of the NAACP was to ensure that everyone be treated equally under the law and enjoy equality of opportunity. He says that the issue was not whether blacks and whites could get along when blacks are subordinated but rather whether they could get along when blacks "insist on sharing with whites the rights and advantages to which they are lawfully entitled." Amicable race relations have to be founded on "dignity and self-respect," not on the surrender of constitutional rights. Houston concludes by reassuring readers that the NAACP was not a "special pleader" in the long fight ahead; it was merely insisting that the Supreme Court enforce the Constitution.

Audience

The Crisis magazine was delivered each month to members of the NAACP and circulated widely in African American communities throughout the nation. The audience for "Educational Inequalities Must Go!" included members of the NAACP and their supporters. It was directed to a lay audience, written in a straightforward manner, and did not include any legal jargon.

Impact

As a result of Houston's article, the NAACP and its supporters were girded for battle. Not long after Houston joined the NAACP, one of his most significant cases began to unfold in Baltimore, Maryland. Donald Gaines Murray applied for admission to the law school at the University of Maryland in 1935, but fifteen years earlier Maryland had approved legislation that required racially segregated schools. Thus, he was rejected because of his race. The facilities provided for Maryland's black students were far below the standards of those provided for white students. University officials suggested that Murray apply to the all-black Princess Anne Academy, but it had limited facilities for college training and no facilities of any sort for graduate training.

One of Houston's former students, Thurgood Marshall, had established a law practice in Baltimore. After he became aware of efforts to desegregate the University of Maryland campus, Marshall wrote to Houston and asked whether the NAACP would be interested in the case. Donald Murray, the prospective black law student, was the ideal candidate to bring a legal case, for he was articulate and had strong educational credentials. Houston decided to take the case.

Houston filed a civil action in Baltimore City Court against the University of Maryland. Houston and Marshall handled the trial. At the conclusion of the proceedings, the judge held that Maryland had a legal obligation to provide the same educational opportunities for black students as those available to white students. Because the state had failed to comply with its constitutional obligation, the judge issued an order compelling the University of Maryland to admit Murray. The decision was affirmed by the Maryland Court of Appeals in *Murray v. Pearson* in 1936.

A similar case, *Missouri ex rel. Gaines v. Canada*, was filed in Missouri. Initially, at the state court level, Houston lost; the court held that Missouri's out-of-state scholarships for black students satisfied its obligation under *Plessy*. On appeal, though, the U.S. Supreme Court held in 1938 that the scholarships did not meet the state's constitutional obligation and ordered the admission of the black student.

With the U.S. entry into World War II in 1941, the NAACP's attention was diverted to other matters, including teacher salary cases and the defense of African Americans serving in the military. When the war ended in 1945, the focus returned to education. By this time, Thurgood Marshall had succeeded Houston at the NAACP. Houston was practicing law in Washington, but he handled several civil rights cases and continued to provide guidance and direction to Marshall. In 1946 the NAACP filed suit against the University of Oklahoma. In 1948 in *Sipuel v. Board of Regents*, the U.S. Supreme Court held that Oklahoma, which did not have a law school for black students, was obligated to provide legal instruction to them. A similar case, *Sweatt v. Painter*, was filed in Texas, and another case, *McLaurin v. Board of Regents*, was brought in Oklahoma in response to the treatment black students endured after *Sipuel*. The Supreme Court issued decisions in both cases on the same day in 1950.

In *McLaurin*, the Court ruled that separate seating in classrooms and separate libraries and other facilities violated the Fourteenth Amendment because these arrangements "handicapped" black students in their efforts to pursue their studies. In *Sweatt v. Painter*, the Court held that a separate law school established in Houston for black students was not equal to the University of Texas Law School in Austin. Intangible features such as reputation of the school and interactions of students could not be replicated in a separate school, so the Court ordered the admission of Heman M. Sweatt, the African American applicant named as the plaintiff in the case. As the NAACP lawyers hoped, these opinions acknowledged the stigmatic and other intangible injuries that segregation caused, but they stopped short of reversing *Plessy*.

After the rulings in *Sweatt* and *McLaurin*, the NAACP lawyers decided that an adequate foundation for a direct challenge to *Plessy* had been established and that it was time to abandon the "equalization" approach. Six cases were filed in five jurisdictions: *Brown v. Board of Education* in Topeka, Kansas; *Briggs v. Elliott* in South Carolina; *Davis v. County School Board of Prince Edward County* in Virginia; *Bolling v. Sharpe* in the District of Columbia; and *Gebhart v. Belton*, which had been consolidated with *Bulah v. Gebhart*, both in Delaware. Houston initially handled *Bolling v. Sharpe*, but ill health prevented him from completing the case before his death in 1950.

Four of the six cases were consolidated as *Brown v. Board of Education* in the U.S. Supreme Court and argued in December 1952. The case was held over and reargued in December 1953. The decision in *Brown* was announced on

Essential Quotes

"The National Association for the Advancement of Colored People is launching an active campaign against race discrimination in public education. The campaign will reach all levels of public education from the nursery school through the university. The ultimate objective of the association is the abolition of all forms of segregation in public education."

(Introduction)

"This campaign for equality of educational opportunity is indissolubly linked with all the other major activities of the association. It ties in with the antilynching fight because there is no use educating boys and girls if their function in life is to be the playthings of murderous mobs."

("Linked to Other Objectives")

"The test of 'amicable race relations' is not whether whites and Negroes can remain friends while the Negro is at the little end of the horn, but whether they can remain friends when Negroes insist on sharing with whites the rights and advantages to which they are lawfully entitled and which the whites have illegally appropriated to themselves all these years."

("Cannot Surrender Rights")

May 17, 1954, with Chief Justice Earl Warren reading the unanimous opinion. After emphasizing the importance of education to a democratic society, the Court held that "separate educational facilities are inherently unequal" and violate the equal protection clause of the Fourteen Amendment.

In the early 1930s, Houston had predicted that successful lawsuits would stimulate public interest and encourage the affected communities to continue the fight for equality after the NAACP lawyers led the way with test cases. This finally happened with *Brown*, which sparked an era of unprecedented civil rights activism, including the Montgomery bus boycott in Alabama; the emergence of Martin Luther King, Jr., as the nation's preeminent civil rights leader; and the student sit-ins in Greensboro, North Carolina. Mass marches, boycotts, and other forms of protests were held in cities and towns across the South. The 1963 March on Washington was organized by a group of civil rights, labor, and religious organizations. On August 28, 1963, approximately 250,000 protestors conducted a day of peaceful demonstration that began at the Washington Monument and ended at the Lincoln Memorial. King delivered his "I Have a Dream" speech at this event. These activities spurred the enactment of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968 laws that ended the era of state-sponsored segregation and discrimination in the United States. Such victories would not have occurred without the litigation campaign Charles H. Houston announced in "Educational Inequalities Must Go!"

See also Fourteenth Amendment to the U.S. Constitution (1868); *Plessy v. Ferguson* (1896); *Sweatt v. Painter* (1950); *Brown v. Board of Education* (1954); Martin Luther King, Jr.: "I Have a Dream" (1963); Civil Rights Act of 1964.

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Leland Ware and Michael J. O'Neal

Questions for Further Study

1. What was the legal strategy of the NAACP for breaking down segregation during this period? Why did the organization adopt this strategy? What role did the Great Depression play in motivating this strategy?

2. Using this document in conjunction with the circumstances surrounding *Sweatt v. Painter* and *Brown v. Board of Education*, prepare a time line of the key events in the history of desegregation from 1935 to 1954. Be prepared to explain why each event was important.

3. What were some of the common inequalities in black and white schools during this era? What types of specific changes in the educational system did Houston propose?

4. Houston saw educational inequalities as bound up with other inequalities. What were these inequalities, and what bearing did they have on the issue of education?

5. Much of the NAACP's attention was focused on graduate school education, including, for example, law schools. Why do you think the organization made this segment of the education system its focus.

Document Text

Charles Hamilton Houston's "Educational Inequalities Must Go!"

The National Association for the Advancement of Colored People is launching an active campaign against race discrimination in public education. The campaign will reach all levels of public education from the nursery school through the university. The ultimate objective of the association is the abolition of all forms of segregation in public education, whether in the admission or activities of students, the appointment or advancement of teachers, or administrative control. The association will resist any attempt to extend segregated schools. Where possible it will attack segregation in schools. Where segregation is so firmly entrenched by law that a frontal attack cannot be made, the association will throw its immediate force toward bringing Negro schools up to an absolute equality with white schools. If the white South insists upon its separate schools, it must not squeeze the Negro schools to pay for them.

It is not the purpose or the function of the national office of the N.A.A.C.P. to force a school fight upon any community. Its function is primarily to expose the rotten conditions of segregation, to point out the evil consequences of discrimination and injustice to both Negroes and whites, and to map out ways and means by which these evils may be corrected. The decision for action rests with the local community itself. If the local community decides to act and asks the N.A.A.C.P. for aid, the N.A.A.C.P. stands ready with advice and assistance.

The N.A.A.C.P. proposes to use every legitimate means at its disposal to accomplish actual equality of educational opportunity for Negroes. A legislative program is being formulated. Court action has already begun in Maryland to compel the University of Maryland to admit a qualified Negro boy to the law school of the university. Court action is imminent in Virginia to compel the University of Virginia to admit a qualified Negro girl in the graduate department of that university. Activity in politics will be fostered due to the political set-up of and control over public school systems. The press and the public forum will be enlisted to explain to the public the issues involved and to make both whites and Negroes realize the blight which inferior education throws over them, their children and their communities.

Linked to Other Objectives

This campaign for equality of educational opportunity is indissolubly linked with all the other major activities of the association. It ties in with the anti-lynching fight because there is no use educating boys and girls if their function in life is to be the playthings of murderous mobs. It connects up with the association's new economic program because Negro boys and girls must be provided with work opportunities commensurate with their education when they leave school. One of the greatest tragedies of the depression has been the humiliation and suffering which public authorities have inflicted upon trained Negroes, denying them employment at their trades on public works and forcing them to accept menial low-pay jobs as an alternative to starvation. Civil rights, including the right of suffrage, free speech, jury service, and equal facilities of transportation, are directly involved. The N.A.A.C.P. recognizes the fact that the discriminations which the Negro suffers in education are merely part of the general pattern of race prejudice in American life, and it knows that no attack on discrimination in education can have any far reaching effect unless it is bound to a general attack on discrimination and segregation in all phases of American life.

Specific Objectives

At the present time the N.A.A.C.P. educational program has six specific objectives for its immediate efforts:

(a) equality of school terms;

(b) equality of pay for Negro teachers having the same qualifications and doing the same work as white teachers;

(c) equality of transportation for Negro school children at public expense;

(d) equality of buildings and equipment;

(e) equality of *per capita* expenditure for education of Negroes:

(f) equality in graduate and professional training.

The first five objectives relate to segregated and separate school systems. Equality of educational

opportunity in separate school systems is the greatest immediate educational problem of the Negro masses. But the problem of Negro education would not stand completely solved even if segregated schools were suddenly abolished. There would still be the question of the Negro's position in the unified system. At the present time Negro children and white children attend the same schools in the North, but Negroes suffer bitterly from prejudice in many northern schools. Negro students are frequently excluded from extra-curricular activities; they are kept out of class offices; cases are known where the white teacher has actively tried to discourage the Negro pupils from even attending the school. It is difficult for a Negro teacher to obtain placement in a nonsegregated school system; more difficult for a Negro teacher to rise to an administrative position in such a system; and apparently impossible for a Negro, regardless of merit, to become head of any public school system segregated or nonsegregated. The N.A.A.C.P. expects to fight race prejudice in nonsegregated school systems just as hard as it fights for equality in separate school systems.

The sixth objective: equality in graduate and professional training, is essentially a problem of the South. In the North Negroes are freely admitted to the state universities for graduate and professional training, except in some instances in medicine. The established policy of the South is segregated schools. The United States supreme court has endorsed this policy to the extent of saying that segregated schools do not violate the guaranties of equal protection of the law under the Constitution of the United States *provided* equal facilities are offered to each race in the segregated system.

Inequalities Glaring

The South has never even made a serious effort to obey the mandate of the supreme court that the schools may be separate but they *must* be equal. The Commission on Interracial Cooperation in the fourth edition of its *Recent Trends in Race Relations* (revised May, 1935) states:

"In his excellent study, 'Financing Schools in the South in 1930,' Prof. Fred McCuistion shows that in the eleven Southern States in which separate records are kept, the public school outlay averaged $44.31 for the white and $12.57 for the colored child enrolled, or nearly four to one against the group most completely dependent upon public funds for its educational opportunity. In South Carolina the respective figures were $56.06 and $7.84; in Mississippi they were $45.34 and $5.45.

"But even these figures do not tell the worst. Within these averages there are unbelievable extremes. In Alabama, for example, where the averages for the State were $36.43 for the white child and $10.09 for the colored, there is one county in which the figures were found to be $75.50 for the white child and $1.82 for the Negro. In hundreds of counties in many of the states the proportion runs as high as ten to one, or twenty to one, in favor of the white child."

The Journal of Negro Education published by Howard University (4th Yearbook Number, July, 1935, p. 290) shows that

"in 1900 the discrimination in per capita expenditure for white and Negro children was 60 per cent in favor of the white; by 1930, this discrimination had increased to 253 per cent. Again, despite the fact that the training of Negro teachers, today, more nearly approximates that of the white teachers, the discrimination in salaries of white and Negro teachers increased from 52.8 per cent in 1900 to 113 per cent in 1930."

Ambrose Caliver, Senior Specialist in the Education of Negroes, the United States Office of Education, reports in the *National Survey of Secondary Education* that

"in the 15 states comprising this investigation, 230 counties, with a Negro population of 12½ per cent or more of the total, are without high-school facilities for colored children. These counties contain 1,397,304 colored people, 158,939 of whom arc 15 to 19 years of age. These young people represent 16.5 per cent of all Negroes between the ages of 15 and 19 in the 15 Southern States represented."

Yet every one of the 230 counties provided high school facilities for its white children.

No Graduate Training

Although the southern states provide a measure of undergraduate instruction for Negroes on the college level, not one of them provides any graduate or professional training for Negroes. *The Journal of Negro Education* above cited found that

"… there is not a single state-supported institution of higher learning in any one of 17 of the 19 states which require separation by law, to which a Negro may go to pursue graduate and professional

education. On the other hand in 1930, some 11,037 white students were enrolled in publicly-supported higher institutions in 15 of these states, pursuing graduate and professional training."

West Virginia, Missouri, and this year Maryland provide certain scholarship money for their respective Negro students who desire graduate and professional training, toward their tuition fees in universities outside the state which will enroll them as students. But these scholarship grants do not include the differential in travel expense between the fare from the student's home to the state university which will not admit him, and his fare to the university outside the state which will. They do not include any differential in case of increased living expenses outside the state, and are frequently subject to conditions and restrictions not imposed upon white students taking the same work in the state university. In Maryland there was not even enough money to pay tuition fees for all the qualified Negro students who applied for scholarships.

For purely technical reasons the first problem the association attacked in court was the exclusion of qualified Negroes from graduate or professional training in state-supported universities, solely on account of race or color. The legal problem was simpler; and since much of its educational program will involve pioneer work the association began with the simpler problem first. As regards primary, secondary and collegiate education in the South, there is a system, albeit inadequate, of separate primary and secondary schools and colleges for Negroes supported from public funds. A challenge to the inadequacies of these primary, secondary schools and colleges would raise the question whether the facilities offered by them are equal to the facilities offered in similar schools to whites. This would involve complex problems of comparative budget analyses, faculty qualifications, and other facts. But in the case of the graduate or professional training there are no facilities whatsoever provided for Negroes by the state, and the question narrows down to a simple proposition of law: whether the state can appropriate public money for graduate and professional education for white students exclusively. The Baltimore City Court in the case of Donald Gaines Murray vs. Raymond A. Pearson, president of the University of Maryland, et al., has answered that this could not be done, and on June 25, 1935, issued its writ of mandamus commanding the officers of the university to admit Murray into the first year class of the law school. The university has appealed, and the case will be argued before the Court of Appeals of Maryland early this fall.

Investigations are in progress covering the exclusion of qualified Negro students from the universities of Missouri, Virginia, North Carolina and other southern states. A qualified Negro girl has applied for admission to the graduate department of the University of Virginia, and her application is now pending before the Rector and Board of Visitors of the university.

Unwise Attempt

The reactions of the white press of Virginia to this heretical attempt of a Negro girl to enter the graduate department of the University of Virginia are indicative of the opposition which the N.A.A.C.P. will face when its general educational program gets well under way. The editors admit the young woman has the *legal right* to attend the university, but urge her and the N.A.A.C.P. not to force the issue. Sample editorials state "it is inexpedient, ill-advised, and heavily charged with potential injury to the cause which the Association is designed to advance" (Norfolk *Ledger-Dispatch*). "The question here, it seems to us, is not what the Negro has an abstract right to do, but what it is wise to attempt" (Richmond *Times-Dispatch*). "Law bears on the question from one side; custom from another" (Newport *News Daily Press*). "The question instantly arises why any educated person should wish to impose his or her presence upon an institution where they are not wanted and where they could not possibly remain in justice to their own self-respect or to their hope of achievement" (*Northern Virginia Daily*).

White Virginians evidently cannot bring themselves to admit that the University of Virginia is a public institution, and not their own private property. It *is* a public institution, so the question put by the *Northern Virginia Daily* as to whether a Negro student "is wanted" at the university is beside the point. A Negro student can preserve her self-respect much more by standing up for her constitutional rights and facing the snubs and insults of the white students with calm and dignity than by supinely yielding up her constitutional rights. Unless the white students offer her actual physical violence, they cannot snub or insult her any worse than the white men students snubbed and insulted the first white woman student who dared enter the University of Virginia.

Insults and snubs will not deter Negro students from insisting on their right to graduate and professional study. Since the daily portion of Negroes in American life is snubs and insults, regardless how

Document Text

submissive they are, Negro students can afford to face a few more snubs and insults temporarily in defense of their constitutional rights to equal educational opportunities, until the white students and white authorities become reconciled to allowing them to pursue their education in peace. As a matter of fact, the voting southern white students have not been heard from; but there are indications that there is a growing sentiment among them for recognition of the Negro as a real human being and citizen entitled to all the legal rights and public benefits as such.

Another point that the older white Virginians make is that any attempt to force the university issue will disturb "amicable race relations" in Virginia. It seems strange that white people always use "amicable race relations" as an excuse to discourage the Negro from insisting on his rights. The slaveholders told the abolitionists the same thing before the Civil War. If the "liberal" white Virginians would just manifest a little courage, and take a few chances with their own comfort and social position in a firm stand for real equality of opportunity between the races, there would be no occasion for "amicable race relations" to be disturbed. The difficulty is that white southern liberals give lip-service to equality before the law; but except in rare instances their qualms of conscience do not spur them into action.

Cannot Surrender Rights

It may be that the white Virginians and the N.A.A.C.P. mean different things by "amicable race relations." To the N.A.A.C.P. "amicable race relations" means mutual helpfulness in promoting the common welfare allowing to everybody concerned the full benefit of the law and equality of opportunity. The test of "amicable race relations" is not whether whites and Negroes can remain friends while the Negro is at the little end of the horn, but whether they can remain friends when Negroes insist on sharing with whites the rights and advantages to which they are lawfully entitled and which the whites have illegally appropriated to themselves all these years.

The N.A.A.C.P. and all Negroes desire to live at peace with their white fellow citizens. They crave amicable race relations, but they want them founded on dignity and self-respect. Real amicable race relations cannot be purchased by the surrender of fundamental constitutional rights.

The N.A.A.C.P. appreciates the magnitude of the task ahead of it. but it has its duty to its constituency and to the America of the future. It conceives that in equalizing educational opportunities for Negroes it raises the whole standard of American citizenship, and stimulates white Americans as well as black. Fundamentally the N.A.A.C.P. is not a special pleader; it merely insists that the United States respect its own Constitution and its own laws.

Glossary

Board of Visitors	the governing board, or trustees, of a university, often today called the board of regents
Commission on Interracial Cooperation	an organization formed in the South following the widespread race riots of 1919 to prevent lynching, mob violence, and other forms of racial abuse
Rector	the highest academic official at a university
writ of mandamus	from the Latin for "we command," a court order compelling an official to do something or refrain from doing something

Walter White (far right), walking with Eleanor Roosevelt and President Harry Truman (AP/Wide World Photos)

Walter F. White's "U.S. Department of (White) Justice"

1935

"The attorney general continues his offensive against crime except crimes involving the deprivation of life and liberty and citizenship to Negroes."

Overview

During the 1920s and 1930s, Walter White published dozens of essays to rally public opposition to lynching, including the 1935 article "U.S. Department of (White) Justice." As the executive secretary of the National Association for the Advancement of Colored People (NAACP), White called on the federal government to enact laws to prevent mob violence and punish its perpetrators. Published in *The Crisis*, the NAACP's monthly journal, this particular essay focused on the reluctance of federal law enforcement officials to intervene in southern lynching cases.

The antilynching movement was one of the first civil rights causes to emerge on the national political scene. Walter White and the NAACP spearheaded a diverse alliance of churchwomen, labor unions, progressive activists, and southern liberals united in their opposition to lynching. Their crusade forced a showdown with southern politicians, who resisted any effort by the federal government to intervene in their affairs. While the national crusade against mob violence failed to enact federal antilynching laws, White's efforts to publicize the horrors of lynching were a crucial step in the emergence of civil rights as a national issue.

Context

By the 1930s American lynch mobs had murdered nearly five thousand documented victims since the end of Reconstruction. Lynchings had occurred across the country during the late nineteenth century, claiming men and women of various racial and ethnic backgrounds. Yet as mob violence peaked at the turn of the century, lynching became an increasingly regional and racial phenomenon. From 1890 to 1910, southern legislatures enacted laws to segregate African Americans and strip them of their civil rights. Mob violence was an instrumental component of these white supremacy campaigns. White supremacists condoned or explicitly endorsed vigilante violence as a means of discouraging black political participation and resisting any semblance of racial equality. By the early twentieth century, the vast majority of lynchings occurred in the South, and nearly all the victims were black. While lynching is often associated with hanging, vigilantes frequently shot, stabbed, burned, and tortured their victims as well.

After an upsurge in mob violence during and immediately after World War I, the number of lynchings declined steadily throughout the 1920s. But as the United States sunk into the Great Depression at the end of the decade, racial tension and mob violence erupted across the South. There had been an average of ten lynchings per year in the late 1920s, yet thirty occurred in the first nine months of 1930 alone. Civil rights activists like Walter White blamed the resurgence on the economic crisis, arguing that southern whites had resorted to desperate measures to control black labor.

As lynchings surged in the early 1930s, the antilynching movement gained momentum. The NAACP had led the charge in this fight since its founding in 1909. During World War I the organization spearheaded a protest parade down Fifth Avenue in New York City. As many as ten thousand African Americans marched silently to the beat of muffled drums, carrying banners reading "Thou Shalt Not Kill" and "Give Us a Chance to Live." Behind the scenes, the organization lobbied congressmen to enact federal protections against mob violence. In 1918 Republican congressman Leonidas Dyer sponsored the first antilynching bill in American history. Four years later, the House of Representatives passed the Dyer bill despite the nearly unanimous opposition of its southern members.

That antilynching bill made it through the House, but it could not survive a Senate filibuster. After southern senators blocked the passage of the Dyer bill in 1922, Congress did not take up antilynching legislation again until 1934. While some African American activists hoped that the 1932 election of Franklin Delano Roosevelt as president signaled a new era for civil rights, the new president was reluctant to endorse the antilynching crusade. In a 1934 meeting at the White House, Roosevelt informed Walter White that he could not endorse any legislation that would alienate southern Democrats. "If I come out for the anti-lynching bill now," Roosevelt admitted, as recalled by White in *A Man Called White*, "they will block every bill I ask Congress to pass to keep America from collapsing. I just can't take that risk."

Roosevelt's unwillingness to publicly support antilynching legislation encouraged widespread apathy toward mob violence within the federal government. With Roosevelt

Time Line

1909

- **February 12**
  The National Association for the Advancement of Colored People (NAACP) is formed in New York City.

1917

- **July 28**
  In New York City, an estimated ten thousand African Americans march in a silent antilynching parade organized by the NAACP.

1918

- **January 31**
  Walter White reports for his first day as an NAACP staff member.

1922

- **January 26**
  The House of Representatives passes the Dyer antilynching bill. Southern Democrats later block its passage in the Senate.

1931

- **January**
  White is promoted from acting secretary to secretary of the NAACP.

1933

- **August 12**
  Three black teenagers, A. T. Hardin, Dan Pippen, and Elmore Clark, are lynched near Tuscaloosa, Alabama, for the alleged rape and murder of a white woman.

1934

- **January–February**
  Democratic senators Edward Costigan of Colorado and Robert Wagner of New York introduce an antilynching bill. The Senate Judiciary subcommittee holds hearings on lynchings, but the bill is eventually defeated by a southern filibuster.
- **October 26**
  A mob tortures and lynches Claude Neal near Marianna, Florida, for the alleged rape and murder of a white woman. Members of a crowd of three thousand mutilate the body before it is dragged into town and hung from a tree.

reluctant to offend his southern white supporters, federal agencies took no steps to intervene in southern lynching cases. Civil rights laws passed during Reconstruction ostensibly protected southern African Americans from racial violence, but the Department of Justice made no attempts to prevent lynchings or prosecute mob members. The department's chief law-enforcement agency, the Federal Bureau of Investigation (FBI), did not assist in a single lynching investigation during the 1930s.

Despite White's and others' mounting frustration with the federal government, the antilynching movement was gaining momentum by 1935, as the NAACP was working alongside civil rights groups, organized labor, and white southern women to rally public opposition to lynching. In early 1935 the organization sponsored "An Art Commentary on Lynching" at a New York City gallery. Gruesome exposés and scholarly studies of lynching fed public indignation. Contemporary polls revealed that even a significant percentage of white southerners favored legislation to stamp out lynching. But such promising shifts in public attitudes were meaningless without government action. By publishing articles like "U.S. Department of (White) Justice," Walter White hoped to spotlight governmental apathy and pressure federal authorities to stamp out lynching once and for all.

About the Author

Walter White was an influential journalist and civil rights activist who led the NAACP from 1929 until his death in 1955. Born on July 1, 1893, to a light-skinned Atlanta mail collector and his equally fair-complexioned wife, White enjoyed a relatively privileged upbringing among the city's black middle class. But this did not shield White from the racial violence that swept Atlanta in 1906. During the three-day race riot, White watched as marauding whites assaulted hundreds of African Americans and destroyed black property.

White never forgot that mob. After graduating from Atlanta University in 1916, the young insurance salesman threw himself into a local campaign to increase funding for black schools. Later that year, White wrote directly to the national headquarters of the NAACP, asking for its help in organizing an Atlanta chapter. Impressed by the young leader's energy and organizing skills, the NAACP executive secretary James Weldon Johnson invited White to join the national staff.

Thanks to his blond hair, blue eyes, and remarkable courage, White became the NAACP's secret weapon in its antilynching campaign. Less than two weeks after moving to New York to work at the national headquarters, White traveled south to investigate a lynching firsthand. Posing as a traveling salesman, White gathered gruesome details from local whites who had no idea they were speaking with a man of African ancestry. Over the next decade, White investigated dozens of lynchings and race riots at great personal risk. By the late 1920s he was one of the country's foremost authorities on lynching. He recounted his inves-

tigations in northern newspapers and national magazines. An active figure in the Harlem Renaissance, White published a novel, *The Fire in the Flint* (1924), and a nonfiction book, *Rope and Faggot* (1929), both based on his firsthand investigations of southern lynchings.

When Johnson retired from the NAACP in 1929, White assumed leadership of the organization as acting secretary. Two years later the NAACP made White's promotion permanent. During his long tenure as executive secretary, White enlisted powerful allies in NAACP campaigns against racial violence, discrimination, and segregation. The antilynching campaign was always close to White's heart, and he spent much of the 1930s lobbying Congress and federal officials to take action against mob violence. White died on March 21, 1955, after leading the NAACP for nearly three decades.

Explanation and Analysis of the Document

White opens "U.S. Department of (White) Justice" by stating that the Department of Justice has absolutely failed to protect African Americans from violence and discrimination. He argues that this negligence is not confined to lynching cases but is a much broader pattern of disregard for the plight of African Americans. White briefly mentions the refusal of the Department of Justice to intervene on behalf of southern blacks who could not vote because of discriminatory laws and intimidation tactics. During the 1930s southern blacks faced numerous obstacles at the ballot box, including literacy tests, understanding clauses, and poll taxes. White contends that federal agencies are moving slowly on civil rights because the Roosevelt administration is unwilling to do anything that would offend its white southern supporters. While White sees disfranchisement and segregation as part of the NAACP's broader civil rights campaign, he contends that the federal government has shown a particularly lax attitude toward mob violence in the South.

In the second paragraph, White reveals his journalistic skill and his experience as a lynching investigator. There was probably no one in the country more familiar with the patterns of mob violence in the South than Walter White. He believed that one of the most valuable weapons in the fight against lynching was to expose the harsh reality of southern lynchings. By revealing the gruesome details, the motives behind the murders, and the generally callous attitude of local authorities toward the killings, White hoped to convince the American public and federal officials that outside intervention was necessary to eliminate lynching.

The Tuscaloosa case that White describes reveals that local law enforcement officials played a part, perhaps knowingly, in the lynching. Typically, in the wake of a lynching, southern policemen would claim that they had done everything they could to prevent mob violence. They usually reported that the lynch mob had overpowered them, stolen the prisoners, and then left them tied up and blindfolded. But White points out that the police officers in Tuscaloosa showed callous disregard for the safety of the prisoner and played right into the hands of the waiting mob. The federal antilynching legislation that White and his allies demanded would have imposed stiff penalties on local law enforcement and government officials who failed to adequately protect prisoners from mobs. Therefore, it was very important that White point out instances where local authorities demonstrated negligence or even complicity in a lynching.

In paragraphs 3 and 4, White reveals that he and fellow activists have repeatedly lobbied the Department of Justice

Time Line

1934

- **December 13** NAACP members picket the National Crime Conference, sponsored by the Department of Justice, for refusing to place lynching on the agenda.

1935

- **February 15** NAACP sponsors "An Art Commentary on Lynching" exhibit at a New York City gallery; the exhibit runs to March 2.
- **March 12** A mob abducts Ab Young in southwestern Tennessee and lynches him in Slayden, Mississippi.
- **October** *The Crisis*, the NAACP's official monthly magazine, publishes Walter White's "U.S. Department of (White) Justice."

1938

- **February 21** Southern senators end a thirty-day filibuster of the Wagner–Van Nuys antilynching bill after its supporters agree to shelve the bill. It is the longest filibuster since 1893.

1939

- **January** The new attorney general, Frank Murphy, establishes a Civil Liberties Unit within the U.S. Department of Justice. Two years later it is renamed the Civil Rights Section.

1942

- **February 10** For the first time ever, the U.S. attorney general dispatches FBI agents and Civil Rights Section attorneys to investigate a lynching, that of Cleo Wright in Sikeston, Missouri.

to investigate lynchings. By the 1930s White was the most recognizable black activist in Washington, D.C. He had enlisted the support of numerous congressmen and government officials in the antilynching campaign, but he had less success at the Department of Justice. Although federal statutes already existed that allowed the attorney general to prosecute the Tuscaloosa sheriff, White could not persuade a Justice Department official to meet with his delegation. Undeterred, White and his colleagues refused to leave the building until officials escorted them to see the attorney general in person. Yet they left with no commitment and waited months to hear back from the Department of Justice about their demands.

The fifth paragraph reveals the ingenuity and persistence of antilynching activists in using the legal system to their advantage. With no antilynching legislation on the books, the only way to justify federal prosecution of mob violence was to cite other laws that lynch mobs had violated. White had hoped that a revised version of a federal interstate kidnapping law would be broad enough to cover lynchings in which a mob carried a victim across state lines. This federal kidnapping law was named after the infant son of the aviator Charles Lindbergh, who had been kidnapped and murdered in early 1932. In paragraphs 6 10, White reveals that the same attorney general who had refused to investigate the Tuscaloosa lynching had agreed in principle to broader laws against interstate kidnapping. But when civil rights activists cited this revised law to urge the Department of Justice to investigate lynchings, the attorney general once again refused to take action.

White's discussion of the Lindbergh kidnapping law reveals the importance of litigation in the NAACP's civil rights activism. Before, during, and after White's tenure as executive secretary, the organization pursued a strategy that was primarily legal, focusing on laws and litigation to force government action on civil rights. Through a succession of lawsuits in the 1930s and 1940s, the NAACP won a series of school segregation cases that led to *Brown v. Board of Education* in 1954. The NAACP also used this strategy to combat disfranchisement laws and other discriminatory practices. The organization's antilynching campaign employed legal strategies as well. By using test cases, like the Curtis James lynching described in paragraph 12, the NAACP hoped to force the federal government to apply existing laws to civil rights violations.

In paragraphs 11 14, White describes how the Department of Justice evaded the NAACP's claim that the James lynching violated the expanded language of the recently revised Lindbergh law. White uses the department's own words to highlight the lengths that federal authorities are willing to go to avoid any involvement in a southern lynching case. White argues that Department of Justice officials are willfully misrepresenting existing laws and making excuses to justify their inaction. He points out that the Department of Justice is asking the NAACP to perform the duties that should be the responsibility of its own Federal Bureau of Investigation to gather facts in order to establish the basis for prosecution.

In paragraph 15, White mentions the lynching of Claude Neal. This particularly brutal incident made headlines across the country. The Neal lynching harked back to earlier decades, when local newspapers announced lynchings in advance and huge crowds turned out to watch. Local authorities had arrested Neal for raping and murdering a white woman and had carried him to an Alabama jail. A white mob abducted Neal and held him in an undisclosed location for two days, while newspapers in Alabama and Florida announced the upcoming lynching. On October 26, 1934, a crowd of three thousand gathered at a farm owned by the murdered woman's family. Much to their dismay, the mob killed Neal with a shotgun in a nearby forest after hours of torture. They then took Neal to the farm, where the gathered crowd defiled his body. Finally, the mob brought Neal's remains into Marianna and hung the body from a downtown tree.

This brutal and brazen incident made national headlines, and White saw an opportunity to rally public support for the antilynching campaign. But he also recognized that the Neal lynching was an ideal test case for the interstate kidnapping law. Authorities had apprehended the suspect in Florida and carried him to Alabama. The lynch mob had then kidnapped him and carried him back to the scene of his alleged crime in Florida. But before the NAACP could even request a federal investigation, the Department of Justice announced publicly that the Lindbergh law did not apply to lynching cases.

In paragraphs 16 22, White describes the NAACP's reaction to a highly publicized crime conference sponsored by the Department of Justice. Despite White's intensive lobbying and the upsurge in lynchings during the early 1930s, the Department of Justice refused to include mob violence on the agenda. Moreover, conference planners failed to invite representatives of any civil rights organizations to the conference to discuss their concerns. Even with the highly publicized lynching cases of recent years, conference participants seemed more concerned with gangsters and kidnappers.

Despite the cold shoulder from conference organizers, White notes a hopeful sign on the first night of the conference. In his keynote speech, President Roosevelt spoke out forcefully against lynching. Just a few months earlier, he had confided to White that he could not support antilynching legislation without offending his southern supporters. Faced with mounting pressure from antilynching activists, the president could not ignore lynching altogether. As Roosevelt rallied support for his New Deal programs, he walked a fine line between alienating his powerful southern allies and offending his growing number of African American supporters. His lynching statement at the crime conference was intended to reassure his black supporters without committing himself to any actions that would anger southern Democrats.

Despite the president's condemnation of lynching on the opening night of the conference, conference organizers continued to deny NAACP requests to put lynching on the agenda. White and his allies would not give up without a fight. When the Department of Justice denied repeated

The charred body of Cleo Wright, a black man who was burned by a mob after being taken from the custody of officers, is observed by a crowd in Sikeston, Missouri, on January 27, 1942. (AP/Wide World Photos)

requests to address the lynching problem, civil rights activists took to the streets. The local NAACP prepared signs and started a picket line outside the Justice building. Local police responded by arresting the picketers, but the protest yielded tangible results. The attorney general invited African American representatives to participate in the conference and suggested that they could bring up lynching during an informal discussion session. When the conference coordinators backed off this promise, the local NAACP resumed its protest outside of the conference.

The willingness of the NAACP to stage peaceful protests reveals another dimension to the antilynching campaign. Decades before nonviolent protests hit the television screens, civil rights activists employed nonviolent measures to publicize their cause. In the antilynching protests outside the 1934 crime conference, activists carefully planned a public action that would dramatize the lynching problem. Because policemen had arrested early picketers under sign and parade laws, the second round of protestors planned a perfectly legal public action. Standing silently with lynching ropes looped around their necks and small signs pinned to their chests, the protestors forced the conference delegates to confront the reality of lynching even if they refused to discuss it. The protest stumped the local police and department officials, who could find no grounds on which to arrest the sixty protestors standing outside the conference. The spectacle finally forced the conference participants to adopt a vague resolution that did not name lynching specifically but conceded that racial violence was illegal and wrong.

In the closing three paragraphs, White makes clear that the moral victory at the crime conference did little to ease the bitterness and frustration of the antilynching movement. Less than three months after the conference, another lynching occurred that involved an interstate abduction. Vigilantes in southwestern Tennessee abducted Ab Young for killing a white highway worker. After crossing the border into Mississippi, they hanged him from a tree and riddled his body with bullets. The lynch mob tipped off a Memphis newspaper, which dispatched a reporter and photographer to the scene. Despite the well-documented mob murder, local authorities ruled that Young had died by hanging yet named no suspects. One local attorney even claimed that Young had hanged himself.

Essential Quotes

"The Department of Justice in Washington may lay claim to a 100 per cent performance in at least one branch of its activities—the evasion of cases involving burning questions of Negro rights."

(Paragraph 1)

"The crime of lynching was not even within the range of the department's vision."

(Paragraph 15)

"The attorney general continues his offensive against crime—except crimes involving the deprivation of life and liberty and citizenship to Negroes."

(Paragraph 23)

The phrase "at the hands of parties unknown" was a common one in southern lynching cases. Most southern whites refused to incriminate fellow whites for participating in mob violence. Even if they opposed lynchings and took steps to prevent mob violence in their communities, local authorities stopped short of singling out their friends and neighbors for punishment. White worked for years to expose this culture of secrecy and complicity, but southern whites continued to close ranks when outsiders criticized their handling of lynching cases.

White responded to the latest lynching by firing off yet another investigation request to both the Department of Justice and the White House. The NAACP received no reply. Despite years of relentless pressure to publicize lynchings and force a response from the federal government, White concludes his article with the bitter admission that the Department of Justice remained reluctant to use its enforcement powers to protect African Americans from mob violence.

Audience

Walter White wrote this article for publication in *The Crisis*, the NAACP's official monthly magazine. His immediate audience was the membership and supporters of the NAACP, including northern white liberals and other progressive allies. While this particular article appeared in an African American publication, White knew that it would also be quoted or reprinted in other newspapers and magazines. Earlier in his career, many white publications had refused to publish White's articles on lynching. But by 1935 White had recruited influential white allies. Mainstream newspapers and magazines followed suit, publishing articles similar to this one.

Throughout his antilynching work, White firmly believed in the power of publicity and exposure. He hoped that his writing would rally African Americans to the antilynching crusade and shock the white majority out of its complacency. He also hoped that the article would cross the desks of government officials who, either out of embarrassment or goodwill, might take steps to force action on lynching.

Impact

White was clearly skeptical that the Department of Justice would suddenly reverse its stance on lynching, but he firmly believed that the campaign against mob violence depended on publicity and propaganda. Every piece of literature he produced was meant to turn up the heat on government officials by increasing the public outcry against lynching. By the end of the 1930s, this undeniable public indignation forced antilynching legislation onto the congressional agenda despite President Roosevelt's ambivalence and southern politicians' opposition. Yet while public attitudes toward lynching had changed dramatically, powerful opposition to federal legislation remained; despite the intensive antilynching campaign waged by the NAACP, southern senators remained opposed to a federal antilynching law. When the Democratic senators Frederick Van Nuys and Robert Wagner introduced a new bill in January 1938, southern senators filibustered for nearly seven weeks straight. Like every antilynching bill before and since, the Wagner Van Nuys bill failed in the face of southern opposition.

While Congress never passed an antilynching bill, the spotlight that White and his allies fixed on the problem of mob violence yielded tangible results. In addition to mobilizing public sentiment against lynching, White's relentless pressure forced government officials to take their first halting steps toward combating racial violence. In 1939 the Department of Justice set up a Civil Liberties Unit, which was renamed the Civil Rights Section two years later. In 1942 the Federal Bureau of Investigation for the first time dispatched agents to the site of a lynching that of Cleo Wright in Sikeston, Missouri. Roosevelt's successor, Harry Truman, believed that lynching was not only a moral outrage but also a diplomatic nightmare for the United States. Convinced that racial violence weakened the country's prestige and influence in the world, Truman made the elimination of lynching a cornerstone of his unprecedented civil rights program in 1948. Southern senators continued to thwart such legislation, but the isolated lynchings of the 1950s and 1960s drew global condemnation and even resulted in a few federally assisted criminal convictions. Walter White did more than any other activist to bring about this slow but significant transformation in public attitudes toward mob violence. No single person was more influential in making lynching a national political issue, and articles like "U.S. Department of (White) Justice" were a crucial part of White's crusade.

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Jason Morgan Ward

Questions for Further Study

1. Using this document in combination with John Edward Bruce's "Organized Resistance Is Our Best Remedy," Ida B. Wells-Barnett's "Lynch Law in America," and Haywood Patterson and Earl Conrad's *Scottsboro Boy*, summarize the history of lynching and other forms of violence against African Americans in the late nineteenth and early twentieth centuries.

2. What economic conditions factored into the upsurge in lynchings and violence against African Americans in the 1930s?

3. What political circumstances prevented President Franklin D. Roosevelt from lending his full support to an antilynching law?

4. If lynching is murder, why were laws against murder inadequate in dealing with the problem of lynching? Put differently, what specific tools would a federal antilynching law have put into the hands of law-enforcement officials?

5. In light of the fact that no federal antilynching bill was ever passed, do you believe that White's essay, along with similar documents by other writers, ultimately had an effect? Explain.

Walter F. White's "U.S. Department of (White) Justice"

The Department of Justice in Washington may lay claim to a 100 per cent performance in at least one branch of its activities the evasion of cases involving burning questions of Negro rights. It sidestepped the issue of the exclusion of Negroes from southern elections on the ground that it was loaded with political dynamite. Other legalistic reasons were later added but the first orders to "Go Slow" were placed on purely political grounds. On the lynching issue the department has set a new record for its ability to dodge from one excuse to another.

On June 6, 1933, a white girl was murdered near Tuscaloosa, Alabama, and shortly thereafter three Negro boys were thrown in jail on suspicion of the murder. On August 12, 1933, the sheriff of Tuscaloosa county unlawfully under color of authority took it upon himself to order their removal from Tuscaloosa to Birmingham "for safekeeping." The sheriff's deputies started at night for Birmingham in two automobiles: two deputies and the boys in the leading car, and a car full of deputies trailing behind. The sheriff ordered the convoy to take a back road because, as the deputies later testified, he did not want to risk the convoy being overtaken by a mob on the highway. When the convoy reached the Tuscaloosa county line, the trailing car turned back, leaving the first car with the boys in it to make the rest of the journey alone. Two miles across the county line the car with the boys in it was *met*, not overtaken, by other cars full of masked men. The boys were taken out, riddled with bullets, and two of them killed. The Southern Association for the Prevention of Lynching made an investigation which found the sheriff culpable.

A delegation made up of representatives from several national organizations on August 24 called at the Department of Justice pursuant to [an] appointment made with William Stanley, executive assistant to Attorney General Homer S. Cummings, who had promised to receive it in the absence of the attorney general, to request the department to investigate the lynching and prosecute the offending sheriff under Revised Statutes 5510 which makes it a federal offense to deprive an inhabitant of any state of any rights, privileges or immunities secured or protected by the federal Constitution under color of law or custom. But although Stanley had made the appointment himself, when the delegation arrived at the department, Stanley was not present, had sent no excuse for his absence, and investigation disclosed that he had not even entered the appointment on his calendar pad.

The delegation was so indignant that the officials of the department four hours later carried them in to see the attorney general himself. The attorney general was suave; he would make no commitment; he called for a brief. Accordingly a thorough brief was filed with the department October 13, 1933, and Stanley stated that he would let the delegation know the decision of the department by November 1. Actually he kept the delegation in suspense until March 5, 1934, although months before both he and the attorney general had told Roger N. Baldwin of the American Civil Liberties Union that the department did not intend to take any action in the case.

In the meanwhile a bill amending the original Lindbergh kidnaping law of 1932 had been introduced in Congress. The 1932 act had made kidnaping a federal offense where the kidnaped person was knowingly transported in interstate or foreign commerce and "held for ransom or reward." The amendment to the 1932 act proposed to broaden the scope of federal jurisdiction and make kidnaping a federal offense when the person kidnaped was knowingly transported in interstate or foreign commerce and "held for ransom or reward *or otherwise*" (italics ours). It also proposed that there should be a prima facie presumption that the person kidnaped had been carried across the state line unless released within three days.

While the bill was before the Senate judiciary committee the attorney general submitted a memorandum to the committee in support of the amendment as follows:

"This amendment adds thereto (to the Lindbergh Act of 1932) the word 'otherwise'.... The object of the word 'otherwise' is to extend the jurisdiction of this act to persons who have been kidnaped and held, not only for reward *but for any other reason*.

"In addition this bill adds a proviso to the Lindbergh Act that in the absence of the return of the person kidnaped ... during a period of three days *the presumption arises* that such person has been transported in interstate or foreign commerce, but such presumption is not conclusive.

Document Text

"*I believe that this is a sound amendment which will clear up border line cases*, justifying federal investigation in most of such cases and assuring the validity of federal prosecution in numerous instances in which such prosecution would be questionable under the present form of this act" (italics ours).

In other words, at this stage the attorney general placed the Department of Justice squarely behind the amendment, giving to its provisions the broadest possible interpretation. But as soon as questions of lynching were raised, the attorney general abandoned his broad construction and began hopping from one position to another to avoid taking jurisdiction.

The bill passed Congress and became enacted into law June 22, 1934, with all the provisions of the amendment adopted except that the time within which a kidnaped person had to be held for presumption of an interstate transportation to arise was increased from three days to seven; and certain other changes not here material.

On October 4, 1934, one Curtis James' house was broken into near Darien, Georgia, about fifty miles from the Florida line, and James, a Negro, shot and abducted by a mob. In spite of an intensive search he was not found. After waiting more than the seven days provided by the amended Lindbergh law, the National Association for the Advancement of Colored People on October 15 wrote the Department of Justice asking whether the abductors of James could not be prosecuted under the amended Lindbergh law. Under date of October 20 the department replied:

"… there is nothing to indicate that the person alleged to have been kidnaped was transported in interstate commerce and was held for ransom, reward or otherwise. In the absence of these facts establishing these elements it would seem that the matter would be one entirely for the authorities of the State of Georgia…"

It is interesting that in the James case the Department of Justice recognized that a lynching case might be covered under the words "or otherwise" of the amended Lindbergh act, but it dodged jurisdiction by repudiating the presumption. In short the department deliberately ignored the fact that not returning James within seven days created a presumption that there had been an interstate kidnaping, and thereby gave the federal government jurisdiction over the crime. It demanded that the N.A.A.C.P. substitute itself for the department's own Bureau of Investigation and produce the *facts* establishing an interstate kidnaping.

Then on October 26, 1934, a Negro named Claude Neal was kidnaped from the jail in Brewton, Alabama, by a mob which came to the scene in automobiles bearing Florida licenses. Neal was transported across the Alabama line into Florida, held for fifteen hours and then murdered after unspeakable barbarities near Marianna, Florida. The N.A.A.C.P. felt that at last it had a perfect case for federal prosecution, but before it could even get a letter to the Department of Justice requesting an investigation, the department had issued a public statement that the words "or otherwise" in the amended Lindbergh law did not cover the case of lynching. Faced by the indisputable fact of an interstate kidnaping, the department was forced to the position that the amend[ed] Lindbergh law covered kidnaping for purposes of gain, but not for purposes of murder.

With loud fan-fare and carefully staged publicity, on November 7, 1934, the attorney general announced to the country a National Crime Conference called by him in Washington, December 10-13, 1934, "to give broad and practical consideration to the problem of crime" including causes and prevention of crime; investigation; detection and apprehension of crime and criminals. A comprehensive and distinguished list of delegates, including bar associations, was invited; but no Negro associations. On November 9 the N.A.A.C.P. wrote the attorney general asking whether lynching would be placed on the conference agendum. On November 16 the department replied:

"… the program for the conference has not as yet been completed, obviously it will be impossible to cover all the phases of the crime problem in the short space of three days. No definite decision has been made with reference to the subject of lynching. I wish to thank you, however, for bringing this matter to our attention."

The crime of lynching was not even within the range of the department's vision.

No word came from the department concerning its decision whether to place lynching on the conference agendum, so on November 22 the N.A.A.C.P. wired the attorney general inquiring whether the decision had been made, and what. The department replied November 27 that "it was not probable that the subject of lynching will be given place on program of Crime Conference." Repeated efforts were made by local representatives of N.A.A.C.P. to see the Department of Justice in an attempt to obtain a reconsideration of the decision not to place lynching on the agendum, but the department remained unmoved.

Document Text

Finally on the opening night of the conference when President Roosevelt made his key-note speech and roundly denounced lynching as one of the major crimes confronting this country, another wire was sent the attorney general asking in view of the President's pronouncement whether he would not at that date place lynching on the agendum. No reply was received the following morning, so at 12:30 P. M. that day the District of Columbia branch of the N.A.A.C.P. began to picket the Crime Conference.

The pickets were arrested almost as soon as they appeared and charged with violation of the District of Columbia sign law and parading without a permit. But that afternoon at 2:25 P. M. the branch received a telegram from the attorney general stating that although there was no room for a discussion of lynching on the formal agendum of the conference, there was a discussion period after each session and that if a discussion period were free, he hoped that the subject of lynching would be taken up on the floor. He further invited a delegation consisting of representatives of the local colored bar association to membership in the conference.

In spite of this action by the attorney general however, the chairman of the conference announced that the discussion period would be limited to the papers read on the formal agendum at the particular session. Under the circumstances the District of Columbia branch of the N.A.A.C.P. decided to resume the picketing.

On the last day of the conference, December 13, just before the morning session adjourned, about sixty pickets suddenly appeared on the sidewalk in front of the convention hall, and silently took up prearranged stations about ten feet apart, stretching all the way from the entrance of the hall about three squares along the street the delegates had to use in leaving the conference. To avoid the sign law which prohibited signs twelve inches or over, the pickets carried signs across their breasts eleven inches wide. Ropes were looped around their necks to symbolize lynching. To avoid the charge of parading, each picket remained silent and stationary. The police were taken completely by surprise. To add to the confusion of the police the pickets were provided with a mimeographed sheet of instructions, one of which read that if anybody bothered them they were to call on the police for protection, as the police would not arrest them if they were not violating any law, since to do so would subject the police to an action for damages. The police fumed; an attorney for the Department of Justice hurriedly left to consult the law and find grounds for arresting the pickets, but never returned. That afternoon the conference, smoked out beyond the point of endurance, adopted a completely inane and harmless resolution condemning the use of illegal means in disposing of matters arousing racial antagonisms. The attorney general held both his peace and his hand.

Finally March 12, 1935, a Negro, Ab Young, was lynched near Slayden, Mississippi, allegedly for shooting a white man. Young had been seized in Tennessee, and taken across the line into Mississippi for the ceremonies. Memphis news reporters were on hand either by accident or previous notice.

The N.A.A.C.P. telegraphed both the attorney general and the President of the United States asking for investigation and prosecution under the amended Lindbergh law. To date it is still awaiting a reply. The coroner's jury returned a verdict that Young had died at the hands of parties unknown.

The attorney general continues his offensive against crime except crimes involving the deprivation of life and liberty and citizenship to Negroes.

Glossary

color	as a legal term, pretense, as in "under color of authority, law, or custom"
Lindbergh kidnapping law	a law passed in 1932 in response to the highly publicized kidnapping and murder of the son of the aviation hero Charles Lindbergh in New Jersey
prima facie	a legal term from the Latin for "at first sight," referring to a fact presumed to be true unless rebutted by evidence

Mary McLeod Bethune (Library of Congress)

Mary McLeod Bethune's "What Does American Democracy Mean to Me?"

1939

"The democratic doors of equal opportunity have not been opened wide to Negroes."

Overview

On the evening of November 23, 1939, Mary McLeod Bethune was part of a panel discussion on *America's Town Meeting of the Air*, a weekly public affairs broadcast on NBC Radio one of the nation's first "talk radio" programs revolving around the title question "What Does American Democracy Mean to Me?" Bethune was eminently qualified to join the panel that evening. She was the founder of a school that evolved into the modern-day Bethune-Cookman University. She was a past president of the National Association of Colored Women and the founder of the National Council of Negro Women. She was also a key figure in the Black Cabinet, or, more formally, the Federal Council on Negro Affairs, an advisory group that kept the administration of President Franklin Roosevelt apprised of the concerns of the black community. She delivered her remarks during what would prove to be the tail end of the Great Depression, a time when African American workers faced enormous challenges. Looming on the horizon was American entry into World War II, which had started less than three months earlier with the German invasion of Poland. As Americans vigorously discussed issues involving the direction the country should take, both economically and militarily, the topic of the panel that evening was particularly timely.

Context

Two major historical developments formed the cultural backdrop for Bethune's speech (which was less a speech and more a sort of script for her remarks as part of the broadcast panel). One was the ongoing Great Depression; the other was the threat of American involvement in war, a threat that would materialize when the United States entered World War II after the bombing of the U.S. Navy base at Pearl Harbor, Hawaii, in December 1941.

The Great Depression began in 1929, marking the end of the Roaring Twenties, a decade of prosperity in the United States. Through the 1930s, the nation's income dropped by half, while unemployment was a major scourge: At the height of the depression, some 25 percent of the total labor force was unemployed, but among black Americans the figure was as high as 50 percent, particularly in urban areas. During the depression, it was almost impossible for black Americans to find work. Many southern blacks had been able to squeeze out a living as sharecroppers, but when the price of cotton dropped from eighteen cents per pound in the late 1920s to six cents per pound in 1933, many sharecroppers were forced off their land. Worse, mechanical cotton pickers were replacing black labor. Many displaced black agricultural workers took refuge in cities, where they faced animosity from the white labor forces and labor unions, which saw the influx of blacks as a threat to whatever few job opportunities existed.

African Americans were initially suspicious of President Franklin Roosevelt's New Deal, a package of legislation whose goal was to put Americans to work in an assortment of federal agencies. Indeed, provisions in these agencies perpetuated a pattern of discrimination against black workers, leading many to refer to Roosevelt's New Deal as a "raw deal." A good example of a measure that hurt African American interests was the 1933 Agricultural Adjustment Act. At the time, most black farmers did not own their land but farmed as tenants, or sharecroppers. As a way of increasing farm income, the government paid farmers incentives to leave land fallow, which would decrease crop supplies and presumably drive up prices. Accordingly, southern landowners fired their black tenant farmers, as fewer crops meant that fewer farmers were needed. These kinds of problems led John Preston Davis to write "A Black Inventory of the New Deal," a scathing indictment of Roosevelt's programs published in May 1935 in *The Crisis*, the magazine of the National Association for the Advancement of Colored People (NAACP). His essay called on African Americans to forge their own solutions to their economic condition rather than relying on a government that had failed to help them. That month, disaffected black intellectuals and activists held a conference at Howard University, in Washington, D.C., during which most presenters attacked New Deal programs for their adverse impacts on African Americans. Frustrated blacks in Harlem had rioted in March that year, indicating growing dissatisfaction with the government's ability to deal with African American poverty. In response to this sort of societal alarm, Robert Clifton Weaver, one of Bethune's colleagues on Roosevelt's

Time Line

1875	■ **July 10** Mary Jane McLeod is born near Mayesville, South Carolina.
1894	■ McLeod graduates from Scotia Seminary in North Carolina.
1904	■ Now married, Mary McLeod Bethune establishes the Educational and Industrial Training School for Negro Girls in Daytona Beach, Florida.
1917	■ Bethune becomes president of the Florida chapter of the National Association of Colored Women, to serve until 1925.
1920	■ Bethune becomes president of the Southeastern Federation of Colored Women's Clubs, serving until 1925.
1923	■ Bethune's school, now called the Daytona Normal and Industrial Institute for Negro Girls, completes a merger with the Cookman Institute for Men to become a coeducational school, later accredited as Bethune-Cookman College.
1924	■ Bethune is named national president of the National Association of Colored Women.
1935	■ Bethune founds the National Council of Negro Women in New York City.
1936	■ Bethune plays a key role in the formation of the Federal Council on Negro Affairs, commonly called the Black Cabinet.

Black Cabinet, published "The New Deal and the Negro: A Look at the Facts," a defense of the Roosevelt administration's efforts, in the black literary journal *Opportunity*.

By 1939, the year of Bethune's radio remarks, African Americans were beginning to benefit somewhat from New Deal programs. Their income from public sector employment, for example, was almost as large as their income in the private sector. Some of this modest growth in black income came at the hands of the union movement. The chief obstacle for black workers had been the American Federation of Labor, which had supported discriminatory practices in the labor unions that were part of the federation. In 1935 the American Federation of Labor did grant a charter to the Brotherhood of Sleeping Car Porters, a union made up almost entirely of blacks founded by A. Philip Randolph a decade earlier. But in 1936 a rival group, soon known as the Congress of Industrial Organizations, was formed, in part, to organize black as well as white workers. Aided by such organizations as the National Urban League and the NAACP, the Congress of Industrial Organizations organized new unions, such as the Packinghouse Workers Organizing Committee, the United Automobile Workers, and the Steel Workers Organizing Committee. Meanwhile, in 1937 the Brotherhood of Sleeping Car Porters reached a landmark agreement with the Pullman Company, which operated the railway coaches on which black porters and maids worked.

African American workers and civil rights organizations took additional steps to improve the plight of black workers. The Urban League and the NAACP, for example, played a key role in the formation of the Joint Committee on National Recovery in 1933. The committee's goal was to bring inequities in New Deal programs to the public's attention, for example, by spearheading "Don't Buy Where You Can't Work" campaigns to boycott businesses that operated in black communities but would not employ black workers in any but menial jobs. Pressure from the Citizens' League for Fair Play forced the New York City Chamber of Commerce and other citywide organizations to promote the hiring of blacks in higher-paying retail jobs. In the rural South, black workers were joining such organizations as the Southern Tenant Farmers Union, a Socialist group, and the Alabama Sharecroppers Union, a Communist one. In Birmingham, Alabama, black workers were drawn to the League of Struggle for Negro Rights.

On the political front, African Americans were changing party allegiance. Traditionally they had supported the Republican Party, the party of Abraham Lincoln and emancipation. But during the Great Depression, black political affiliation began to shift as the Democratic Roosevelt administration appointed dozens of blacks to New Deal agencies. Many of these people joined to create the Federal Council on Negro Affairs, known informally as the Black Cabinet. As a member of the Black Cabinet, Bethune, who herself had been a Republican, championed Roosevelt's programs. In 1935 hundreds of civil rights leaders joined to form the National Negro Congress with the goal of uniting some six hundred fraternal, civil rights, and church organ-

izations under a single umbrella to improve the economic and social position of African Americans.

Despite some progress, the position of unemployed African American workers in the late 1930s remained tenuous. The nation was emerging from the depression, in part because of increased defense spending, which allowed white workers to return to full-time employment, but black workers were continuing to rely on public sector jobs and relief programs.

Equally important, though, were the war clouds gathering over the horizon. For several years Americans had been watching with unease certain developments in Europe as well as the Far East. One was the rise of Adolf Hitler, who seized power in 1933 as Germany's chancellor. In the months and years that followed, Hitler consolidated his power. The Reichstag Fire Decree curtailed civil liberties; the Law against the Establishment of Parties made Nazi Germany a one-party state. Hitler eliminated his rivals within the Nazi Party during the "Night of the Long Knives" at the end of June 1934. Through these years, Hitler and his supporters launched their persecution of Jews, Communists, trade unionists, and political opponents. In defiance of the Treaty of Versailles, which ended Germany's participation in World War I, Hitler remilitarized the nation. He formed alliances with the Soviet Union, led by Joseph Stalin; Fascist Italy, which invaded Ethiopia in 1935; and imperialist Japan, which was flexing its muscles in the Pacific and invaded China in 1937. China fought back against Japan with help from the United States and the Soviet Union, which in turn joined the Allies in the fight against Germany. Hitler, in the meantime, merged German-speaking Austria with Germany and grabbed the German-speaking Sudetenland region of Czechoslovakia. Few were surprised when he launched World War II in Europe with the invasion of Poland on September 1, 1939.

Americans vigorously debated the question of American participation in the war. Isolationists and antiwar activists argued that the war was Europe's war, and the United States had no business taking part. Others, including Roosevelt himself, knew that American entry into the war was inevitable. At the same time, Americans watched the rise of Communism in the Soviet Union. Many American intellectuals, disgusted with the apparent failures of capitalism that had led to the Great Depression, were drawn to the ideology of Communism and the Soviet Union. Prominent among them were black intellectuals such as W. E. B. Du Bois and Paul Robeson, who traveled to the Soviet Union and came to believe that the Communist state did not carry the same burden of racism that the United States did. Mainstream Americans, however, regarded Communism as an alien ideology and were growing to fear the might and influence of the Soviets.

Thus, when the panel of participants was formed to address the personal question "What does American democracy mean to me?" the overarching universal questions of American democracy regarding its origins, its role in the world, its ideological underpinnings, its response to Fascism and Communism, and its future were already topics of intense discussion throughout the nation. Mary McLeod Bethune articulated a response to this question from an African American perspective.

Time Line

1939

- **September 1**
  World War II begins in Europe with the German invasion of Poland.
- **November 23**
  As part of a panel discussion, Bethune gives her radio address "What Does American Democracy Mean to Me?"

1955

- **May 18**
  Bethune dies in Daytona Beach, Florida.

About the Author

Mary Jane McLeod was born near Mayesville, South Carolina, on July 10, 1875. She was the fifteenth of seventeen children born to Samuel and Patsy McLeod, both former slaves; most of her siblings had been born into slavery. Her mother worked for her former owner, while her father worked on a nearby cotton plantation. From an early age, Mary exhibited a desire to learn to read and go to school. One of her earliest formative experiences was an encounter with a white girl who commanded her, "Put down that book. You can't read." Determined to prove the girl wrong, she enrolled at the one-room Trinity Mission School, run by the Presbyterian Church, when it opened. At the urging of her teacher, she enrolled at Scotia Seminary (now Barber-Scotia College) in Concord, North Carolina, in 1888. After completing her degree in 1894, McLeod moved to Chicago to attend Dwight Moody's Institute for Home and Foreign Missions (now Moody Bible College). Her earliest goal was to become a missionary in Africa, but after being told that there was no call for black missionaries there, she decided to embark on a teaching career, which included stints at the school she had attended as a child; at the Haines Normal and Industrial Institute in Augusta, Georgia; and at the Kindell Institute in Sumter, South Carolina. In 1898 she married Albertus Bethune, who left her in 1907 and died in 1918.

In 1899 Bethune was persuaded to relocate to Florida to run a mission school. During this time she supplemented her income by selling life insurance. But in 1904 she launched efforts to establish her own school for girls. She rented a house (for ten dollars a month), gathered discarded and donated materials, built desks out of old packing crates, and formed the Educational and Industrial Training School for Negro Girls in Daytona Beach, initially with six

students and cash on hand of one dollar and fifty cents. She continued to scrounge for donations, securing a substantial grant from the industrialist John D. Rockefeller, and she persuaded prominent white men in the bustling economic climate of Daytona Beach to sit on the school's board of directors. The school had over a hundred students by 1910 and more than three hundred by 1920. In 1923 the school, now called the Daytona Normal and Industrial Institute for Negro Girls, completed the process of merging with the Cookman Institute for Men of Jacksonville to become the Daytona-Cookman Collegiate Institute. In 1929 the coeducational institution was renamed Bethune-Cookman College. Bethune served as president of the college until 1942. As of the twenty-first century, the school, which achieved university status in 2007, has some four thousand students on a seventy-acre campus and an operating budget of $50 million.

Bethune's career continued to evolve after the establishment of Bethune-Cookman College. From 1917 to 1925 she served as the Florida chapter president of the National Association of Colored Women, using her position to register black voters. She also served as the president of the Southeastern Federation of Colored Women's Clubs from 1920 to 1925. With these positions on her résumé, she was named national president of the National Association of Colored Women in 1924. Then, in 1935, Bethune founded the National Council of Negro Women in New York City. The council brought together twenty-eight organizations to form a united voice that would work to improve the quality of life for women and their communities. In 1936 Bethune earned a position in the National Youth Administration, a New Deal agency in Franklin Roosevelt's administration whose goal was to increase educational and occupational opportunities for young people. Two years later, in 1938, she was appointed director of the administration's Division of Negro Affairs, making her the first black woman to head a federal agency. Also that year, Bethune's National Council of Negro Women played host to the White House Conference on Negro Women and Children. The goal of the conference was to highlight the democratic roles of black women, which would later include providing opportunities for black women as officers in the Women's Army Corps during World War II.

Bethune was a close friend to President Franklin Roosevelt and, particularly, First Lady Eleanor Roosevelt. This friendship gave her access to the White House, and she used that access to help form the Federal Council on Negro Affairs, commonly known as the Black Cabinet. This was an informal group made up primarily of a number of prominent African Americans who worked in various federal government agencies. The Black Cabinet's role was to function in an advisory capacity, keeping the administration informed about the concerns of black Americans while at the same time demonstrating to African American voters that the Roosevelt administration heard those concerns. Late in her life Bethune wrote weekly editorial columns for black newspapers such as the *Chicago Defender* and the *Pittsburgh Courier*.

Bethune was known almost as much for her personal manner as for her achievements. On the Black Cabinet she was referred to affectionately as "Ma Bethune." A matronly figure even in her thirties, she took to walking with a cane not because she needed it but because, she said, it gave her "swank." She was a teetotaler one who does not consume alcohol and often approached drunken men in the street to chastise them. Her peers said that she was able to assume a kind of feminine helplessness that concealed a ruthlessness about getting what she wanted. She also possessed an uncanny knack for bringing blacks and whites together. One noteworthy example was her investment in a stretch of private beach in Daytona Beach, where blacks barred from other beaches mingled with whites.

Bethune was the recipient of numerous honors, including the Spingarn Medal, an award given by the NAACP for outstanding achievement. She was the only black woman present at the founding of the United Nations in 1948, co-representing the NAACP. After her death on May 18, 1955, she was inducted into the National Women's Hall of Fame in 1973. Numerous schools throughout the United States are named in her honor.

Explanation and Analysis of the Document

At under six hundred words, Bethune's remarks were appropriately brief for a radio audience. She begins by saying that for the nation's twelve million blacks, democracy remained a goal, not something that had been fully achieved. (The total population then was just under 132 million.) She cites her Christian faith, which told her that African Americans were "rising out of the darkness of slavery into the light of freedom." She points out that progress has been made; dramatically more African Americans were literate, and significant numbers owned and operated their own farms. She notes that blacks had moved from being "chattels" that is, property to full contributors to American culture. In the second paragraph she cites some prominent African American artists and intellectuals, including Paul Laurence Dunbar, perhaps the first black American poet to achieve national recognition; Booker T. Washington, the founder of the Tuskegee Institute in Alabama; the singer Marian Anderson, who, with the backing of Eleanor Roosevelt, gave an open-air concert on the steps of the Lincoln Memorial in Washington, D.C., on Easter Sunday that year (having been refused access to Constitution Hall by the Daughters of the American Revolution); and George Washington Carver, a scientist and educator who was a model of the kind of frugality and humanitarianism that Bethune preached as an educator.

In the third paragraph, Bethune points to some of the inequalities that remained. She notes, for example, that in the South black youth lacked the same educational opportunities afforded to white youth. An examination of spending patterns of that era shows that per-student budgets for black schools were actually worse than Bethune indicates: as little as one-twentieth of those for white schools. She

A group of guests gather around the radio at the Hotel Hamilton in Washington, D.C., in the 1920s. (Library of Congress)

also points out that blacks were often barred from labor unions and forced to accept the most poorly paid menial work. Additionally, blacks continued to be denied civil rights, including the right to vote. They too often lived in squalid housing, and they continued to fear the lynch mob.

In paragraph 4, Bethune acknowledges that the black community had sometimes been slow to assume the burdens of civic responsibility, but she notes, too, that it had done so because it had been denied full equality. Perhaps making reference to the growing threat of war, she asserts that "we have always been loyal when the ideals of American democracy have been attacked." As an example she cites Crispus Attucks, a man of African and Native American descent who was slain in the Boston Massacre. And, in a reference to World War I, she comments that blacks had shed blood on the battlefields of France. Part of the fight, however, had been for civil liberties, particularly the right to vote. She alludes to the Declaration of Independence when she states, "We have fought to preserve one nation, conceived in liberty and dedicated to the proposition that all men are created equal." According to Bethune, America had imperfections, yet African Americans always fought for what they knew the nation could become. She stresses this point in the final paragraph, where she looks forward to a time when blacks and whites could work shoulder to shoulder for "a new birth of freedom" in the hope "that government of the people, for the people and by the people shall not perish from the earth" words of Abraham Lincoln from the Gettysburg Address of 1863.

Audience

Bethune's address was aired live on NBC Radio, a broadcasting company that had emerged out of a complex set of business relationships and a period of vigorous competition involving the Radio Corporation of America (known as RCA), Westinghouse Electric, American Telephone & Telegraph, and various independent radio stations as well as other corporations. As early as the 1920s NBC Radio, originally seen as a marketing device for RCA's radio equipment, was attracting a huge listening audience with its serial programming, including the mass hit *Amos 'n' Andy*. The Great Depression boosted demand for radio,

Essential Quotes

"Under God's guidance in this great democracy, we are rising out of the darkness of slavery into the light of freedom."

(Paragraph 1)

"The democratic doors of equal opportunity have not been opened wide to Negroes."

(Paragraph 3)

"We have always been loyal when the ideals of American democracy have been attacked."

(Paragraph 4)

"Perhaps the greatest battle is before us, the fight for a new America: fearless, free, united, morally re-armed, in which 12 million Negroes, shoulder to shoulder with their fellow Americans, will strive that this nation under God will have a new birth of freedom."

(Paragraph 5)

which provided people with an inexpensive form of entertainment. NBC Radio emerged as the industry leader by compiling a lineup of highly popular performers, including Al Jolson, Jack Benny, Edgar Bergen, Fred Allen, and Bob Hope. NBC Radio also helped created the NBC Symphony Orchestra under the direction of the famed musician Arturo Toscanini. Popular programs during the depression era included *Fibber McGee and Molly*, *One Man's Family*, *Ma Perkins*, and *Death Valley Days*. Because NBC affiliate stations were often the most powerful in their markets, they reached broad audiences, particularly at night, when their signals traveled thousands of miles farther than they did during the day.

Thus, a program such as *America's Town Meeting of the Air*, on which Bethune delivered her remarks, reached a large coast-to-coast audience. That program, one of America's first talk-radio shows, had been launched on May 30, 1935; its topic that night was "Which Way America: Fascism, Communism, Socialism or Democracy?" The program's format was to assemble a group of experts to discuss a topic selected by the moderator George V. Denny, Jr., the executive director of the League for Political Education, which produced the program. The goal of the program was to use modern technology to recreate the feel of a town meeting for a scattered audience, in this way involving a variety of citizens from across the nation in discussion of important public issues. Always present in the studio for the program was a live audience, which alternately cheered or booed in reaction to the speakers. Audience members were also allowed to ask questions; many openly challenged the viewpoints of the panelists and even mocked them or called them names. By 1936 listeners were able to call into the show, and they, too, often responded to what they were hearing with great vigor, sometimes expressing highly inflammatory views.

Impact

One measure of the popularity of *America's Town Meeting of the Air* was the amount of fan mail its host, Denny, received generally about two thousand to four thousand letters per week, a remarkable number for a political program at that time. Also, throughout the country, many people formed "listener clubs": People would gather to listen to the broadcast and then discuss the topic among themselves. Yet another measure of the show's popularity was civics teachers' interest in using the program's content in their classes; for this reason, Denny condensed what pan-

elists said into pamphlet form and distributed the pamphlets to teachers. In sum, *America's Town Meeting of the Air* was a popular and widespread part of the nation's political discourse when Bethune delivered her remarks in 1939, and many thousands of people likely heard them.

To assess any particular impact borne by Bethune's remarks, of course, would be difficult. But her eloquent and inspired voice was part of a swelling chorus of African American voices in this era that were calling for a nationwide reappraisal of segregation and discrimination. Journalists and authors such as Walter White were documenting the often-oppressive circumstances of African Americans. Charles Hamilton Houston, as special counsel for the NAACP, was launching a legal campaign to end discrimination and inequity in the nation's schools. A. Philip Randolph, president of the National Negro Congress and head of the Brotherhood of Sleeping Car Porters labor union, was lobbying for access for African Americans to jobs in the growing defense industry. These and other prominent public figures were impressing on the Roosevelt administration the need to take steps to end segregation, and their efforts began to bear fruit. In 1941 Roosevelt issued Executive Order 8802, banning discrimination in hiring by the federal government and in the defense industries. His successor, President Harry S. Truman, ended segregation in the armed forces with Executive Order 9981, issued in 1948. The far-reaching educational and political efforts of Mary McLeod Bethune contributed significantly to the progress of African Americans through the World War II era and beyond.

See also John P. Davis: "A Black Inventory of the New Deal" (1935); Robert Clifton Weaver: "The New Deal and the Negro: A Look at the Facts" (1935); Charles Hamilton Houston's "Educational Inequalities Must Go!" (1935); Walter F. White's "U.S. Department of (White) Justice" (1935); A. Philip Randolph's "Call to Negro America to March on Washington" (1941); Executive Order 9981 (1948); Marian Anderson's *My Lord, What a Morning* (1956).

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Questions for Further Study

1. What international events might have made the topic of Bethune's remarks of particular interest to her radio listeners?

2. What was the Black Cabinet? What role did it play in the administration of President Franklin Roosevelt?

3. Read this document in conjunction with Marian Anderson's *My Lord, What a Morning*. Imagine a discussion between Bethune and Anderson about the position and progress of African Americans in the 1930s. Would they have seen matters in the same way? How might their views have differed?

4. Imagine that Bethune was in a position to defend the viewpoints either of John P. Davis in "A Black Inventory of the New Deal" or of Robert Clifton Weaver in "The New Deal and the Negro: A Look at the Facts." Which side of the debate would she most likely have supported? Why?

5. Imagine that you attend a school where you are required to use desks made of old packing crates, similar to the kinds of facilities Bethune had when she formed the Educational and Industrial Training School for Negro Girls. What would your reaction be? What do you think the reaction of your parents or guardians would be? What lessons can be learned today about school funding as well as about the deep desire for education a century or more ago?

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http://www.floridamemory.com/onlineclassroom/marybethune.

Michael J. O'Neal

Document Text

Mary McLeod Bethune's "What Does American Democracy Mean to Me?"

Democracy is for me, and for 12 million black Americans, a goal towards which our nation is marching. It is a dream and an ideal in whose ultimate realization we have a deep and abiding faith. For me, it is based on Christianity, in which we confidently entrust our destiny as a people. Under God's guidance in this great democracy, we are rising out of the darkness of slavery into the light of freedom. Here my race has been afforded [the] opportunity to advance from a people 80 percent illiterate to a people 80 percent literate; from abject poverty to the ownership and operation of a million farms and 750,000 homes; from total disfranchisement to participation in government; from the status of chattels to recognized contributors to the American culture.

As we have been extended a measure of democracy, we have brought to the nation rich gifts. We have helped to build America with our labor, strengthened it with our faith and enriched it with our song. We have given you Paul Laurence Dunbar, Booker T. Washington, Marian Anderson and George Washington Carver. But even these are only the first fruits of a rich harvest, which will be reaped when new and wider fields are opened to us.

The democratic doors of equal opportunity have not been opened wide to Negroes. In the Deep South, Negro youth is offered only one-fifteenth of the educational opportunity of the average American child. The great masses of Negro workers are depressed and unprotected in the lowest levels of agriculture and domestic service, while the black workers in industry are barred from certain unions and generally assigned to the more laborious and poorly paid work. Their housing and living conditions are sordid and unhealthy. They live too often in terror of the lynch mob; are deprived too often of the Constitutional right of suffrage; and are humiliated too often by the denial of civil liberties. We do not believe that justice and common decency will allow these conditions to continue.

Our faith in visions of fundamental change as mutual respect and understanding between our races come in the path of spiritual awakening. Certainly there have been times when we may have delayed this mutual understanding by being slow to assume a fuller share of our national responsibility because of the denial of full equality. And yet, we have always been loyal when the ideals of American democracy have been attacked. We have given our blood in its defense from Crispus Attucks on Boston Commons to the battlefields of France. We have fought for the democratic principles of equality under the law, equality of opportunity, equality at the ballot box, for the guarantees of life, liberty and the pursuit of hap-

Glossary

battlefields of France	an allusion to World War I
Booker T. Washington	founder of the Tuskegee Institute in Alabama
Crispus Attucks	a man of African and Native American descent who was killed in the Boston Massacre prior to the Revolutionary War
George Washington Carver	a prominent black scientist and educator
Marian Anderson	a singer who gave an open-air concert on the steps of the Lincoln Memorial in Washington, D.C., on Easter Sunday 1939
Paul Laurence Dunbar	the first black poet to achieve national recognition

Document Text

piness. We have fought to preserve one nation, conceived in liberty and dedicated to the proposition that all men are created equal. Yes, we have fought for America with all her imperfections, not so much for what she is, but for what we know she can be.

Perhaps the greatest battle is before us, the fight for a new America: fearless, free, united, morally rearmed, in which 12 million Negroes, shoulder to shoulder with their fellow Americans, will strive that this nation under God will have a new birth of freedom, and that government of the people, for the people and by the people shall not perish from the earth. This dream, this idea, this aspiration, this is what American democracy means to me.

Pullman porter making up an upper berth aboard the "Capitol Limited," bound for Chicago, Illinois (Library of Congress)

A. Philip Randolph's "Call to Negro America to March on Washington"

1941

"If American democracy will not insure equality of opportunity, freedom and justice to its citizens, black and white, it is a hollow mockery."

Overview

In the May 1941 issue of *Black Worker*, A. Philip Randolph, a prominent civil rights leader in his capacity as president of the National Negro Congress and head of the Brotherhood of Sleeping Car Porters labor union, issued a call for African Americans to march on Washington, D.C., to demand an end to discrimination in the defense industry and in the military. His call, made in cooperation with the civil rights leaders Bayard Rustin and A. J. Muste, initiated the March on Washington Movement, which lasted until 1947. This movement influenced future civil rights leaders such as Martin Luther King, Jr., who joined with Randolph in 1963 to organize the historic March on Washington for Jobs and Freedom (where King made his famous "I Have a Dream" speech). Randolph's "call to Negro America" took place in the context of America's transition from the Great Depression of the 1930s to the wartime economy that would employ millions of industrial workers during World War II.

Ultimately, the march Randolph envisioned never took place. Under pressure from civil rights leaders and out of his recognition that the United States would need all the manpower it could muster in the coming years, President Franklin Delano Roosevelt issued an executive order banning racial discrimination in the defense industries and in the federal government. Accordingly, the number of African Americans employed in defense industries and government swelled, although the armed forces remained segregated throughout World War II. It would fall to Roosevelt's successor, President Harry S. Truman, to desegregate the military by executive order in 1948 in large part because of the efforts of the Committee against Jim Crow in Military Service and Training, which Randolph founded.

Context

The Great Depression, which began in 1929, marked the end of an era of prosperity in the United States. Throughout the 1930s, the nation's income dropped by half. At the height of the depression, an estimated 25 percent of the total labor force was unemployed, but among black Americans the figure was as high as 50 percent, especially in urban areas. For most of the decade, it was nearly impossible for black Americans to find work. In the South, where many African Americans had been able to scratch out a living as sharecroppers, the price of cotton dropped from eighteen cents a pound in the late 1920s to six cents a pound in 1933, forcing many sharecroppers off their land. Making matters worse was the introduction of mechanical cotton pickers, which replaced a significant segment of black labor. As displaced black agricultural workers took refuge in cities, they met with hostility from the white labor force and labor unions, both of which saw the influx of blacks as a threat to whatever few job opportunities existed.

African Americans were initially skeptical of President Franklin Roosevelt's "New Deal," a package of legislation designed to provide relief for suffering Americans by putting them to work in an assortment of federal agencies. Various provisions in these laws and the agencies they created continued a pattern of discrimination against African Americans, leading many to refer to Roosevelt's New Deal as a "raw deal." Over the course of the decade, though, some progress was made. By 1939 African Americans were beginning to benefit from New Deal programs, and their income from public sector employment was almost as large as their income in the private sector. Helping to spur this modest growth in black income was the union movement. For years, the American Federation of Labor had supported discriminatory practices in the labor unions that were part of the federation. But in 1935 the Congress of Industrial Organizations was formed with the goal, in part, of organizing black as well as white workers. With the help of such organizations as the Urban League and the National Association for the Advancement of Colored People, the Congress of Industrial Organizations organized new unions, including the Packinghouse Workers Organizing Committee, the United Automobile Workers, and the Steel Workers Organizing Committee. In the face of competition from the Congress of Industrial Organizations, in 1935 the American Federation of Labor granted a charter to the Brotherhood of Sleeping Car Porters, the union A. Philip Randolph had founded a decade earlier. In 1937 the union finally signed an agreement with the Pullman Company, which operated the railway coaches on which black porters and maids worked.

Time Line

1889

- **April 15**
  A. Philip Randolph is born in Crescent City, Florida.

1925

- **August 25**
  Randolph forms the Brotherhood of Sleeping Car Porters.

1935

- **June 1**
  The Brotherhood of Sleeping Car Porters is certified as the union representing porters working on rail cars operated by the Pullman Company.

1936

- **February 14**
  The first meeting of the National Negro Congress begins in Chicago, ending on February 15; Randolph is named the organization's first president.

1939

- **September 1**
  World War II begins in Europe with the invasion of Poland by Nazi Germany.

1941

- **March 11**
  The U.S. Congress passes the Lend-Lease Act to aid countries fighting Fascism.
- **May**
  Randolph publishes his "Call to Negro America to March on Washington for Jobs and Equal Participation in National Defense" in the journal *Black Worker*.
- **June 18**
  President Franklin Delano Roosevelt meets with Randolph to discuss the planned march on Washington.
- **June 25**
  Roosevelt issues Executive Order 8802, banning discrimination in hiring by the federal government and in the defense industries.
- **July 19**
  Roosevelt appoints the first members of the Fair Employment Practices Committee.

Black workers and civil rights organizations took additional steps to improve the plight of African American workers. In 1933, for example, the Urban League and the National Association for the Advancement of Colored People were instrumental in forming the Joint Committee on National Recovery. The organization's goal was to bring inequities in New Deal programs to the public's attention. The committee also spearheaded "Don't Buy Where You Can't Work" campaigns to boycott businesses that served black communities but refused to hire black workers in any but menial jobs. In New York City, pressure from the Citizens League for Fair Play forced the local chamber of commerce and other citywide organizations to promote the hiring of blacks in higher paying retail jobs. Meanwhile, in the rural South, black workers were joining such organizations as the Socialist Southern Tenant Farmers Union and the Communist Alabama Sharecroppers Union. In Birmingham, Alabama, black workers were drawn to the League of Struggle for Negro Rights.

Efforts were also made on the political front. Historically, African Americans had supported the Republican Party, the party of Abraham Lincoln and emancipation. Throughout the 1930s, though, black political affiliation began to shift as the Democratic Roosevelt administration appointed dozens of blacks to New Deal agencies, forming what came to be called Roosevelt's Black Cabinet. Among these politically powerful African Americans were Mary McLeod Bethune, the founder of Bethune-Cookman College, and Howard University professor Ralph Bunche. In 1936 hundreds of civil rights leaders came together to form the National Negro Congress, electing Randolph as the organization's first president. The goal of the congress was to unite some six hundred fraternal, civil rights, and church organizations under a single umbrella to improve the economic and social position of African Americans.

Despite some progress, the position of unemployed African American workers in the late 1930s remained dire. As the nation was emerging from the depression, white workers were able to return to full-time employment, but black workers continued to rely on relief programs and public sector jobs, primarily in construction and infrastructure building. However, war clouds were gathering over the horizon. On September 1, 1939, World War II began in Europe when Nazi Germany invaded Poland. In 1940, Belgium, Denmark, France, the Netherlands, and Norway fell to the Nazis. In preparation for the possibility of war, the United States instituted a peacetime draft, and under the Lend-Lease program, begun in 1941, the U.S. government began sending military supplies to England, China, Russia, and Brazil.

As the nation mobilized for the possibility of war, the unemployment rate fell below 10 percent for the first time since 1932. Industrial output was up, as exemplified by an increase in production in the shipbuilding industry: From 1930 to 1936, U.S. shipbuilders had produced only seventy-one ships; however, in 1936 a New Deal agency called the U.S. Maritime Commission was formed to revive the shipbuilding industry with great success, as 106 new ships were built from 1938 to 1940, and in 1941 nearly as many

more were produced. African Americans, however, were getting only a handful of the new jobs being created. Accordingly, on January 15, 1941, Randolph issued a press release in which he called on African Americans to protest this inequity by marching on Washington. His March on Washington Movement had previously announced its goals, among them:

> We demand, in the interest of national unity, the abrogation of every law which makes a distinction in treatment between citizens based on religion, creed, color, or national origin. This means an end to Jim Crow in education, in housing, in transportation and in every other social, economic, and political privilege. Especially, we demand, in the capital of the nation, an end to all segregation in public places and in public institutions.

The date of the proposed march was to be July 1, 1941. The Roosevelt administration, alarmed by the prospect of tens of thousands of protesters descending on the nation's capital, tried to dissuade Randolph from this course of action and call off the march. Randolph, however, remained steadfast, and in May of that year he redoubled his efforts with his "Call to Negro America to March on Washington for Jobs and Equal Participation in National Defense," published in the journal *Black Worker*.

About the Author

Asa Philip Randolph was born on April 15, 1889, in Crescent City, Florida, the son of a Methodist minister. After graduating as valedictorian of his high school class in 1907, he moved to New York City with the early goal of becoming an actor; in Harlem, he organized a Shakespearean society and performed the lead role in several of Shakespeare's plays. During the 1910s he became a Socialist and began his earliest involvement in trade unionism. Along with his close friend and collaborator, Chandler Owen, he founded and edited *The Messenger*, a radical journal that espoused Socialism and trade unionism and urged African Americans to resist the military draft after the United States entered World War I.

During the 1920s Randolph's involvement in trade unionism intensified, and in 1925 he organized the Brotherhood of Sleeping Car Porters, the first black trade union. By the mid-1930s the union had over seven thousand members. For a decade Randolph and the union carried on bitter negotiations with the Pullman Company, which operated the sleeping and dining railroad cars on which black porters and maids worked often for low wages, with no overtime pay. Finally, in 1935, the Brotherhood of Sleeping Car Porters was certified as the union that would represent the Pullman employees. Two years later the union reached an agreement with Pullman that provided workers with significant wage increases, overtime pay, and a shorter work week. Meanwhile, in 1936, Randolph was named the first president of the National Negro Congress.

Time Line

1943
- **May 27** Roosevelt's Executive Order 9346 strengthens and reorganizes the Fair Employment Practices Committee.

1947
- Randolph, with other black leaders, establishes the Committee against Jim Crow in Military Service and Training.

1948
- **July 26** President Harry Truman issues Executive Order 9981, desegregating the U.S. military.

1979
- **May 16** Randolph dies in New York City.

In January 1941, as U.S. industrial output was increasing with the growing threat of American involvement in World War II, Randolph issued a call for a march on Washington, D.C., to demand equality of opportunity in the defense industries and in the U.S. military. He met with President Franklin Roosevelt in June of that year; as a result of that meeting, Roosevelt issued Executive Order 8802, which desegregated the defense industries and the federal government. After the war, Randolph, in concert with other black leaders, established the Committee against Jim Crow in Military Service and Training. In large part as a result of Randolph's efforts, in 1948 President Harry Truman issued Executive Order 9981, desegregating the military. In 1950 Randolph founded the Leadership Conference on Civil Rights, one of the nation's leading civil rights organizations. Later, in 1963, he was instrumental in organizing the March on Washington for Jobs and Freedom. With his velvety baritone voice, Randolph was often the voice of black America on television and the radio as the struggle for civil rights continued throughout the 1960s. History came full circle when Amtrak, the organization that operates the U.S. passenger rail system, named one of its deluxe sleeping cars in Randolph's honor. Randolph died at the age of ninety on May 16, 1979, in New York City.

Explanation and Analysis of the Document

Randolph's "Call to Negro America to March on Washington for Jobs and Equal Participation in National Defense" is a highly rhetorical document consisting of a large number of short paragraphs and sentences that make his purpose

absolutely clear. He sweeps his reader along with repetition and exclamations ("What a dilemma! What a runaround! What a disgrace!") and such literary devices as alliteration ("deepest disappointments and direst defeats … dreadful days of destruction and disaster to democracy") all perhaps reflecting his early theatrical background. He announces his purpose in the opening paragraph of his address, where he says, "We call upon you to fight for jobs in National Defense. We call upon you to struggle for the integration of Negroes in the armed forces." He then condemns "Jim-Crowism," a reference to the pattern of discrimination and segregation that had existed since the nineteenth century and that kept African Americans in inferior social and economic positions; the phrase *Jim Crow* was taken from the name of a character in a popular nineteenth-century minstrel show.

Randolph stresses his view of the black employment situation as a "crisis," indeed, a "crisis of democracy." He goes on to note that African Americans are being systematically denied employment in the defense industries and that they are segregated in the U.S. military. Randolph was, of course, correct. In the early decades of the twentieth century, African Americans served primarily in menial and service jobs in the military. In the U.S. Navy and Marine Corps, for example, African Americans were pushed into the Steward's Branch, where they worked as cooks and waiters in officers' mess halls. During World War II they fought in segregated units; the few black officers commanded segregated African American units. Many military officers argued that integrating units, and thus having blacks and whites serve side by side, would result in conflict and low morale. Randolph then goes on to point out that African American workers were caught on the horns of a dilemma: They could not get jobs because there were not members of unions, and they could not gain union membership because they were without jobs.

Midway into the essay, Randolph begins to express hope that the situation can be remedied; he foresees black Americans rising from their current position to new heights of achievement in the "struggle for freedom and justice in Government, in industry, in labor unions, education, social service, religion, and culture." He then asserts that African Americans, through "their own power for self-liberation," can break down "barriers of discrimination" and slay the "deadly serpent of race hatred" in the military, government, labor unions, and industry. Here, Randolph calls for efforts to provide unskilled African American workers with job training that will enable them to make a contribution.

Randolph then makes explicit what he wants: not just an end to discrimination but, more specifically, an executive order from the president that will put an end to discrimination in the defense industry and the military. In the following brief paragraphs, he notes that efforts on the part of the black community to gain jobs will not be easy and will require money and sacrifice. He calls on African Americans to take action, urging them to "build a mammoth machine of mass action" and to "harness and hitch" their power. He then arrives at his key goal: the organization of a march on Washington to demand economic equality. Randolph asserts that such a march will "shake up white America" and "shake up official Washington." Further, the massing of thousands of black demonstrators will give encouragement not only to African Americans but also to "our white friends" who fight for justice by the side of African Americans.

Randolph next takes up a potential objection to the proposed march on Washington. Critics would argue that such a march at such a time, with war looming, might affect national unity. Randolph rejects this argument, arguing instead that "we believe in national unity which recognizes equal opportunity of black and white citizens." The paragraph goes on to reject all forms of dictatorship, including Fascism, Nazism, and Communism, and to emphasize that African Americans are "loyal, patriotic Americans all." Interestingly, early in his career, during World War I, Randolph had been arrested for breaking the 1917 Espionage Act because of the left-wing Socialist ideals he espoused in the journal he founded, *The Messenger*. By the late 1930s Randolph was muting his Socialist beliefs, and here he makes clear that he regards the Communist Soviet Union as a dictatorship.

In the final paragraphs Randolph sums up his views. He states that American democracy would be a "hollow mockery" if it failed to protect its protectors and to extend equality of opportunity to all citizens, black and white. He again calls on President Roosevelt to end "Jim-Crowism" in the military and in the defense industry and closes by stating that if the federal government is guilty of discrimination, it has forfeited the right to take industry and the labor unions to task for the same discrimination.

Audience

The audience for Randolph's "Call to Negro America to March on Washington for Jobs and Equal Participation in National Defense" was clear. The document was addressed to African Americans, in particular African American workers, urging them to participate in a march on Washington, D.C., to demand equality in the defense industries and in the military. Clearly, too, the audience for the document was the federal government, in particular, President Franklin Roosevelt, as part of a campaign to pressure him to take steps to end segregation in the defense industries and in the military. Roosevelt heard the message: Just a month after the document appeared in *Black Worker* (a journal Randolph founded and that was in essence a continuation of the earlier journal *The Messenger*), the president agreed to meet with Randolph to discuss the proposed march on Washington.

Impact

Randolph's "Call to Negro America to March on Washington for Jobs and Equal Participation in National Defense," in combination with the creation of March on Washington Movement committees formed in various cities to organize the proposed march, had a significant impact. President Roosevelt, with his wife, Eleanor Roosevelt, was

Essential Quotes

"While billions of the taxpayers' money are being spent for war weapons, Negro workers are finally being turned away from the gates of factories, mines and mills—being flatly told, 'Nothing Doing.'"

"With faith and confidence of the Negro people in their own power for self-liberation, Negroes can break down the barriers of discrimination against employment in National Defense."

"We propose that ten thousand Negroes MARCH ON WASHINGTON FOR JOBS IN NATIONAL DEFENSE AND EQUAL INTEGRATION IN THE FIGHTING FORCES OF THE UNITED STATES*."*

"But if American democracy will not defend its defenders; if American democracy will not protect its protectors; if American democracy will not give jobs to its toilers because of race or color; if American democracy will not insure equality of opportunity, freedom and justice to its citizens, black and white, it is a hollow mockery and belies the principles for which it is supposed to stand."

troubled by the prospect of large numbers of protesters descending on the capital, and they tried to persuade black leaders to cancel the event. Randolph, however, remained firm, so the president decided to meet with him.

The meeting took place on June 18, 1941, with the proposed march scheduled for July 1. Roosevelt was unable to persuade Randolph to back down and realized that the only way he could forestall the march was to issue an order that Randolph and the black leadership would find acceptable. Roosevelt had resisted such civil rights initiatives, including backing any bill against lynching, because he did not want to alienate southern Democrats, who formed a significant part of his political base. Motivated, perhaps, by a combination of the justice of the cause, the need for labor as the country prepared for war, and the fact that, having just been elected to a third term, he did not have to be concerned about appeasing his political base, Roosevelt acceded. On June 25, 1941, he issued Executive Order 8802, which stated: "As a prerequisite to the successful conduct of our national defense production effort, I do hereby reaffirm the policy of the United States that there shall be no discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin." To implement the order, Roosevelt created the Fair Employment Practices Commission (FEPC).

In response to Roosevelt's pledge to issue the order, Randolph and his associates did, in fact, cancel the march. Randolph was the target of considerable criticism for doing so, for the executive order failed to desegregate the military, so some black activists accused Randolph of selling out. Nonetheless, Randolph recognized that Roosevelt had taken a significant step, at potentially great political cost to himself, in civil rights. Accordingly, he saved the issue of desegregating the military for another day.

Still, the FEPC lacked teeth. Both the staff and the agency's annual budget were small, and the agency did not have the authority to subpoena, fine, or jail those who ignored its directives. Further, it could not regulate the hiring procedures of private employers or the membership practices of labor unions. To remedy these weaknesses, Roosevelt announced on July 30, 1942, that the War Manpower Commission would take over the administration of the FEPC. This move, however, made matters worse, for the commission's head, the former Indiana governor Paul V. McNutt, had little sympathy for the FEPC, cut its budget, and generally impeded its efforts. After the resignation of

three key members of the FEPC's staff, the agency's future looked grim, prompting Randolph to revive the March on Washington Movement. President Roosevelt once again bowed to pressure and on May 27, 1943, issued Executive Order 9346, strengthening and reorganizing the FEPC and placing it under the direction of Monsignor Francis J. Hass, a Catholic priest. Within months, the agency had set up nine regional offices and three satellite offices.

Scholars continue to debate the question of whether the FEPC was effective. Some argue that whatever gains black workers made would have occurred without the FEPC, for the pressure of war created a manpower shortage in industry that would have provided jobs for African Americans. Others argue that were it not for the FEPC, gains would not have been made in such industries as utilities, shipbuilding, steel mills, and public transportation. The facts, though, are indisputable. Between 1941 and 1945, 1.5 million minority workers gained employment in the defense industries; after 1942 the share of African Americans who held jobs in the defense industries more than tripled and by 1944 had risen from 2.5 percent to 8.3 percent. Additionally, another two hundred thousand to three hundred thousand minorities were employed by the federal government.

The final item on Randolph's agenda was desegregation of the military. In 1947 Randolph founded the Committee against Jim Crow in Military Service and Training. He and other black American leaders threatened to urge black workers to go on strike, which would have exacerbated the economic disruptions caused by the nation's conversion to a peacetime economy. Moreover, the widespread destruction of World War II, with the denial of human rights by Nazi Germany and the expansionist Japanese empire, focused attention on human rights throughout the world. African American soldiers who continued to serve in Europe in the years after the war found greater acceptance there, and they demanded this same acceptance from white American society. In this climate, Roosevelt's successor, President Harry Truman, created the President's Commission on Civil Rights. In 1947 the commission issued its final report, *To Secure These Rights*, recommending specific ways to protect the civil rights of African Americans and other minority groups. Truman faced resistance, particularly from southern senators, so he took the issue of civil rights into his own hands. On July 26, 1948, he issued Executive Order 9981, which desegregated the U.S. military. Although the military services initially resisted his order (believing they were already in compliance with earlier directives), eventually they complied, and in 1954 the U.S. Department of Defense was able to announce that the last racially segregated armed forces unit had been abolished. The second major goal of Randolph's "Call to Negro America" was finally realized.

See also *To Secure These Rights* (1947); Executive Order 9981 (1948); Martin Luther King, Jr.: "I Have a Dream" (1963).

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Questions for Further Study

1. What impact did the advent of World War II have on the U.S. economy?

2. What impact, if any, did the labor union movement have on African Americans in the 1930s and early 1940s?

3. Randolph's march on Washington never took place. Does this mean that his "call" was unsuccessful? Why or why not?

4. Randolph's article is in no sense a sober, academic-sounding call to the African American community. What rhetorical devices did Randolph use to spur African Americans to action? To what extent do you believe that Randolph's early career as an actor may have contributed to his writing style?

5. Randolph wrote that "we believe in national unity which recognizes equal opportunity of black and white citizens." Compare this document with William Pickens's "The Kind of Democracy the Negro Expects" (1918). To what extent do the two writers make similar arguments, each in the context of world war?

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Michael J. O'Neal

Document Text

A. Philip Randolph's "Call to Negro America to March on Washington"

We call upon you to fight for jobs in National Defense.

We call upon you to struggle for the integration of Negroes in the armed forces.…

We call upon you to demonstrate for the abolition of Jim-Crowism in all Government departments and defense employment.

This is an hour of crisis. It is a crisis of democracy. It is a crisis of minority groups. It is a crisis of Negro Americans.

What is this crisis?

To American Negroes, it is the denial of jobs in Government defense projects. It is racial discrimination in Government departments. It is widespread Jim-Crowism in the armed forces of the Nation.

While billions of the taxpayers' money are being spent for war weapons, Negro workers are finally being turned away from the gates of factories, mines and mills being flatly told, "Nothing Doing." Some employers refuse to give Negroes jobs when they are without "union cards," and some unions refuse Negro workers union cards when they are "without jobs."

What shall we do?
What a dilemma!
What a runaround!
What a disgrace!
What a blow below the belt!

Though dark, doubtful and discouraging, all is not lost, all is not hopeless. Though battered and bruised, we are not beaten, broken, or bewildered.

Verily, the Negroes' deepest disappointments and direst defeats, their tragic trials and outrageous oppressions in these dreadful days of destruction and disaster to democracy and freedom, and the rights of minority peoples, and the dignity and independence of the human spirit, is the Negroes' greatest opportunity to rise to the highest heights of struggle for freedom and justice in Government, in industry, in labor unions, education, social service, religion, and culture.

With faith and confidence of the Negro people in their own power for self-liberation, Negroes can break down the barriers of discrimination against employment in National Defense. Negroes can kill the deadly serpent of race hatred in the Army, Navy, Air and Marine Corps, and smash through and blast the Government, business and labor-union red tape to win the right to equal opportunity in vocational training and re-training in defense employment.

Most important and vital of all, Negroes, by the mobilization and coordination of their mass power, can cause President Roosevelt to Issue an Executive Order Abolishing Discriminations in All Government Department, Army, Navy, Air Corps and National Defense Jobs.

Of course, the task is not easy. In very truth, it is big, tremendous and difficult.

It will cost money.

It will require sacrifice.

It will tax the Negroes' courage, determination and will to struggle. But we can, must and will triumph.

The Negroes' stake in national defense is big. It consists of jobs, thousands of jobs. It may represent millions, yes, hundreds of millions of dollars in wages. It consists of new industrial opportunities and hope. This is worth fighting for.

But to win our stakes, it will require an "all-out," bold and total effort and demonstration of colossal proportions.

Negroes can build a mammoth machine of mass action with a terrific and tremendous driving and striking power that can shatter and crush the evil fortress of race prejudice and hate, if they will only resolve to do so and never stop, until victory comes.

Dear fellow Negro Americans, be not dismayed by these terrible times. You possess power, great power. Our problem is to harness and hitch it up for action on the broadest, daring and most gigantic scale.

In this period of power politics, nothing counts but pressure, more pressure, and still more pressure, through the tactic and strategy of broad, organized, aggressive mass action behind the vital and important issues of the Negro. To this end, we propose that ten thousand Negroes MARCH ON WASHINGTON FOR JOBS IN NATIONAL DEFENSE AND EQUAL INTEGRATION IN THE FIGHTING FORCES OF THE UNITED STATES.

An "all-out" thundering march on Washington, ending in a monster and huge demonstration at Lincoln's Monument will shake up white America.

Document Text

It will shake up official Washington.

It will give encouragement to our white friends to fight all the harder by our side, with us, for our righteous cause.

It will gain respect for the Negro people.

It will create a new sense of self-respect among Negroes.

But what of national unity?

We believe in national unity which recognizes equal opportunity of black and white citizens to jobs in national defense and the armed forces, and in all other institutions and endeavors in America. We condemn all dictatorships, Fascist, Nazi and Communist. We are loyal, patriotic Americans all.

But if American democracy will not defend its defenders; if American democracy will not protect its protectors; if American democracy will not give jobs to its toilers because of race or color; if American democracy will not insure equality of opportunity, freedom and justice to its citizens, black and white, it is a hollow mockery and belies the principles for which it is supposed to stand.…

Today we call on President Roosevelt, a great humanitarian and idealist, to … free American Negro citizens of the stigma, humiliation and insult of discrimination and Jim-Crowism in Government departments and national defense.

The Federal Government cannot with clear conscience call upon private industry and labor unions to abolish discrimination based on race and color as long as it practices discrimination itself against Negro Americans.

Glossary

Fascist	a reference to right-wing authoritarian rule at the time in such places as Italy under Benito Mussolini
Jim-Crowism	from "Jim Crow," the term commonly used to refer to laws and social systems that kept African Americans in disadvantaged positions

Morris Ernst, a member of the Committee on Civil Rights (Library of Congress)

To Secure These Rights

1947

"The only aristocracy that is consistent with the free way of life is an aristocracy of talent and achievement."

Overview

Drafted by President Harry S. Truman's Committee on Civil Rights in 1947, *To Secure These Rights* (subtitled "The Report of the President's Committee on Civil Rights") remains one of the most important federal civil rights reports in United States history. Issued on the heels of World War II, *To Secure These Rights* identified remarkable disparities in racial treatment in both the North and the South and called for a series of measures to improve race relations in the United States. Among them were police professionalization, federal protection of black voting rights, enforcement of antilynching laws, and an end to segregation in schools, housing, and public accommodations.

Although President Truman refrained from addressing many of the committee's recommendations, he did order the desegregation of the armed forces in 1948 with Executive Order 9981, signaling the beginning of the federal government's push for desegregation generally. Outraged at Truman's commitment to civil rights, southerners like then governor of South Carolina Strom Thurmond abandoned the Democratic Party, formed the Dixiecrats, and initiated a realignment of America's political landscape that is still discernible today. Long before the U.S. Supreme Court's desegregation decision in *Brown v. Board of Education* (1954) or the student sit-ins of the 1960s, *To Secure These Rights* introduced a blueprint for the civil rights movement.

Context

To Secure These Rights emerged out of the immediate political context of World War II. During the war, almost one million African Americans left the South for work in military-related industries in the North and West. Once there, African Americans formed powerful political blocs in urban areas important for both state and national elections, New York, Chicago, and Detroit among them. Yet African American voters did not completely abandon the Republican Party, many still remaining loyal to the legacy of Abraham Lincoln. Eager to continue his predecessor's success at winning over black voters, Harry S. Truman made civil rights an important component of his domestic platform.

Although the Supreme Court had indicated as early as 1937 that the federal government might be constitutionally authorized to protect civil rights abuses against the states, Truman was arguably the first federal official to truly embrace such a vision. His first statement to this effect occurred during his State of the Union address before Congress on January 6, 1947, when he invoked "the will to fight" crimes against blacks and lobbied to extend "the limit of federal power to protect the civil rights of the American people." Truman reiterated this interest during an organizational meeting of the Civil Rights Committee at the White House, requesting that the committee inform him of "exactly how far" his attorney general could go in enforcing civil rights at the state and local levels.

On December 5, 1946, Truman issued Executive Order 9808, establishing a committee to investigate civil rights abuses and recommend possible solutions. Issued on the heels of World War II, Truman's order drew a direct line between civil rights and World War II. "Freedom from Fear" one of Franklin Delano Roosevelt's Four Freedoms as articulated in January 1941 at the outset of the war had come "under attack," Truman declared in this order, by individuals willing to "take the law into their own hands" and target African American "ex-servicemen." Of particular concern to Truman were stories of white violence against black soldiers in the American South, including the murder of a black soldier and his wife in Georgia in July 1946 and the blinding of a black sergeant in South Carolina in February of that year. Truman confronted the fallout of such events personally when the National Association for the Advancement of Colored People picketed the White House in late July and sent a delegation to confront him directly in September 1946, prompting him to write Attorney General Tom Clark immediately to request that "some sort of policy" be implemented to prevent future violence.

That Truman ultimately decided to issue an executive order was not unprecedented. Truman's predecessor, Franklin Delano Roosevelt, had also responded to pressure from the National Association for the Advancement of Colored People by issuing an executive order favoring civil rights in 1941, ultimately leading to the creation of the Fair Employment Practices Commission. Yet Roosevelt's decision shared the support of organized labor, muting its potentially radical, racial effect.

Time Line

1939

- **September 1**
  Germany invades Poland.

1941

- **June 25**
  Executive Order 8802 prohibits racial discrimination in government contracts.

1945

- World War II ends, and the Nazi Holocaust is made public.

1946

- **December 5**
  Harry S. Truman establishes the federal Committee on Civil Rights.

1947

- **October 29**
  The Committee on Civil Rights issues the report *To Secure These Rights*.

1948

- **July 14**
  The Democratic National Convention adopts Truman's civil rights plank, and southern delegates walk out.
- **July 15**
  Truman accepts the Democratic nomination for the presidency.
- **July 17**
  The States' Rights Party, or "Dixiecrats," hold a separate convention in Birmingham, Alabama.
- **July 26**
  Truman issues Executive Order 9981, desegregating the armed forces.

1954

- **May 17**
  The U.S. Supreme Court decides the case *Brown v. Board of Education*.

1960

- **February 1**
  Sit-ins begin in Greensboro, North Carolina.

Truman faced more complex problems. Suffering low approval ratings in the polls, he risked losing even more support by coming out in favor of black rights, particularly among powerful southern contingents in the Senate and House of Representatives. However, he also confronted an embarrassing string of democratic losses in the congressional elections of 1946, alerting him to the possible abandonment of the Democratic Party by black voters in the North. Eager to assuage blacks without forcing an open confrontation with southern whites, Truman followed Roosevelt's use of the executive order, a move that could be funded out of his own discretionary accounts independent of congressional approval. To build public support for such an initiative, Truman warned of an impending wave of racial hysteria akin to that which followed World War I "when organized groups fanned hatred and intolerance," as he put it in his instructions to the civil rights committee. Incidentally, one such organized group, the Ku Klux Klan, had become particularly repugnant to Truman, smearing him as a Jew (which he was not) during his race for county judge in 1922.

Global concerns also haunted Truman's thoughts in late 1946, possibly pushing him to align America's domestic treatment of minorities with its foreign policy. For example, he expressed open support for his predecessor's emphasis on the Four Freedoms (freedom of speech and expression, freedom of religion, freedom from want, and freedom from fear) and embraced America's new role as leader of the free world. Indeed, Truman hosted former British Prime Minister Winston Churchill in Fulton, Missouri, on March 5, 1946, applauding as Churchill delivered a rousing alarm that the Soviet Union had erected an "iron curtain" across Europe threatening "freedom and democracy" the world over. Exactly one year later, Truman articulated his bold, interventionist policy of containment, the now famous Truman Doctrine. Although the Truman Doctrine did not have an overt tie to civil rights, Truman did realize that at least part of America's struggle against the Soviet Union and China was ideological and that glaring examples of persistent, state-sanctioned racism undermined America's cold war image. Truman also rankled at the irony of black soldiers being ordered to fight racism in Nazi Germany, only to then suffer domestic abuses once they returned home, an eventuality that pressed him to establish a federal committee dedicated to investigating civil rights.

About the Author

A committee of fifteen prominent citizens drafted *To Secure These Rights*. Hoping for balance, Truman appointed two women, two southerners, two business leaders, and two labor leaders. General Electric president Charles E. Wilson agreed to chair, while Rabbi Roland B. Gittelsohn, Catholic bishop Francis J. Haas, Episcopal bishop Henry Knox Sherrill, and Methodist official M. E. Tilley provided religious diversity. Labor's representatives included Boris Shishkin of the American Federation of Labor, and James B. Carey of the Congress of Industrial Organizations. Uni-

versity of North Carolina president Frank P. Graham and Dartmouth president John S. Dickey provided an academic aspect, while Morris L. Ernst, Francis P. Matthews, Franklin D. Roosevelt, Jr., and Dr. Channing H. Tobias represented the public and nonprofit sectors. Perhaps most notably, the civil rights lawyer Sadie Tanner Alexander was the committee's only African American.

Alexander wrote Truman on December 9, 1946, that the committee's work was "the greatest venture in the protection of civil liberty officially undertaken by the government since reconstruction." Holding a PhD in economics, Alexander had served on the board of directors of the National Urban League, worked with National Council of Negro Women president Mary McLeod Bethune, and practiced law in Philadelphia. Her presence went far toward establishing the committee's credibility in civil rights circles.

Explanation and Analysis of the Document

With Truman's blessing, the committee decided not simply to focus on the most "flagrant outrages" against minorities but to look more "broadly" at civil rights generally. To aid its inquiry, the fifteen-person group devised four baseline questions, each of which warranted its own, individual section in the body's final report. The questions were these: "What is the historic civil rights goal of the American people?" "In what ways does our present record fall short of the goal?" "What is government's responsibility for the achievement of the goal?" "What further steps does the nation now need to take to reach this goal?"

Conceding that the term *civil rights* "has with great wisdom been used flexibly in American history," the committee dedicated its first section to identifying which rights, precisely, needed to be secured. In so doing, it went a long way toward framing the civil rights debate for decades to come, drawing not simply from the Bill of Rights but also from the Declaration of Independence, President Roosevelt's Four Freedoms, and its own conceptions of what the federal government should protect. Out of this democratic assortment of legal and nonlegal sources, the committee identified four primary rights: "the right to safety and security of the person," "the right to citizenship and its privileges," "the right to freedom of conscience and expression," and, perhaps most notably, "the right to equality of opportunity."

On the first, the committee noted that freedom was meaningless so long as citizens were subject to "bondage, lawless violence, and arbitrary arrest and punishment," warranting the need for federal protection of the "due process of law" against any "threat of violence by private persons or mobs." At least part of this "security" right rested on firm legal footing, particularly the due process rights of the Fifth and Fourteenth amendments as well as the procedural protections of the Fourth, Sixth, and Eighth amendments though they had yet to be incorporated to the states. However, the committee's concern for mob violence indicated a departure from written law, especially the Constitution's focus on state actors. Even the Fourteenth Amendment, for example, did not protect citizens from abuses by "private persons" and "mobs," a point made clear by the Supreme Court in *United States v. Cruikshank* in 1876. The committee's rejection of this opinion would be one of several remarkable innovations in the conception of rights that it devised.

The second innovation that the committee devised emerged in tandem with its second right: the "right to citizenship and its privileges." Clearly based on the Fourteenth Amendment, the right to citizenship adhered to "every mature and responsible person," who in turn deserved "an equal voice in his government." With an eye to disfranchisement in the South, the committee noted that participation in the political process could not be limited to individuals of a particular "race, color, creed, … or national origin." Then, in a move that went decidedly off the Fourteenth Amendment, the committee included the right to military combat as a core civil right, noting that all citizens "must enjoy the right to serve the nation and the cause of freedom in time of war." Those who did not enjoy such a right, noted the committee in an allusion to the Supreme Court's infamous 1896 decision in *Plessy v. Ferguson*, suffered a "badge of inferiority." Precisely because *Plessy* sanctioned racial segregation, not combat service, the committee's invocation of a right to combat played fast and loose with legal doctrine, essentially creating a new civil right out of whole cloth. Even the most militia-friendly reading of the Second Amendment, which was arguably the only constitutional protection applicable to military service, did not indicate that citizens had the constitutional right to join a militia.

Third on the committee's list of vital rights was the "right to freedom of conscience and expression," perhaps the only right firmly grounded in legal doctrine. Paraphrasing the First Amendment, the committee denounced the suppression of private "arguments, viewpoints, or opinions" meanwhile recognizing Oliver Wendell Holmes's "clear and present danger" qualification as articulated in *Schenck v. United States* (1919). "Complete religious liberty" also struck the committee as a central right, except when "pleaded as an excuse for criminal or clearly anti-social conduct."

If the committee's third right was the most doctrinaire, then its final right proved to be its most unmoored. Abandoning both written and unwritten law, the committee called for federal protection of "the right to equality of opportunity." Observing that it was "not enough" that citizens were guaranteed political participation, the committee also judged the federal government responsible for providing citizens with the "right to enjoy the benefits of society." This included the right to "obtain useful employment" as well as the right to "have access to services in the fields of education, housing, health, recreation and transportation" independent of "race, color, creed, and national origin." While the eradication of racial and national animus anticipated the Supreme Court's equal protection jurisprudence in the 1950s, the committee's interest in equality of opportunity marked a relatively radical departure from anything mentioned in the Constitution or subsequent Supreme Court jurisprudence. Even *Plessy v. Ferguson*, which held that separate public accommodations like streetcars need-

ed to be equal, did not provide any indication that such equality extended to opportunity. Nor did Thomas Jefferson's invocation of the right to "life, liberty, and the pursuit of happiness" in the Declaration of Independence necessarily mean that the government was obligated to provide equal access to private employment. Here, the committee's work truly forged new ground, setting the stage not only for the establishment of the Equal Employment Opportunity Commission in 1965 but also for the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

Prescient in scope, the committee also proved persuasive in fact, as illustrated in the second section of its report, titled "The Condition of Our Rights," which built the case for unprecedented federal intervention in state affairs by recounting a parade of shocking abuses at the local level, many in the South. Included in the first part of this section were shocking depictions of lynchings coupled with the observation that "communities in which lynchings occur tend to condone the crime." Also in this section are discussions of police brutality, "unwarranted arrests, unduly prolonged detention[s] before arraignment, and abuse[s] of the search and seizure power," all recognizable targets of the Warren Court over a decade later. Recognizing the close ties between police and local majorities, the committee identified one of the core issues that would come to plague police departments for the next half century, namely the plight of "unpopular racial or religious minorities" in the face of "prejudices of the region or of dominant local groups."

Perhaps even more problematic were lapses in the administration of justice. Again focusing on the South, the committee found shocking evidence of confessions resulting from torture; incompetent, even nonexistent counsel; and use of the "fee system" by which judges were paid based on the number of "fines levied." Exacerbating such travesties were even more alarming cases of forced labor, both against employees who owed debts and prisoners who endured false convictions only to be hired out by sheriffs to "local entrepreneurs."

As the committee unearthed clear infringements on the "right to security," so too did it uncover alarming violations of the right to citizenship, many leveled at Asian immigrants on the West Coast and African Americans in the South. In states like California, for example, natives of Japan and Korea were "forbidden an opportunity to attain citizenship status" and also barred from owning land. Meanwhile, blacks in the American South confronted myriad "qualifications" standards, among them requests to read and interpret the Constitution, pay exorbitant poll taxes, and even endure outright physical violence.

Convinced that combat duty was also a right of citizenship, the committee exposed numerous discrepancies in the treatment of white and black soldiers. Enrollment in officer candidate schools for all four branches was generally restricted to whites; meanwhile, "cooks, stewards, and steward's mates," tended overwhelmingly to be black. Further, the armed forces enjoyed relatively little success in eliminating discrimination from admission to the military academies, further ensuring that blacks did not occupy positions of rank in the armed forces.

As for the right to freedom of conscience and expression, the committee did not focus on race so much as political affiliation, particularly individuals suspected of being Communists. Conceding that Communists were "hostile to the American heritage of freedom and equality," the committee still opposed "any attempt to impose special limitations on the rights of these people to speak and assemble." Predicting the national backlash against Senator Joseph McCarthy (who led a Senate investigation of supposed Communist infiltration of government) almost a decade later, the committee observed that "public excitement about 'Communists'" exceeded both "good judgment" and "calmness."

Finally, the committee considered the right to equal opportunity in employment, schools, housing, and health care. Noting that World War II had actually triggered a "marked advance both in hiring policies and in the removal of on-the-job discriminatory practices," the committee still recognized that discrepancies remained. Particularly vulnerable were "minority group members," including African Americans, Mexicans, and Jews. To illustrate, the committee cited a 1946 survey of private employment agencies in over one hundred major cities, concluding that "89 percent" of the agencies polled "included questions covering religion on their registration forms." In Chicago alone, "60 percent of the executive jobs" and "50 percent of the sales executive jobs" were closed to Jews.

African Americans also tended to suffer considerable employment discrimination. A poll of government employees indicated that while whites tended to enjoy a promotion once every two years, African Americans could expect to be promoted once every fourteen years. Even greater obstacles existed to union membership as organized labor proved less willing to end discrimination than "private industry." Despite such disparities, however, only six states boasted "laws directed against discrimination in private employment."

Perhaps surprisingly, discrimination in schools occupied a relatively small portion of the committee's findings, even though it did focus those findings on the South. Stating that the South boasted only "one-fifth of the taxpaying wealth of the nation," the committee framed the region's decision to "maintain two sets of public schools, one for whites and one for Negroes," economic folly. Exacerbating this folly was the unconscionable "difference in quality" between schools for whites and schools for blacks, black schools suffering significantly lower rates of "expenditure per pupil, teachers' salaries, the number of pupils per teacher, transportation of students, adequacy of school buildings and educational equipment, length of school term," and "extent of curriculum." Yet, despite the region's "considerable progress in the last decade in narrowing the gap" between white and black schools, the committee doubted that the South could ever achieve true parity without "federal financial assistance."

Although the committee was dubious of southern commitment to funding black schools, it did not make the argu-

ment that the National Association for the Advancement of Colored People would eventually make in *Brown v. Board of Education*, namely, that segregated schools were inherently discriminatory because they negatively affected the psychological development of African American children. The absence of such a critique indicates that even as late as 1947 school integration was not viewed in quite the same way as it was in 1954 and may, in fact, have been less important than the problem of disparate funding.

By contrast, the committee successfully foreshadowed Supreme Court jurisprudence in the realm of housing, targeting the restrictive covenant as an impermissible means of discrimination against minorities, including "Armenians, Jews, Negroes, Mexicans, Syrians, Japanese, Chinese and Indians." Noting that such covenants were essentially private, the committee nevertheless documented their remarkable affect on America's urban landscape, noting that the "amount of land covered by racial restrictions in Chicago has been estimated at 80 percent." Identifying covenants as a handmaiden of the ghetto, the committee advanced what was at that point a relatively novel interpretation of state action, remarking that deed restrictions could be enforced only by "obtaining court orders," thereby making covenants a kind of state action precisely because they placed "the power of the state behind the enforcement of the private agreement." Knowing full well that recasting legally enforceable private agreements essentially contracts as state action boasted little precedent in American law, the committee cited a Canadian court ruling to defend its position, marking yet another innovative act of rights creation.

Perhaps the most stunning act of rights creation engaged in by the committee emerged in the realm of health care, where the committee identified a "right to health service." Well aware that no doctrinal support existed for such a right, the committee simply cited data indicating "discrepancies between the health of the majority and the minorities," caused by factors such as "crowded, dirty" living conditions; segregated health facilities; and a lack of minority health care professionals. "In 1937" alone, said the committee, "only 35 percent of southern Negro babies were delivered by doctors, as compared to 90 percent of northern babies of both races." Further, black life expectancies were considerably lower than those for whites, with black males and females expecting to live fifty-two and fifty-five years, respectively, while their white counterparts expected to live at least a decade longer. Part of the explanation for these disparities, continued the committee, was "the discriminatory policy of our medical schools in admitting minority students" as well as the "refusal of some medical societies to admit Negro physicians."

Audience

The primary audience for *To Secure These Rights* was the black community, particularly that portion of the community living in the urban North. There, African Americans found

One of a set of posters of the Four Freedoms by Norman Rockwell: Freedom from Fear (Library of Congress)

themselves numerous enough to tip the scales in favor of Democrats or Republicans in state and national elections. Afraid that blacks might return to the Republican Party after supporting Democrats during the New Deal, Truman viewed his platform on civil rights to be vital to consolidating the Democratic Party's liberal, New Deal coalition.

Truman also recognized that America's racial politics possessed an international component. Acutely conscious of the need to cobble together a political rationale for containment, Truman continued President Woodrow Wilson's emphasis on ideals, even to the point of justifying the cold war as a struggle not simply for resources or territorial control but also for much more abstract concepts like liberty and democracy. White recriminations against African American soldiers returning home from the war shocked Truman, alerting him to the need for measures aimed at improving America's international reputation for democracy and freedom.

Impact

With a right to health care providing the best example, the committee's enumeration of what civil rights, precisely, needed to be secured amounted to nothing less than a dramatic act of rights prioritization, if not outright creation. Ignoring traditional rights like freedom of contract and

Essential Quotes

"The only aristocracy that is consistent with the free way of life is an aristocracy of talent and achievement."

("The Ideal of Freedom and Equality")

"It is not enough that full and equal membership in society entitles the individual to an equal voice in the control of his government; it must also give him the right to enjoy the benefits of society."

("The Ideal of Freedom and Equality")

"Vital to the integrity of the individual and to the stability of a democratic society is the right of each individual to physical freedom, to security against illegal violence, and to fair, orderly legal process."

("The Ideal of Freedom and Equality")

property, the committee did much to set the agenda for the modern civil rights movement, establishing equality of access to the political process, equality of opportunity in employment, and procedural due process protections against police as central to America's post World War II constitutional project. Further, the committee expanded the reach of the Constitution to protect citizens against discriminatory private actions, particularly in the housing context, prefiguring the Supreme Court's turn against restrictive covenants in *Shelley v. Kraemer* in 1948.

Perhaps the most interesting aspect of the committee's report was its treatment of racial segregation. Initially reluctant to claim that segregated schools harmed black children, the committee revisited the topic in a separate section, flagging Jim Crow as a "complex" system that attempted to recognize African Americans as "citizens" but ultimately branded them as inferior beings not fit to associate with white people. Although the report had little substantive impact on schools, it did the important work of publicly stating that segregation had, in fact, evolved into a complex structure of discrimination. Moreover, evidence that the abolition of such a system would not lead to interracial violence emerged in army units during World War II, where white soldiers who found themselves fighting side by side with blacks indicated that their feelings toward their black colleagues had changed after serving with them in combat. Such findings led Truman to desegregate the armed forces with confidence in 1948.

Based on its observations of the evils of Jim Crow, coupled with its discovery of rampant racial discrimination in the realms of health care, employment, voting, and criminal justice, the committee concluded that the "Government of the United States" needed to lead the effort of safeguarding the civil rights of all Americans, even those who were harmed by "private persons or groups." Traditional conceptions of states' rights factored negligibly, if at all, in the committee's solution, which counseled in favor of encouraging "the local community" to "set its own house in order." Animating such a move was a sense that isolated lynchings did not affect simply local norms but also the entire nation, potentially even echoing "from one end of the globe to the other." Indeed, America's foreign policy objectives could be jeopardized unless it brought racial transgressors to heel, since "an American diplomat cannot forcefully argue for free elections in foreign lands without meeting the challenge that in many sections of America qualified voters do not have free access to the polls." Here was a direct link between American foreign policy and domestic civil rights, almost a decade before *Brown*. Here, too, was an indication that despite its awareness that "the American people are loyal to the institutions of local government," foreign affairs warranted a larger role for the federal government in protecting citizens from both public and private abuses.

In the final section of its report, the committee set forth recommendations for how each of its enumerated rights might be secured, beginning with the overarching need to professionalize state and local law enforcement, expand the scope and reach of the Civil Rights Section of the Department of Justice, and establish a special unit within the Fed-

eral Bureau of Investigation to investigate civil rights abuses. Once such institutional needs were met, the committee went on to propose that the right to security be bolstered by the enactment of a congressional antilynching act, the right to citizenship be reinforced by legislation ending poll taxes, and the right to equality of opportunity be encouraged by the "elimination of segregation." Although other recommendations were issued as well, this last suggestion was perhaps the committee's boldest one that included no precise directives on how Jim Crow was, in fact, to be abolished. Perhaps the only indication that the committee made of a possible solution was its mention of money, noting that "federal aid to the states for education, health, research, and other public benefits should be granted provided that the states do not discriminate." Rather than wait for courts to get involved, the committee recommended that "independent administrative commissions" be created to "consider complaints and hold hearings to review them."

Although federal commissions like the Equal Employment Opportunity Commission would not be created until 1965, the committee essentially identified all of the major fronts upon which the civil rights battles of the 1950s and 1960s would be fought. Indeed, it might even be said that even though few of the committee's recommendations were enacted into law immediately, the report nevertheless succeeded in framing the core issues of the civil rights movement. For black civil rights activists like Walter White, *To Secure These Rights* represented "the most courageous and specific document of its kind in American history."

Not surprisingly, the report triggered a backlash in the South. Newspapers protested, state officials balked, and angry letters poured into the White House, yet Truman remained undeterred. Inspired by his committee's findings, the president made it a point to emphasize the need for federal leadership on civil rights during his State of the Union Address on January 7, 1948. "Our first goal," announced Truman, "is to secure fully the essential human rights of our citizens." Less than a month later, Truman reiterated this point, remarking that "all men are created equal" and that "basic civil rights" were the "source and the support of our democracy." To support this point, he introduced into Congress a ten-point proposal that included the creation of a permanent Commission on Civil Rights, increased support for "existing civil rights statutes," "federal protection against lynching," and heightened protections of "the right to vote."

Enraged, southern delegates to the Democratic National Convention in July 1948 bolted from the party only two days after Truman won the Democratic nomination, forming their own "Dixiecrat" bloc. This schism would fundamentally alter the course of Democratic politics in America, robbing the Democrats of their most conservative element and ultimately leading many of their once loyal southerners into the hands of the Republican Party in protest in the 1970s and 1980s. In the meantime, Truman forged ahead, desegregating both the federal government and the armed forces and setting in motion forces of racial progress that would build through the end of the twentieth century. Although the report was often eclipsed by more sensational flashpoints like *Brown v. Board of Education* and the 1964 Civil Rights Act, *To Secure These Rights* not only set the tone for racial reform in the post World War II era but also framed the terms upon which that reform would take place.

See also Fourteenth Amendment to the U.S. Constitution (1868); *United States v. Cruikshank* (1876); *Plessy v. Ferguson* (1896); Executive Order 9981 (1948); *Brown v. Board of Education* (1954); Civil Rights Act of 1964.

Questions for Further Study

1. In what ways can *To Secure These Rights* be considered a "blueprint" for the civil rights movement in the 1950s and 1960s?

2. What impact did the Great Depression, World War II, and the cold war have on the issue of civil rights during the 1940s and beyond?

3. Examine this document in light of the events surrounding A. Philip Randolph's "Call to Negro America to March on Washington" in 1941. To what extent did the later document embody views that Randolph and others expressed at that time?

4. Refer to the events surrounding the U.S. Supreme Court's decision in *Sweatt v. Painter*, issued in 1950. To what extent did the executive branch under President Harry Truman and the judicial branch led by the Supreme Court work hand in hand to dismantle segregation during this period?

5. What impact did *To Secure These Rights* have on the U.S. political landscape?

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Anders Walker

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To Secure These Rights

The Report of the President's Committee on Civil Rights …

Mr. President:

This is the report which we have prepared in accordance with the instructions which you gave to us in your statement and Executive Order on December 5, 1946: …

The Committee's first task was the interpretation of its assignment. We were not asked to evaluate the extent to which civil rights have been achieved in our country. We did not, therefore, devote ourselves to the construction of a balance sheet which would properly assess the great progress which the nation has made, as well as the shortcomings in the record. Instead, we have almost exclusively focused our attention on the bad side of our record on what might be called the civil rights frontier.…

At an early point in our work we decided to define our task broadly, to go beyond the specific *flagrant* outrages to which the President referred in his statement to the Committee. We have done this because these individual instances are only reflections of deeper maladies. We believe we must cure the disease as well as treat its symptoms. Moreover, we are convinced that the term "civil rights" itself has with great *wisdom* been used flexibly in American history.…

From all of this and our own discussions and deliberations we have sought answers to the following:

(1) What is the historic civil rights goal of the American people?

(2) In what ways does our present record fall short of the goal?

(3) What is government's responsibility for the achievement of the goal?

(4) What further steps does the nation now need to take to reach the goal?

Our report which follows is divided into four sections which provide our answers to these questions.…

The Ideal of Freedom and Equality

The central theme of our American heritage is the importance of the individual person. From the earliest moment of our history we have believed that every human being has an essential dignity and integrity which must be respected and safeguarded. Moreover, we believe the welfare of the individual is the final goal of group life. Our American heritage further teaches that to be secure in the rights he wishes for himself, each man must be willing to respect the rights of other men. This is the conscious recognition of a basic moral principle: all men are created equal as well as free. Stemming from this principle is the obligation to build social institutions that will guarantee equality of opportunity to all men. Without this equality freedom becomes an illusion. Thus the only aristocracy that is consistent with the free way of life is an aristocracy of talent and achievement. The grounds on which our society accords respect, influence or reward to each of its citizens must be limited to the quality of his personal character and of his social contribution.

The Essential Rights

The rights essential to the citizen in a free society can be described in different words and in varying orders. The three great rights of the Declaration of Independence have just been mentioned. Another noble statement is made in the Bill of Rights of our Constitution. A more recent formulation is found in the Four Freedoms.

Four basic rights have seemed important to this Committee and have influenced its labors. We believe that each of these rights is essential to the well-being of the individual and to the progress of society.

1. The Right to Safety and Security of the Person. Freedom can exist only where the citizen is assured that his person is secure against *bondage*, lawless violence, and arbitrary arrest and punishment. Freedom from slavery in all its forms is clearly necessary if all men are to have equal opportunity to use their talents and to lead worthwhile lives. Moreover, to be free, men must be subject to discipline by society only for commission of offenses clearly defined by law and only after trial by due process of law. Where the administration of justice is discriminatory, no man can be sure of security. Where the threat of violence by private persons or mobs exists, a cruel inhi-

bition of the sense of freedom of activity and security of the person inevitably results. Where a society permits private and arbitrary violence to be done to its members, its own integrity is inevitably corrupted. It cannot permit human beings to be imprisoned or killed in the absence of due process of law without degrading its entire fabric.

2. *The Right to Citizenship and its Privileges.* Since it is a purpose of government in a democracy to regulate the activity of each man in the interest of all men, it follows that every mature and responsible person must be able to enjoy full citizenship and have an equal voice in his government. Because the right to participate in the political process is customarily limited to citizens there can be no denial of access to citizenship based upon race, color, creed, … or national origin. Denial of citizenship for these reasons cheapens the personality of those who are confined to this inferior status and endangers the whole concept of a democratic society.

To deny qualified citizens the right to vote while others exercise it is to do violence to the principle of freedom and equality. Without the right to vote, the individual loses his voice in the group effort and is subjected to rule by a body from which he has been excluded. Likewise, the right of the individual to vote is important to the group itself. Democracy assumes that the majority is more likely as a general rule to make decisions which are wise and desirable from the point of view of the interests of the whole society than is any minority. Every time a qualified person is denied a voice in public affairs, one of the components of a potential majority is lost, and the formation of a sound public policy is endangered.

To the citizen in a democracy, freedom is a precious possession. Accordingly, all able-bodied citizens must enjoy the right to serve the nation and the *cause of freedom in time of war*. Any attempt to curb the right to fight in its defense can only lead the citizen to question the worth of the society in which he lives. A sense of frustration is created which is wholly alien to the normal emotions of a free man. In particular, any discrimination which, while imposing an obligation, prevents members of minority groups from rendering full military service in defense of their country is for them a peculiarly humiliating badge of *inferiority*. The nation also suffers a loss of manpower and is unable to marshal maximum strength at a moment when such strength is most needed.

3. *The Right to Freedom of Conscience and Expression.* In a free society there is faith in the ability of the people to make sound, rational judgments. But such judgments are possible only where the people have access to all relevant facts and to all prevailing interpretations of the facts. How can such judgments be formed on a sound basis if arguments, viewpoints, or opinions are arbitrarily suppressed? How can the concept of the marketplace of thought in which truth ultimately prevails retain its validity if the thought of certain individuals is denied the right of circulation? The Committee reaffirms our tradition that freedom of expression may be curbed by law only where the danger to the well-being of society is clear and present.

Our forefathers fought bloody wars and suffered torture and death for the right to worship God according to the varied dictates of conscience. Complete religious liberty has been accepted as an unquestioned personal freedom since our Bill of Rights was adopted. We have insisted only that religious freedom may not be pleaded as an excuse for criminal or clearly anti-social conduct.

4. *The Right to Equality of Opportunity.* It is not enough that full and equal membership in society entitles the individual to an equal voice in the control of his government; it must also give him *the right to enjoy the benefits of society* and to contribute to its progress. The opportunity of each individual to obtain useful employment, and to have access to services in the fields of education, housing, health, recreation and transportation, whether available free or at a price, must be provided with complete disregard for race, color, creed, and national origin. Without this equality of opportunity the individual is deprived of the chance to develop his potentialities and to share the fruits of society. The group also suffers through the loss of the contributions which might have been made by persons excluded from the main channels of social and economic activity.

The Condition of Our Rights

1. *The Right to Safety and Security of the Person.* Vital to the integrity of the individual and to the stability of a democratic society is the right of each individual to physical freedom, to security against illegal violence, and to fair, orderly legal process. Most Americans enjoy this right, but it is not yet secure for all. Too many of our people still live under the harrowing fear of violence or death at the hands of a mob or of brutal treatment by police officers. Many fear entanglement with the law because of the knowledge that the justice rendered in some courts

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is not equal for all persons. In a few areas the freedom to move about and choose one's job is endangered by attempts to hold workers in peonage or other forms of involuntary servitude.

THE CRIME OF LYNCHING. In 1946 at least six persons in the United States were lynched by mobs. Three of them had not been charged, either by the police or anyone else, with an offense. Of the three that had been charged, one had been accused of stealing a saddle. (The real thieves were discovered after the lynching.) Another was said to have broken into a house. A third was charged with stabbing a man. All were Negroes. During the same year, mobs were prevented from lynching 22 persons, of whom 21 were Negroes, 1 white.…

The communities in which lynchings occur tend to condone the crime. Punishment of lynchers is not accepted as the responsibility of state or local governments in these communities. Frequently, state officials participate in the crime, actively or passively. Federal efforts to punish the crime are resisted. Condemnation of lynching is indicated by the failure of some local law enforcement officials to make adequate efforts to break up a mob. It is further shown by failure in most cases to make any real effort to apprehend or try those guilty. If the federal government enters a case, local officials sometimes actively resist the federal investigation. Local citizens often combine to impede the effort to apprehend the criminals by convenient "loss of memory"; grand juries refuse to indict; trial juries acquit in the face of overwhelming proof of guilt.…

POLICE BRUTALITY. We have reported the failure of some public officials to fulfill their most elementary duty the protection of persons against mob violence. We must also report more widespread and varied forms of official misconduct. These include violent physical attacks by police officers on members of minority groups, the use of third degree methods to extort confessions, and brutality against prisoners. Civil rights violations of this kind are by no means universal and many law enforcement agencies have gone far in recent years toward stamping out these evils.

In various localities, scattered throughout the country, unprofessional or undisciplined police, while avoiding brutality, fail to recognize and to safeguard the civil rights of the citizenry. Insensitive to the necessary limits of police authority, untrained officers frequently overstep the bounds of their proper duties. At times this appears in unwarranted arrests, unduly prolonged detention before *arraignment*, and abuse of the search and seizure power. Cases involving these breaches of civil rights constantly come before the courts. The frequency with which such cases arise is proof that improper police conduct is still widespread, for it must be assumed that there are many instances of the abuse of police power which do not reach the courts. Most of the victims of such abuses are ignorant, friendless persons, unaware of their rights, and without the means of challenging those who have violated those rights.

Where lawless police forces exist, their activities may impair the civil rights of any citizen. In one place the brunt of illegal police activity may fall on suspected vagrants, in another on union organizers, and in another on unpopular racial or religious minorities, such as Negroes, Mexicans, or Jehovah's Witnesses. But wherever unfettered police lawlessness exists, civil rights may be vulnerable to the prejudices of the region or of dominant local groups, and to the caprice of individual policemen. Unpopular, weak, or defenseless groups are most apt to suffer.…

ADMINISTRATION OF JUSTICE. In addition to the treatment experienced by the weak and friendless person at the hands of police officers, he sometimes finds that the judicial process itself does not give him full and equal justice. This may appear in unfair and perfunctory trials, or in fines and prison sentences that are heavier than those imposed on other members of the community guilty of the same offenses.

In part, the inability of the Negro, Mexican, or Indian to obtain equal justice may be attributed to extrajudicial factors. The low income of a member of any one of these minorities may prevent him from securing *competent counsel* to defend his rights. It may prevent him from posting bail or bond to secure his release from jail during trial. It may predetermine his choice, upon conviction, of paying a fine or going to jail. But these facts should not obscure or condone the extent to which the judicial system itself is responsible for the less-than-equal justice meted out to members of certain minority groups.

The United States Supreme Court in a number of recent decisions has censured state courts for accepting evidence procured by third-degree methods, for failing to provide accused persons with adequate legal counsel, and for excluding Negroes from jury lists. For example, in one of these cases, Chambers v. Florida, the Supreme Court, in 1940, set aside the conviction by the state court of four young Negroes on the ground that it should have rejected confessions extorted from the accused by the use of third-degree methods. The Court referred to the basic principle that "all people must stand on an

equality before the bar of justice in each American court." …

The use of the fee system in many communities where court officials are paid in whole or in part from the *fines* levied also sometimes stimulates arbitrary arrests and encourages unjust convictions. It is the unpopular minorities again that suffer most from this system, since it is relatively easy for unscrupulous, fee-seeking officers to "railroad" such persons to jail. The existence of the fee system and the frontier conditions in certain areas of Alaska contribute to discrimination against Indians and Eskimos in the administration of justice there. The situation is such that federal officials are seriously considering a proposal made by the Governor of Alaska to appoint a public defender for those groups.

The different standards of justice which we have allowed to exist in our country have had further repercussions. In certain states, the white population can threaten and do violence to the minority member with little or no fear of legal reprisal. Minority groups are sometimes convinced that they cannot expect fair treatment from the legal machinery. Because of this belief they may harbor and protect any of their members accused of crime. Their experience does not lead them to look upon the courts as "havens of refuge" for the victims of prejudice and public excitement.

Involuntary Servitude. Slavery was abolished in this country nearly a century ago, and in its traditional form has disappeared. But the temptation to force poor and defenseless persons, by one device or another, into a condition of virtual slavery, still exists. As recently as 1944, in the case of *Pollock v. Williams*, the Supreme Court struck down as a violation of the Thirteenth Amendment to the Constitution an Alabama statute which enabled employers to force employees, in debt on account of advanced wage payments, to continue to work for them under threat of criminal punishment. This is one of the more subtle devices for securing forced labor. More direct is the practice whereby sheriffs in some areas free prisoners into the custody of local *entrepreneurs* who pay fines or post bonds. The prisoners then work for their "benefactors" under threat of returning to jail. Sometimes the original charge against the prisoners is trumped up for the purpose of securing labor by this means. In still other instances persons have been held in peonage by sheer force or by threats of prosecution for debt.

2. *The Right to Citizenship and Its Privileges.* The status of citizenship is basic to the enjoyment of many of the rights discussed in this report. First of all one must be a citizen in order to participate fully in the political process of the United States. Only citizens of the United States are accorded the right to vote. Only citizens may hold public office.…

In granting citizenship by naturalization, a democracy may establish reasonable tests of the individual alien's eligibility for citizenship. But some of the standards of eligibility in our naturalization laws have nothing to do with a person's fitness to become a citizen. These standards are based solely on race or national origins, and penalize some residents who may otherwise have all the attributes necessary for American citizenship. The largest group of American residents presently subject to this discrimination are those born in Japan. Residents of Korean origins, as well as persons born in certain other Asiatic countries and Pacific Island areas, are also denied citizenship status. Although many of these people have lived in this country for decades, will probably remain here until they die, have raised families of native-born American citizens, and are devoted to American principles, they are forbidden an opportunity to attain the citizenship status to which their children are born.…

In addition to the disabilities suffered by ineligible aliens at the hands of private persons in employment, housing, etc. they are singled out for additional discrimination under the law. Arizona, California, Idaho, Kansas, Louisiana, Montana, New Mexico, and Oregon forbid or severely restrict land ownership by ineligible aliens.…

The Right to Bear Arms. Underlying the theory of compulsory wartime military service in a democratic state is the principle that every citizen, regardless of his station in life, must assist in the defense of the nation when its security is threatened. Despite the discrimination which they encounter in so many fields, minority group members have time and again met this responsibility. Moreover, since equality in military service assumes great importance as a symbol of democratic goals, minorities have regarded it not only as a duty but as a right.

Yet the record shows that the members of several minorities, fighting and dying for the survival of the nation in which they met bitter prejudice, found that there was discrimination against them even as they fell in battle. Prejudice in any area is an ugly, undemocratic phenomenon; in the armed services, where all men run the risk of death, it is particularly repugnant.…

Within the services, studies made within the last year disclose that actual experience has been out of keeping with the declarations of policy on discrimina-

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tion. In the Army, less than one Negro in 70 is commissioned, while there is one white officer for approximately every seven white enlisted men. In the Navy, there are only two Negro officers in a ratio of less than one to 10,000 Negro enlisted men; there are 58,571 white officers, or one for every seven enlisted whites. The Marine Corps has 7,798 officers, none of whom is a Negro, though there are 2,190 Negro enlisted men. Out of 2,981 Coast Guard officers, one is a Negro; there are 910 Negro enlisted men. The ratio of white Coast Guard commissioned to enlisted personnel is approximately one to six.

Similarly, in the enlisted grades, there is an exceedingly high concentration of Negroes in the lowest ratings, particularly in the Navy, Marine Corps, and Coast Guard. Almost 80 percent of the Negro sailors are serving as cooks, stewards, and steward's mates; less than two percent of the whites are assigned to duty in the same capacity. Almost 15 percent of all white enlisted marines are in the three highest grades; less than 2½ percent of the Negro marines fall in the same category. The disparities in the Coast Guard are similarly great. The difference in the Army is somewhat smaller, but still significant: Less than nine percent of the Negro personnel are in the first three grades, while almost 16 percent of the whites hold these ranks.

Many factors other than discrimination contribute to this result. However, it is clear that discrimination is one of the major elements which keeps the services from attaining the objectives which they have set for themselves.…

3. *The Right to Freedom of Conscience and Expression* … At the present time, in our opinion, the most immediate threat to the right to freedom of opinion and expression is indirect. It comes from efforts to deal with those few people in our midst who would destroy democracy. There are two groups whose refusal to accept and abide by the democratic process is all too clear. The first are the Communists whose counterparts in many countries have proved, by their treatment of those with whom they disagree, that their ideology does not include a belief in universal civil rights. The second are the native Fascists. Their statements and their actions as well as those of their foreign counterparts prove them to be equally hostile to the American heritage of freedom and equality.

It is natural and proper for good citizens to worry about the activities of these groups. Every member of this Committee shares that concern. Communists and Fascists may assert different objectives. This does not obscure the identity of the means which both are willing to use to further themselves. Both often use the words and symbols of democracy to mask their totalitarian tactics. But their concern for civil rights is always limited to themselves. Both are willing to lie about their political views when it is convenient. They feel no obligation to come before the public openly and say who they are and what they really want.

This Committee unqualifiedly opposes any attempt to impose special limitations on the rights of these people to speak and assemble. Our national past offers us two great touchstones to resolve the dilemma of maintaining the right to free expression and yet protecting our democracy against its enemies. One was offered by Jefferson in his first inaugural address: "If there be any among us who wish to dissolve the Union, or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it." The second is the doctrine of "clear and present danger." This was laid down as a working principle by the Supreme Court in 1919 in *Schenck v. United States* in an opinion written by Justice *Holmes*. It says that no limitation of freedom of expression shall be made unless "the words are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent." The next year in a dissenting opinion in *Schaefer v. United States* Justice Brandeis added this invaluable word of advice about the application of the doctrine: "Like many other rules for human conduct, it can be applied correctly only by the exercise of good judgment, and in the exercise of good judgment, calmness is, in time of deep feeling and on subjects which excite passion, as essential as fearlessness and honesty."

It is our feeling that the present threat to freedom of opinion grows out of the failure of some private and public persons to apply these standards. Specifically, public excitement about "Communists" has gone far beyond the dictates of the "good judgment" and "calmness" of which [justices] Holmes and Brandeis spoke. A state of near hysteria now threatens to inhibit the freedom of genuine democrats.

At the same time we are afraid that the "reason" upon which Jefferson relied to combat error is hampered by the successful effort of some totalitarians to conceal their true nature. To expect people to reject totalitarians, when we do not provide mechanisms to guarantee that essential information is available, is foolhardy. These two concerns go together. If we fall back upon hysteria and repression as our weapons against totalitarians, we will defeat ourselves. Com-

munists want nothing more than to be lumped with freedom-loving non-Communists. This simply makes it easier for them to conceal their true nature and to allege that the term "Communist" is "meaningless." Irresponsible opportunists who make it a practice to attack every person or group with whom they disagree as "Communists" have thereby actually aided their supposed "enemies." At the same time we cannot let these abuses deter us from the legitimate exposing of real Communists and real Fascists. Moreover, the same zeal must be shown in defending our democracy against one group as against the other.…

4. The Right to Equality of Opportunity.

THE RIGHT TO EMPLOYMENT. A man's right to an equal chance to utilize fully his skills and knowledge is essential. The meaning of a job goes far beyond the paycheck. Good workers have a pride in the organization for which they work and feel satisfaction in the jobs they are doing. A witness before a congressional committee has recently said:

> Discrimination in employment damages lives, both the bodies and the minds, of those discriminated against and those who discriminate. It blights and perverts that healthy ambition to improve one's standard of living which we like to say is peculiarly American. It generates insecurity, fear, resentment, division and tension in our society.

In private business, in government, and in labor unions, the war years saw a marked advance both in hiring policies and in the removal of on-the-job discriminatory practices. Several factors contributed to this progress. The short labor market, the sense of unity among the people, and the leadership provided by the government all helped bring about a lessening of unfair employment practices. Yet we did not eliminate discrimination in employment. The Final Report of the federal Fair Employment Practice Committee, established in 1941 by President Roosevelt to eliminate discrimination in both government and private employment related to the war effort, makes this clear.

Four out of five cases which arose during the life of the Committee, concerned Negroes. However, many other minorities have suffered from discriminatory employment practices. The FEPC reports show that eight percent of the Committee's docket involved complaints of discrimination because of creed, and 70 percent of these concerned Jews. It should be noted that FEPC jurisdiction did not extend to financial institutions and the professions, where discrimination against Jews is especially prevalent. Witnesses before this Committee, representing still other minority groups, testified as follows:

The Japanese Americans: "We know, too, what discrimination in employment is. We know what it means to be unacceptable to union membership; what it means to be the last hired and first fired; what it means to have to work harder and longer for less wages. We know these things because we have been forced to experience them."

The Mexican Americans: "We opened an employment bureau (to help Mexican Americans) in our office last year for San Antonio. We wrote to business firms throughout the city, most of whom didn't answer. We would call certain firms and say that we heard they had an opening for a person in a stock room or some other type of work; or I would go myself. But thinking I was the same in prejudice as they, they would say, 'You know we never hire Mexicans.'"

The American Indians: "As with the Negroes, Indians are employed readily when there is a shortage of labor and they can't get anyone else. When times get better, they are the first ones to be released."

Discriminatory hiring practices. Discrimination is most acutely felt by minority group members in their inability to get a job suited to their qualifications. Exclusions of Negroes, Jews, or Mexicans in the process of hiring is effected in various ways by newspaper advertisements requesting only whites or gentiles to apply, by registration or application blanks on which a space is reserved for "race" or "religion," by discriminatory job orders placed with employment agencies, or by the arbitrary policy of a company official in charge of hiring.

A survey conducted by the United States Employment Service and contained in the Final Report of the Fair Employment Practice Committee reveals that of the total job orders received by USES offices in 11 selected areas during the period of February 1 15, 1946, 24 percent of the orders were discriminatory. Of 38,195 orders received, 9,171 included specifications with regard to race, citizenship, religion, or some combination of these factors.

The National Community Relations Advisory Council has studied hiring practices since V-J Day. A 1946 survey of the practices of 134 private employment agencies in 10 cities (Boston, Chicago, Cincinnati, Cleveland, Detroit, Kansas City, Milwaukee, Philadelphia, St. Louis, and San Francisco) disclosed that 89 percent of these agencies included questions covering religion on their registration forms. In Chicago, a statistical count of discrimina-

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tory job orders was made by one of the largest commercial agencies in the city. This revealed that 60 percent of the executive jobs, 50 percent of the sales executive jobs, and 41 percent of the male clerical openings, and 24 percent of the female clerical openings were closed to Jews. Fully 83 percent of all orders placed with the agency carried discriminatory specifications. A companion study of help-wanted ads conducted in eight major cities during corresponding weeks in 1945 and 1946 showed that while the total volume of help-wanted advertising had declined, there was an over-all increase of 195 percent in discriminatory ads for 1946 over 1945.

The minority job seeker often finds that there are fields of employment where application is futile no matter how able or well-trained he is. Many northern business concerns have an unwritten rule against appointing Jews to executive positions; railroad management and unions discourage the employment of Negroes as engineers or conductors.…

There are six states which have laws directed against discrimination in private employment. The New York, New Jersey, Massachusetts, and Connecticut statutes have strong enforcement provisions. In general, the statutes in these four states make it unlawful for employers to discriminate in hiring, firing, or conditions of employment, or for labor unions to exclude, expel, or discriminate, because of race, color, creed, or national origin. They also prohibit the use of discriminatory help wanted ads and job applications by employers and employment agencies. State commissions are empowered to investigate complaints, to hold hearings, to attempt to conciliate, to issue cease-and-desist orders, and finally, to seek court enforcement of these orders. Indiana and Wisconsin have antidiscrimination statutes without enforcement provisions. The commissions in these two states serve therefore as educational and advisory agencies.…

THE RIGHT TO EDUCATION. The United States has made remarkable progress toward the goal of universal education for its people. The number and variety of its schools and colleges are greater than ever before. Student bodies have become increasingly representative of all the different peoples who make up our population. Yet we have not finally eliminated prejudice and discrimination from the operation of either our public or our private schools and colleges. Two inadequacies are extremely serious. We have failed to provide Negroes and, to a lesser extent, other minority group members with equality of educational opportunities in our public institutions, particularly at the elementary and secondary school levels. We have allowed discrimination in the operation of many of our private institutions of higher education, particularly in the North with respect to Jewish students.

Discrimination in public schools. The failure to give Negroes equal educational opportunities is naturally most acute in the South, where approximately 10 million Negroes live. The South is one of the poorer sections of the country and has at best only limited funds to spend on its schools. With 34.5 percent of the country's population, 17 southern states and the District of Columbia have 39.4 percent of our school children. Yet the South has only one-fifth of the *taxpaying* wealth of the nation. Actually, on a percentage basis, the South spends a greater share of its income on education than do the wealthier states in other parts of the country. For example, Mississippi, which has the lowest expenditure per school child of any state, is ninth in percentage of income devoted to education. A recent study showed Mississippi spending 3.41 percent of its income for education as against New York's figure of only 2.61 percent. But this meant $400 per classroom unit in Mississippi, and $4,100 in New York. Negro and white school children both suffer because of the South's basic inability to match the level of educational opportunity provided in other sections of the nation.

But it is the South's segregated school system which most directly discriminates against the Negro. This segregation is found today in 17 southern states and the District of Columbia. Poverty-stricken though it was after the close of the Civil War, the South chose to maintain two sets of public schools, one for whites and one for Negroes. With respect to education, as well as to other public services, the Committee believes that the "separate but equal" rule has not been obeyed in practice. There is a marked difference in quality between the educational opportunities offered white children and Negro children in the separate schools. Whatever test is used expenditure per pupil, teachers' salaries, the number of pupils per teacher, transportation of students, adequacy of school buildings and educational equipment, length of school term, extent of curriculum Negro students are invariably at a disadvantage. Opportunities for Negroes in public institutions of higher education in the South particularly at the professional graduate school level are severely limited.

Statistics in support of these conclusions are available. Figures provided by the United States Office of Education for the school year, 1943 44, show that the average length of the school term in the areas having separate schools was 173.5 days for whites, and 164 for Negroes; the number of pupils per teacher was 28

for white and 34 for Negroes; and the average annual salary for Negro teachers was lower than that for white teachers in all but three of the 18 areas.…

The South has made considerable progress in the last decade in narrowing the gap between educational opportunities afforded the white children and that afforded Negro children. For example, the gap between the length of the school year for whites and the shorter one for Negroes has been narrowed from 14.8 days in 1939 40 to 9.5 days in 1943 44. Similarly, the gap in student load per teacher in white and Negro schools has dropped from 8.5 students in 1939 40 to six students in 1943 44.

In spite of the improvement which is undoubtedly taking place, the Committee is convinced that the gap between white and Negro schools can never be completely eliminated by means of state funds alone. The cost of maintaining separate, but truly equal, school systems would seem to be utterly prohibitive in many of the southern states. It seems probable that the only means by which such a goal can finally be won will be through federal financial assistance. The extension of the federal grant-in-aid for educational purposes, already available to the land-grant colleges and, for vocational education, to the secondary school field, seems both imminent and desirable.

Whether the federal grant-in-aid should be used to support the maintenance of separate schools is an issue that the country must soon face.

In the North, segregation in education is not formal, and in some states is prohibited. Nevertheless, the existence of residential restrictions in many northern cities has had discriminatory effects on Negro education. In Chicago, for example, the schools which are most crowded and employ double shift schedules are practically all in Negro neighborhoods.

Other minorities encounter discrimination. Occasionally Indian children attending public schools in the western states are assigned to separate classrooms. Many Texas schools segregate Mexican American children in separate schools. In California segregation of Mexican American children was also practiced until recently. The combined effect of a federal court ruling, and legislative action repealing the statute under which school boards claimed authority to segregate, seems to have ended this pattern of discrimination in California schools.…

THE RIGHT TO HOUSING. Equality of opportunity to rent or buy a home should exist for every American. Today, many of our citizens face a double barrier when they try to satisfy their housing needs. They first encounter a general housing shortage which makes it difficult for any family without a home to find one. They then encounter prejudice and discrimination based upon race, color, religion or national origin, which places them at a disadvantage in competing for the limited housing that is available. The fact that many of those who face this double barrier are war veterans only underlines the inadequacy of our housing record.…

The restrictive covenant. Under rulings of the Supreme Court, it is legally impossible to segregate housing on a racial or religious basis by zoning ordinance. Accordingly, the restrictive covenant has become the most effective modern method of accomplishing such segregation. Restrictive covenants generally take the form of agreements written into deeds of sale by which property owners mutually bind themselves not to sell or lease to an "undesirable." These agreements have thus far been enforceable by court action. Through these covenants large areas of land are barred against use by various classes of American citizens. Some are directed against only one minority group, others against a list of minorities. These have included *Armenians*, Jews, Negroes, Mexicans, Syrians, Japanese, Chinese and Indians.

While we do not know how much land in the country is subject to such restrictions, we do know that many areas, particularly large cities in the North and West, such as Chicago, Cleveland, Washington, D.C., and Los Angeles, are widely affected. The amount of land covered by racial restrictions in Chicago has been estimated at 80 percent. Students of the subject state that virtually all new subdivisions are blanketed by these covenants. Land immediately surrounding ghetto areas is frequently restricted in order to prevent any expansion in the ghetto.…

The purpose of the restrictive covenant can only effectively be achieved in the final analysis by obtaining court orders putting the power of the state behind the enforcement of the private agreement. While our American courts thus far have permitted judicial power to be utilized for these ends, the Supreme Court of Ontario has recently refused to follow this course. The Ontario judge, calling attention to the policy of the United Nations against racial or religious discrimination, said:

> In my opinion, nothing could be more calculated to create or deepen divisions between existing religious and ethnic groups in this province than the sanction of a method of land transfer which would permit the segregation and confinement of particular groups to par-

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> ticular business or residential areas, or conversely, would exclude particular groups from particular business or residential areas.

There is eminent judicial and professional opinion in this country that our courts cannot constitutionally enforce racial restrictive covenants. In a recent California case a lower court judge held that the courts could not enforce such an agreement. And in a strong dissenting opinion in a recent covenant case, Justice Edgerton of the United States Court of Appeals for the District of Columbia, said:

> Suits like these, and the ghetto system they enforce are among our conspicuous failures to live together in peace. The question in these cases is not whether law should punish racial discrimination, or even whether law should try to prevent racial discrimination, or even whether law should interfere with it in any way. The question is whether law should affirmatively support and enforce racial discrimination.…

THE RIGHT TO HEALTH SERVICE. Increased attention is being given throughout the United States to the health needs of our people. Minority groups are sharing in the improvements which are taking place. But there is serious discrimination in the availability of medical care, and many segments of our population do not measure up to the standards of health which have been attained by our people as a whole.

For example, the death rate from all causes for the entire country in 1945 was 10.5 per thousand of estimated population. The Chinese, however, had a rate of 12.8; the Negroes, 12.0; the Indians, 12.0; and the Japanese, 11.5. Similarly, many diseases strike minorities much harder than the majority groups. Tuberculosis accounts for the death of more than twice as many Negroes as whites. Among Indians in rural United States, the death rate from tuberculosis is more than 10 times as high as that for whites; in Alaska, the native deaths from this cause are over 30 times greater. In Texas, seven Latin Americans died of tuberculosis for every Anglo American. Infant deaths furnish another example of this pattern. On a nationwide basis, the infant mortality rate was more than half again as high for Negroes as for whites. In Texas, it was almost three times as high for Latin as for Anglo infants. Maternal deaths show like disproportions. In New York City, where the vast majority of the Puerto Ricans in this country are located, reports from social workers and city health authorities indicate that the frequency of illness among the Puerto Ricans is much higher than among other groups.

There are many factors which contribute to the discrepancies between the health of the *majority and the minorities*. As has already been noted, our minorities are seriously handicapped by their economic status. Frequently, because of poverty, they are unable to afford even the minimum of medical care or a diet adequate to build up resistance to disease. The depressed economic status of many of our minorities combined with restrictive covenants in housing prevents them from living in a sanitary, health-giving environment. Children who are not admitted to clean, healthful playgrounds must find their fun in the crowded, dirty areas in which they are allowed. Discrimination in education withholds from many people the basic information and knowledge so essential to good health.

A more direct cause of unequal opportunity in the field of health is the discriminatory pattern that prevails with respect to medical facilities and personnel. Many hospitals will not admit Negro patients. The United States Public Health Service estimates on the basis of a preliminary survey that only approximately 15,000 hospital beds out of a total of one and one-half million beds are presently available to Negroes. Thus, though Negroes constitute about ten percent of the population, only one percent of the hospital beds are open to them. In Chicago, a study by the Mayor's Commission on Human Relations in 1946 disclosed that "although most hospital officials denied the existence of a discriminatory admission policy, Negroes represented a negligible percentage of patients admitted."

The situation is further complicated by the shortage of medical personnel available for the treatment of patients from minority groups. This is particularly evident among the Negroes; in 1937, only 35 percent of southern Negro babies were delivered by doctors, as compared to 90 percent of northern babies of both races. There were in 1940 only 3,530 Negro physicians and surgeons; 7,192 trained and student Negro nurses; and 1,471 Negro dentists in a total Negro population of 13,000,000. The ratio of Negro physicians to the total Negro population was about one to 3,377, while that of the total number of physicians to the general population of the country was one to 750. Moreover, a high proportion of these were employed in the North. In the South, with a Negro population of almost 10,000,000, there were in 1940 about 2,000 Negro doctors, or only one to every 4,900 colored persons.

One important reason for this acute shortage of skilled medical men is the discriminatory policy of our medical schools in admitting minority students.

Document Text

Medical schools graduate approximately 5,000 students a year, but only about 145 of these are Negro. And of these 145, 130 are from two Negro schools; thus, only about fifteen Negroes are graduated from all the other medical schools of the country each year.

To these handicaps must be added the refusal of some medical societies and many hospitals to admit Negro physicians and interns for practice. Denied the facilities and training which are available to other doctors, Negro members of the profession are often unable to keep abreast of developments in medicine and to qualify as specialists. This discrimination contributes to the state of Negro health.

Though the expectation of life at birth is still lower for nonwhites than whites, the relative increase in life expectancy between 1930 and 1940 was nearly twice as great for nonwhites as whites. The life expectancy of Negro males in this period increased 9.9 percent; of Negro females, 11.5 per cent; of white males and females, 6.0 per cent and 7.0 percent respectively. However, the figure for white persons is still appreciably higher than for nonwhite persons; white males can expect to live sixty-three years as compared with fifty-two for Negro males, and white females sixty-seven years compared with fifty-five years for Negro females.

Progress has been made in reducing Negro deaths due to tuberculosis, diphtheria, whooping cough, diarrhea, enteritis, and syphilis. Among the Mexicans in Texas, vigorous programs have been undertaken by federal and local officials. Baby clinics, home nursing classes, family life courses, maternity clinics and other measures have been established. The Indian Service now operates 69 hospitals and sanatoria in the United States, 7 in Alaska; 14 school health centers; and 100 field dispensaries. Special efforts are being made to combat tuberculosis, a leading cause of illness and death among Indians. Another sign of progress is the decision of the American Nurses Association, in 1946, to accept all qualified applicants as members of the national organization, even when they cannot, for local reasons, enter county societies.

Glossary

all men are created equal	a quotation from the Declaration of Independence
arraignment	a legal proceeding in which the accused is formally charged with a crime
Four Freedoms	goals articulated by President Franklin Roosevelt in a 1941 speech, including freedom of speech and expression, freedom of religion, freedom from want, and freedom from fear
gentiles	non-Jews
Jehovah's Witnesses	an evangelical Christian sect
Justice Brandeis	U.S. Supreme Court justice Louis Brandeis, known for his articulation of the right to privacy and for his commitment to social justice
Justice Holmes	U.S. Supreme Court justice Oliver Wendell Holmes, Jr., widely know for his "clear and present danger" doctrine
land-grant colleges	colleges and universities established under the Morrill Act of 1862, which granted federally owned land to the states to establish institutions of higher education
"loss of memory"	a reference to a common expression found in police reports of lynchings supposedly carried out "by a person or persons unknown"
peonage	a system by which debtors' work off their debt through labor
"separate but equal"	the doctrine created by the 1896 U.S. Supreme Court case *Plessy v. Ferguson*
third degree	extreme or painful interrogation of criminals
V-J Day	Victory over Japan Day, August 14, 1945, marking the end of World War II

EXECUTIVE ORDER

ESTABLISHING THE PRESIDENT'S COMMITTEE ON EQUALITY OF TREATMENT AND OPPORTUNITY IN THE ARMED SERVICES

WHEREAS it is essential that there be maintained in the armed services of the United States the highest standards of democracy, with equality of treatment and opportunity for all those who serve in our country's defense:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, by the Constitution and the statutes of the United States, and as Commander in Chief of the armed services, it is hereby ordered as follows:

1. It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin. This policy shall be put into effect as rapidly as possible, having due regard to the time required to effectuate any necessary changes without impairing efficiency or morale.

2. There shall be created in the National Military Establishment an advisory committee to be known as the President's Committee on Equality of Treatment and Opportunity in the Armed Services, which shall be composed of seven members to be designated by the President.

3. The Committee is authorized on behalf of the President to examine into the rules, procedures and practices of the armed services in order to determine in what respect such rules, pro-

Executive Order 9981 (National Archives and Records Administration)

Executive Order 9981

1948

"There shall be equality of treatment and opportunity for all persons in the armed services without regard to race."

Overview

In 1948 racial divisions in the United States continued to run deep, but major changes in the social and legal climate were about to occur. During World War II, which the United States entered in 1941 and fought until the war's end in 1945, African Americans and other minorities, including Native Americans and Japanese Americans, fought with great distinction. On the home front, minority-group women made major contributions to the war effort. Nevertheless, segregation in nearly every facet of American life remained entrenched nowhere more so than in the U.S. armed forces.

In response to growing pressure to remedy this state of affairs, President Harry S. Truman issued Executive Order 9981. Specifically, the executive order was written with the intent of "Establishing the President's Committee on Equality of Treatment and Opportunity in the Armed Forces." The purpose of the order then was twofold. One purpose was to declare that it would be the policy of the United States to provide equality of opportunity for members of the armed forces without regard to race, color, religion, or national origin. In this sense, armed forces desegregation could be said to have launched the civil rights movement that dominated the 1950s and 1960s. The second, more specific, purpose was to establish a seven-member advisory committee to study and recommend specific steps that the armed forces could take to implement the desegregation policy. The order granted the committee investigative authority and ordered the armed forces and other federal executive agencies to provide testimony and documents that the committee needed to carry out its mandate.

Context

Throughout American history, African Americans and members of other minority groups fought in the nation's wars with distinction. However, they did so generally in separate units that were segregated from all-white units. During the Civil War (1861 1865), for example, "colored" brigades were formed in the North, and even the Confederate States of America, starved for troops late in the war, formed brigades of black soldiers (although none ever fought).

In the decades following the Civil War, large numbers of African Americans, many of them former slaves, served in the U.S. Navy, but through the early decades of the twentieth century, they worked primarily in menial and service jobs. In the U.S. Navy and the Marine Corps, for example, many African Americans were pushed into the Steward's Branch, where they worked as cooks and served as waiters in the officers' mess halls. This state of affairs continued through World War II. During the war and its aftermath, minority groups fought in segregated units. There were few African American officers, and they all commanded African American units. The Marine Corps included few African Americans in its ranks, and the navy continued to limit the service of African Americans to such positions as cooks and stewards. Most military leaders believed that integrated units, where blacks and whites served side by side, would produce conflict and lower the morale of the troops.

President Franklin D. Roosevelt took an early step to remedy this situation in June 1941 when he issued Executive Order 8802. Arguing that the defense of the nation required the participation of all groups, he ordered that all defense contractors eliminate discrimination in employment. More specifically, he ordered that blacks be included in job-training programs at defense plants. He also ordered the formation of a Fair Employment Practices Committee. In 1942 Roosevelt took another step when he directed the navy to review its racial policies. The navy responded by allowing blacks to fill more positions in technical specialties, such as construction, supply, aviation, metalworking, and shore patrol. Later that year, as the military was rapidly increasing its manpower levels, Roosevelt issued a further executive order requiring that 10 percent of new draftees be black.

Roosevelt's executive orders had no impact on segregation in the military, but they did increase the number of African American troops. Although African Americans made up about 10 percent of the population and although about one million African Americans served during World War II, blacks continued to be assigned to segregated units. Opportunities for promotion were limited, black sailors were rarely allowed to serve at sea, and most blacks even those trained for more specialized and technical positions continued to fill service positions. Throughout this

Time Line

1945

- **October 1**
  After its appointment in September by U.S. Secretary of War Robert Patterson, the "Gillem Board," a three-member commission directed by Admiral Alvan Gillem, Jr., holds its first meeting to review army racial policies.

1946

- **February 27**
  The U.S. Navy, in Circular Letter 48-46, makes African American sailors eligible for all types of naval assignments.
- **April 10**
  U.S. War Department issues Circular 105, explicitly excluding "Negroes" from assignment to critically needed areas, though the circular was later revised to include all enlisted men.
- **April 27**
  War Department Circular 124 maintains racial segregation but makes integration the army's ultimate goal.
- **July 17**
  The U.S. secretary of war puts on hold black enlistments in the regular army.
- **September 19**
  President Harry Truman meets with a delegation from the National Emergency Committee against Mob Violence.
- **December 5**
  President Truman establishes the President's Committee on Civil Rights.

1947

- The Army Air Forces close the flight training school at Alabama's Tuskegee Airfield, the last segregated officer training program.
- The civil rights leader A. Philip Randolph, with other black leaders, establishes the Committee against Jim Crow in Military Service.
- **October 29**
  The President's Committee on Civil Rights issues its final report.

period, the navy took steps to integrate its officer corps by training twelve line officers and one warrant officer at a special training school in 1943. These officers, called the "Golden Thirteen," were the first black officers in the navy's history. Nevertheless, they were trained at a segregated school, and while some 160,000 African Americans served in the navy during World War II, just fifty-eight were officers. All of these were lower-ranking officers who served under the supervision of a white officer.

In the years immediately following the war, the U.S. Department of Defense faced a severe manpower shortage as those who had served in the war left for civilian employment. Nevertheless, the armed services continued to deter African Americans from serving. They tried to ensure that the proportion of African Americans remained no higher than 10 percent primarily by demanding that African Americans achieve higher scores on enlistment tests than their white counterparts. However, as the cold war with the Soviet Union deepened, it became apparent to President Truman and others that cutting off a valuable population of potential military recruits could hamper the nation's defense.

During these years, African American leaders were clamoring for changes in the nation's attitudes toward civil rights. One of the most outspoken leaders, A. Philip Randolph, formed the Committee against Jim Crow in Military Service; "Jim Crow" refers to the legal and social systems that segregated African Americans and kept them in inferior positions. Randolph and other African American leaders raised the possibility that black workers would go on strike, a situation that would have added to the economic turmoil caused by the nation's shift from a wartime to a peacetime economy. Additionally, the horrors of World War II, with the wholesale denial of human rights on the part of the German Nazi Party and the expansionist Japanese Empire, focused attention on human rights throughout the world. In 1948 the United Nations would issue its Universal Declaration of Human Rights, further drawing attention to the pressing issues of discrimination and civil rights. African American soldiers who served in Europe in the postwar years found greater acceptance and tolerance there, and they demanded this same level of acceptance from white American society.

Helping to improve the status of black military personnel was the appointment of James Forrestal as secretary of the navy. His predecessor, Frank Knox, had opposed integration, but Forrestal believed that integration might be a way to reduce racial tensions in the military. To that end, in 1944 1945 he ordered an experiment in which black personnel were placed on twenty-five ships at sea. The experiment proved successful, with few racial incidents reported.

It was in this climate that President Truman took on the issue of civil rights and desegregation in the years following World War II. In 1946 he created the President's Committee on Civil Rights. The committee recommended "more adequate and effective means and procedures for the protection of the civil rights of the people of the United States." In 1947 the committee issued its final report, *To Secure These Rights*, making specific recommendations for ways to ensure the civil rights of African Americans and other minority groups.

Truman urged Congress to enact the recommendations of the committee. However, he faced opposition from members of Congress, including southern senators who threatened to filibuster civil rights legislation. (The word *filibuster* refers to any delaying tactics, such as long, continuous speeches, to block action on proposed legislation.) Frustrated with Congress, Truman took matters into his own hands. He appointed an African American to a federal judgeship, he strengthened the civil rights division of the Department of Justice, and he appointed several African Americans to high-level administrative positions. Most important, he issued Executive Order 9981, calling for desegregation of the armed forces. Although the services resisted, they eventually implemented the president's order. By the end of the Korean War, segregation as a matter of military policy had largely ended.

About the Author

Harry S. Truman, the thirty-third president of the United States (1945 1953), was born in Lamar, Missouri, on May 8, 1884. (While it has become conventional to regard "S" as a middle initial, with a period, in fact the S does not stand for anything. It was his middle name, given to him by his parents to honor both of his grandfathers, whose names began with the letter S a practice not uncommon among people of Scots-Irish descent.) Early in his life, Truman worked as a drugstore clerk before turning to farming. In the 1920s he was co-owner of a men's clothing store, leading to his reputation as the "haberdasher" who became president. He was the nation's last president to serve without benefit of a college degree. In 1905 he joined the Missouri National Guard, remaining a member until 1911. An early goal was to attend the United States Military Academy at West Point, but extremely poor eyesight rendered this goal impossible. After the outbreak of World War I, he rejoined the National Guard; it is believed that he passed the eye examination by memorizing the eye chart. He served as a captain of an infantry battery in France, often organizing and disciplining his men with firmness. His experience as a military officer brought out leadership qualities that enabled him to succeed in politics.

Truman began his political career in 1922, when he was elected to the position of judge of the county court, though the position was not judicial but administrative. In 1933 he was appointed head of Federal Reemployment for Missouri, part of President Franklin Roosevelt's New Deal to overcome the effects of the Great Depression. In 1934 he was elected to the U.S. Senate, and in 1940 he was reelected, despite numerous allegations of irregularities and favoritism in the federal reemployment program. In 1944 Roosevelt, running for a fourth term as president, selected Truman as his running mate. The two were elected, but after just eighty-two days as vice president, Truman ascended to the presidency on April 12, 1945, upon Roosevelt's death.

The nearly eight years of Truman's presidency were eventful. He authorized the atomic bombing of Japan to end World War II. He then dealt with the labor turmoil and economic upheavals of the postwar years. He presided over the formation of the United Nations and the Marshall Plan for the reconstruction of Europe, the formation of the state

Time Line

1948

- **May 28**
  Lieutenant John E. Rudder is the first African American to receive a regular Marine Corps commission as an officer.
- **July 26**
  President Truman issues Executive Order 9981.

1949

- **February 28**
  The Department of Defense's newly formed personnel policy board establishes uniform standards for the military draft and abolishes racial quotas.
- **May 11**
  Air Force Letter 35-3 ends segregation in the workplace and living quarters in the U.S. Air Force.

1950

- **January 16**
  The U.S. Army publishes Special Regulation 600-629-1, "Utilization of Negro Manpower in the Army." The new policy creates a list of vacancies to be filled without consideration of race.
- **August**
  During the Korean War, in the First Provisional Marine Brigade, African Americans are integrated in combat service for the first time in the nation's history.

1951

- **March**
  By this time the U.S. Army has integrated its nine training divisions.

1954

- **October 30**
  The U.S. secretary of defense announces the abolishment of the last racially segregated armed forces unit.

Harry S. Truman (Library of Congress)

of Israel, the Communist takeover of China, and increasing U.S. involvement in Indochina. The cold war with the Soviet Union deepened during the Berlin airlift of 1948 1949, the formation of the North Atlantic Treaty Organization in 1949, and the Korean War (1950 1952). During the war Truman seized control of the striking steel industry in the interest of national security. One of the most noteworthy incidents of his administration was his reelection in 1948. Until the end of the campaign he badly trailed his opponent, Thomas Dewey. A famous photograph shows Truman holding a newspaper with the headline "Dewey Defeats Truman," run because few people had given Truman any chance to win. Truman died on December 26, 1972. He remains one of the nation's most popular presidents, highly regarded for his pragmatism and blunt outspokenness.

Explanation and Analysis of the Document

Executive Order 9981, similar to most executive orders, is relatively brief and to the point. The purpose of such an order is not to deal with details and procedures but to outline a broad policy or directive that the president wants to give the force of law. The first two paragraphs of the order contain a broad justification of the new policy. The president states that it is "essential" for the armed forces to maintain "standards of democracy" and for military personnel to have equality of opportunity. In the second paragraph, the president reiterates his authority as president and commander in chief to issue such an order.

Following the two introductory paragraphs are six specific goals. In the first, the president states that U.S. policy will ensure that all military personnel are treated equally without regard to their race, color, religion, or national origin. Although the status of African Americans in the military is of primary concern, the new policy applies to all ethnic, racial, and religious groups. While the president calls for the new policy to be implemented as soon as possible, he recognizes that it will not happen overnight that it has to happen in a way that maintains the efficiency and morale of the troops.

The second item creates a seven-member advisory committee called the President's Committee on Equality of Treatment and Opportunity in the Armed Forces. The president will appoint the members. The third item outlines the duties of the committee. These duties are to examine the policies and procedures of each of the armed forces with regard to racial segregation. The committee is to confer with and advise the secretaries of each of the military branches as well as the Department of Defense and to make recommendations to those branches and to the president.

The fourth item orders other agencies of the government's executive branch to cooperate with the committee as it gathers information, primarily by providing documents and the services of anyone who can help the committee. While the order does not say so, it was understood by all that the president, as the nation's chief executive officer, had the authority to compel cooperation only from the executive branch. The U.S. Constitution's separation of powers gives the president no authority over the legislative branch (Congress) or the judicial branch (the courts). Such agencies as the Department of Defense are part of the executive branch. The fifth item gives the committee the authority to compel testimony and to obtain documents from all federal executive departments in carrying out its work. The final item grants to the committee an indefinite life, noting that it will continue to exist until the president, through another executive order, terminates its existence.

Audience

The immediate audience for Executive Order 9981 was the Department of Defense and the commanders of the U.S. armed services, including the army, the army air forces (the precursor to today's air force, which is now a separate branch of the military), the coast guard, and the navy (including the Marine Corps). The U.S. Constitution identifies the president as the commander in chief of the nation's military, giving him the authority to order such a change in personnel policies. Through this executive order, the president instructed the various branches of the military to begin a program of desegregation.

A second, larger audience was the nation's population of African Americans and other groups defined in part by national origin, religion, and race. Although the executive order encompassed all such groups including, for example, Asian Americans, Hispanics, and Native Americans the reality was that the focus of the order was African

Essential Quotes

"It is essential that there be maintained in the armed services of the United States the highest standards of democracy, with equality of treatment and opportunity for all those who serve in our country's defense."

(Introductory Paragraph)

"It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion, or national origin."

(Item 1)

Americans, who made up nearly 10 percent of the total U.S. population in the 1940s. By issuing this executive order, President Truman sought to assure African Americans that the federal government was making efforts to ensure racial equality. In this sense, the audience for Executive Order 9981 was the American population as a whole. The order was one of the first major steps on the part of the federal government to protect the rights of minorities. By issuing it, Truman sent a message to the American people that segregation was no longer to be tolerated.

A third audience was the U.S. Congress. In February 1948 the president spoke to Congress and urged the nation's senators and congressional representatives to address the problem of racial inequality. He pressed for the strengthening of civil rights laws, the establishment of a permanent commission on civil rights, protection against lynching, protection of the right to vote, the establishment of a fair employment commission, and other steps to promote civil rights. He believed, however, that Congress was not acting on these proposals as quickly and as forcefully as it should. In particular, he faced a filibuster (delaying tactics) by southern senators on civil rights legislation. By issuing Executive Order 9981, he was able to institute a major change without having to rely on Congress.

Impact

One of the essential problems that arose in connection with Executive Order 9981 and other documents bearing on racial matters in the military had to do with the definition of terms. Another problem concerned precisely how the president's policy might be implemented. Ultimately, the goal of the order was to have a completely integrated military, one in which no regard was given to race in the assignment of personnel to units, in their appointment to fill particular military jobs, and in the selection of officers. Many military commanders, however, believed that the forces under their command were "integrated" if there were units composed of African Americans attached to "parent" white units. Some military commanders, as well as legislators, believed that both blacks and whites should be allowed to serve in all-white or all-black units if they preferred to do so. Thus, for example, a battalion might have consisted of a number of all-white companies of soldiers and one all-black company, with the all-black company performing essentially the same job as the all-white companies. At bottom, the difficulty was distinguishing "segregation" from "discrimination." Some military commanders and legislators did not believe that a segregated military was discriminatory.

The result is that Truman's order did not have any immediate impact. Neither the army nor the navy altered its policies. The decision of these branches to maintain the status quo was based on their commanders' belief that they were already in compliance with the president's order because they were in compliance with such directives as Circular 124 and Circular Letter 48-46.

Through most of 1949, in the estimation of many historians, the armed services were slow in taking steps to implement the president's policy. Change, however, began to occur in late 1949. Both the navy and the air force significantly changed their racial policies, concluding that they needed to expand the pool of available sailors and airmen in a period when the size of the military was shrinking. The army was slower to respond, but finally, in 1950, the army issued Special Regulation 600-629-1, "Utilization of Negro Manpower in the Army," ordering that openings in critical specialties were to be filled without regard to race. The Marine Corps was slower still, but in 1951, during the Korean War, the corps ended its policy of segregation.

Other changes took place. Military recruiters no longer regarded the race of candidates for service. Training units were fully integrated. All-black units were gradually taken out of commission and replaced with fully integrated units.

Additional training was provided to ensure that African American enlistees could overcome the effects of poverty and poor schooling to succeed in the military. Finally, on October 30, 1954, the U.S. secretary of defense announced the abolishment of the last racially segregated unit in the military. In the decades that followed, the U.S. armed forces became a model for complete integration and for a culture in which race plays no role in determining a soldier's or a sailor's opportunities for advancement.

See also A. Philip Randolph's "Call to Negro America to March on Washington" (1941); *To Secure These Rights* (1947).

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Questions for Further Study

1. President Truman ordered the desegregation of the armed forces three years after the end of World War II. Discuss the impact of the war on his decision. What effect did the events of the war have on the position of African Americans and other minorities in the military?

2. The U.S. armed forces remained segregated until roughly 1950. However, the United States had participated in a number of wars throughout its history, including the Revolutionary War, the War of 1812, the Civil War, the Spanish American War, World War I, and World War II. To what extent did African Americans and other minorities, including Native Americans, take part in those wars? How did their participation change over time, if at all?

3. By 1948 the United States was entering the cold war with the Soviet Union. One of the battlegrounds on which this war would be fought was Korea. What impact did the cold war have on Truman's goal of desegregating the armed forces?

4. Some historians believe that in ordering desegregation of the armed forces, President Truman was motivated less by a desire for fairness and equality than by a desire to avoid labor strikes and other forms of public protest by African Americans. Further, they argue that the timing of the order suggests that Truman was trying to appeal to black voters in the upcoming 1948 presidential election. What evidence supports the view that Truman may have been motivated by politics rather than by a sense of what was right? What evidence suggests that this view is incorrect?

5. In 1954 the U.S. Supreme Court ordered the desegregation of the nation's public schools. To what extent did the desegregation of the armed forces contribute to the climate of public opinion that led to this decision?

6. In the 1990s President Bill Clinton dealt with the issue of gays and lesbians serving in the armed forces. To what extent was that issue similar to the issues Truman faced in the 1940s? What arguments that applied to African Americans in the 1940s were also applied to gays fifty years later? What arguments against allowing gays to serve in the military were also used in the 1940s in opposition to armed forces desegregation?

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Michael J. O'Neal

Document Text

Executive Order 9981

Establishing the President's Committee on Equality of Treatment and Opportunity in the Armed Forces.

WHEREAS it is essential that there be maintained in the armed services of the United States the highest standards of democracy, with equality of treatment and opportunity for all those who serve in our country's defense:

NOW THEREFORE, by virtue of the authority vested in me as President of the United States, by the Constitution and the statutes of the United States, and as Commander in Chief of the armed services, it is hereby ordered as follows:

1. It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin. This policy shall be put into effect as rapidly as possible, having due regard to the time required to effectuate any necessary changes without impairing efficiency or morale.

2. There shall be created in the National Military Establishment an advisory committee to be known as the President's Committee on Equality of Treatment and Opportunity in the Armed Services, which shall be composed of seven members to be designated by the President.

3. The Committee is authorized on behalf of the President to examine into the rules, procedures and practices of the Armed Services in order to determine in what respect such rules, procedures and practices may be altered or improved with a view to carrying out the policy of this order. The Committee shall confer and advise the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, and shall make such recommendations to the President and to said Secretaries as in the judgment of the Committee will effectuate the policy hereof.

4. All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Committee in its work, and to furnish the Committee such information or the services of such persons as the Committee may require in the performance of its duties.

5. When requested by the Committee to do so, persons in the armed services or in any of the executive departments and agencies of the Federal Government shall testify before the Committee and shall make available for use of the Committee such documents and other information as the Committee may require.

6. The Committee shall continue to exist until such time as the President shall terminate its existence by Executive order.

Harry Truman

The White House, July 26, 1948

Glossary

Armed Forces	in the 1940s the army, the army air forces, the coast guard, and the navy (which included the Marine Corps)
Executive Order	a rule issued by the executive branch of government (the president) that has the force of law
hereof	of this

Ralph Bunche receives the Nobel Peace Prize in December 1950. (AP/Wide World Photos)

Ralph J. Bunche: "The Barriers of Race Can Be Surmounted"

1949

"The entire history of the Negro in this country has been a history of continuous, relentless progress over these barriers."

Overview

"The Barriers of Race Can Be Surmounted" Ralph J. Bunche's commencement address to the graduating class at Fisk University in Nashville, Tennessee, on May 30, 1949 is perhaps the most personal speech this normally private man ever made. Weeks earlier, after eighty-one days of nonstop negotiations on the Greek island of Rhodes, Bunche, the chief United Nations mediator for Palestine, successfully secured armistice agreements from the state of Israel and the Arab states of Egypt, Lebanon, Jordan, and Syria, bringing an end to the 1948 Arab-Israeli War. The Palestine Accords, as these agreements were known, earned Bunche international acclaim for bringing peace to the Middle East. In the United States the accords were seen as yet another triumph for a highly respected national figure, an African American whose career as a scholar and public servant had made him, at age forty-five, one of the most distinguished Americans of his generation.

In recognition of his public service, Fisk University awarded Bunche an honorary degree, the second of seventy that would come to him from universities in the United States, Canada, and Europe. One of the first of the historic black colleges and universities, Fisk held its first classes in Nashville's former Union army barracks in January 1866. The university became internationally known in subsequent decades for the Fisk Jubilee Singers, who introduced audiences in America and Europe to Negro spirituals as a unique American art form. Fisk was the first historic black college to earn accreditation from the Southern Association of Colleges and Schools (1930) and approval from the Association of American Universities (1933). Booker T. Washington, the most powerful African American in the country at the end of the nineteenth century, was on Fisk's board of trustees. A prominent early graduate was W. E. B. (William Edward Burghardt) Du Bois, class of 1888, whose scholarly writings influenced generations of African American intellectuals, including Ralph Bunche.

Context

In 1903 Du Bois, a professor of economics and history at Atlanta University in Georgia, published *The Souls of Black Folk: Essays and Sketches*, a seminal study of post Civil War African Americans. Its second chapter opens with the now famous sentence: "The problem of the twentieth century is the problem of the color-line the relation of the darker to the lighter races of men in Asia and Africa, in America and the islands of the sea" a stark assessment of race relations in 1900 that proved to be dead on the mark.

In 1900, 8.8 million African Americans lived in the United States. They experienced the problem of the color line on a daily basis, especially in the rural South, where an estimated 90 percent of them lived, the majority as sharecroppers renting their fields from white landowners. Their number had doubled from the 4.4 million in the census of 1860, when all but some four hundred and eighty thousand were chattel slaves. In the intervening years, slavery, of course, had been abolished, and constitutionally African Americans were free. In reality, however, their freedom throughout the southern states was substantially diminished by harsh Jim Crow laws that, since the end of Reconstruction in 1877, restricted or denied African Americans access to housing, medical care, public parks and pools, public transportation, and all levels of education because of their race. This segregation of blacks from whites was held to be constitutional by the U.S. Supreme Court in *Plessy v. Ferguson* in 1896, when the Court ruled that laws based on a "separate but equal" doctrine did not violate the Fourteenth Amendment's "equal protection" clause. In subsequent decisions well into the 1930s, the Court extended the reach of *Plessy* to almost every area of daily life in the South.

Efforts by African Americans to protest their status as second-class citizens often brought with them swift punishment by local police and courts or by lawless mobs that, according to statistics from the Tuskegee Institute, lynched 3,445 African American men, women, and children from 1882 to 1964. Few arrests were made, and when they were, all-white juries commonly set the accused killer or killers free. Sharecroppers who opposed Jim Crow laws often lost their leases and their lands; workers in towns were simply fired.

In consequence, as economic conditions worsened and racial violence increased after 1910, hundreds and then thousands of African Americans left the region for northern cities and the West in search of jobs, housing, and political

Time Line

1887

- Southern state legislatures begin enacting Jim Crow laws, denying African Americans access to a broad range of social services and civil rights; many of these laws remain in place until the 1950s.

1895

- **September 18**
  Booker T. Washington delivers his Atlanta Exposition Address at the Cotton State and International Exposition in Atlanta, Georgia.

1896

- **May 18**
  The U.S. Supreme Court makes Jim Crow laws separating the races constitutional in *Plessy v. Ferguson*.

1903

- W. E. B. Du Bois publishes *The Souls of Black Folk: Essays and Sketches* and "The Talented Tenth."
- **August 7**
  Ralph Johnson Bunche is born in Detroit, Michigan.

1905

- Du Bois and other African American critics of Booker T. Washington's policy of accommodation organize the Niagara Movement to actively seek civil rights for African Americans.

1909

- **February 12**
  The National Association for the Advancement of Colored People (NAACP) is founded on the 100th anniversary of Abraham Lincoln's birth, "to secure for all people" their rights under the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution.

1910

- The Great Migration begins, drawing an estimated six million African Americans in two large waves from the South to the North, Midwest, and West Coast and reducing the proportion of African Americans in the South's population from 90 percent to 53 percent by 1970.

and civil rights. By the 1930s the first wave of this Great Migration had carried 1.6 million African Americans out of the South. The seven million who remained behind with notable exceptions did little to openly challenge the segregated world in which they lived.

That passive accommodation to Jim Crow was exactly what Booker T. Washington, the president of the Tuskegee Institute in Alabama, proposed in his Atlanta Exposition Address at the Cotton States and International Exposition in Atlanta, Georgia, in September 1895. Speaking to a largely white audience, Washington, a former slave, argued that "my race" should for the moment abandon its demands for political power, civil rights, and higher education for its young people to concentrate on vocational and industrial training so that they could earn their rightful place in American life. He counseled, "It is at the bottom of life we must begin, and not at the top." African Americans would prosper and gain acceptance "as we learn to dignify and glorify common labor, and put brains and skill into the common occupations of life." Agitating "questions of social equality," he warned, "is the extremist folly." He emphasized his view that the separation of the races was the way to racial harmony: "We can be as separate as the fingers, yet one as the hand in all things essential to mutual progress."

Washington's call for conciliation and gradualism was an instant success with the white world both north and south, as was his 1901 autobiography, *Up from Slavery*, which carried a similar message. In time, a majority of African Americans accepted his precepts as he gained a national reputation as the voice of black America. White industrial leaders and philanthropists underwrote Washington's efforts to build five thousand rural schoolhouses throughout the South in which to teach young black people the virtues of honest labor and civic responsibility. He was invited to the White House, and the philosopher William James asked for his criticism of a draft essay on race. Having earned the white world's respect, Washington came to hold great power: Almost all charitable funds earmarked for African Americans passed through his hands; he was consulted on personnel matters; and he controlled coverage of black news in African American newspapers, thereby suppressing, when necessary, opposition to his advocacy of vocational training and his continuing counsel of compromise. To the white world he was the Wizard of Tuskegee who had created racial peace.

The principal challenge to Washington came from the leading African American intellectual of his time, W. E. B. Du Bois, a native of Great Barrington, Massachusetts, who held degrees from Fisk and Harvard (where he was the first African American to earn a PhD) and had studied at the University of Berlin. A brilliant and unyielding polemicist, he argued in the third chapter of *The Souls of Black Folk* that the effect of Washington's approach to racial harmony had shifted the burden of the Negro problem to the Negro's shoulders, "when in fact the burden belongs to the nation."

The Atlanta Exposition Address, Du Bois wrote, was in reality "the Atlanta Compromise." Its program for racial peace had won the approval of the South and the admira-

tion of the North not because it benefited African Americans but because it promised to end "decades of bitter complaint" that had unsettled both regions. Washington's program of "of industrial education, conciliation of the South, and submission and silence to civil and political rights" was a series of half-truths that over time would prove counterproductive to securing long-term racial equality. After more than a decade of "tendering the palm branch," Du Bois noted, African Americans had been disenfranchised, were given second-class status with all its "emasculating effects," and had seen financial aid for their higher education gradually withdrawn.

These problems would be resolved, Du Bois declared in *The Souls of Black Folk*, only through "ceaseless agitation and insistent demand for equality" and in "the use of force of every sort: moral suasion, propaganda, and where possible even physical resistance." He wrote in his 1903 essay "The Talented Tenth" that the way forward would require effective African American leaders: "The Negro race, like all races, is going to be saved by its exceptional men," that is, by "the talented tenth," who would be prepared for leadership through a rigorous higher education curriculum that would give them broad "knowledge of the world that was and is, and of the relation of men to it." There could be no compromise. As he declared in his 1906 address at the second annual meeting of the short-lived Niagara Movement an organization of African American intellectuals "We claim for ourselves every single right that belongs to a freeborn American." But as perceptive as Du Bois's assessments of "the Negro problem" were, they were not powerful enough to overcome Washington's policies of accommodation. The "ceaseless agitation and insistent demands" would have to wait for another time.

Forty-one years after Du Bois raised the issue of the color line as the central problem of the twentieth century, Gunnar Myrdal, a Swedish social scientist and economist, published *An American Dilemma: The Negro Problem and Modern Democracy* (1944), a two-volume report on African American life that essentially proved that Du Bois's statement was correct and that the issues he raised were largely unresolved. Initially commissioned by the Carnegie Corporation in 1938 its publication delayed by World War II the report was based on a two-year field study by Myrdal and forty-eight researchers, who conducted interviews throughout the South and elsewhere. Ralph Bunche, then a professor of political science at Howard University, was Myrdal's chief assistant and a cowriter of the final report.

An American Dilemma documented an enlarging division between American values and the daily lives of African Americans. In every part of society, they were treated differently from whites: in education, employment, housing, transportation, and recreational facilities. This was especially true, Myrdal wrote, in the South, where the majority of African Americans lived and where they faced racial bias and unfair treatment as a direct result of the local authorities' failure to enforce the Constitution. Throughout the United States, discrimination regularly bred further discrimination.

Time Line

1927

- Ralph Bunche graduates with a bachelor of arts degree from the University of California, Los Angeles; his education continues with a master of arts degree (1928) and a Ph.D. (1934) in government and international relations from Harvard.

1928

- Bunche joins the faculty of Howard University, where he remains until 1941; there he establishes and chairs the department of political science.

1938

- Bunche becomes the chief assistant to the Swedish economist Gunnar Myrdal in the Carnegie Corporation's study of racism in America, a position he holds until 1940.

1944

- Gunnar Myrdal's two-volume landmark study, *An American Dilemma: The Negro Problem and Modern Democracy*, is published.

1945

- Bunche is a member of the U.S. delegation to the Constituent Assembly of the United Nations in San Francisco, where he drafts key provisions of the UN Charter.

1947

- Bunche is named director of the Trusteeship Department of the UN Secretariat, the start of a twenty-two year career with the United Nations.

1948

- **May 20**
  Count Folke Bernadotte of Sweden and Bunche are appointed by the United Nations to mediate the Palestinian conflict between Israel and the Arab states.
- **September 17**
  Bunche becomes head of the UN mission in Palestine, following the assassination of Bernadotte by Israeli terrorists in Jerusalem.

Time Line

1949

- **Spring**
  On the island of Rhodes, Bunche brings an end to the 1948 Arab-Israeli War, securing armistice agreements between Israel and Egypt, Lebanon, Jordan, and Syria.
- **May 30**
  Bunche speaks to the graduating class of 1949 at Fisk University in Nashville, Tennessee.

1950

- **December 10**
  Bunche receives the 1950 Nobel Peace Prize.

Despite the data he and his team assembled, Myrdal was optimistic about America's ability to close the racial divide, principally by returning the nation to its founding principles. He advocated institutional changes in education and job creation and urged government-supported acceleration of black emigration from the rural South to the industrial North and West. In the end, however, he placed his faith in American idealism and in the Constitution as the means by which America could transform and transcend the segregated world that had kept African Americans subordinated and marginalized for so long.

Bunche's contribution to *An American Dilemma* was substantial. Like other black intellectuals of his generation, he wanted to understand what it meant to be black in America, so he served enthusiastically as Myrdal's personal guide on several extended trips through the Jim Crow South. He researched and wrote four chapters for the book, in which he focused, among other topics, on the political status of Negroes under the New Deal and on the nature of black leadership. Although his analyses and conclusions reflect something of W. E. B. Du Bois's arguments on these subjects particularly those in "The Talented Tenth" Bunche's voice is more temperate. He deplores the damage segregation has done to his race, but unlike Du Bois he does not despair. Rather, he shares Myrdal's optimism that the fairness and justice embodied in American idealism can and will effect real change. That the barriers to racial equality could be surmounted was the message he would bring to Fisk University in 1949.

About the Author

Ralph Johnson Bunche, Nobel laureate, UN official, international mediator, university scholar, and arguably the most celebrated African American of his generation, was born in Detroit, Michigan, on August 7, 1903. His father, Fred Bunche, was a barber; his mother, Olive Agnes Bunche, fostered in him a love of learning. Following the birth of a daughter, Grace, in 1915, the family moved to Albuquerque, New Mexico, in the hope that the dry climate would aid Olive Bunche's health problems, but she died within months of their relocation. The father's death came three months later, and the two orphaned children were placed in the care of their maternal grandmother, Lucy Taylor Johnson.

Johnson took the children to Los Angeles, where they lived in a mixed-race but largely white neighborhood. A tiny woman with a fierce will, Johnson (always called "Nana" by Bunche) refused to let school authorities enroll her grandson in a commercial training program a common fate of African American youngsters in a white school because, she insisted, he was going to college. Valedictorian of the class of 1922 at Jefferson High School, he was nonetheless denied membership in the school's academic honor society because of his race. (In 1952, when Bunche was world famous and had been heaped with honors, the high school offered him belated admission to the society.)

Bunche won an academic scholarship to the University of California at Los Angeles, where he starred in football and basketball until he sustained a knee injury that would bother him throughout his life and make him ineligible for military service in World War II. He was elected to Phi Beta Kappa and earned a bachelor of arts degree in 1927. At Harvard he earned a master of arts (1928) and a doctorate in international relations (1934), and he completed postdoctoral studies at Northwestern University, the London School of Economics, and the University of Cape Town, South Africa. Despite that résumé, he, like other African American scholars at the time, was not recruited by any white university and instead earned tenure at Howard University, a historically black college in Washington, D.C., where he founded and led the political science department.

In the early years of his teaching, Bunche was considered a radical in his political philosophy and in faculty politics. He was active on behalf of the NAACP in a number of demonstrations against segregation in Washington, but like other activists of the period he found little support from the local authorities. As a scholar, he developed an expertise on African colonialism and wrote a number of articles on racism in America that influenced the civil rights movement in the 1960s. In 1938 he was named chief associate to Gunnar Myrdal for the Carnegie Corporation's two-year study of African American life in America and accompanied Myrdal through the South to conduct interviews and gather data. On one occasion he and Myrdal drove all night across two states to elude a lynch mob that took exception to the kinds of questions the two were asking. Bunche wrote four chapters of the finished report, which was published in 1944 as *An American Dilemma*.

During World War II, Bunche worked in the War Department as an African and Far Eastern specialist and in the State Department, where, in 1944, he joined the team that helped to design the United Nations. A delegate to the San Francisco Conference in 1945, he wrote the two chapters of the UN Charter on colonial territories and trusteeships. In 1947 he joined the UN Secretariat as director of

its Trusteeship Department, overseeing decolonization in Africa and Asia. In his twenty-two-year career with the United Nations, Bunche secured an armistice in the first Arab-Israeli War of 1948, for which he was awarded the Nobel Peace Prize in 1950 (the first black man so honored). He directed UN peacekeeping efforts at the Suez Canal (1956), in the Congo (1960), and in Cyprus (1964).

Bunche cared deeply about civil rights and was on occasion a blunt spokesman on their behalf, but most often, in keeping with his sensitive position at the United Natons, he worked out of the public eye. He served on the board of the NAACP for twenty-two years and in 1965 joined Martin Luther King, Jr., at marches in Selma and Montgomery, Alabama. Ill health forced him to retire in June 1971. At the time he was completing his fifteenth year as undersecretary for Special Political Affairs and principal adviser to the UN secretary-general. Bunche died on December 9, 1971.

Explanation and Analysis of the Document

Bunche's speech "The Barriers of Race Can Be Surmounted" was delivered within a few weeks of the peace agreements he had negotiated in the spring of 1949, bringing an end to an Arab-Israeli conflict in Palestine. Although he had been interviewed in the weeks following the peace talks and would shortly present his report on the Palestinian Accords to the United Nations, Bunche's appearance at Fisk University was an opportunity for him to reflect on his long career of teaching and public service, which had made him arguably the most visible and respected African American in the country. His speech, just over 2,200 words, is in many ways autobiographical; in it he deals with his fame and grapples with the question that W. E. B. Du Bois had first raised in *The Souls of Black Folk* nearly a half-century before: What does it mean to be a Negro in America?

It was appropriate for Bunche to raise that question at Fisk, a historically black school that had long been in the forefront of African American education. He spoke as the African American population nationally was approaching fifteen million, but only 13.7 percent of blacks had a high school diploma and only three hundred thousand held college degrees. The black population was again moving out of the South into the urban centers of the North, Midwest, and California in the second Great Migration, but whether in the rural South or the other regions of the country, most African Americans faced racial discrimination in its various forms and many saw themselves as second-class citizens.

Bunche speaks to these matters throughout using "Negro" rather than "African American," a term not current in his lifetime, to describe himself, his subject, and his audience. According to his biographer (who was also his friend and colleague at the United Nations), Brian Urquhart, Bunche almost always used that word because, he said, "It is an ethnic term with no objectionable connotation at all. It describes my ethnic roots, and I have always had a deep pride in those roots." On occasion he used "Black American."

Bunche notes at the outset that his remarks will be brief. (An experienced and fluent speaker, he probably spoke for fifteen minutes or less.) The introductory section in paragraphs 1 3 begins on a humorous note with Bunche's playful remarks about the traditional rituals that surround graduation day: the academic gowns and tasseled mortarboard hats; the entry of the graduates to the strains of a triumphal march; an audience of proud parents, families, and friends. He concludes, again humorously, that it is likely the graduates' celebrations actually preceded the day's ceremony.

Paragraphs 4 and 5 introduce Bunche's main theme: that the graduates before him are at once Americans, American citizens, and Negroes and that each of these identities carries with it a certain poignancy and a measure of responsibility. In paragraph 6, Bunche attempts to sketch briefly what it means to be American, emphasizing, as Myrdal had done in *An American Dilemma*, the idealism underlying the founding principles on which the nation is based. He speaks of inalienable rights and the dignity of man as the basis for "a great and virile democracy."

In paragraph 7, Bunche says it is the fundamental responsibility of every American citizen to preserve "a free and dignified existence" for all Americans. This leads him, in paragraphs 8 and 9, to examine briefly the irony of being a Negro in America. He is echoing here the dilemma that Du Bois introduced in his 1903 book, *The Souls of Black Folk*: that because of the color line African Americans must live behind the veil of race with a "double-consciousness," that is, with "a sense of always looking at one's self through the eyes of others." Negroes are Americans by birth, but because of their color, white Americans see them and treat them as a race apart, outsiders who are not really American.

In paragraphs 10 and 11, Bunche attacks the color line, asserting that the Fisk graduates, like Negroes everywhere, are "one hundred per cent American," and their goal is to enter the mainstream of American life. He dismisses the labels and stereotypes that keep them subordinate to white Americans. But he warns in paragraph 12 that it would be folly for him to tell them that their goal of attaining full citizenship is easily reached: To say that racism no longer endangers them "would be criminally misleading."

In paragraph 13, much like Myrdal in *An American Dilemma*, Bunche holds out hope that Negroes will secure their birthright as Americans because of the Constitution and the endorsement of the UN Charter, which he helped to write. Support for the Negroes' cause is building, he says, and time is on their side. But again, in a self-referential aside in paragraph 14, Bunche warns that the success of individual Negroes in crossing the color line is a rarity, so rare that it becomes front-page news. What lies behind this comment, of course, is his experience: Every triumph was shadowed by a racist setback. Bunche does not mention it here, but like other African American scholars of his generation who had earned doctorates from such schools as Harvard and Columbia, he was unable to find a teaching position at any white college or university. He had escaped lynch mobs in the South in 1938 while working with Gunnar Myrdal, and in 1948 he had rejected Presi-

Essential Quotes

"For who are they these graduates? They are Americans, they are American citizens, and they are Negroes. And unless they have led remarkably sheltered lives, they undoubtedly have a poignant realization of the significance of at least the latter."

(Paragraph 4)

"I am an American and I like the American way of life. I like freedom, and equality, and respect for the dignity of the individual. I believe that these graduates like them too. They like them so well that they bitterly resent being denied them because of an accident of birth."

(Paragraph 8)

"The barriers of race are formidable, but they can be surmounted. Indeed, the entire history of the Negro in this country has been a history of continuous, relentless progress over these barriers."

(Paragraph 18)

dent Truman's offer of an appointment as undersecretary of state because he would have had to move to Washington from New York and submit to the Jim Crow laws that kept the capital city as segregated as any state in the South.

In paragraphs 15 through 18, Bunche lays out what the Fisk graduates and Negroes in general must do if they hope to enter the mainstream of American life. It is a capsule history of his own life, from his graduation as valedictorian of his high school class to his successes at Harvard graduate school to his rapid rise in the War Department and State Department during World War II and his recent triumphs with the United Nations. Although Bunche was too private and modest to name these successes outright, it is certain his listeners knew exactly what he was saying and whose progress had been described.

In paragraphs 19 through 22, Bunche pays a moving tribute to his maternal grandmother, Lucy Taylor Johnson, who helped him develop a sense of self-worth and self-confidence, to set goals and strive to reach them despite all obstacles the world might put in his way, to defend and remain true to the principles he had embraced, and to be proud of his heritage.

Bunche concludes his remarks in paragraphs 23 and 24 with brief affirmation of his faith in the goals of the United Nations: to create a world of peace, tolerance, freedom, and equality. These are among the principles that have undergirded his actions as a member of the UN Secretariat, that have made possible his achievements, and that have helped him overcome the color barrier these graduates will also face and can, like him, transcend.

Audience

The commencement audience comprised the graduates in the Fisk University class of 1949, their family and friends, and the Fisk faculty, including the university's first African American president, Charles Spurgeon Johnson. A reporter from the Associated Press, who was present, filed a brief account that appeared in newspapers across the country; it was published in the *New York Times* on May 31 under the headline: "Bunche Says Negro Will Win Equality."

Impact

Within a month "The Barriers of Race Can Be Surmounted" was printed in its entirety in the July 1, 1949, edition of *Vital Speeches*, a semimonthly magazine (at that time published in New York). The editor of the *Negro Digest* revised Bunche's words without his permission and published a shortened version (1949) with a new title: "Nothing Is Impossible

for the Negro." Several key points of the speech those concerning the important role of Bunche's maternal grandmother as well as Bunche's perception of how the barriers of race could be overcome found their way into the 1950 Nobel Peace Prize presentation speech, given by Gunnar Jahn, chairman of the Nobel Committee. Bunche's full speech was included in Willard Hayes Yeager's *Effective Speaking for Every Occasion*, published by Prentice-Hall in 1951.

As it turned out, the temperate voice of the UN mediator, so evident in Bunche's speech at Fisk, was not heard in the tumultuous years of the 1960s. What linked him to the civil rights movement was his work with Myrdal on *An American Dilemma*, the predictive wisdom of which was tested by time. In November 1971, Myrdal would acknowledge that *An American Dilemma* had underestimated the level of bias outside the South. It erroneously predicted that American labor unions would support racial equality, and he and his researchers had not foreseen the postwar white flight to the suburbs that led to the decay of the nation's inner cities, nor did they anticipate the civil rights movement of the 1960s. Still, *An American Dilemma* played a major role in *Brown v. Board of Education*, the 1954 U.S. Supreme Court decision that ordered an end to segregation in the nation's public schools. In asserting that the long-standing "separate but equal" doctrine was, in fact, a cause of inequality and feelings of inferiority, the Court succinctly cited Myrdal's book as proof. Following the *Brown* decision, textbook publishers regularly included parts of Bunche's speech in middle and high school social studies texts until well into the 1970s.

See also Booker T. Washington's Atlanta Exposition Address (1895); *Plessy v. Ferguson* (1896); W. E. B. Du Bois: *The Souls of Black Folk* (1903); Niagara Movement Declaration of Principles (1905); *Brown v. Board of Education* (1954).

Further Reading

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Questions for Further Study

1. Compare this document with Alain Locke's "Enter the New Negro." What impact did Locke's views have on Bunche? How did the views of the two men differ?

2. What impact did Gunnar Myrdal's *An American Dilemma* have on the examination of race relations in the United States in the mid-twentieth century?

3. How did Bunche's address represent a reversal of the views expressed in Booker T. Washington's Atlanta Exposition Address (1895)?

4. Bunche places a great deal of emphasis on entering the "mainstream" of American life. Many black activists have disagreed, calling for separate black organizations and black nationalism. Which view do you believe has emerged as the dominant one in the African American community generally? Why?

5. Compare this document with *To Secure These Rights*, a report drafted by President Harry S. Truman's Committee on Civil Rights just two years before, in 1947. Discuss the extent to which the report, coupled with views such as those expressed by Bunche, began to represent a turning point in the issue of civil rights at midcentury.

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Allan L. Damon

Document Text

Ralph J. Bunche: "The Barriers of Race Can Be Surmounted"

In the brief remarks I will make you will understand that today I think exclusively of these young Negro men and women who are graduating, and of the great number like them who will be graduating from other institutions of higher learning in the coming two or three weeks. I have been puzzled no little about what to say to them on this great day in their lives, this milestone along their road of progress in life.

This is, or certainly should be, a joyous occasion, an occasion so joyous, indeed, that all the participants must wear black robes and somber hats to leaven the joy, to keep it from effervescing excessively and to afford at least a semblance of solemnity, academic dignity and sobriety. Despite the black crepe and the mournful facade this is pure ritual a cultural lag one is tempted to be light hearted, and gay and poetic, to play with words and music, and preserve the fanciful mood. But in this age time is short even for the young. The sands run fast. And in any case, my poetry would be doggerel and my music discordant. A wise man always sticks to his last.

Unless young graduates have changed radically since the day twenty-two years ago when I first donned the academic gown, they have a number of things on their minds as they sit here. First, they are thinking of how they are going to celebrate when this final ritual is over or rather, continue the celebration, for unless I miss my guess, they began to celebrate as soon as it was certified that they would be sitting here today. And since there are undoubtedly timid souls amongst us, it would probably be tactful not to elaborate on the varied and even ingenious forms which such celebration may take. But I daresay there are also some very sober thoughts lurking in the recesses of the minds of these graduates.

For who are they these graduates? They are Americans, they are American citizens, and they are Negroes. And unless they have led remarkably sheltered lives, they undoubtedly have a poignant realization of the significance of at least the latter.

I would like to explore with them just what, at this very moment in this great nation, it means to be an American, a citizen, and a Negro. I cannot imagine that any question could be of more vital import to these young people on the threshold of a new adventure. Nor do I have any illusions that I can give them all the answers they must seek.

We Americans are part of a vast and powerful and dynamic nation, a great power whose responsibilities and influence in the modern world are frightening in their scope. The origin, traditions and creed of this nation are an inspiration to all freedom loving peoples. Our country's history is brave. Americans fought and died for their freedom and liberty. Having won by their blood the right to maintain an independent existence, our founding fathers established the nation on the cardinal principles of individual liberty and the equality of man. They spoke of inalienable rights, of the incontestable fact that all men are born free and equal, of the dignity of man. These were the essential virtues. In my view they still are. The founding fathers charted the way for the development of a great and virile democracy. They immortalized these concepts in our Constitution.

The American citizen is at once the benefactor and protector of this great American legacy. The privileges and rights of the American citizen of all American citizens are writ large in our Constitution, in our traditions, in what has been called the American creed. I need not detail them. But they guarantee to every citizen of this great nation all of the essential attributes of a free and dignified existence. In return, they require of the citizen that he meet his obligations to the State and to his fellow man in order that the American way of life may be preserved and perpetuated.

I am an American and I like the American way of life. I like freedom, and equality, and respect for the dignity of the individual. I believe that these graduates like them too. They like them so well that they bitterly resent being denied them because of an accident of birth.

There is a certain irony in the situation with which we are faced here. These Negro graduates of Fisk University today are better Americans than they are Negroes. They are Negroes primarily in a negative sense they reject that sort of treatment that deprives them of their birthright as Americans. Remove that treatment and their identification as Negroes in the American society would become meaningless, at least as meaningless as it is to be of English, or French, or German or Italian ancestry.

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These graduates are one hundred per cent Americans. Who, indeed, is a better American, a better protector of the American heritage, of the American way, than he who demands the fullest measure of respect for those cardinal principles which are the pillars of our society?

If we could probe deeply into the minds of these graduates we would discover, I am sure, that the basic longing, the aspiration of every one of them, is to be an American in full. Not a semi-American. Not a Negro American. Not an Afro-American. Not a "Colored Gentleman." Not "one of our Colored Brethren." Just an American with no qualifications, no ifs or buts, no apologies, condescension or patronization. Just Americans, with a fair and equal opportunity as individuals to make or break their futures on the basis of their individual abilities without the un-American handicap of race. Can it be doubted that these young men and women must even now be calculating their chances to make their way into the mainstream of American life? And can it be doubted that they must be greatly tormented at the prospect that because of their race they may be kept out of the mainstream and shunted into the bayous and creeks and backwashes of American life?

And what may be told to them? That as Americans and citizens of this great democracy they are as entitled as the next man to negotiate the waters of the mainstream could be disputed only by racial bigots. But to encourage them to believe that their course is charted and the shoals of racialism no longer endanger them would be criminally misleading.

This, it seems to me, is what they should know. The democratic framework of our society is their great hope. The American Negro suffers cruel disabilities because of race which are in most flagrant violation of the constitutional tenets and ideals of the American democracy. But the saving grace for the Negro is the democratic warp and woof of the society which permits the Negro to carry on his incessant and heroic struggle to come into his own, to win those rights, that dignity and respect for the Negro, individually and collectively, which are his birthright as an American. And, fortunately, the American, white and black alike, has a conscience. The Negro American daily wins increasing support for his struggle from all those other Americans who aspire toward a democratic, not a semi-democratic America; who wish a four fourths, not a three fourths democracy. Moreover, the sympathy of the world is with him. The Charter of the United Nations endorses his aspirations.

This also, these graduates should know well and underscore. It is true that on occasion, an individual Negro may, by tremendous effort, successfully negotiate the racial rapids and find himself in the mainstream. But that this is a rarity and his group is far behind, is abundantly testified to by the fact that this very presence in the mainstream is front page news. The status of the individual, in the long view, can be no more secure than the status of his group.

We Negroes must be great realists: The road over which we must travel is clear, though the prospect may not be pleasant We suffer crippling disadvantages because of our origin. But we are Americans, in a basically democratic American society. That society is a competitive society. The going is hard even for white Americans. It is harder for us. To make his way, the Negro must have firm resolve, persistence, tenacity. He must gear himself to hard work all the way. He can never let up. He can never have too much preparation and training. He must be a strong competitor. He must adhere staunchly to the basic principle that anything less than full equality is not enough. If he ever compromises on that principle his soul is dead. He must realize that he and his group have not attained the goal until it is no longer necessary to make reference to the fact that "X" was the "first Negro" to do this or that, and until accomplishment by a Negro is taken by the public at large as a matter of fact.

This may have a harsh ring, but it is the gospel truth. The road of Negro progress is no road for weaklings. Those who cannot summon up the courage, the resolve and the stamina to travel along it can find refuge in a handy alibi: the disadvantages of race. And they can find ample documentation to support their plea. But a community of people cannot adopt an alibi, however credible, as its philosophy of life.

My own philosophy on such matters is quite simple: whatever is worthwhile is worth working, striving, sacrificing, and struggling for.

There is no substitute for hard work as the key to success in the American society. This is true for white Americans. It is even more true for black Americans. Few Americans of any color or creed can ever find easy the climb up the ladder.

But while nothing is easy for the Negro in America, neither is anything impossible. The barriers of race are formidable, but they can be surmounted. Indeed, the entire history of the Negro in this country has been a history of continuous, relentless progress over these barriers. Like "Old Man River,"

Document Text

the Negro keeps "movin' along," and if I know my people, the Negro will keep on moving resolutely along until his goal of complete and unequivocal equality is attained.

If I may be pardoned for a personal reference, I should like to say that in my own struggle against the barriers of race, I have from early age been strongly fortified by the philosophy taught me by my maternal grandmother, and it may be of interest to you.

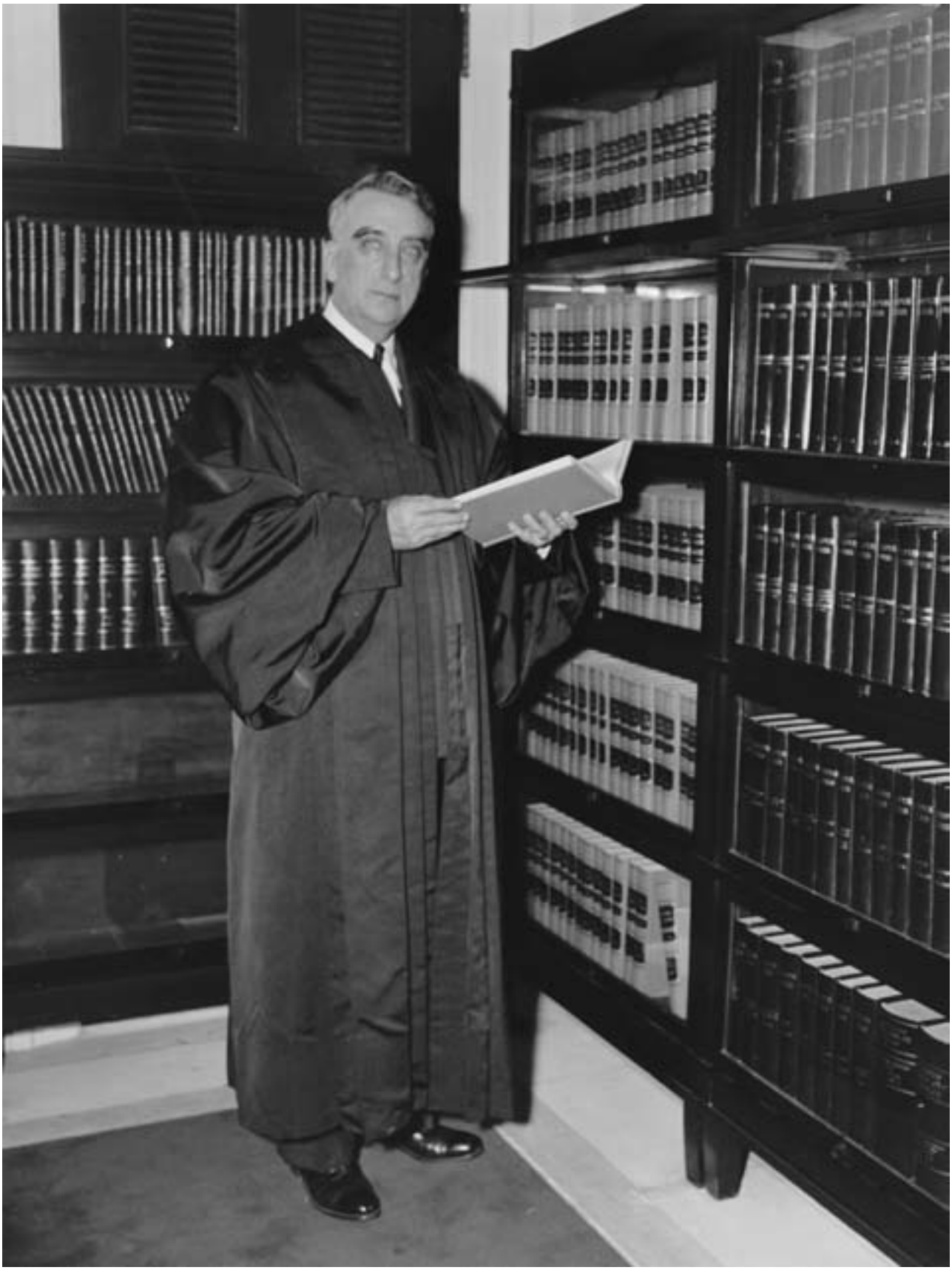
She was a tiny woman, but a personality of indomitable will and invincible moral and spiritual strength. "Nana" we all called her, and she was the ruler of our family "clan." She had come from Texas, married in Indian territory, and on the premature death of my grandfather, was left with five young children.

Nana had traveled the troubled road. But she had never flinched or complained. Her indoctrination of the youngsters of the "clan" began at an early age. The philosophy she handed down to us was as simple as it has proved invaluable. Your color, she counseled, has nothing to do with your worth. You are potentially as good as anyone. How good you may prove to be will have no relation to your color, but with what is in your heart and your head. That is something which each individual, by his own effort, can control. The right to be treated as an equal by all other men, she said, is man's birthright. Never permit any one to treat you otherwise. For nothing is as important as maintaining your dignity and self respect. She told us that there would be many and great obstacles in our paths and that this was the way of life. But only weaklings give up in the face of obstacles. Set a goal for yourself and determine to reach it despite all obstacles. Be honest and frank with yourself and the world at all times. Never compromise what you know to be the right. Never pick a fight, but never run from one if your principles are at stake. Never be content with any effort you make until you are certain you have given it the best you have in you. Go out into the world with your head high and keep it high at all times.

Nana's advice and philosophy is as good today for these graduates as it was when she gave it to me in my childhood. I certainly cannot improve upon it, nor would I try to do so. For me it has been a priceless heritage from a truly noble woman.

In conclusion, I may say only that I have great faith that the kind of world we all long for can and will be achieved. It is the kind of world the United Nations is working incessantly to bring about: a world at peace; a world in which people practice tolerance and live together in peace with one another as good neighbors; a world in which there is full respect for human rights and fundamental freedom for all without distinction as to race, sex, language, or religion; a world in which all men shall walk together as equals and with dignity.

I trust that among these graduates there are many who will consecrate their lives to the struggle to achieve that kind of world.



Fred M. Vinson, in the year of his appointment to the U.S. Court of Appeals (Library of Congress)

Sweatt v. Painter

1950

"The Fourteenth Amendment requires that petitioner be admitted to the University of Texas Law School."

Overview

On June 5, 1950, the U.S. Supreme Court rendered its decision in the case *Sweatt v. Painter*. In 1946 an African American, Heman Marion Sweatt, applied for admission to the law school at the University of Texas in Austin; at the time, the president of the university was Theophilus Painter. The Texas constitution, however, prohibited integrated education; therefore, Sweatt was denied admission because of his race. He filed suit, but a Texas trial court delayed the case for six months to give the state time to establish a "separate but equal" law school for blacks in Houston; that law school would eventually evolve into Texas Southern University. Sweatt challenged this step in the Texas Court of Civil Appeals, which affirmed the trial court's ruling. After the Texas Supreme Court refused to hear the case on appeal, Sweatt, represented by William J. Durham and Thurgood Marshall (the future U.S. Supreme Court justice), appealed to the U.S. Supreme Court. The fundamental legal question the case presented was whether the University of Texas admissions policy violated the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. The Court unanimously held that it did and ruled that Sweatt be admitted to the University of Texas Law School. In its ruling, written by Chief Justice Frederick Moore (Fred M.) Vinson, the Court stated that the law school for "Negroes," which had begun operation in 1947, was not equal to the University of Texas Law School in such matters as course selection, faculty, the library, and prestige. Further, the Court found that the proposed law school's separation from the University of Texas Law School would make it difficult for its graduates to compete in the legal profession.

Context

The backdrop for *Sweatt v. Painter* was the landmark case *Plessy v. Ferguson*, on which the U.S. Supreme Court ruled in 1896. After the Civil War, the Thirteenth Amendment to the Constitution outlawed slavery in the United States. The Fourteenth Amendment was adopted on July 9, 1868, in large part to secure the civil liberties of newly freed slaves. The key section of the Fourteenth Amendment is Section 1, which states:

> All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Thus, the Fourteenth Amendment extends "equal protection of the laws" to all citizens.

In 1883 the Supreme Court heard a set of cases that had been consolidated into what are called the Civil Rights Cases. The Court's ruling in the Civil Rights Cases was a setback for African Americans, for it held that the Fourteenth Amendment applied only to the actions of government. Thus, segregation on the part of government was unconstitutional, but segregation on the part of private parties, including businesses, was not. Worse, the Court ruled that the Civil Rights Act of 1875 was unconstitutional. That act had said that

> all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

In the wake of the Civil Rights Cases decision, numerous states and municipalities, particularly (but not exclusively) in the South, passed so-called Jim Crow laws that segregated African Americans and kept them in subservient positions. One well-known law was Act 111, also known as the Separate Car Act, which the state of Louisiana passed in 1890 and required separate accommodations for blacks

Time Line

1868

- **July 9**
  The Fourteenth Amendment to the U.S. Constitution is adopted.

1875

- **March 1**
  President Ulysses S. Grant signs the Civil Rights Act of 1875 into law.

1883

- **October 15**
  In the Civil Rights Cases decision, the U.S. Supreme Court declares the Civil Rights Act of 1875 unconstitutional.

1890

- **January 22**
  Frederick Moore Vinson is born in Louisa, Kentucky.

1896

- **May 18**
  The Supreme Court upholds the separate-but-equal doctrine in public accommodations in its *Plessy v. Ferguson* ruling.

1936

- **January 15**
  In its ruling on *Murray v. Maryland*, a case argued by the future Supreme Court justice Thurgood Marshall, the Maryland Court of Appeals orders the University of Maryland to integrate its student body.

1938

- **December 12**
  In *Missouri ex rel. Gaines v. Canada*, the Supreme Court rules that states with a school for white students must provide in-state education to blacks, either by allowing blacks and whites to attend the same school or by creating a second school for blacks.

1946

- Heman Sweatt attempts to enroll at the University of Texas Law School but is denied admission because of his race.

and whites on railroad cars. To challenge the law, the Citizens' Committee to Test the Separate Car Act enlisted Homer Plessy, who was one-eighth black (and thus black according to Louisiana law), to ride in a railroad car reserved for whites. While he was on the train, Plessy announced that he was black and submitted to arrest for violating the act. The committee had ensured that a detective was in the car to make the arrest.

Plessy's case wound its way to the Supreme Court, which in an eight-to-one decision held that the separate accommodations called for in the Louisiana law did not violate the equal protection clause of the Fourteenth Amendment. Writing for the majority, Justice Henry Billings Brown stated:

> We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it.

The lone dissenter was Justice John Marshall Harlan, who famously wrote:

> But in view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law.

Harlan's view would ultimately gain acceptance, but for the next half century the Court's decision in *Plessy v. Ferguson* upheld the doctrine of "separate but equal." Determined to attack it was the National Association for the Advancement of Colored People (NAACP) and its Legal Defense and Education Fund. Under the leadership of Charles Hamilton Houston and, later, Thurgood Marshall, the NAACP made the decision to launch an assault on Jim Crow in the courts by focusing on education.

One of the first cracks in the separate-but-equal doctrine appeared in the mid-1930s with the *Murray v. Maryland* case (sometimes referred to as *Pearson et al. v. Murray*). It was argued by Marshall, who himself had been denied admission to the University of Maryland Law School because he was black. Marshall's argument before the Baltimore City Circuit Court was that because the "white" and "black" law schools in Maryland were unequal, the only remedy was to allow the plaintiff, Donald Gaines Murray, to enroll in the University of Maryland Law School. The Maryland Court of Appeals agreed, ruling in January 1936 that "the state has undertaken the function of education in the law, but has omitted students of one race from the only adequate provision made for it, and omitted them solely because of their color," and Murray was admitted. The crack widened in 1938 with the

Supreme Court's decision in *Missouri ex rel. Gaines v. Canada*. (*Ex rel.* is an abbreviation of *ex relatione*, a Latin expression used in the law to mean "on behalf of.") The Court ruled that states with a school for white students must provide in-state education to blacks, either by allowing blacks and whites to attend the same school or by creating a second school for blacks. The problem with this ruling, of course, was that any such educational institution hurriedly thrown together solely for blacks was unlikely to be equal to all-white institutions in facilities, faculty, and prestige, but at least the Court was beginning to chip away at the denial of higher education to African Americans by all-white institutions.

During World War II, issues involving national security preoccupied the Court. After the war, however, civil rights began to dominate the Court's docket, and wider fissures opened in the separate-but-equal doctrine. The time for change was ripe. During the war, President Franklin Roosevelt had desegregated the defense industries and federal government hiring. After the war, the public was growing more aware of the atrocities that had been committed by Nazi Germany, including the wholesale denial of civil rights to Jews and other groups. On July 26, 1948, President Harry S. Truman issued Executive Order 9981, desegregating the military, and that year the United Nations passed the Universal Declaration of Human Rights. In this climate, other key Supreme Court cases challenged the separate-but-equal doctrine. In 1948 the Court ruled in *Sipuel v. Board of Regents of the University of Oklahoma* that Oklahoma was required to admit qualified African Americans to the previously all-white University of Oklahoma Law School. This was only a partial victory, for when Ada Lois Sipuel was finally admitted, she was compelled to sit in a raised chair apart from other students behind a sign that read "colored." She was also required to use a separate entrance to the law school and eat alone in the cafeteria. Later that year, the Court struck down restrictive racial covenants in housing in *Shelley v. Kraemer*. (A covenant is an agreement, in this case an agreement by a property owner not to sell his or her property to non-Caucasians.) On the same day that the Court issued its decision in *Sweatt v. Painter*, it also issued its decision in *McLaurin v. Oklahoma State Regents*, ruling that African Americans admitted to a state university had to be granted full access to the school's facilities.

Heman Sweatt was born in 1912 in Houston, Texas. He graduated from college in 1934 and worked as a schoolteacher before entering the University of Michigan Medical School. He soon returned to Houston, however, and found work as a postal clerk. In the 1940s he became active in the civil rights movement; he attended meetings of the Houston branch of the NAACP and worked on voter-registration drives. During his efforts to end discrimination among postal workers, he became interested in the law and decided to pursue a law degree. His suit against the University of Texas Law School was a test case. The Houston NAACP had wanted to find an African American who would apply to the law school and, after that person inevitably had been rejected because of race, file suit. Sweatt volunteered to assume that role. As the case wound its way through the court system, Sweatt gave public presentations at NAACP fund-raising events; he was also subjected to threats and harassment. Finally, the Supreme Court heard oral arguments on the case on April 4, 1950, and issued its decision on June 5.

Time Line

1947

- **March 3**
  A law school for African Americans is opened in Houston, Texas; the school will become Texas Southern University.

1948

- **January 12**
  In *Sipuel v. Board of Regents of the University of Oklahoma*, the Supreme Court rules that Oklahoma is required to admit qualified African Americans to the previously all-white University of Oklahoma Law School.
- **May 3**
  In *Shelley v. Kraemer*, the Supreme Court strikes down restrictive racial covenants in housing.

1950

- **June 5**
  In *McLaurin v. Oklahoma State Regents*, the Supreme Court rules that African Americans admitted to a state university have to be granted full access to its facilities.
- **June 5**
  The U.S. Supreme Court issues its decision in *Sweatt v. Painter*.

1954

- **May 17**
  The U.S. Supreme Court issues its landmark decision in *Brown v. Board of Education*.

About the Author

Frederick Moore Vinson was the only member of the Supreme Court to have served in all three branches of government. He was born in Louisa, Kentucky, on January 22, 1890, and from an early age displayed a remarkable intellect, graduating at the top of his class from Kentucky Normal College in 1908. In 1911 he graduated from Centre College Law School with the highest scores in the school's

history. A talented baseball player, he played semiprofessional ball in the Kentucky Blue Grass League and tried out for the Cincinnati Reds. But he returned to Louisa, where he became a small-town lawyer. He won his first elective office in 1921 as commonwealth attorney for the Thirty-second Judicial District of Kentucky. Three years later, Vinson won a special election to complete an unexpired term in the U.S. House of Representatives, where he served until 1938, except for the years from 1929 to 1931. For his support of New Deal programs, President Franklin Roosevelt appointed him to the U.S. Court of Appeals for the District of Columbia, where he took his seat on the bench in 1938.

Vinson's service in the executive branch of government began in 1943, when he resigned from the court and became director of the Office of Economic Stabilization. There his chief task was controlling inflation during the war by fighting off requests from businesses for price increases and from organized labor for wage increases. Other posts in the executive branch soon followed. In March 1945 he became administrator of the Federal Loan Agency. One month later, he was appointed director of the Office of War Mobilization and Reconversion, the purpose of which was to ensure the smooth conversion from a wartime to a peacetime economy. President Truman recognized Vinson's skills as a fiscal manager and in July 1945 appointed him secretary of the Treasury. In this post he played a major role in creating the International Bank for Reconstruction and Development and the International Monetary Fund.

In April 1946, Chief Justice Harlan Fiske Stone died. To replace him, Truman turned to Vinson, who took his seat on the High Court as chief justice on June 24, 1946, a position he held until his death. His tenure as chief justice coincided with the early years of the cold war and the nation's fear of Communism. Vinson supported the right of the federal government to legislate against groups that advocated the overthrow of the American system. Throughout his judicial career, he was deferential to executive and legislative authority. He upheld, for example, President Truman's emergency seizure of the coal mines following a nationwide strike in 1946, and in 1952 he dissented from a Court ruling that Truman had exceeded his authority by interceding in the steelworkers' strike during the Korean War and forcing a labor settlement, claiming wartime executive power. Truman held Vinson in high regard and mentioned his name as a possible successor as president. Vinson died of a heart attack in his apartment in Washington, D.C., on September 8, 1953. He had devoted nearly his entire career to public service and left behind an estate worth less than $1,000.

Explanation and Analysis of the Document

The written decision in *Sweatt v. Painter* begins with a number of legalities typically found in a Supreme Court written decision. Usually, these introductory remarks are prepared by the justice's clerk (often a recent law school graduate who does research for the justice). The opening paragraph, called the syllabus, is a brief description of the case. It identifies the petitioner (Sweatt) and the respondent (nominally Painter but in reality the University of Texas Law School) and summarizes the basis of the Court's ruling and the ruling itself. A person can read the syllabus and get the essence of the case without having to read the entire decision. The word *Reversed* indicates that the Court has reversed the decision of the lower court, in this instance the Texas Court of Civic Appeals. What follows is a brief description of the case's history, noting that it had begun in a Texas trial court, was appealed to the Texas Court of Civic Appeals, was returned to the trial court, and then was appealed to the Texas Supreme Court. The document states that the trial court "denied mandamus to compel [Sweatt's] admission to the University of Texas Law School." *Mandamus* is Latin for "we command" and is commonly used in law to refer to a court order requiring a lower court or a government official to perform a duty or to refrain from doing something. In this instance, the trial court refused to require the university law school to admit Sweatt, thus giving the state of Texas time to cobble together a law school for African Americans.

Further legalities follow. The document identifies the attorneys who argued the case for both the petitioner and the respondent. It then notes that amici curiae briefs were filed for both the plaintiff and the defendant. *Amici curiae* is a Latin expression meaning "friends of the court" and refers to briefs submitted by outside parties in support of one position or the other. In complex litigation, particularly a case with broad implications, it is common for individuals and organizations to attempt to sway the Court with analyses of the case and additional information that the Court might find useful. Typically, in a brief filed by one who appeals a case, in this instance Sweatt, the emphasis must be on legal errors that the lower courts made; the brief does not reargue the facts of the case or anything outside of the law. Amici curiae briefs often range widely in discussing the broader implications of the issues at hand.

With preliminaries disposed of, Vinson outlines the Court's decision. In the first paragraph, he presents the legal question the case raises: "To what extent does the Equal Protection Clause of the Fourteenth Amendment limit the power of a state to distinguish between students of different races in professional and graduate education in a state university?" He goes on to note that "broader issues have been urged for our consideration," likely a reference to the content of the amici curiae briefs, but Vinson indicates that he is going to rule on the case strictly in conformity with the law as he sees it. This is an indication that the Court was not going to reexamine *Plessy v. Ferguson*.

Paragraphs 2 and 3 summarize the facts of the case and refer again to its history, from the trial court through the Texas Supreme Court. Vinson notes that mandamus was denied, which gave the state time to establish a law school for African Americans. Sweatt, though, refused to enroll in the new law school. The Texas Court of Civic Appeals then returned the case to the trial court "without prejudice," meaning that none of the rights or privileges of the persons

involved was waived or lost. In other words, the court said that essentially the case was to begin again. In paragraph 4, Vinson notes that when the case was remanded, or sent back to the trial court, the court ruled that the new law school for African Americans was "substantially equivalent" to the University of Texas Law School. The Texas Court of Civic Appeals affirmed the ruling of the trial court, and the Texas Supreme Court refused to hear Sweatt's appeal of this ruling. Accordingly, Sweatt appealed to the U.S. Supreme Court, which "granted certiorari," a legal term that means the Court has required the lower court to turn over the trial records; it also indicates that the Court has agreed to hear the case.

With paragraphs 5 and 6, Vinson begins his analysis of the case. He notes that the facilities at the two institutions were markedly different. At the University of Texas, the faculty was larger, and the law library contained considerably more materials. In contrast, the law school for African Americans was not accredited, though Vinson points out in paragraph 7 that the school, three years after its formation, was on its way toward accreditation. He also mentions that the new law school lacked the prestige of the University of Texas; for example, the new law school did not have an Order of the Coif, a prestigious national scholastic society whose members have an inside track to the best jobs as attorneys. In paragraph 8, Vinson concludes that the University of Texas Law School was clearly superior in the opportunities it afforded students. He also notes that the University of Texas was superior in intangible features: "reputation of the faculty, experience of the administration, position and influence of the alumni, standing in the community, traditions and prestige." Paragraph 10 goes on to point out another disadvantage that the African American students would face at a separate law school: They would be isolated from the 85 percent of the state's population, including judges, other attorneys, officials, and others who were part of the environment in which a person would practice law.

Paragraph 10 responds to the state's claim that excluding blacks from the University of Texas would be no different from excluding whites from the new law school. Vinson dismisses this argument by saying that as a practical matter, no University of Texas student would want to attend the new law school, given its obvious inferiority. Notice that Vinson cites *Shelley v. Kraemer*: "Equal protection of the laws is not achieved through indiscriminate imposition of inequalities." In paragraph 11, Vinson cites other precedents, including *Sipuel v. Board of Regents of the University of Oklahoma* and *Missouri ex rel. Gaines v. Canada*, to emphasize that the equal protection clause of the Fourteenth Amendment requires states to provide equal opportunities in legal education for their citizens. Bowing to these precedents, Vinson concludes in paragraph 12 that the "petitioner may claim his full constitutional right: legal education equivalent to that offered by the State to students of other races." Vinson rejects the view that *Plessy v. Ferguson* allowed the state to provide a pretense of equivalency. At the same time, he rejects the view that the Court should reexamine *Plessy*. Paragraph 13 concludes the decision: "We hold that the Equal Protection Clause of the Fourteenth Amendment requires that petitioner be admitted to the University of Texas Law School."

Audience

The immediate audience for Vinson's decision in *Sweatt v. Painter* was, of course, the parties to the suit: Sweatt and the University of Texas in the person of its president, Theophilus Painter. A broader audience was the entire higher education community. This case, in combination with *McLaurin v. Oklahoma State Regents* decided on the same day, sent a message to state colleges and universities throughout Texas and the nation that the separate-but-equal doctrine would no longer stand in the provision of higher education for African Americans. A third audience consisted of members of the NAACP and those who sympathized with the organization's goals. *Sweatt v. Painter* was a test case, specifically engineered by the NAACP to challenge the separate-but-equal doctrine in the state of Texas. Although the ruling in the case did not specifically overturn the ruling in *Plessy v. Ferguson*, it represented a significant victory in the effort to render that case impotent and to dismantle the Jim Crow system.

Impact

One specific impact of the case was the establishment of what is today Texas Southern University in Houston, with an enrollment of more than nine thousand undergraduates and more than two thousand graduate students. The university was established on March 3, 1947, in response to Sweatt's lawsuit. At the time, the Houston College for Negroes was part of the Houston public school district. The state assumed control of the college, which then formed the core of what was originally called Texas State University for Negroes. The law school is now called the Thurgood Marshall School of Law.

The chief goal of the NAACP in the 1930s and 1940s was to overturn *Plessy v. Ferguson*. Thurgood Marshall and the NAACP had hoped that *Sweatt v. Painter* would have given the Supreme Court that opportunity. They were disappointed. The Court, under the leadership of Chief Justice Vinson, was essentially conservative, and Vinson himself was reluctant to overturn earlier Supreme Court decisions. He said as much in his decision in this case when he wrote: "Because of this traditional reluctance to extend constitutional interpretations to situations or facts which are not before the Court, much of the excellent research and detailed argument presented in these cases is unnecessary to their disposition." Near the end of his decision he stated explicitly that *Plessy* would not be reexamined. Put simply, the Court declined specifically to overturn *Plessy v. Ferguson*.

Matters did not end there, however. Civil rights advocates in 1950 recognized that *Sweatt v. Painter*, along with

Essential Quotes

"Whether the University of Texas Law School is compared with the original or the new law school for Negroes, we cannot find substantial equality in the educational opportunities offered white and Negro law students by the State."

(Paragraph 8)

"Petitioner may claim his full constitutional right: legal education equivalent to that offered by the State to students of other races. Such education is not available to him in a separate law school as offered by the State."

(Paragraph 12)

"We hold that the Equal Protection Clause of the Fourteenth Amendment requires that petitioner be admitted to the University of Texas Law School."

(Paragraph 13)

McLaurin v. Oklahoma State Regents and earlier cases with a bearing on equal protection in the realm of higher education, had undermined the separate-but-equal doctrine and that it was only a matter of time before the doctrine would collapse. That time arrived four years later with the watershed case *Brown v. Board of Education*, which Marshall argued before the Court. In a unanimous decision, the Court, under Chief Justice Earl Warren, held that "separate educational facilities are inherently unequal" and that racial segregation in public schools then mandated by law in the District of Columbia and seventeen states in the South and Midwest violated the equal protection clause of the Fourteenth Amendment. (It should be noted that sixteen states in the Northeast, Midwest, and West specifically outlawed racial segregation in schools, and another eleven states had no laws on the matter.) This decision finally drove a stake through the heart of the separate-but-equal doctrine.

Sweatt enrolled at the University of Texas Law School in 1950. The case had taken a toll on his physical and emotional health, however, and he withdrew from the school in 1952. He then received a scholarship from the School of Social Work at Atlanta University and completed a master's degree there in 1954. In the ensuing years he worked for the NAACP in Cleveland, Ohio; returned to Atlanta as the assistant director of the city's chapter of the Urban League; and taught at Atlanta University. In 1987 the University of Texas Law School inaugurated the annual Heman Sweatt Symposium in Civil Rights and offers an annual scholarship in his name.

See also Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Civil Rights Cases (1883); *Plessy v. Ferguson* (1896); Executive Order 9981 (1948); *Brown v. Board of Education* (1954).

Further Reading

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Michael J. O'Neal

Questions for Further Study

1. What was the "separate-but-equal" doctrine? Where and how did it originate? What impact did the doctrine have on African Americans?

2. Read this document in conjunction with Charles Hamilton Houston's "Educational Inequalities Must Go!" (1935). How was *Sweatt v. Painter* part of an overall strategy designed to challenge the separate-but-equal doctrine?

3. What other developments in the 1940s perhaps contributed to a climate of opinion that led to the Court's ruling in *Sweatt v. Painter*?

4. How did *Sweatt v. Painter* (and other Court cases) pave the way for the Court's landmark ruling in *Brown v. Board of Education*?

5. What is the meaning of the equal protection clause of the Fourteenth Amendment? Why was this clause at the center of the Court's ruling in *Sweatt v. Painter* and other cases?

Sweatt v. Painter

Petitioner was denied admission to the state-supported University of Texas Law School, solely because he is a Negro and state law forbids the admission of Negroes to that Law School. He was offered, but he refused, enrollment in a separate law school newly established by the State for Negroes. The University of Texas Law School has 16 full-time and three part-time professors, 850 students, a library of 65,000 volumes, a law review, moot court facilities, scholarship funds, an Order of the Coif affiliation, many distinguished alumni, and much tradition and prestige. The separate law school for Negroes has five full-time professors, 23 students, a library of 16,500 volumes, a practice court, a legal aid association and one alumnus admitted to the Texas Bar; but it excludes from its student body members of racial groups which number 85% of the population of the State and which include most of the lawyers, witnesses, jurors, judges, and other officials with whom petitioner would deal as a member of the Texas Bar. Held: The legal education offered petitioner is not substantially equal to that which he would receive if admitted to the University of Texas Law School; and the Equal Protection Clause of the Fourteenth Amendment requires that he be admitted to the University of Texas Law School.

Reversed.

A Texas trial court found that a newly-established state law school for Negroes offered petitioner "privileges, advantages, and opportunities for the study of law substantially equivalent to those offered by the State to white students at the University of Texas" and denied mandamus to compel his admission to the University of Texas Law School. The Court of Civil Appeals affirmed.… The Texas Supreme Court denied writ of error. This Court granted certiorari.… Reversed.…

W. J. Durham and Thurgood Marshall argued the cause for petitioner. With them on the brief were Robert L. Carter, William R. Ming, Jr., James M. Nabrit and Franklin H. Williams.

Price Daniel, Attorney General of Texas, and Joe R. Greenhill, First Assistant Attorney General, argued the cause for respondents. With them on the brief was E. Jacobson, Assistant Attorney General.

Briefs of amici curiae, supporting petitioner, were filed by Solicitor General Perlman and Philip Elman for the United States; Paul G. Annes for the American Federation of Teachers; Thomas I. Emerson, Erwin N. Griswold, Robert Hale, Harold Havighurst and Edward Levi for the Committee of Law Teachers Against Segregation in Legal Education; Phineas Indritz for the American Veterans Committee, Inc.; and Marcus Cohn and Jacob Grumet for the American Jewish Committee et al.

An amici curiae brief in support of respondents was filed on behalf of the States of Arkansas, by Ike Murray, Attorney General; Florida, by Richard W. Ervin, Attorney General, and Frank J. Heintz, Assistant Attorney General; Georgia, by Eugene Cook, Attorney General, and M. H. Blackshear, Jr., Assistant Attorney General; Kentucky, by A. E. Funk, Attorney General, and M. B. Holifield, Assistant Attorney General; Louisiana, by Bolivar E. Kemp, Jr., Attorney General; Mississippi, by Greek L. Rice, Attorney General, and George H. Ethridge, Acting Attorney General; North Carolina, by Harry McMullan, Attorney General, and Ralph Moody, Assistant Attorney General; Oklahoma, by Mac Q. Williamson, Attorney General; South Carolina, by John M. Daniel, Attorney General; Tennessee, by Roy H. Beeler, Attorney General, and William F. Barry, Solicitor General; and Virginia, by J. Lindsay Almond, Jr., Attorney General, and Walter E. Rogers, Assistant Attorney General.…

Mr. Chief Justice Vinson delivered the opinion of the Court.

This case and McLaurin v. Oklahoma State Regents, post, present different aspects of this general question: To what extent does the Equal Protection Clause of the Fourteenth Amendment limit the power of a state to distinguish between students of different races in professional and graduate education in a state university? Broader issues have been urged for our consideration, but we adhere to the principle of deciding constitutional questions only in the context of the particular case before the Court. We have frequently reiterated that this Court will decide constitutional questions only when necessary to the disposition of the case at hand, and that such decisions will be drawn as narrowly as possible. *Rescue Army v. Municipal Court,* … (1947), and cases cited therein. Because of this traditional reluctance

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to extend constitutional interpretations to situations or facts which are not before the Court, much of the excellent research and detailed argument presented in these cases is unnecessary to their disposition.

In the instant case, petitioner filed an application for admission to the University of Texas Law School for the February, 1946 term. His application was rejected solely because he is a Negro. Petitioner thereupon brought this suit for mandamus against the appropriate school officials, respondents here, to compel his admission. At that time, there was no law school in Texas which admitted Negroes.

The state trial court recognized that the action of the State in denying petitioner the opportunity to gain a legal education while granting it to others deprived him of the equal protection of the laws guaranteed by the Fourteenth Amendment. The court did not grant the relief requested, however, but continued the case for six months to allow the State to supply substantially equal facilities. At the expiration of the six months, in December, 1946, the court denied the writ on the showing that the authorized university officials had adopted an order calling for the opening of a law school for Negroes the following February. While petitioner's appeal was pending, such a school was made available, but petitioner refused to register therein. The Texas Court of Civil Appeals set aside the trial court's judgment and ordered the cause "remanded generally to the trial court for further proceedings without prejudice to the rights of any party to this suit."

On remand, a hearing was held on the issue of the equality of the educational facilities at the newly established school as compared with the University of Texas Law School. Finding that the new school offered petitioner "privileges, advantages, and opportunities for the study of law substantially equivalent to those offered by the State to white students at the University of Texas," the trial court denied mandamus. The Court of Civil Appeals affirmed … (1948). Petitioner's application for a writ of error was denied by the Texas Supreme Court. We granted certiorari … (1949), because of the manifest importance of the constitutional issues involved.

The University of Texas Law School, from which petitioner was excluded, was staffed by a faculty of sixteen full-time and three part-time professors, some of whom are nationally recognized authorities in their field. Its student body numbered 850. The library contained over 65,000 volumes. Among the other facilities available to the students were a law review, moot court facilities, … scholarship funds, and Order of the Coif affiliation. The school's alumni occupy the most distinguished positions in the private practice of the law and in the public life of the State. It may properly be considered one of the nation's ranking law schools.

The law school for Negroes which was to have opened in February, 1947, would have had no independent faculty or library. The teaching was to be carried on by four members of the University of Texas Law School faculty, who were to maintain their offices at the University of Texas while teaching at both institutions. Few of the 10,000 volumes ordered for the library had arrived; nor was there any full-time librarian. The school lacked accreditation.

Since the trial of this case, respondents report the opening of a law school at the Texas State University for Negroes. It is apparently on the road to full accreditation. It has a faculty of five full-time professors; a student body of 23; a library of some 16,500 volumes serviced by a full-time staff; a practice court and legal aid association; and one alumnus who has become a member of the Texas Bar.

Whether the University of Texas Law School is compared with the original or the new law school for Negroes, we cannot find substantial equality in the educational opportunities offered white and Negro law students by the State. In terms of number of the faculty, variety of courses and opportunity for specialization, size of the student body, scope of the library, availability of law … review and similar activities, the University of Texas Law School is superior. What is more important, the University of Texas Law School possesses to a far greater degree those qualities which are incapable of objective measurement but which make for greatness in a law school. Such qualities, to name but a few, include reputation of the faculty, experience of the administration, position and influence of the alumni, standing in the community, traditions and prestige. It is difficult to believe that one who had a free choice between these law schools would consider the question close.

Moreover, although the law is a highly learned profession, we are well aware that it is an intensely practical one. The law school, the proving ground for legal learning and practice, cannot be effective in isolation from the individuals and institutions with which the law interacts. Few students and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views with which the law is concerned. The law school to which Texas is willing to admit petitioner excludes from its student

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body members of the racial groups which number 85% of the population of the State and include most of the lawyers, witnesses, jurors, judges and other officials with whom petitioner will inevitably be dealing when he becomes a member of the Texas Bar. With such a substantial and significant segment of society excluded, we cannot conclude that the education offered petitioner is substantially equal to that which he would receive if admitted to the University of Texas Law School.

It may be argued that excluding petitioner from that school is no different from excluding white students from the new law school. This contention overlooks realities. It is unlikely that a member of a group so decisively in the majority, attending a school with rich traditions … prestige which only a history of consistently maintained excellence could command, would claim that the opportunities afforded him for legal education were unequal to those held open to petitioner. That such a claim, if made, would be dishonored by the State, is no answer. "Equal protection of the laws is not achieved through indiscriminate imposition of inequalities." *Shelley v. Kraemer* … (1948).

It is fundamental that these cases concern rights which are personal and present. This Court has stated unanimously that "The State must provide [legal education] for [petitioner] in conformity with the equal protection clause of the Fourteenth Amendment and provide it as soon as it does for applicants of any other group." *Sipuel v. Board of Regents* … (1948). That case "did not present the issue whether a state might not satisfy the equal protection clause of the Fourteenth Amendment by establishing a separate law school for Negroes." *Fisher v. Hurst* … (1948). In *Missouri ex rel. Gaines v. Canada* … (1938), the Court, speaking through Chief Justice Hughes, declared that "petitioner's right was a personal one. It was as an individual that he was entitled to the equal protection of the laws, and the State was bound to furnish him within its borders facilities for legal education substantially equal to those which the State there afforded for persons of the white race, whether or not other negroes sought the same opportunity." These are the only cases in this Court which present the issue of the constitutional validity of race distinctions in state-supported graduate and professional education.

In accordance with these cases, petitioner may claim his full constitutional right: legal education equivalent to that offered by the State to students of other races. Such education is not available to him in a separate law school as offered by the State. We cannot, therefore, … agree with respondents that the doctrine of *Plessy v. Ferguson* … (1896), requires affirmance of the judgment below. Nor need we

Glossary

Amici curiae	Latin for "friends of the court," referring to outside parties who submit briefs to the court in support of one position or the other
certiorari	a writ by an appeals court commanding a lower court to produce the records of a case; "granting certiorari" means that the higher court has agreed to hear the case.
Chief Justice Hughes	Charles Evans Hughes, whose tenure as chief justice coincided with the years of the Great Depression
ex relatione	a Latin expression used in the law to mean "on behalf of"
mandamus	Latin for "we command," used in law to refer to a court order requiring a lower court or a government official to perform a duty or to refrain from doing something
Order of the Coif	a prestigious national scholastic society for law students
remand	the act of a higher court sending a case back to a lower court for action
Reversed	an indication that a higher court has reversed the ruling of a lower court in the case at hand
writ of error	a judicial writ from an appellate court ordering the court of record to produce the records of trial; an appeal

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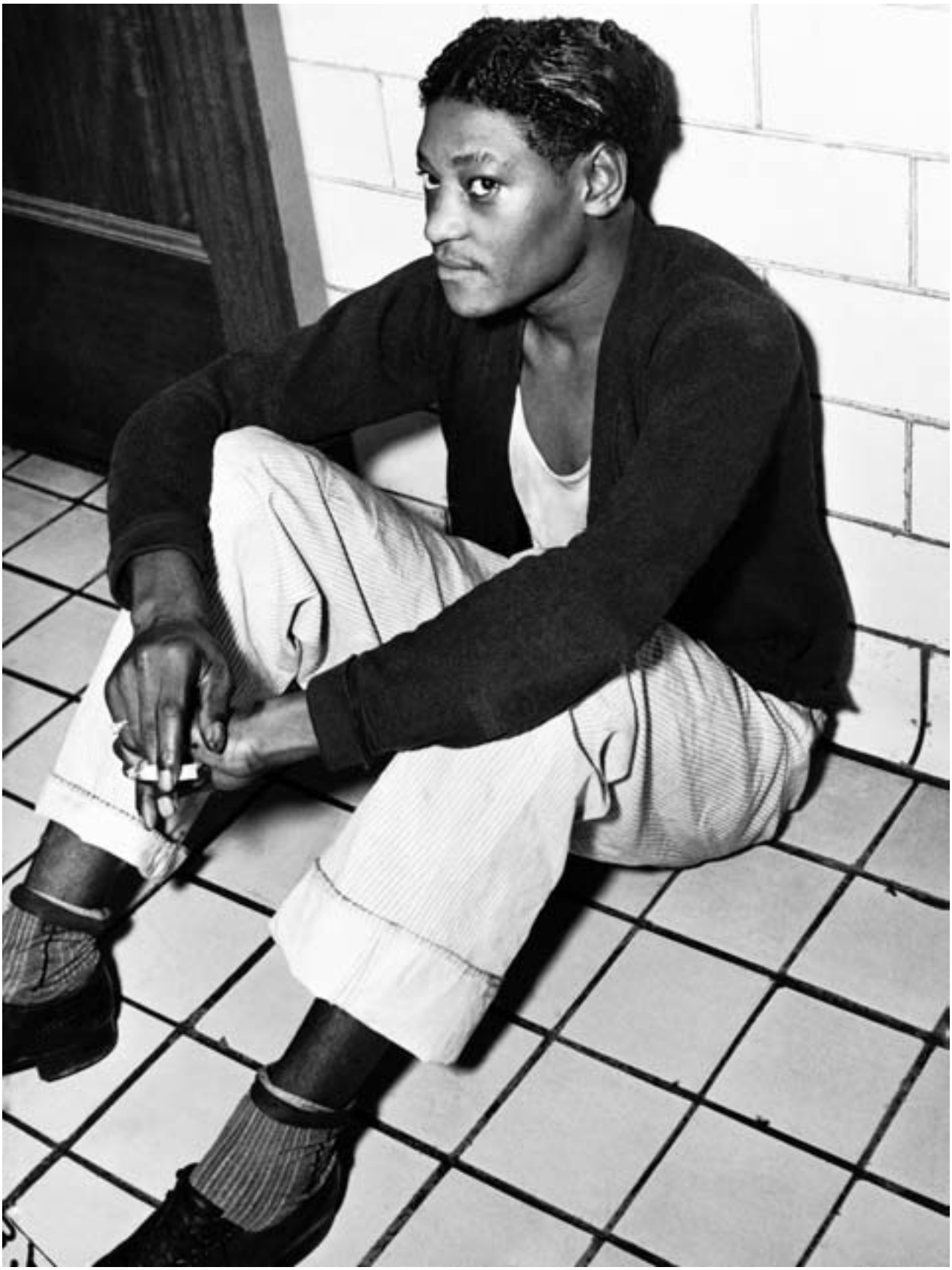
reach petitioner's contention that *Plessy v. Ferguson* should be reexamined in the light of contemporary knowledge respecting the purposes of the Fourteenth Amendment and the effects of racial segregation.…

We hold that the Equal Protection Clause of the Fourteenth Amendment requires that petitioner be admitted to the University of Texas Law School. The judgment is reversed and the cause is remanded for proceedings not inconsistent with this opinion.

Reversed.



Haywood Patterson, shown sitting in jail on July 25, 1937, in Decatur, Alabama (AP/Wide World Photos)

Haywood Patterson and Earl Conrad's *Scottsboro Boy*

1950

"In the South most poor whites feel they are better than Negroes and a black man has few rights."

Overview

Haywood Patterson, with the assistance of Earl Conrad, wrote *Scottsboro Boy* more than a decade after he was tried four times in one of the most notorious and racially controversial cases of the early twentieth century. Nine African American youths were charged with raping two white women while all of them were riding on a train. All but one were quickly sentenced to death, and the case attracted international attention. Both the Communists and the National Association for the Advancement of Colored People wanted to defend the boys, but ultimately the Communists took the case, through their legal arm, International Labor Defense.

After several trials (with Patterson convicted four times and sentenced to death three times) and two appeals to the U.S. Supreme Court (with the Supreme Court refusing to hear a third case), all nine youths were eventually freed. Patterson escaped from prison in 1948, and in 1950, nineteen years after the case was first brought against him and at the dawn of the civil rights movement in America, he wrote *Scottsboro Boy*. In his book, published in June of that year, Patterson details his experiences during the trial and what he faced in the years of his imprisonment.

Context

The Scottsboro case began in many ways during Reconstruction, which preceded it by about sixty years. After the American Civil War, the United States promised to give equal rights, including the right to vote, to African Americans. To this end, the Fourteenth Amendment, guaranteeing equal protection of the laws and the right to due process, and the Fifteenth Amendment, requiring that the vote not be restricted on the basis of race, were passed. However, these guarantees were only as strong as the people enforcing them, and interest in equal rights for African Americans, both in the North and in the South, waned quickly. Americans disputed the outcome of the election of 1876 between the Republican Rutherford B. Hayes and the Democrat Samuel Tilden, and the resulting Compromise of 1877 gave concessions to the Democrats in return for their accepting Hayes's election. With that compromise, federal troops were withdrawn from the South, and southern whites were given free rein to treat blacks as they chose.

Most southern states limited opportunities for African Americans. Around 1900, Jim Crow laws sprang up in the South, segregating facilities and removing nearly all blacks from the voting rolls. The overall legal restrictions on blacks throughout the South were extensive. Separate schools, water fountains, bathrooms, and even separate Bibles in courtrooms existed and the separate facilities were not at all equal. Extralegal measures such as lynchings were also used against African Americans; it has been estimated that between 1865 and 1930 more than four thousand lynchings took place in the United States, most in the South and with most victims being black. The alleged offenses that brought about lynchings of blacks could be anything from making an improper advance to a white woman to failing to step aside when a white approached. The most publicized cause (though it factored in only a small percentage of cases) was accusations of rape, almost always by a white woman against a black man. This was the accusation made against the Scottsboro boys, and it almost resulted in their lynchings.

The Scottsboro boys' cases were also a product of the Great Depression. Besides causing millions to lose their jobs, the depression prompted huge numbers of people to migrate in search of work. While the most famous were the Okies, depicted in John Steinbeck's novel *The Grapes of Wrath*, millions of others, both black and white, migrated as well. Three groups of migrants played a role in the Scottsboro incident: a group of white youths, a group of black youths (the Scottsboro boys), and two white girls.

In March of 1931, the nine Scottsboro boys, ranging in age from twelve to nineteen (Clarence Norris, Charles Weems, Haywood Patterson, Olen Montgomery, Ozie Powell, Willie Roberson, Eugene Williams, Roy Wright, and Andy Wright) were riding a freight train from Chattanooga to Memphis, Tennessee four of them looking for work. (The youths were not all traveling together and did not all know each other.) Also traveling as hobos on the train was a group of white youths and two women. A few

Time Line

1929

- The Great Depression starts, leading many in the country to ride the railways to look for work.

1931

- **March 25**
  The Scottsboro boys are arrested in Paint Rock, Alabama, initially on assault charges, but charges of rape are later added.
- **March 26**
  The Scottsboro boys are almost lynched when a crowd of a hundred whites gather outside the prison where they are being held.
- **April 6**
  The trials of all nine boys begin before Judge A. E. Hawkins.
- **April 7**
  All nine are convicted, with eight sentenced to death.

1932

- **January**
  One of the two girls admits that she was not raped; the other would maintain that she was raped throughout the trials and for the rest of her life.
- **March**
  The Alabama Supreme Court upholds the death sentences of seven of the youths. The eighth, as a juvenile, is spared the death penalty.
- **November**
  The U.S. Supreme Court reverses the convictions.

1933

- **January**
  The International Labor Defense, a Communist group, hires Samuel Liebowitz to defend the Scottsboro boys.
- **April**
  Haywood Patterson is tried again, convicted, and sentenced to death.
- **June**
  Patterson's conviction is set aside.

of the black youths got into a fight with the white youths and pushed some of the whites off the train. The white youths complained to the station master at Stevenson, Alabama, and the train was held at the next stop and searched by a deputized posse of fifty men. The nine African American youths, some of whom were in different parts of the train from where the fight occurred, were all arrested for assault. The two white girls, Ruby Bates and Victoria Price, who were prostitutes, were found on the train as well. Bates and Price, fearing that they would be arrested, accused the blacks of raping them. The nine blacks were taken to Scottsboro, Alabama, and jailed for trial, giving the case its name.

The youths were indicted for rape (a capital offense) on March 30. None of them was represented by an attorney. Most of them were illiterate, and none had any knowledge of criminal law or court procedure. The judge had ordered the Alabama bar to find attorneys for the defense, but when the trial started on April 6, no attorney had come forward. Finally, the youths' parents found two attorneys: a Chattanooga real estate lawyer, Stephen Roddy, and Milo Moody, a lawyer who had not defended a case at trial in decades. This was an inauspicious start to a complicated process that played out in the courts over the course of four trials and nineteen years. By 1950, all the Scottsboro boys had been released.

The Scottsboro boys' case was unique in a number of ways. It was the first to focus long-term international attention on African Americans in the South. The Scottsboro cases were also the first that the U.S. Supreme Court heard twice, and they resulted in two landmark rulings. The first was *Powell v. Alabama* (1932), in which the Supreme Court reversed the convictions of the youths sentenced to death by the Alabama courts on the ground that they had lacked effective counsel and had not received a fair trial as mandated by the due process clause of the Fourteenth Amendment. In the second case, *Norris v. Alabama* (1935), the Court ruled that blacks had to be included on the voting rolls and thus in the jury pool in order to have a fair trial. African Americans had been systematically excluded from the grand jury that indicted Clarence Norris and from the trial jury that convicted him, and so his conviction was overturned.

These cases were some of the longest in American history, even though no physical evidence suggested that any rape had occurred. They also were among the first in nearly sixty years, since perhaps the end of Reconstruction, in which blatant racism received front-page coverage not just in African American newspapers but in many mainstream white newspapers as well. In addition to the racism of the trials, racism and chicanery became evident at the Supreme Court hearings. To attempt to answer the defense's argument that there were no African Americans on the jury rolls, someone in the local government added the names of black voters at the end of the rolls before sending them to the Supreme Court. It was an inept and obvious forgery, and when the rolls were produced at the Supreme Court the justices were outraged.

In some ways, the cases also demonstrated progress toward civil rights. They showed that the national and inter-

national communities would pay attention to a case in the South and would put pressure upon the South to ensure that justice was done, even if it took nineteen years. They likewise showed progress, sadly enough, in that there was a trial at all. A lynch mob of nearly a hundred people gathered right after the nine were arrested, but this mob was unable to take any action. The state was also unable to carry out its own legal lynching, even though it tried to do so on several occasions, in that death sentences were often imposed simply on the word of one accuser. The fact that the National Association for the Advancement of Colored People and the Communist International Labor Defense were willing to spend the time and money to defend the boys also suggests a kind of progress. Before the 1930s such a case in the South might very well have been swept under the rug. That the cases went to the U.S. Supreme Court twice was unprecedented; before the 1930s the Supreme Court largely ignored race relations when it could. Progress is also evident in the Supreme Court's willingness to twice rule in favor of the Scottsboro boys; before the 1930s most legal rulings disadvantaged blacks. No defense attorneys were required at all for anyone when the trial started, and prison officials were allowed to listen in on conversations between defense counsel and their clients at the time of the case. Such practices are no longer allowed.

About the Author

Haywood Patterson, one of the leading defendants in the Scottsboro case, was born in Elberton, Georgia, in 1913 and then moved to Tennessee. He quit school after the third grade and took to riding the railways in the early years of the Great Depression, in search of work. He was viewed as the most violent and strong-willed of the defendants. For his alleged role in the Scottsboro affair, he was tried for rape four times and was sentenced to death three times. Two of the sentences were overturned, and a third was set aside. The fourth time, Patterson was sentenced to seventy-five years in jail, but he escaped from prison in 1948, ending up in Detroit.

While in Detroit, he wrote his memoir, *Scottsboro Boy*, which was published in June of 1950. Soon after its publication, he was arrested by the FBI. Alabama sought his extradition in order to return him to prison, but a large outcry and letter-writing effort persuaded the governor of Michigan not to extradite him. Later that year he was arrested after a barroom brawl in which a man died. Patterson was charged with murder and convicted of manslaughter in his third trial on the counts. He served about a year in prison, dying in 1952 from cancer at the age of thirty-nine.

Earl Conrad was born in 1912 in New York and worked primarily as a journalist. He also authored more than twenty books of history and criticism and ghostwrote several biographies, including one of the actor Errol Flynn. Several of his works focus on African Americans, including *Harriet Tubman: Negro Soldier and Abolitionist* (1942). Conrad died in 1986.

Time Line

1933
- **December** Patterson and another defendant, Clarence Norris, are tried again for rape in front of a different judge and sentenced to death.

1934
- **June** The Alabama Supreme Court upholds the convictions.

1935
- **April** The U.S. Supreme Court reverses the convictions on the ground that African Americans were systematically excluded from the jury pool.

1936
- **January** Patterson is tried a fourth time, convicted, and sentenced to seventy-five years in prison.

1937
- **July** Four of the other youths are tried on rape and related charges, and all are sentenced to long prison terms, with Norris being sentenced to death. The remaining four are released when all charges are dropped.

1938
- **July** Governor Bibb Graves reduces Norris's death sentence to life in prison. Later the same year Graves rejects pardon applications for all five still in prison.

1943
- The first of the Scottsboro boys is paroled; two more are paroled three years later, leaving only Patterson and one other in prison.

1948
- Patterson escapes from prison.

1950
- The last of the Scottsboro boys is released from prison. Patterson writes *Scottsboro Boy*.

Time Line

1951	■ Patterson is convicted of manslaughter for his role in another man's death.
1952	■ **August 24** Patterson dies in prison.

Explanation and Analysis of the Document

Scottsboro Boy covers Patterson's interaction with the Alabama prison system during his trial and years of incarceration. After telling of the trial and his convictions, Patterson discusses his life over his seventeen years in various Alabama prisons. The eleven-chapter book ends with his escape from prison in 1948. Four chapters are excerpted here.

◆ Chapter 1

The book begins with Patterson's recounting of the train journey that led to the black youths' arrests and trials. He assumes that everyone knows about riding the railways and does not explain why they were riding. Patterson then replays the interchange between himself and the white boys that led to the fight and explains why and how he resisted, noting how southern whites frequently felt that African Americans had no rights. He notes, too, that it is often forgotten that there were quite a few other African Americans on the train who were not arrested along with the Scottsboro boys. After the blacks had won a fight with some of the whites and forced them off the train, the whites complained to a station agent. The agent phoned ahead to the next stop, and the boys were arrested in the small town of Paint Rock, Alabama. Given the racial politics of the time, the word of the whites was accepted over any presumed innocence of the blacks. Further, the station agent failed to ask whether the whites were also fighting and to perhaps arrest them for illegally riding on the train. Patterson then describes the boys and points out that not all of those involved in the fight were arrested and that some were arrested solely for being black. After being taken to Scottsboro, they were accused of rape. Patterson describes the scene at night with the mob outside yelling for the chance to lynch the boys. He remarks that the lynchings might have happened if it were not for the opposition of the sheriff and his wife and the fact that the sheriff called for National Guard troops to protect them.

◆ Chapter 2

Patterson then discusses the trial. The boys were moved to Gadsden, Alabama, where they were protected and quickly tried. None of them saw a lawyer before the trial, he says, and they did not even know whether their parents were aware of their predicament, for they were not allowed to make phone calls. Of course, the concept of the "rights" of defendants was still decades in the future. So-called Miranda warnings, for example, were not mandated until 1966.

Patterson includes much description of small-town culture. He describes a large throng gathered for the trial and explains it as a combination of interest in seeing a lynching and local custom. As gruesome as it may sound, lynchings typically drew huge crowds in this period, and sometimes picture postcards were even sold. The local custom that drew the crowd on April 6 the day the trial started was Scottsboro's fair day. Fair day took place on the first Monday of the month. In many small towns, people gathered on certain days to buy, sell, and trade and generally to meet and discuss things. For Scottsboro, this was the day when area farmers came to town to sell their produce and buy supplies. Patterson also notes how weak his defense team was, in the persons of a local lawyer who was actually opposed to the boys and an attorney from Chattanooga who had little interest in defending them. The account never explains how the lawyer from Chattanooga became connected with the case.

The decisions collectively took only two days to be handed down; thus the juries reached their conclusions in less than sixteen hours of work. According to Patterson, the same jury heard all three cases. He comments that "that was one jury that got exercise," referring to how many times the jury had to walk in and out of the jury room (twelve times). In actuality there were three different juries. Patterson's trial took only three hours. He had seen the girls he was accused of raping only twice before the trial, once when they were arrested and a second time in the jail. He observes that the women were much more presentable in court, wearing dresses rather than the overalls in which they had been traveling.

Patterson also discusses the racial hostility in the packed courtroom. One of the more extended bits of the trial he recounts is the prosecution's closing argument to the jury, stating that the jury members should do their duty as men and quickly condemn the defendants. Patterson notes that there were very few African Americans in Scottsboro at the time of the trial and that the spectators in the courtroom cheered when the sentence was pronounced. Still, Patterson managed to keep his spirits up and told the prosecutor that he did not believe that the state would execute him quickly.

Patterson then launches into his own rebuttal of the charge of rape against him. He first notes that he prefers to be with African Americans and that he has always loved his own kind. He then argues that only a "fool or a crazy man" would attempt to rape a white woman, as all African Americans knew that death would result. Patterson adds that he did not ever have a desire to rape anyone, as plenty of women wanted him; he did not have to force himself on them. But he also says that his parents taught him to respect people, and so he would not have raped anyone. Patterson closes by saying that he is stating his views in this book for the first time. "No Alabama judge or jury in the four trials I had ever asked me for my views," he notes ironically. "Those Alabama people, they didn't believe I had any, nor the right to any."

◆ Chapter 3

The Scottsboro boys were taken back to the jail in Gadsden to await transfer to Kilby Prison in Montgomery, Ala-

bama. There they started protesting, in large part because they knew that they were facing execution. "We didn't like nothing at all about the place; we didn't like our death sentence; and we decided to put on a kick." The main thing they protested directly was the food; even after they received the pork chops they had asked for, they still were not satisfied and continued to protest. The National Guard was sent in to take control, and the boys were beaten and handcuffed together so that they could not move. The guards left them there that day and the next without food, Patterson says, before transferring them to the city jail.

There the boys were separated and jailed with other inmates. Patterson was threatened until the other inmates discovered that he was one of the Scottsboro boys. At that point, he says they were all treated better, at least by the inmates. They were directly threatened, though, by the guards. Patterson recounts how they were all gathered together to be fingerprinted and how the jailers beat Charlie Weems when he did not spit out his gum fast enough. As a deterrent, the jailer also showed the boys the various punishments used against recalcitrant prisoners, including where they hung inmates by the fingers above the ground. Horrific punishments were quite common for those in jail in the South. Many spent their time in brutal convict labor camps, where the death rates were high. Even so, Patterson does not describe being afraid.

Patterson then moves on to the start of their successful defense, noting the arrival of two Jewish lawyers from the International Labor Defense. He did not have a problem with that, he says, as he had dealt with Jews in Chattanooga and they had treated him fairly. In some ways, Patterson is stereotyping in the same way as whites did in the South by assuming that all people of one race or one religion would act the same. The lawyers told the boys about the interest that their case was drawing. The jailer, Dick Barnes, came into the meeting and listened; this practice is illegal today, but "attorney-client privilege" was a right not granted for another thirty years. During the visit, the attorneys asked about the availability of medical care. As Patterson describes it, "The prison was very filthy. It was making me sick, making us all sick." When Patterson asked to see an outside doctor, Barnes insisted that the prison doctor was fine. Patterson argued that he needed medicine for lice, as the lice had "stole his cap" the night before. All that gained him, though, was a threat from Barnes.

Patterson then goes on to explain the rush of mail that arrived, along with money to buy items such as cigarettes, which had long served as currency inside many prisons. The boys were emboldened by the attention and began to demand more. The increased demand in reality brought only more attention from the jailer, and so they were eventually transferred to Kilby Prison in Montgomery, which also housed death row. Patterson notes that Kilby Prison was more substantially built than the ones in which the boys had previously been held. "It was a bitter thing to see the door of Kilby Prison.… Those walls looked so high and hard to get over. They were concrete." The boys were then moved to death row, but they could not see the execution chamber only "a dozen cells facing each other, six to a side, and a thirteenth cell for toilet work."

◆ Chapter 4

Patterson tells of meeting a man called Gunboat at Kilby, who immediately asks him, "Do you want a Bible to make your soul right? … You going to die tonight, you know. You Scottsboros better get busy with the Lord." And so Patterson took up reading the Bible. "You see, a man in the death cell, he clings to anything that gives him a little hope," he says. He notes that he had little formal education before being imprisoned and that he could hardly read; he found himself "stumbling through the small printed words." Two Scottsboro boys were imprisoned in each cell, which was big enough for only a single cot or a bunk bed. Patterson ends the chapter saying that he "dreamed bad dreams, with freight trains, guards' faces, and courtrooms mixed up with the look of the sky at night.

Audience

Scottsboro Boy was aimed primarily at the supporters of civil rights and the Scottsboro boys throughout their struggle, giving this group a firsthand account of what happened. Secondarily, the book addressed all those who were simply interested in learning more about the case. There also was a third audience, in Patterson's view anyone interested in paying for the book. This is not to suggest that Patterson was more mercenary than other people who sell their life stories but just that he had spent the better part of two decades behind bars and had very few marketable skills. The only tangible asset he had was his story, and he needed to sell it to live.

Impact

The short-term impact of this publication was relatively small. The basic details of the Scottsboro case were already known, and all of the Scottsboro boys were out of prison when the book was published; the resulting publicity thus changed little. The aim of the book was to help Patterson, but it did not accomplish that goal either. Soon after its publication, Patterson was arrested and convicted of manslaughter for his role in a man's death in a barroom fight. He was sentenced to at least six years in prison but died behind bars in 1952.

The real impact of this book is upon the historical record of the experience of the Scottsboro boys. Even if all of the legal details are known, the experience of the defendants cannot be fully understood without reading such a firsthand account. Such an account also contributes to an understanding of the legal processes of the time and the role racial prejudice played in court cases. Likewise, it gives a stark portrayal of prison conditions and the life of black inmates. This biography demonstrates that firsthand accounts are necessary to an understanding of how African Americans were

Essential Quotes

"But it happens in the South most poor whites feel they are better than Negroes and a black man has few rights."

(Chapter 1)

"Round about dusk hundreds of people gathered around the jail-house. 'Let these niggers out,' they yelled. We could hear it coming in the window. 'If you don't, we're coming in after them.' White people were running around like mad ants, white ants, sore that someone had stepped on their hill. We heard them yelling like crazy about how they were coming in after us and what ought to be done with us."

(Chapter 1)

"When Bailey [the prosecutor] finished with me he said to the jury: 'Gentlemen of the jury, I don't say give that nigger the chair. I'm not going to tell you to give him the electric chair. You know your duty. *I'm not going to tell you to give the nigger a life sentence. All I can say is,* hide him. Get him out of our sight.*'"*

(Chapter 2)

"It was never in me to rape, not a black and not a white woman. Only a Negro who is a fool or a crazy man, he would chance his life for anything like that. A Negro with sound judgment and common sense is not going to do it. They are going to take his life away from him if he does. Every Negro man in the South knows that."

(Chapter 2)

"I could hardly make out the words in the book. The little training in reading I had had I never much followed up. Never read no papers, no books, nothing. I did not know how to pronounce things, could not even say 'Alabama' so you could understand me.… But the Bible felt solid in my hands."

(Chapter 4)

treated in the South during the early twentieth century. White officials and participants in events like this often did not fully and accurately record them, and personal accounts help to paint a truthful picture and to demonstrate the underpinnings of the civil rights movement.

See also Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870).

Further Reading

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Web Sites

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http://www.pbs.org/wgbh/amex/scottsboro.

"The 'Scottsboro Boys' Trials: 1931 1937." Famous American Trials Web site.
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Scott A. Merriman

Questions for Further Study

1. In what ways was the Scottsboro boys case similar to the events surrounding the 1921 race riot in Tulsa, Oklahoma, detailed in Walter F. White's "The Eruption of Tulsa"?

2. In what sense was the Scottsboro boys case a product of the Great Depression? What impact did economics have on the events surrounding the case?

3. The Scottsboro boys case had at least one important judicial outcome that improved the criminal justice system for African Americans. What was that outcome, and why was it important?

4. *Scottsboro Boy* is a firsthand account of one man's encounter with a criminal justice system that was stacked against him. In what sense was his account a twentieth-century version of a slave narrative published in the nineteenth century? Consider the document in connection with, for example, *The Narrative of the Life of Henry Box Brown, Written by Himself* or *Twelve Years a Slave: Narrative of Solomon Northup*.

5. *Scottsboro Boy* was published on the eve of the civil rights movement in the United States. In what ways might the publication of this book have helped fuel the civil rights movement?

Haywood Patterson and Earl Conrad's *Scottsboro Boy*

Chapter 1

The freight train leaving out of Chattanooga, going around the mountain curves and hills of Tennessee into Alabama, it went so slow anyone could get off and back on.

That gave the white boys the idea they could jump off the train and pick up rocks, carry them back on, and chunk them at us Negro boys.

The trouble began when three or four white boys crossed over the oil tanker that four of us colored fellows from Chattanooga were in. One of the white boys, he stepped on my hand and liked to have knocked me off the train. I didn't say anything then, but the same guy, he brushed by me again and liked to have pushed me off the car. I caught hold of the side of the tanker to keep from falling off.

I made a complaint about it and the white boy talked back mean, serious, white folks Southern talk.

That is how the Scottsboro case began … with a white foot on my black hand.

"The next time you want by," I said, "just tell me you want by and I let you by."

"Nigger, I don't ask you when I want by. What you doing on this train anyway?"

"Look, I just tell you the next time you want by you just tell me you want by and I let you by."

"Nigger bastard, this a white man's train. You better get off. All you black bastards better get off!"

I felt we had as much business stealing a ride on this train as those white boys hoboing from one place to another looking for work like us. But it happens in the South most poor whites feel they are better than Negroes and a black man has few rights. It was wrong talk from the white fellow and I felt I should sense it into him and his friends we were human beings with rights too. I didn't want that my companions, Roy and Andy Wright, Eugene Williams and myself, should get off that train for anybody unless it was a fireman or engineer or railroad dick who told us to get off.

"You white sons of bitches, we got as much right here as you!"

"Why, you goddamn nigger, I think we better just put you off!"

"Okay, you just try. You just try to put us off!"

Three or four white boys, they were facing us four black boys now, and all cussing each other on both sides. But no fighting yet.

The white boys went on up the train further.

We had just come out of a tunnel underneath Lookout Mountain when the argument started. The train, the name of it was the Alabama Great Southern, it was going uphill now, slow. A couple of the white boys, they hopped off, picked up rocks, threw them at us. The stones landed around us and some hit us. Then the white fellows, they hopped back on the train two or three cars below us. We were going toward Stevenson, Alabama, when the rocks came at us. We got very mad.

When the train stopped at Stevenson, I think maybe to get water or fuel, we got out of the car and walked along the tracks. We met up with some other young Negroes from another car. We told them what happened. They agreed to come in with us when the train started again.

Soon as the train started the four of us Chattanooga boys that was in the oil tanker got back in there and the white boys started throwing more rocks. The other colored guys, they came over the top of the train and met us four guys. We decided we would go and settle with these white boys. We went toward their car to fight it out. There must have been ten or twelve or thirteen of us colored when we came on a gang of six or seven white boys.

I don't argue with people. I show them. And I started to show those white boys. The other colored guys, they pitched in on these rock throwers too. Pretty quick the white boys began to lose in the fist fighting. We outmanned them in hand-to-hand scuffling. Some of them jumped off and some we put off. The train, picking up a little speed, that helped us do the job. A few wanted to put up a fight but they didn't have a chance. We had color anger on our side.

The train was picking up speed and I could see a few Negro boys trying to put off one white guy. I went down by them and told them not to throw this boy off because the train was going too fast. This fellow, his name was Orville Gilley. Me and one of the Wright boys pulled him back up.

After the Gilley boy was back on the train the fight was over. The four of us, Andy and Roy Wright, Eugene Williams and myself, we went back to the

Document Text

tanker and sat the same way we were riding when the train left Chattanooga.

The white fellows got plenty sore at the whupping we gave them. They ran back to Stevenson to complain that they were jumped on and thrown off and to have us pulled off the train.

The Stevenson depot man, he called up ahead to Paint Rock and told the folks in that little through-road place to turn out in a posse and snatch us off the train.

It was two or three o'clock in the afternoon, Wednesday, March 25, 1931, when we were taken off at Paint Rock.…

A mob of white farmers was waiting when the train rolled in. They closed in on the boxcars. Their pistols and shotguns pointed at us. They took everything black off the train. They even threw off some lumps of coal, could be because of its color. Us nine black ones they took off from different cars. Some of these Negroes I had not seen before the fight and a couple I was looking at now for the first time. They were rounding up the whites too, about a half dozen of them. I noticed among them two girls dressed in men's overalls and looking about like the white fellows.

I asked a guy who had hold of me, "What's it all about?"

"Assault and attempt to murder."

I didn't know then there was going to be a different kind of a charge after we got to the Jackson County seat, Scottsboro.

They marched us up a short road. We stopped in front of a little general store and post office. They took our names. They roped us up, all us Negroes together. The rope stretched from one to another of us. The white folks, they looked mighty serious. Everybody had guns. The guy who ran the store spoke up for us:

"Don't let those boys go to jail. Don't anybody harm them."

But that passed quick, because we were being put into trucks. I kind of remember this man's face, him moving around there in the storm of mad white folks, talking for us. There are some good white people down South but you don't find them very fast, them that will get up in arms for a Negro. If they come up for a Negro accused of something, the white people go against him and his business goes bad.

After we were shoved into the truck I saw for the first time all us to become known as "The Scottsboro Boys." There were nine of us. Some had not even been in the fight on the train. A few in the fight got away so the posse never picked them up.

There were the four from Chattanooga, Roy Wright, about fourteen; his brother, Andy Wright, nineteen; Eugene Williams, who was only thirteen; and myself. I was eighteen. I knew the Wright boys very well. I had spent many nights at their home and Mrs. Wright treated me as if I were her own son. The other five boys, they were Olen Montgomery, he was half blind; Willie Roberson, he was so sick with the venereal he could barely move around; a fellow from Atlanta named Clarence Norris, nineteen years old; Charlie Weems, the oldest one among us, he was twenty; and a fourteen-year-old boy from Georgia, Ozie Powell. I was one of the tallest, but Norris was taller than me.

All nine of us were riding the freight for the same reason, to go somewhere and find work. It was 1931. Depression was all over the country. Our families were hard pushed. The only ones here I knew were the other three from Chattanooga. Our fathers couldn't hardly support us, and we wanted to help out, or at least put food in our own bellies by ourselves. We were freight-hiking to Memphis when the fight happened.

Looking over this crowd, I figured that the white boys got sore at the whupping we gave them, and were out to make us see it the bad way.

We got to Scottsboro in a half hour. Right away we were huddled into a cage, all of us together. It was a little two-story jimcrow jail. There were flat bars, checkerboard style, around the windows, and a little hallway outside our cell.

We got panicky and some of the kids cried. The deputies were rough. They kept coming in and out of our cells. They kept asking questions, kept pushing us and shoving, trying to make us talk. Kept cussing, saying we tried to kill off the white boys on the train. Stomped and raved at us and flashed their guns and badges.

We could look out the window and see a mob of folks gathering. They were excited and noisy. We were hot and sweaty, all of us, and pretty scared. I laughed at a couple of the guys who were crying. I didn't feel like crying. I couldn't figure what exactly, but didn't have no weak feeling.

After a while a guy walked into our cell, with him a couple of young women.

"Do you know these girls?"

They were the two gals dressed like men rounded up at Paint Rock along with the rest of us brought off the train. We had seen them being hauled in. They looked like the others, like the white hobo fellows, to me. I paid them no mind. I didn't know them. None of us from Chattanooga, the Wrights, Williams, and

myself, ever saw them before Paint Rock. Far as I knew none of the nine of us pulled off different gondolas and tankers ever saw them.

"No," everybody said.

"No," I said.

"No? You damn-liar niggers! You raped these girls!"

Round about dusk hundreds of people gathered about the jail-house. "Let these niggers out," they yelled. We could hear it coming in the window. "If you don't, we're coming in after them." White folks were running around like mad ants, white ants, sore that somebody had stepped on their hill. We heard them yelling like crazy how they were coming in after us and what ought to be done with us. "Give 'em to us," they kept screaming, till some of the guys, they cried like they were seven or eight years old. Olen Montgomery, he was seventeen and came from Monroe, Georgia, he could make the ugliest face when he cried. I stepped back and laughed at him.

As evening came on the crowd got to be to about five hundred, most of them with guns. Mothers had kids in their arms. Autos, bicycles, and wagons were parked around the place. People in and about them.

Two or three deputies, they came into our cell and said, "All right, let's go." They wanted to take us out to the crowd. They handcuffed us each separately. Locked both our hands together. Wanted to rush us outside into the hands of that mob. We fellows hung close, didn't want for them to put those irons on. You could see the look in those deputies' faces, already taking some funny kind of credit for turning us over.

High Sheriff Warren he was on our side rushed in at those deputies and said, "Where you taking these boys?"

"Taking them to another place, maybe Gadsden or some other jail."

"*You can't take those boys out there!* You'll be overpowered and they'll take the boys away from you."

The deputies asked for their handcuffs back and beat it out.

That was when the high sheriff slipped out the back way himself and put in a call to Montgomery for the National Guards.

He came back to our cell a few minutes later and said, "I don't believe that story the girls told."

His wife didn't believe it either. She got busy right then and went to the girls' cell not far from ours. We all kept quiet and listened while Mrs. Warren accused them of putting down a lie on us. "You know you lied," she said, so that we heard it and so did the white boys in their cell room. The girls stuck to their story; but us black boys saw we had some friends.

It had been a fair day, a small wind blowing while we rode on the freight. Now, toward evening, it was cool, and the crowd down there was stomping around to keep warm and wanting to make it real hot. When it was coming dark flashlights went on, and headlights from a few Fords lit up the jail. The noise was mainly from the white folks still calling for a lynching party. Every now and then one of them would yell, for us to hear, "Where's the rope. Bill?" or "Got enough rope, Hank?" They were trying to find something to help them to break into jail, begging all the while to turn us fellows over to them.

Round four o'clock in the morning we heard a heavy shooting coming into the town. It was the National Guards. They were firing to let the crowd know they were coming, they meant business, and we weren't to be burned or hung. The mob got scared and fussed off and away while the state soldiers' trucks came through.

I was young, didn't know what it was all about. I believed the National Guard was some part of the lynching bee. When they came into my cell I figured like the others that we were as good as long gone now.

First guard to walk in, he was full of fun. He asked some of the boys, "Where you want your body to go to?"

Willie Roberson, he had earlier told one of the deputies he was from Ohio, but now he took this guard serious. He said, "Send my body to my aunt at 992 Michigan Avenue, Atlanta." His aunt owned the place at that address. Others told false names, like people do at first when they're arrested.

Charlie Weems, he had a lot of guts. He understood it was a gag. He said, "Just bury me like you do a cat. Dig a hole and throw me in it." He understood the guard was funning, but the others didn't. I didn't very well understand it myself.

After the National Guards told us they were for us, I believed them. I told them right away where I came from, "Just over the state line, Chattanooga, Tennessee."

I don't tell people stories, I tell the truth.

I told the truth about my name and where I came from. I knew that was all right with my people, they would wade through blood for me.

And which they did.

Early the next morning we had breakfast. Then the National Guards led us out of the jail. We were going to Gadsden, Alabama, where it was supposed to be safer. Soon as we filed out of the jail-house

another mob was there screaming the same stuff at us and talking mean to the National Guards. "We're going to kill you niggers!"

"You ain't going to do a goddamned thing," I yelled back at them. That made them wild.

They sat us down among other colored prisoners at the Gadsden jail. It was the same kind of a little old jimcrow lockup as the one at Scottsboro. White guys, they were in cells a little way down the hall. We talked back and forth with them.

We waited to see what the Jackson County law was going to do with us. The Scottsboro paper had something to say about us. In big headlines, editorials and everything, they said they had us nine fiends in jail for raping two of their girls. The editor had come rummaging around the jail himself.

Then we heard that on March 31 we were indicted at Scottsboro. A trial was set for April 6, only a week away. Down around that way they'll hoe potatoes kind of slow sometimes but comes to trying Negroes on a rape charge they work fast. We had no lawyers. Saw no lawyers. We had no contact with the outside. Our folks, as far as we knew, didn't know the jam we were in. I remember the bunch of us packed in the cell room, some crying, some mad. That was a thinking time, and I thought of my mother, Jannie Patterson, and my father, Claude Patterson. I thought of my sisters and brothers and wondered if they had read about us by now.

What little we heard was going on about us we got from the white inmates. Some were pretty good guys. They saw the papers, read them to us, and the guards talked with them. These fellows, they told us the story had got around all over Alabama and maybe outside the state. They told us, "If you ever see a good chance, you better run. They said they're going to give every one of you the death seat."

I couldn't believe that. I am an unbelieving sort.

Chapter 2

Came trial time, the National Guards took us to Scottsboro. We had to go down through the country from Gadsden to the county seat. We went in a truck. There were guards in front, at the side and behind. I never trusted these guards too much. They were white folks, Alabama folks at that, and I felt they could as lief knock us off as anyone else. State and federal and county law didn't make much difference to us down there. It was all law, and it was all against us, the way we figured.

Got to Scottsboro and there was just about the same crowd as when we left only much bigger. For two blocks either way they were thick as bees, bees with a bad sting and going to sting us pretty quick now.

The sixty or seventy National Guards, they got orders to make a lane through the crowd so we could get through. They had rifles, looked smart in their uniform. They could handle the crowd. When the guards formed a tunnel for us to walk through we heard the mob roaring what I heard a thousand times if I heard once:

"We going to kill you niggers!"

Later I found out why the crowd was so big. A "nigger lynching" might be enough to bring out a big crowd anyway, but this day was what they called "First Monday" or "horse-swapping day." First day of each month the Jackson County farmers came down from the hills into Scottsboro to swap horses and mules and talk. They'd bring in their families and have a time of it. It happened our trial opened on the same day so the mountain people living around here had two good reasons to come to town and there were thousands out. They were gathered around the courthouse square while we colored boys went into the courthouse. Near the courthouse was a brass band getting ready to celebrate either our burning or hanging, whichever it was going to be.

We boys sat there in court and watched how Judge E. A. Hawkins had a talk with a man named Stephen Roddy. Roddy said he was a lawyer sent in from Chattanooga to help us fellows. I had a hunch when I heard he was from Chattanooga that my folks and the Wrights had got wind of our jam and hired him. But I saw right away he wasn't much for us. Hawkins said to him, "You defending these boys?" Roddy answered, "Not exactly. I'm here to join up with any lawyers you name to defend them. Sort of help out." The judge asked, "Well, you defending them or aren't you?" Words about like that. So Roddy said, "Well, I'm not defending them, but I wouldn't want to be sent off the case. I'm not being paid or anything. Just been sent here to sort of take part." Then the judge, he said, "Oh, I wouldn't want to see you out of the case. You can stay."

Now that was the kind of defense we Scottsboro boys had when we first went on trial.

Right after that Judge Hawkins put a local guy named Milo Moody, an oldish lawyer, to represent us. But he didn't do anything for us. Not a damned thing. He got up and said a few words now and then: but he was against us.

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After Moody was set up to be our lawyer, the trials went on. The courtroom was packed. Jammed in, the people were. Standing up in back and along the sides. Not enough seats there. Weems and Norris were tried together. I was tried separate. The rest were tried together. The trials and convictions went on for about two days. The jury kept going in and out of the jury room and coming back with convictions.

That was one jury that got exercise.

I was tried on April 7, the second day of the trials. Solicitor H. G. Bailey, the prosecutor, he talked excited to the jurymen. They were backwoods farmers. Some didn't even have the education I had. I had only two short little periods of reading lessons. But these men passed a decision on my life.…

The girls I and the others were accused of raping I saw for the third time in court. The first I saw them was at Paint Rock when we were all picked up. The second was in Scottsboro jail when they were brought to our cell. And now in court. This time they were not wearing men's overalls, but dresses. Victoria Price, the older girl, she was to me a plain-looking woman. Ruby Bates was more presentable.

Solicitor Bailey, he asked me questions. The way he handled me was the same way he handled all of us. Like this:

"You ravished that girl sitting there."

"I ravished nobody. I saw no girl."

"You held a knife to her head while the others ravished her."

"I had no knife. I saw no knife. I saw no girl."

"You saw this defendant here ravish that girl there."

"I saw nobody ravish nobody. I was in a fight. That's all. Just a fight with white boys."

"You raped that girl. You did rape that girl, didn't you?"

"I saw no girl. I raped nobody."

Bailey, he kept firing that story at me just like that. He kept pounding the rape charge against me, against all of us. We all kept saying no, we saw no girls, we raped nobody, all we knew of was a fight.

The girls got up and kept on lying. There was only one thing the people in the courtroom wanted to hear. Bailey would ask, "Did the niggers rape you?"

"Yes," the girls would answer.

That's all the people in that court wanted to hear, wanted to hear "yes" from the girls' mouths.

When Bailey finished with me he said to the jury:

"Gentlemen of the jury, I don't say give that nigger the chair. I'm not going to tell you to give him the electric chair.

"*You know your duty.*

"I'm not going to tell you to give the nigger a life sentence. All I can say is, *hide him. Get him out of our sight.*

"Hide them. Get them out of our sight.

"They're not our niggers. Look at their eyes, look at their hair, gentlemen. They look like something just broke out of the zoo.

"*Guilty or not guilty, let's get rid of these niggers."*

I went on trial about nine o'clock in the morning. Within two hours the jury had come back with a conviction. I was convicted in their minds before I went on trial. I had no lawyers, no witnesses for me. All that spoke for me on that witness stand was my black skin which didn't do so good. Judge Hawkins asked the jurymen: "Have you reached a verdict?"

"Yes."

"Have the clerk read it."

The clerk read it off: "We, the jurymen, find the defendant guilty as charged and fix his punishment as death."

If I recollect right the verdicts against us all were in in two days. All of us got the death sentence except Roy Wright. He looked so small and pitiful on the stand that one juryman held out for life imprisonment. They declared a mistrial for Roy.

No Negroes were allowed in Scottsboro during the entire time. I didn't see a Negro face except two farmers in jail for selling corn. One of the National Guards, he fired a shot through the courtroom window about noon of the day I was convicted. Later he said that was an accident.

On the night of the first day's trials we could hear a brass band outside. It played, "There'll Be a Hot Time in the Old Town Tonight" and "Dixie."

It was April 9 when eight of us all but Roy Wright were stood up before Judge Hawkins for sentencing. He asked us if we had anything to say before he gave sentence. I said:

"Yes, I have something to say. I'm not guilty of this charge."

He said, "The jury has found you guilty and it is up to me to pass sentence. I set the date for your execution July 10, 1931 at Kilby Prison. May the Lord have mercy on your soul."

The people in the court cheered and clapped after the judge gave out with that. I didn't like it, people feeling good because I was going to die, and I got ruffed.

I motioned to Solicitor Bailey with my finger.

He came over. I asked him if he knew when I was going to die.

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He mentioned the date, like the judge gave it, and I said, "You're wrong. I'm going to die when you and those girls die for lying about me."

He asked me how I knew and I said that that was how I felt.

I looked around. That courtroom was one big smiling white face.

All my life I always loved my own people. I like my kind best because I understand them best. When I was a young man in Chattanooga, before the train ride that ended at Paint Rock, I knew and loved Negro girls, Negro people. My friends were of black color. I knew them as fellow human beings, as good as all others, and needing as good a chance. It was never in me to rape, not a black and not a white woman. Only a Negro who is a fool or a crazy man, he would chance his life for anything like that. A Negro with sound judgment and common sense is not going to do it. They are going to take his life away from him if he does. Every Negro man in the South knows that. No, most Negroes run away from that sort of thing, fear in their hearts. And nine of us boys, most unbeknownst to each other, a couple sick, all looking for work and a chance to live, and rounded up on a freight train like lost black sheep, we did not do such a thing and could not.

I wouldn't make advances on any woman that didn't want me. Too many women from my boyhood on have shown a desire for me so that I don't have to press myself on anyone not wanting me.

My mother and father, they lived together as husband and wife for thirty-seven years, honest working people. They had many children and they taught us to respect the human being and the human form.

I was also taught to demand respect from others.

Now it is a strange thing that what I have just said I never had a chance to say in an Alabama court. No Alabama judge or jury in the four trials I had ever asked me for my views. Nobody asked about my feelings. Those Alabama people, they didn't believe I had any, nor the right to any.

Chapter 3

Back in Gadsden jail we could look outside and see where an old gallows was rigged up. Must have gone back to the slavey days. We didn't like nothing at all about the place; we didn't like our death sentence; and we decided to put on a kick. I said to the man who brought me a prison meal, "I don't want that stuff. Bring me some pork chops."

"Huh, pork chops?"

"Yes, pork chops. You got to get it. We're going to die and we can have anything we want."

All the fellows laid down a yell, "Pork chops!"

We crowded up to the bars. We put our hands out and shook fingers at him. We hollered, "Pork chops. Nothing else."

This guy, he went down someplace and got the pork chops. He brought it to us. Just the food I wanted. I always liked pork meats. After we ate, still we weren't satisfied.

The deputies and guards, they were scared of us now like we would make a jailbreak. Our heads were up against those checkerboard bars and we talked sharp.

The sheriff spoke to me because I was raising the most dust. He said. "Look here, nigger. See that gallows. If you don't quieten down I'll take you around to that gallows and hang you myself."

I had a broom in my hand and maybe he wondered what it was or where I got it. He came up to the bars to take a look at what it was. I jiggled the broom in his face. The fellows laughed.

That was the last that sheriff could take by himself. He beat it downstairs to call Governor B. M. Miller to send in some National Guards.

They came in serious. The cell door banged open. They beat on us with their fists. They pushed us against the walls. They kicked and tramped about on our legs and feet. They beat up most of the fellows, but Eugene Williams and me backed up in the dark of the cell and escaped the worst part of it.

The state soldiers handcuffed us in twos. They had a big rope. They fastened the rope in between the handcuffs and bound us all together.

We laid up against the walls and against each other like that till night. We were in a quiet misery, unable to move around. When it was night we tried to sleep like that but we couldn't. Morning came and we were still trussed to each other and tired. Day went on, no food, just laying there moaning atop each other; until it was seven o'clock in the evening.

The National Guards came up again. This time they had more rope. I said to the sheriff, "What you going to do, hang us?"

"I'd like to, goddamn your souls," he said.

They roped us together tighter, then chain-gang marched us outside to a big state patrol truck they called the dog wagon. They tied us to the sides so we couldn't make any break, so we couldn't even move. One of the guards asked, "What you guys raise so much hell for?"

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"We just don't like that death sentence," I told him.

The kid I was handcuffed to, he slept rough, and by the time we got to the city jail those handcuffs had swollen my wrists.

They couldn't get the handcuffs off. They had to call in a blacksmith to get them loose.

They split up us Scottsboro boys so we couldn't raise any more sand like we had at Gadsden. They put us in with other prisoners two or three to a cell.

About the middle of the night I was stashed into a cell with two other guys. One was called Box Car. He had burgled a boxcar and had a fifteen-year sentence. The other was a lifer. I was played out and fell on the bunk. One of the guys woke me. "Get up."

I raised up and I looked at him.

"Did you bring my money?"

"What money?"

"Jail feed."

I knew what this was, kangaroo business. I had a pair of shears under the mattress. I had brought it from the Gadsden jail. I just rested my hands on the shears and said, "I got nothing."

This guy, he just kept insisting. Told me to get up. He wanted to see me. "If you don't pay us kangaroo money you know what it means."

"No, what it means?"

"It means we going to whup you."

They asked for twenty-five cents. If I wouldn't pay, it meant I would get twenty-five licks.

I raised up a little more and I said, "You can see me. In the morning you can see me."

"Hey, where you say you from?"

"Scottsboro."

"You one of them Scottsboro boys?"

When I told him yes he just gave right over, got tender. He felt sorry for me, brought me food and tried to give it to me. I was tired and I didn't accept it. I laid down to sleep, thinking how the word "Scottsboro" touched them. That was when I first learned that this word would mean special favors in prison and special torture.

Next day we were together again, all except Roy Wright, while they fingerprinted us.

Charlie Weems was chewing gum. The jailer, Dick Barnes, told Weems to spit the gum out. He refused to do it.

Barnes gave Weems a lick across the side of the head for that. Weems went down. When he got up he stood his distance from the jailer, a little quieter. Dick Barnes turned on me:

"You like ham and eggs?"

"I don't like nothing." I knew he was talking about the fuss we made at the other jail over pork chops.

"Patterson, I heard about you up in Gadsden ordering ham and eggs. You can get it here any time you want it. You love ham and eggs, don't you?"

"I don't love nothing." He wanted me to say something so he could beat on me, but I didn't give him the chance.

He changed tone, got serious. His voice dropped like from the high end of a piano to the low end, and he said, "We got your waters on to you here. Any time you fellows get funky we got your waters on here."

Right away he showed us what he meant. Took us all down in the basement where they gave punishment. He looked at me and said, "Nigger, keep quiet. If you don't behave …" He showed where you hang up by two fingers with your feet not touching the ground. There was a time limit they would hold you up that way.

It was supposed to frighten us and maybe it did scare some. I didn't like it either. But I always protested when I didn't like things. Down South I always talked like I wanted: before Scottsboro, during it, and since.

A few minutes afterward Barnes told a Negro trusty, "I sure like to be there when they execute these guys. You'll smell flesh burning a mile."

I asked the trusty, "How do you know they're going to kill me?"

"That chair sure going to get you," the trusty said.

I didn't believe nothing like that. Two days later there was the first sign Barnes and the trusty might be wrong and I might be right.…

Two guys from New York, head men from the International Labor Defense, brought us pops and candy and gave them to us boys in the visiting room. They were Jewish. Which was okay with me. I worked for Jews in Chattanooga. Did porter and delivery work and such for them and always got along well. They told us the people were up in arms over our case in New York and if they had our say-so they would like to appeal our case.

These were the first people to call on us, to show any feelings for our lives, and we were glad, We hadn't even heard from our own families; they weren't allowed to see us. But these lawyers got in.

About us nine boys unfairly sentenced, they said their organization was doing all it could to wake up the people in this country and Europe.

Jailer Dick Barnes, he came in and listened when these lawyers asked us whether we got the right medical treatment. They suggested to Barnes a doctor should be sent in. Barnes is the kind of a guy, if you

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are a Negro, you can read hate in his face and his voice. He said, "We got a doctor here. These boys don't need any treatment."

I wanted a doctor and I didn't want the prison doctor. The prison was very filthy. It was making me sick, making us all sick. It was an old jail. The bed lice would get all over you; they would come up close to you to warm up. I said, "Yes, I want a doctor."

Barnes said, "What do you want a doctor? We got any medicine you can name."

"You have any medicine for these lice?" I asked. "One of them stole my cap last night."

The lawyers and the fellows laughed.

After the visitors went Barnes said, "Nigger, you're too smart. If you want to get along with me you just keep your mouth."

Now we knew why we had been getting mail from white folks. The I.L.D., or the Labor Defense, as we got to call them, had been causing around the country. They had told people at meetings and in newspapers to send us letters and cigarettes to make it easier for us in jail. Mail from white people was confusing to me. All my life I was untrusting of them. Now their kind words and presents was more light than we got through the bars of the windows. The next few days the mail got heavier; and the prison officials were upset what to do. We had the money to get whatever we could buy at the jail commissary, and this outside pressure gave us guts. Me, at least. My guts went up so I could demand a bath which Jailer Dick Barnes promised but didn't let me have. "You'll get it Saturday," he said. Saturday came and he put me off. "I haven't got time to fool with you." I got tight with him. "I got to have a bath!" That jacked up the other Scottsboro fellows and all together we raised hell for a bath. Barnes, he came back and let us out three at a time for showers.

Prisoners told me registered mail wasn't supposed to be opened. I found out mine was being opened and even kept from me. I told the guards I wanted to have some words with somebody about it. A little old man named Ervin, he came around. "I got to okay your mail," he said. "I have to look in the mail of all you Scottsboro niggers."

That got me sore. "Now listen, don't you open no letter of mine. If you do I'll see what I can do about it."

Ervin beat it off, and one of my cellmates said, "You can't talk to him like that. He's a chief warden."

"I don't care if he's President Hoover."

From then on, whenever mail came to me, Ervin, he would bring it himself. I opened it, Ervin saw me take out the money, then he'd read the letter.

It went on like that for many days until Barnes got to hate me. I kept after him; he kept after me. I had my own fight in me to begin with and now I had white folks fronting for me. One day he came up to my door and shook his finger at me and said, "I'll have you sent to Kilby tomorrow."

Sure enough, the next day, April 23, Barnes banged on the cell door and said, "Okay, sonofabitch, you and the other niggers get ready. You going to the death row in Kilby. You can't take nothing with you either.… I hope they burn that black dick off of you first before they burn the rest of you."

My cigarettes I gave away. Then I walked out the cell.

Outside the jail I was put in a private car, handcuffed to Willie Roberson. Guards were on each side and in the front seat.

That ride I can remember. It was my last good feeling of the outdoors. It was a fast ride for several hours, with the day getting warmer, the sun hotter. There was no talk, even between Willie and me. My eyes took in everything along the roadsides. It was spring, my favorite time of year. I was a tight guy who would not show people tears, but I felt the water behind my lids.

Willie and myself were the first to reach Kilby.

It was a bitter thing to see the door of Kilby Prison, what the free people of Alabama call "the little green gate." Those walls looked so high and hard to get over. They were concrete. We could see guards in the shacks along the wall tops next to their machine guns. Barbed wire stretched on top of the walls all around. They took us in through steel gates.

Then, death row opened to us … a dozen cells facing each other, six to a side, and a thirteenth cell for toilet work.

Right off a guy in the cell opposite, he said, "So you're from Scottsboro. Been reading about you guys. The papers in New York making a big fuss about it. The governor will insist you go now."

"Go where?"

"To the chair … it's right there."

I tried twisting my neck and eyes out the front of the cell to see the death room: but it was just out of my sight.

Chapter 4

That guy opposite, they called him Gunboat, he kept talking. "Do you want a Bible to make your soul right?" He was holding up a little red book in his

hands for us to see. "You going to die tonight, you know. You Scottsboros better get busy with the Lord."

Willie Roberson, he was leaning up against the door with me listening, and he put a frown on. Willie got scared and excited and started talking about things. "You sure we going to die tonight?" he asked. We were both afraid. We didn't know. Sometimes other prisoners, they heard about things before we did.

Another guy in a cell next to Gunboat's was shaking his head from side to side like we should pay no mind to him. This fellow, name of Ricketts, called Gunboat a liar and said, "You fellows ain't going to die tonight. Gunboat don't know nothing about your case."

Gunboat yelled out, "Them guys going to die tonight! Here, take this here Bible!"

Ricketts waved his hands and said, "Keep away from that thing. That Bible never did us niggers any good!"

I never had really read the Bible. Couldn't read much anyway. But I was upset and leaned toward what Gunboat said.…

"You better take to the Bible. You got souls and you better clean 'em."

Ricketts put it different. "You ain't got good lawyers, then you're done for. You ain't got white folks to front for you, then you're done for. *But leave that thing alone!"*

"What you heard about us getting the chair tonight?" Willie Roberson asked Gunboat.

"I know. Don't ask how I know."

"You heard something?"

"The Lord tell me so."

"Get that Bible across to me," I said to Gunboat.

"Don't take it!" Ricketts made a last try.

Gunboat, he tied a piece of wood to the end of a string and threw it over in front of my cell door. The Bible was on the other end and I started dragging it across to me.

Just then a tall, rawbony guard named L. J. Burrs saw Gunboat telegraphing the Bible to me. He stopped before our cell and said to Willie and me, "Pray, you goddamned black bastards. You'll still burn anyway."

"Hand me the book, will you?" I said to the guard.

"Q-o-h, you goddamned black sonofabitch. What you mean talking like that to me? Don't you know to call me *Captain*, call me *Boss*?"

"I don't call no one Captain. I don't call no one Boss."

"You nigger, you better get right with me before you get right with your Lord. You call me Captain when you talk to me."

He made to open the cell door, like he might come in to beat on me, then he changed his mind. Instead he kicked the Bible under my door and said, "I fix you, Patterson. You the ringleader of all these Scottsboro bastards. We got your record. You going to reckon with me." He walked down by the toilet.

I could hardly make out the words in the book. The little training in reading I had had I never much followed up. Never read no papers, no books, nothing. I did not know how to pronounce things, could not even say "Alabama" so you could understand me. I had to ask prisoners to tell me, and I would try and repeat it. Negroes called this way of speaking "flat talk."

But the Bible felt solid in my hands. I found myself stumbling through the small printed words.

Pretty soon the other fellows came in. They put Weems and Andy Wright in one cell, Powell and Norris together, and Eugene Williams and Olen Montgomery in another cell.

Right off Gunboat, he started to work on all of them, telling them the juice was going on tonight, and to get right with the Lord.

Charlie Weems wasn't easy to fool and he answered, "Aw, I know better than that. Our date set for July 10. They ain't going to do it before. You're a damned liar."

The religious stuff got going, all up and down the death row, them that was there trying to convert those of us just arrived. You see, a man in the death cell, he clings to anything that gives him a little hope.

That kind of talk mixed with the guessing about whether we would die tonight or in July. It went all up and down the twelve cells. My cell number was 222. I told the others my cell number and they told me theirs. Cell number 231 was right next to the chair room and none of us Tennessee and Georgia boys in the Scottsboro case had that one.

Each cell was just big enough for a single cot. Sometimes, when it was crowded in the death row, like now, they would put up a double-deck bed. Then you couldn't move around. One fellow would have to lay up on the bunk while the other could take about three steps forward and turn and take three steps back if he was nervous and needed to walk.

White and black were in the death row, but mostly Negroes. Around us were desperate men who tried to question us about the Scottsboro case. They were killers, stoolies, and crazy guys. Some hoped to hear something they could carry to the warden so as to

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escape punishment for their crimes. They got nothing out of us. There was nothing to get out of us anyway. We just kept quiet about the case, all of us.

Night pushed into death row. I knew there were stars outside. The face of the sky I could see and remember clearly because I had looked at it at night all my life. I laid on the top bunk, in a way still feeling I was on a moving freight. Nothing was standing still. I was busy living from minute to minute. Everything was rumbling. I dreamed bad dreams, with freight trains, guards' faces, and courtrooms mixed up with the look of the sky at night.

Glossary

gondolas	low, flat-bottomed freight cars with fixed sides but no roof
jimcrow	Jim Crow (adj.), that is, segregated
President Hoover	Herbert Hoover, the thirty-first U.S. president, in office at the start of the Great Depression
stoolies	a stool pigeon, or informer
trusty	a convict who is considered trustworthy and granted special privileges
venereal	venereal disease, possibly syphilis or gonorrhea

SUPREME COURT OF THE UNITED STATES

Nos. 1, 2, 4 and 10.—October Term, 1953.

1	Oliver Brown, et al., Appellants, v. Board of Education of Topeka, Shawnee County, Kansas, et al.	On Appeal From the United States District Court for the District of Kansas.
2	Harry Briggs, Jr., et al., Appellants, v. R. W. Elliott, et al.	On Appeal From the United States District Court for the Eastern District of South Carolina.
4	Dorothy E. Davis, et al., Appellants, v. County School Board of Prince Edward County, Virginia, et al.	On Appeal From the United States District Court for the Eastern District of Virginia.
10	Francis B. Gebhart, et al., Petitioners, v. Ethel Louise Belton, et al.	On Writ of Certiorari to the Supreme Court of Delaware.

[May 17, 1954.]

Mr. Chief Justice Warren delivered the opinion of the Court.

These cases come to us from the States of Kansas, South Carolina, Virginia, and Delaware. They are premised on different facts and different local conditions,

Brown v. Board of Education (National Archives and Records Administration)

Brown v. Board of Education

1954

"In the field of public education, the doctrine of 'separate but equal' has no place."

Overview

Brown v. Board of Education of Topeka was the 1954 Supreme Court decision that declared that legally mandated segregation in public schools was unconstitutional under the Fourteenth Amendment's equal protection clause. The landmark case was actually a combination of five cases that challenged school segregation in Delaware, South Carolina, Virginia, and Topeka, Kansas. In a companion case, *Bolling v. Sharpe*, segregation in the District of Columbia's public schools was declared unconstitutional under the due process clause of the Fifth Amendment. *Brown* was a pivotal case in the history of the Supreme Court. Although *Brown* did not explicitly reverse the Court's earlier ruling in the 1896 case *Plessy v. Ferguson*, which permitted states to provide "separate but equal" facilities for people of different races, it was clearly the beginning of the end of the Supreme Court's willingness to give constitutional sanction to state-sponsored segregation. *Brown* was the first decision authored by the recently appointed Chief Justice Earl Warren and was a harbinger of the new, more activist role that the Court would take in protecting civil rights and civil liberties under his leadership.

Brown should be seen against the broader background of segregation in American history. By the end of the nineteenth century, southern states and, indeed, quite a few states outside the South were developing an American system of apartheid through what were often called Jim Crow laws. This system of segregation mandated the separation of blacks and whites in almost every observable facet of public life. Separate water fountains, park benches, railroad cars, and other facilities were common. All of the southern states and a number of border states also maintained separate school facilities for blacks and whites. Although the Supreme Court's decision in *Plessy* had declared that blacks could be required to use separate facilities if those facilities were equal to those provided for whites, states that maintained racially separate schools provided schools for African Americans that were usually greatly inferior in resources and programs to those provided for whites. Glaring inequalities in educational facilities prompted the National Association for the Advancement of Colored People (NAACP) to begin a decades-long litigation campaign to challenge segregation in public education. That campaign would eventually result in the decision in *Brown*.

Context

The NAACP began to develop its strategy to attack segregation in state schools in the 1930s. The organization began cautiously enough by attacking segregation in professional schools, principally law schools, of state universities. Law schools were selected because state university systems usually had only one law school each, and it would be relatively easy to make the case that providing a state law school for white students while providing none for blacks violated the principle that a state had to provide equal facilities. The NAACP also believed that litigation designed to force states to permit black students to attend state law schools would provoke less adverse political reaction than lawsuits designed to integrate public primary and secondary schools. The architect of the NAACP's litigation strategy, Charles Hamilton Houston, would achieve success before World War II with his victory in the 1938 case *Missouri ex rel. Gaines v. Canada*. In that case the Supreme Court held that Missouri's exclusion of African Americans from the state's law school was unconstitutional even though Missouri was willing to pay tuition for black students to attend law school out of state. The NAACP met with success in similar litigation in other states.

While the NAACP had some success with litigation designed to desegregate professional schools before World War II, the changes in racial attitudes brought about by the war played a key role in paving the way for the decision in *Brown*. In particular, the war brought about a new assertiveness on the part of African Americans, as many blacks left the rural South and traditional patterns of racial domination for the armed forces and the industrial cities of the North and West. With these changes came a new willingness to struggle for equal rights. The fight against Nazi racism also caused many white Americans to question traditional racial attitudes. Furthermore, the social sciences were increasingly calling established racial prejudices into question. The publication in 1944 of the Swedish social scientist Gunnar Myrdal's book *An American Dilemma:*

Time Line

1896

- **May 18**
  In *Plessy v. Ferguson*, the Supreme Court declares the "separate but equal" doctrine, permitting segregation in government-run facilities.

1909

- **February 12**
  A group to later be known as the National Association for the Advancement of Colored People (NAACP) is formed to fight segregation.

1929

- Charles Hamilton Houston is appointed vice-dean of Howard University Law School. Houston would transform the law school into a vehicle for training civil rights lawyers, including Thurgood Marshall, the principal lawyer for the NAACP in the *Brown* case.

1938

- **December 12**
  In *Missouri ex rel. Gaines v. Canada*, the Supreme Court holds that the state of Missouri must admit black students to the state law school.

1948

- **May 3**
  In *Shelley v. Kraemer*, the Supreme Court bars the judicial enforcement of restrictive covenants used to prevent home owners from selling their homes to members of minority groups.
- **July 26**
  President Harry Truman issues Executive Order 9981, requiring equality of opportunity in and the desegregation of the armed forces.

1950

- **June 5**
  In *Sweatt v. Painter*, the Court orders that black students be admitted to the University of Texas School of Law, declaring that the separate law school established for black students did not provide equal treatment.

The Negro Problem and Modern Democracy also had a significant impact, causing many university-educated people to question the practice of segregation.

The changes in the racial atmosphere in postwar America spurred the NAACP to confront legally mandated segregation. While the organization achieved significant victories in its fight against segregated professional education, other important victories came in the legal struggle against general discrimination. The 1948 case *Shelley v. Kraemer*, in which the Supreme Court declared that courts could not enforce restrictive covenants barring minorities from buying homes in white neighborhoods, was an indication of the Court's willingness to give the Fourteenth Amendment a broader reading than it had in the past. Following this decision, many in the NAACP believed that the time was right for a frontal assault on segregated education.

Between 1950 and 1952 the NAACP, under the leadership of Thurgood Marshall and his associates, began preparing the cases that would come to be known as *Brown v. Board of Education*. The case by which the litigation is known arose in Topeka, Kansas a state that, unlike those in the South, did not have statewide segregation. Instead, the state gave localities the option to have segregated schools. The elementary schools in Topeka were indeed segregated, and Oliver Brown, a black resident of the city, filed suit so that his daughter might attend a school reserved for whites. That school was nearer to the Brown home and had better facilities.

In 1952 the Supreme Court consolidated the different desegregation cases. The first set of oral arguments were heard by the Court in December of that year; in June 1953, the Court asked for a second set of oral arguments designed to specifically address the issue of whether or not the Fourteenth Amendment was intended to mandate school desegregation. As that issue was being researched, Chief Justice Frederick M. Vinson died in September 1953. He was replaced by Earl Warren. Most observers agree that the new chief justice made a critical difference to the outcome of the case.

About the Author

Earl Warren was born in Los Angeles, California, in 1891. He was a graduate of the University of California at Berkeley and of that university's law school. Warren served in the U.S. Army during World War I as an officer in charge of training troops deploying to France. He began his legal career in California in 1920 as a prosecutor with the Alameda County district attorney's office. In 1925 he was appointed district attorney to fill a vacancy. Elected district attorney in his own right the following year, he would remain in that office until his election as California's attorney general in 1938.

Warren was a product of the California Republican politics of the Progressive Era. As district attorney and as attorney general he was generally supportive of reforms in the criminal justice system, such as with his willingness to

extend due process rights and legal representation to defendants in criminal cases. These were generally not required at the time by the federal courts, which by and large were not applying most of the criminal defendants' rights provisions of the Fourth, Fifth, and Sixth amendments to the states. Warren was also somewhat ahead of the times in his attitudes toward African Americans. He considered appointing a black attorney to the attorney general's staff in 1938.

Ironically enough, anti-Asian bias probably helped propel Warren to the national stage. Warren shared the anti-Asian sentiments that were common among whites on the West Coast in the early part of the twentieth century. Near the beginning of his career he was a member of an anti-Asian group, Native Sons of the Golden West. As attorney general in the winter and spring of 1942, Warren was a leading advocate of Japanese internment, at first advocating internment only for Japanese aliens but later supporting the internment of Japanese Americans as well. His support for Japanese internment doubtless aided Warren in his gaining election as governor of California in 1942. Warren would run for vice president on the Republican ticket with Governor Thomas Dewey of New York in 1948.

Warren was appointed chief justice by President Dwight David Eisenhower in 1953 to replace Chief Justice Frederick M. Vinson, who had died in office. Warren's entire tenure as chief justice was marked by controversy, beginning with the decision in *Brown* and continuing until his retirement from the Supreme Court in 1969. Under Warren, the Court dealt with some of the most contentious issues in postwar American life, including school desegregation, reapportionment, the rights of criminal defendants, birth control, and the right to privacy, among others. Warren's critics charged that he extended the reach of the Court into areas unauthorized and unintended by the Constitution's framers and that he and his allies on the Court often employed dubious legal reasoning. Warren's supporters responded by noting that the Court under his direction was a vital force in making equal protection and the Bill of Rights living principles for millions of Americans. Later on as chief justice, at the direction of Lyndon B. Johnson, Warren would head the President's Commission on the Assassination of President Kennedy, often referred to as the Warren Commission. Warren died in 1974.

Explanation and Analysis of the Document

Brown v. Board of Education of Topeka is a Supreme Court case and as such begins with a syllabus presenting basic information about the case. This information includes the parties, the lower court whose decision is being appealed, and the dates that the case was argued before the Supreme Court. The case was taken on appeal from a decision by the District Court for the District of Kansas. An asterisked footnote relates that *Brown* is being consolidated with other school segregation cases from South Carolina, Virginia, and Delaware. The syllabus also

Time Line

1954

- **May 17**
  The Supreme Court issues its decision in *Brown v. Board of Education*, declaring segregation in public schools unconstitutional.

1955

- **May 31**
  The Court issues its decision in the second *Brown v. Board of Education* case, calling for the implementation of the first decision with "all deliberate speed."

1957

- **September 24**
  President Dwight D. Eisenhower sends federal troops to Little Rock, Arkansas, to enforce a federal district court school desegregation order; the order had produced large-scale mob resistance by opponents of integration.

1960

- **November 8**
  In response to a federal district court order calling for the desegregation of New Orleans schools, the Louisiana state legislature passes an "interposition statute" declaring that the legislature did not recognize the authority of the ruling in *Brown*.

1962

- **September**
  President John F. Kennedy sends federal marshals and federal troops to Oxford, Mississippi, to assist in the enrollment of the African American student James Meredith in the University of Mississippi; Meredith's enrollment had been ordered by the U.S. Court of Appeals for the Fifth Circuit but was obstructed by state officials, including Governor Ross Barnett.

1971

- **April 20**
  Supreme Court approves of busing as a means of achieving school desegregation.

Time Line

1974

- **July 25**
  In *Milliken v. Bradley*, the Court declares that the constitutional requirement to desegregate does not require desegregation across municipal lines. The decision means that lower federal courts cannot require the integration of urban and suburban school districts across municipal lines.

gives a summary of the decision and lists the attorneys who made oral arguments before the Court on behalf of the parties in *Brown* and the companion cases. In addition, it lists briefs filed by amici curiae ("friends of the court," persons or organizations not party to a case who file a brief in support of a party or to inform the court with respect to a legal or policy issue) in *Brown* and the companion cases. Of special interest is the fact that the assistant attorney general J. Lee Rankin argued for the United States in support of desegregation.

◆ Chief Justice Earl Warren's Majority Opinion

Warren begins with a straightforward presentation of the issues. His first paragraph notes that the desegregation cases have come from different states Kansas, South Carolina, Virginia, and Delaware and that while each state presents somewhat different issues with respect to local laws and local conditions, the clear principal issue of legal segregation is common to all of the cases.

Stylistically, Warren's opinion makes extensive use of footnotes not only to cite relevant authorities but also to carry the burden of informing the reader of major legal and factual arguments. As had become common in twentieth-century legal writing, footnotes served to supply a judicial decision with a kind of supplemental narrative, augmenting the main points being made in the body of the opinion. This style of judicial writing was doubtless encouraged, perhaps mandated, by the practice of parties and amici curiae filing extensive briefs in major cases. The increasing use of "Brandeis briefs" briefs providing wide-ranging amounts of information to the Court from the social and physical sciences, as modeled after that filed by Louis Brandeis in *Muller v. Oregon* (1908) probably also hastened the development of the lengthy use of footnotes in judicial opinions.

The first footnote here discusses how *Brown* and the companion cases had fared in the U.S. district courts. Included in this discussion are the legal and factual findings of these courts. With respect to *Brown*, a three-judge panel of the District Court for the District of Kansas found that segregated public education indeed had a detrimental effect on black students, but that court nonetheless upheld segregated education because the facilities for blacks and whites were held to be equal with respect to buildings, transportation, curricula, and the educational qualifications of the teachers. The district court in South Carolina found that the facilities available to black students were inferior to those of whites, but that court nonetheless upheld segregation on the ground that South Carolina officials were making efforts to equalize facilities. In Virginia, the district court ordered officials to make efforts to equalize the schools. In Delaware, the state courts had ordered desegregation, and state officials were appealing that order.

Warren moves in the second and third paragraphs to presenting the central claims of the NAACP and of the parents who were bringing suit. He zeroes in on the crux of these claims in the third paragraph, noting, "The plaintiffs contend that segregated public schools are not 'equal' and cannot be made 'equal,' and that hence they are deprived of the equal protection of the laws." Warren's opinion spends relatively little time examining the history of this argument, but it is a claim with a long history, one that predates *Brown* by at least a century. In particular, the NAACP argued that segregation was inherently stigmatizing, an argument that was older than the Fourteenth Amendment (ratified in 1868) and its equal protection clause, under which *Brown* and the other cases were brought. This argument made its first judicial appearance in the antebellum Massachusetts school desegregation case *Roberts v. City of Boston* (1850). In that case, African American parents argued that Boston's system of school segregation essentially stigmatized black children by setting up a caste system dividing black and white. The Massachusetts supreme judicial court rejected the argument, in effect establishing the "separate but equal" doctrine, a point Warren notes in footnote 6. The argument that segregation stigmatized African Americans and hence violated the Fourteenth Amendment's guarantee of equal protection under the law would later be heard and rejected by the Supreme Court in *Plessy v. Ferguson* (1896), with the Supreme Court making the "separate but equal" doctrine a part of federal constitutional law.

Part of the NAACP's aim in *Brown* was to have segregated schools declared unconstitutional on the ground that the system of school segregation forced black children into schools that were vastly inferior to those reserved for white students. The systems of school segregation that prevailed in the southern states usually featured vast inequalities in the levels of education provided to black and white children. Black schools were typically funded at a fraction of the level of white schools. In many districts, blacks were confined to one-room schoolhouses in which all grades were to be educated, while whites had separate elementary and secondary schools. Black schools were usually separate and decidedly unequal with respect to the qualifications and pay for black teachers and the physical facilities in which black schools were housed. Correcting all of this was part of the NAACP's aim in litigating against school segregation. In addition, the civil rights organization shared the view held by its nineteenth-century predecessors that the very act of segregating, of singling out blacks for separate treatment, was inherently stigmatizing and more appropriate to a caste system than to the practices of American democracy. The NAACP advocate Thurgood Marshall, in

his oral argument before Earl Warren and other members of the Court on December 8, 1953, presented the issue starkly: "Why of all the multitudinous groups in this country, you have to single out the Negroes and give them this separate treatment?"

This was clearly an issue involving the Fourteenth Amendment's equal protection clause, and in the fourth and fifth paragraphs the new chief justice begins addressing the Fourteenth Amendment and what it mandated in these circumstances. Here, Warren begins moving into territory that would forever make *Brown* an object of controversy among constitutional commentators. He argues that the history of the Fourteenth Amendment is inconclusive regarding what it had to say with respect to school segregation. In fact, Warren frames *Brown* as a case pitting modern realities against inconclusive history. In the fifth paragraph he focuses on the history of public education at the time of the enactment of the Fourteenth Amendment, noting that public education had not yet taken hold in the South and that practically all southern blacks at the time were illiterate. He juxtaposes that situation with modern circumstances: "Today, in contrast, many Negroes have achieved outstanding success in the arts and sciences, as well as in the business and professional world." Warren uses this contrast between the relative lack of importance of public education at the time of the enactment of the Fourteenth Amendment and its much greater importance at the time of the *Brown* decision to set up what will be his principal argument in paragraphs 8 and 9, namely, that the question of segregated education and its constitutionality under the Fourteenth Amendment had to be considered in light of the importance of public education in modern that is, post World War II American society and not in light of its relative unimportance at the beginning of the Reconstruction era.

In the sixth paragraph Warren takes on the "separate but equal" doctrine, seeking to show that it is less than the solid precedent that its champions claimed. Indeed, the argument for the constitutionality of segregated schools rested on the "separate but equal" precedent provided in *Plessy*. The former solicitor general John W. Davis, representing South Carolina in an oral argument before the Supreme Court, emphasized the importance of *Plessy*, highlighting the fact that the lower federal courts and the Supreme Court had repeatedly reaffirmed the "separate but equal" doctrine and asserting that the Court should follow precedent and apply the doctrine in the case of school segregation. Davis's arguments were echoed by other supporters of school segregation.

Warren notes that the Court's earliest interpretations of the Fourteenth Amendment stressed that the amendment was designed to prohibit state-imposed racial discrimination; the "separate but equal" doctrine did not become part of the Supreme Court's jurisprudence until 1896 more than a generation after the enactment of the amendment. He also notes that *Plessy* involved transportation, not education. Warren further states that since *Plessy*, the Supreme Court had only heard six cases involving the "separate but equal" doctrine, with none reviewing the essential validity of

Earl Warren (Library of Congress)

the doctrine. He next cites the decisions involving segregation in graduate and professional schools. Warren's aims in this discussion are clear. While not directly challenging the *Plessy* precedent, he effectively isolates it as a decision that was not consistent with judicial interpretations made close to the enactment of the Fourteenth Amendment. He also gives *Plessy* a narrow reading so that it might be seen as a precedent that at most applies to the field of transportation. That case, according to Warren, was one that had not been thoroughly examined by the Court and in any event was made problematic, particularly in the field of education, by the graduate-school segregation cases.

Paragraphs 7 9 are used to frame the issues before the Court. Warren largely frames these issues in the way that the NAACP and the plaintiffs had presented them. The primary issue is segregation, and it is an issue that goes beyond tangible factors to encompass philosophical ones as well as the subtle reality of stigmatization. In paragraph 7 Warren uses footnote 9 to relate that the district court in Kansas had actually found substantial equality in the black and white schools. Warren indicates that regardless of this finding, segregation itself and its effect on public education remain of paramount concern.

Paragraph 8 is where Warren stakes out a clear claim as a proponent indeed, one of the earliest explicit proponents of the notion of a "living constitution," the idea that jurists should go beyond the concerns and assumptions of the framers of constitutional provisions and

Essential Quotes

"In approaching this problem, we cannot turn the clock back to 1868, when the Amendment was adopted, or even to 1896, when Plessy v. Ferguson *was written."*

(Chief Justice Earl Warren, Majority Opinion)

"Today, education is perhaps the most important function of state and local governments."

(Chief Justice Earl Warren, Majority Opinion)

"Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms."

(Chief Justice Earl Warren, Majority Opinion)

"To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone."

(Chief Justice Earl Warren, Majority Opinion)

"Whatever may have been the extent of psychological knowledge at the time of Plessy v. Ferguson, *this finding is amply supported by modern authority."*

(Chief Justice Earl Warren, Majority Opinion)

"We conclude that, in the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

(Chief Justice Earl Warren, Majority Opinion)

instead look at and reevaluate the Constitution in light of modern circumstances. He starts the paragraph, "In approaching this problem, we cannot turn the clock back to 1868, when the Amendment was adopted, or even to 1896, when *Plessy v. Ferguson* was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation." In paragraphs 9 11 Warren goes on to outline the importance of education in modern American life and to conclude that segregated schools deprive members of minority groups of equal educational opportunities even when the tangible resources are equal.

Paragraph 12 lays a psychological basis for the opinion one that would leave the *Brown* decision with a lingering

controversy that persists to the present day. Warren cites the works of a number of psychologists including, most prominently, the black psychologist Kenneth Clark on the effects of segregation on the self-esteem of black children. These citations would lead many critics to charge that the chief justice was engaging in sociology rather than jurisprudence. Even many critics sympathetic to the outcome in *Brown* later expressed some discomfort with the use of psychological evidence, claiming that it gave the decision less of a firm footing, such that it could potentially be undone by shifts in findings in the social sciences. Clearly, Warren was examining the plaintiffs' arguments that segregation stigmatized black students by comparing those claims to the findings of the psychological experts of the day.

Paragraph 14 provides the Court's conclusion that "in the field of public education, the doctrine of 'separate but equal' has no place." Paragraph 15 provides a hint about some of the behind-the-scenes negotiations that Warren and the other justices went through in order to secure a unanimous decision in *Brown*. Here, Warren calls for the reargument of the cases to allow the Court to consider remedies for school segregation. Warren recognized the importance of establishing the constitutional principle that segregated public schools violated the equal protection clause of the Fourteenth Amendment. As such, he was greatly concerned with getting a unanimous Court to agree to that constitutional principle an achievement that had been very much in doubt during judicial conferences. Thus, as part of the strategy to obtain a unanimous opinion, Warren agreed to have *Brown* initially decide only the principle that segregated schools were unconstitutional, deferring the question of how the decision would be implemented for another day. Paragraph 14, the last paragraph, lays the groundwork for the second case, commonly known as *Brown II*, which would be heard the following year, and the more than two decades of desegregation litigation that would follow.

Audience

Brown v. Board of Education was first and foremost a Supreme Court decision designed to settle the constitutional question of whether or not segregated public schools were prohibited by the Fourteenth Amendment. Warren wrote the opinion to resolve that constitutional controversy and to inform states that they could no longer maintain segregated school systems. It was also written to inform African American parents that they had a legal right to send their children to nonsegregated schools.

Warren clearly also had a broader, national audience in mind while writing the decision. An experienced politician, the chief justice knew that the decision would be controversial and, indeed, hotly contested. He sought to write the decision in such a way as to present the policy case to the American public at large. His controversial use of psychological evidence to buttress the case against segregated schools was an attempt to appeal to the public by showing that children were being harmed by the policy of segregation. Warren's discussion of Negro accomplishments in education, business, and science can also be seen as an attempt to counter strong prejudices against African Americans, thus fortifying the case for school integration.

Impact

It is probably no exaggeration to say that *Brown* was the most significant case decided by the Supreme Court in its history. While the decision would take decades to implement, *Brown* was critical as a harbinger of the federal government's return to the civil rights arena, an arena from which it had been largely absent since Reconstruction. *Brown* would also provide a tremendous boost to the civil rights movement of the 1950s and 1960s. The knowledge that the Court was now going to interpret the Constitution as prohibiting the kind of caste-like distinctions that had been a feature of black life in the United States from the very beginning helped encourage a greater assertiveness on the part of African Americans, who proceeded to successfully protest the formal segregation of Jim Crow laws in the South and, later, more subtle forms of discrimination throughout the nation.

Brown's impact in the courts was a little more complicated. The case commonly known as *Brown v. Board of Education* led to a successor case of the same name, known as *Brown II*, in 1955. That case resulted in a ruling that required the desegregation of separate school systems with "all deliberate speed." This order, in turn, led to protracted battles in federal district courts over the precise details and timing of school desegregation plans, which lasted decades. Nonetheless, the decision in *Brown* effectively led to the death of the "separate but equal" doctrine as well as to the negation of the idea that governmental bodies could practice the kind of formal discrimination against members of minority groups that had been common before *Brown*.

See also *Roberts v. City of Boston* (1850); Fourteenth Amendment (1868); *Plessy v. Ferguson* (1896); Charles Hamilton Houston's "Educational Inequalities Must Go!" (1935).

Further Reading

Books

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White, G. Edward. *Earl Warren: A Public Life*. New York: Oxford University Press, 1982.

■ Web Sites

"Brown v. Board of Education: Digital Archive." University of Michigan Library Web site.
http://www.lib.umich.edu/exhibits/brownarchive/.

"Teaching with Documents: Documents Related to *Brown v. Board of Education*." National Archives "Educators and Students" Web site.
http://www.archives.gov/education/lessons/brown-v-board/.

Robert Cottroll

Questions for Further Study

1. Compare and contrast Chief Justice Earl Warren's opinion in *Brown* with Justice John Marshall Harlan's dissent in *Plessy v. Ferguson*. Although both opinions argue against the "separate but equal" doctrine, they do so in different ways. Which opinion do you believe is stronger and why?

2. Many have criticized Warren's opinion for ignoring the original intent of the Fourteenth Amendment. How important should the intentions of the framers be considered in modern constitutional interpretation?

3. In light of the continued existence of de facto school segregation in many communities, should *Brown* be judged a failure?

4. Some critics fault Warren for writing a weak decision that would take very long to implement. Other students of the case argue that if Warren had not written a cautious decision, he would have had difficulty getting a unanimous Court to agree with the decision, which would have brought about more resistance to *Brown*. Which argument do you find more persuasive?

5. Should Warren have included psychological evidence in his decision or should he have based his decision solely on legal sources?

Document Text

Brown v. Board of Education

Syllabus

Segregation of white and Negro children in the public schools of a State solely on the basis of race, pursuant to state laws permitting or requiring such segregation, denies to Negro children the equal protection of the laws guaranteed by the Fourteenth Amendment even though the physical facilities and other "tangible" factors of white and Negro schools may be equal.

(a) The history of the Fourteenth Amendment is inconclusive as to its intended effect on public education.

(b) The question presented in these cases must be determined not on the basis of conditions existing when the Fourteenth Amendment was adopted, but in the light of the full development of public education and its present place in American life throughout the Nation.

(c) Where a State has undertaken to provide an opportunity for an education in its public schools, such an opportunity is a right which must be made available to all on equal terms.

(d) Segregation of children in public schools solely on the basis of race deprives children of the minority group of equal educational opportunities, even though the physical facilities and other "tangible" factors may be equal.

(e) The "separate but equal" doctrine adopted in *Plessy v. Ferguson*, 163 U.S. 537, has no place in the field of public education.

(f) The cases are restored to the docket for further argument on specified questions relating to the forms of the decrees.

Opinion

◆ Mr. Chief Justice Warren Delivered the Opinion of the Court

These cases come to us from the States of Kansas, South Carolina, Virginia, and Delaware. They are premised on different facts and different local conditions, but a common legal question justifies their consideration together in this consolidated opinion.

In each of the cases, minors of the Negro race, through their legal representatives, seek the aid of the courts in obtaining admission to the public schools of their community on a nonsegregated basis. In each instance, they had been denied admission to schools attended by white children under laws requiring or permitting segregation according to race. This segregation was alleged to deprive the plaintiffs of the equal protection of the laws under the Fourteenth Amendment. In each of the cases other than the Delaware case, a three-judge federal district court denied relief to the plaintiffs on the so-called "separate but equal" doctrine announced by this Court in *Plessy v. Ferguson*, 163 U.S. 537. Under that doctrine, equality of treatment is accorded when the races are provided substantially equal facilities, even though these facilities be separate. In the Delaware case, the Supreme Court of Delaware adhered to that doctrine, but ordered that the plaintiffs be admitted to the white schools because of their superiority to the Negro schools.

The plaintiffs contend that segregated public schools are not "equal" and cannot be made "equal," and that hence they are deprived of the equal protection of the laws. Because of the obvious importance of the question presented, the Court took jurisdiction. Argument was heard in the 1952 Term, and reargument was heard this Term on certain questions propounded by the Court.

Reargument was largely devoted to the circumstances surrounding the adoption of the Fourteenth Amendment in 1868. It covered exhaustively consideration of the Amendment in Congress, ratification by the states, then-existing practices in racial segregation, and the views of proponents and opponents of the Amendment. This discussion and our own investigation convince us that, although these sources cast some light, it is not enough to resolve the problem with which we are faced. At best, they are inconclusive. The most avid proponents of the post-War Amendments undoubtedly intended them to remove all legal distinctions among "all persons born or naturalized in the United States." Their opponents, just as certainly, were antagonistic to both the letter and the spirit of the Amendments and wished them to have the most limited effect. What others in Congress and the state legislatures had in mind cannot be determined with any degree of certainty.

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An additional reason for the inconclusive nature of the Amendment's history with respect to segregated schools is the status of public education at that time. In the South, the movement toward free common schools, supported by general taxation, had not yet taken hold. Education of white children was largely in the hands of private groups. Education of Negroes was almost nonexistent, and practically all of the race were illiterate. In fact, any education of Negroes was forbidden by law in some states. Today, in contrast, many Negroes have achieved outstanding success in the arts and sciences, as well as in the business and professional world. It is true that public school education at the time of the Amendment had advanced further in the North, but the effect of the Amendment on Northern States was generally ignored in the congressional debates. Even in the North, the conditions of public education did not approximate those existing today. The curriculum was usually rudimentary; ungraded schools were common in rural areas; the school term was but three months a year in many states, and compulsory school attendance was virtually unknown. As a consequence, it is not surprising that there should be so little in the history of the Fourteenth Amendment relating to its intended effect on public education.

In the first cases in this Court construing the Fourteenth Amendment, decided shortly after its adoption, the Court interpreted it as proscribing all state-imposed discriminations against the Negro race. The doctrine of "separate but equal" did not make its appearance in this Court until 1896 in the case of *Plessy v. Ferguson*, supra, involving not education but transportation. American courts have since labored with the doctrine for over half a century. In this Court, there have been six cases involving the "separate but equal" doctrine in the field of public education. In *Cumming v. County Board of Education*, 175 U.S. 528, and *Gong Lum v. Rice*, 275 U.S. 78, the validity of the doctrine itself was not challenged. In more recent cases, all on the graduate school level, inequality was found in that specific benefits enjoyed by white students were denied to Negro students of the same educational qualifications. *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337; *Sipuel v. Oklahoma*, 332 U.S. 631; *Sweatt v. Painter*, 339 U.S. 629; *McLaurin v. Oklahoma State Regents*, 339 U.S. 637. In none of these cases was it necessary to reexamine the doctrine to grant relief to the Negro plaintiff. And in *Sweatt v. Painter*, supra, the Court expressly reserved decision on the question whether *Plessy v. Ferguson* should be held inapplicable to public education.

In the instant cases, that question is directly presented. Here, unlike *Sweatt v. Painter*, there are findings below that the Negro and white schools involved have been equalized, or are being equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other "tangible" factors. Our decision, therefore, cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases. We must look instead to the effect of segregation itself on public education.

In approaching this problem, we cannot turn the clock back to 1868, when the Amendment was adopted, or even to 1896, when *Plessy v. Ferguson* was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.

In *Sweatt v. Painter*, supra, in finding that a segregated law school for Negroes could not provide them equal educational opportunities, this Court relied in large part on "those qualities which are incapable of objective measurement but which make for greatness in a law school." In *McLaurin v. Oklahoma State Regents*, supra, the Court, in requiring that a Negro admitted to a white graduate school be treated like all other students, again resorted to

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intangible considerations: "… his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession." Such considerations apply with added force to children in grade and high schools. To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone. The effect of this separation on their educational opportunities was well stated by a finding in the Kansas case by a court which nevertheless felt compelled to rule against the Negro plaintiffs:

> Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law, for the policy of separating the races is usually interpreted as denoting the inferiority of the negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to [retard] the educational and mental development of negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system.

Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*, this finding is amply supported by modern authority. Any language in *Plessy v. Ferguson* contrary to this finding is rejected.

We conclude that, in the field of public education, the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment. This disposition makes unnecessary any discussion whether such segregation also violates the Due Process Clause of the Fourteenth Amendment.

Because these are class actions, because of the wide applicability of this decision, and because of the great variety of local conditions, the formulation of decrees in these cases presents problems of considerable complexity. On reargument, the consideration of appropriate relief was necessarily subordinated to the primary question the constitutionality of segregation in public education. We have now announced that such segregation is a denial of the equal protection of the laws. In order that we may have the full assistance of the parties in formulating decrees, the cases will be restored to the docket, and the parties are requested to present further argument on Questions 4 and 5 previously propounded by the Court for the reargument this Term. The Attorney General of the United States is again invited to participate. The Attorneys General of the states requiring or permitting segregation in public education will also be permitted to appear as amici curiae upon request to do so by September 15, 1954, and submission of briefs by October 1, 1954.

It is so ordered.

Glossary

amici curiae	persons or organizations not party to a case who file a brief in support of a party or to inform the court with respect to a legal or policy issue
class actions	suits where representatives of a class of persons may sue on behalf of themselves and similarly situated individuals
common schools	public schools (as used in the nineteenth century)
disposition	settlement; resolution
sanction	approval

An estimated seventy-five thousand people of all races massed before the Lincoln Memorial to hear Marian Anderson sing on Easter Sunday 1939. (Library of Congress)

Marian Anderson's *My Lord, What a Morning*

1956

"I had become, whether I liked it or not, a symbol, representing my people."

Overview

"Easter Sunday," an excerpt from Marian Anderson's autobiography, *My Lord, What a Morning* (1956) details the world-renowned contralto's recollections of her most famous performance. A landmark in African American history and a prelude to the civil rights movement of the 1950s and 1960s, Anderson's 1939 Easter Sunday concert at the Lincoln Memorial in Washington, D.C., developed when the Daughters of the American Revolution (DAR) denied her the opportunity to perform at Constitution Hall because of her race. Led by Walter White, executive secretary of the National Association for the Advancement of Colored People (NAACP), an interracial coalition of influential individuals and organizations turned Anderson's plight into a national cause célèbre.

The mobilization of liberal outrage began in January 1939 and took on new life in late February after First Lady Eleanor Roosevelt publicly resigned from the DAR as a result of their snubbing of Anderson. In the weeks that followed, White; Roosevelt; the NAACP legal activist Charles Hamilton Houston; Secretary of the Interior Harold Ickes; Anderson's promotional agent, Sol Hurok; and many others worked behind the scenes to find some way of countering the DAR's decision. Eventually, with President Franklin Roosevelt's enthusiastic approval, they fastened upon the idea of inviting Anderson to sing at the Lincoln Memorial, a hallowed site fraught with democratic symbolism. At Hurok's urging, Anderson accepted the invitation, though neither she nor anyone else knew exactly what to expect. Anderson's "Easter Sunday" memoir provides a glimpse into the events leading up to her historic performance, her trepidations about performing at such a momentous event, and her reactions to the emotional experience.

Context

On Easter Sunday (April 9) 1939, seventy-five thousand Americans gathered at the Lincoln Memorial in Washington to hear the sound of freedom. Young and old, black and white, they braved the elements on an unseasonably cold April afternoon to listen to the soulful voice of Marian Anderson, a forty-three-year-old African American from Philadelphia who had been denied the right to sing at Constitution Hall because she was black.

One of the world's most popular classical performers, Anderson had established her reputation in Europe during the early 1930s before returning to the United States in December 1935. Following a recital in Salzburg, Austria, in September 1935, the Italian maestro Arturo Toscanini exclaimed that Anderson's contralto was a voice that "one is privileged to hear only once in a hundred years." Many American concertgoers and critics came to hold her in similarly high regard, and in February 1936, Anderson interrupted a string of sold-out performances to sing at the White House, where she charmed President and Mrs. Roosevelt. None of this, however, seemed to carry any weight with the national leadership of the DAR, the venerable all-white heritage organization that owned and managed Constitution Hall, near the White House. Racial discrimination had long been a fact of life in the nation's capital, and DAR leaders claimed that they were simply following tradition when they turned Anderson away. But this time the discrimination did not go unchallenged.

In mid-February 1939, several dozen progressive organizations in the Washington area formed the Marian Anderson Citizens Committee, a broad-based civil rights coalition determined to overturn the DAR's decision. Spurred by the public's growing outrage, First Lady Eleanor Roosevelt resigned from the DAR on February 27, ensuring an ever-widening controversy and provoking a national press debate on the compatibility of democracy and racial discrimination. For several weeks, the Marian Anderson Citizens Committee, working in close collaboration with NAACP leaders, Sol Hurok, and a number of black intellectuals and activists associated with Howard University, pressured the DAR to end the "white artists only" policy at Constitution Hall. But they were eventually forced to seek an alternative venue for Anderson's performance. After an unsuccessful attempt to book the auditorium of Central High School, a segregated institution that had occasionally opened its doors to black groups on a limited basis, the committee and its allies reluctantly concluded that the only viable option was an outdoor concert.

By mid-March, Walter White had seized upon the idea of the Lincoln Memorial as "the most logical place" for

Time Line

1897

- **February 27**
  Marian Anderson is born in Philadelphia.

1931

- **January**
  Two years after the opening of Constitution Hall, an incident involving the noted black tenor Roland Hayes prompts the DAR to institute a "white artists only" policy.

1933

- **September**
  Anderson's European tour earns great acclaim, especially in Scandinavia, leading to a contract with Sol Hurok Productions.

1935

- **December**
  Anderson returns to the United States to begin her first major American concert tour.

1938

- **June**
  Anderson receives an honorary degree from Howard University and accepts Howard's invitation to sing in Washington on Easter Sunday 1939.

1939

- **January 6**
  Charles Cohen, the director of the Howard concert series, tries to book Constitution Hall but is rebuffed by the hall manager, Fred Hand.
- **February 1**
  The national board of the Daughters of the American Revolution supports Hand and confirms their "white artists only" policy, provoking widespread outrage and public criticism.
- **February 26**
  The Marian Anderson Citizens Committee, with the NAACP attorney Charles Hamilton Houston as chairman, holds its first mass meeting.

Anderson's concert. The logic of holding a gathering at the seventeen-year-old Memorial was not as obvious in 1939 as it would become later. Over the coming decades, the Memorial would host literally hundreds of mass meetings, including the August 1963 March on Washington for Jobs and Freedom, which drew a quarter of a million people to the west end of the National Mall. But the notion of holding a rally, a concert, or any other mass assemblage at the site was both novel and daring in 1939. The federal agencies in charge of the site, the National Park Service and the Department of the Interior, had never granted a permit for a large gathering at the Memorial, and the only black organization of any size to use the site was the African Methodist Episcopal Zion Church, which had held a religious service there for two thousand people in 1926.

The choice of the Lincoln Memorial as the backdrop was a calculated gamble. The organizers could not be certain how the American public would respond to the juxtaposition of a black concert singer and a white Republican president from Illinois. Physically and aesthetically, the Memorial and the adjacent rectangular reflecting pool stretching eastward toward the Washington Monument represented a stunning site. But the political and cultural implications of staging a controversial concert on sacred ground were complex and potentially dangerous. The situation called for careful planning and just the right touches to ensure that the event communicated the right messages to the right people. With help from Secretary Ickes, who secured the president's approval, the organizers announced to the world on March 30 that Marian Anderson would sing at the Lincoln Memorial on Easter Sunday, April 9.

The organizers went to great lengths to ensure that the free, open-air concert would attract a large audience and that a number of dignitaries would be on hand to underscore the significance of the occasion. When Anderson arrived at the Memorial, she was stunned to learn that the platform from which she would sing contained two hundred seats reserved for Supreme Court justices, congressional leaders, cabinet officials, and other political and cultural luminaries. Even more shocking was the size of the crowd, the largest gathering since the Memorial's opening in 1922.

As soon as Anderson, a solitary figure wrapped in a fur coat to block the cold wind and drizzle, strode to the bank of microphones and began to sing the words to "America," it was obvious that an extraordinary event was unfolding. No one could have missed the symbolic irony of the opening lyrics: "My country 'tis of thee, / Sweet land of liberty." The Reverend Martin Luther King, Jr., speaking to an even-larger gathering at the Lincoln Memorial a quarter-century later, would turn to the same anthem in his "I Have a Dream" speech. For him, as for Anderson, the closing words of the opening stanza "Let freedom ring" paid tribute to an unrealized ideal, engaging the audience in an aspiring celebration of democratic nationalism.

With the throng standing in rapt attention, Anderson went on to sing Franz Schubert's "Ave Maria" and several spirituals, culminating with "Nobody Knows the Troubles I've Seen." Following a thunderous final ovation, she tried

to return the crowd's affection: "I am overwhelmed.… I just can't talk." she explained. "I can't tell you what you've done for me today. I thank you from the bottom of my heart." Moments later she had to be rushed from the stage as thousands of well-wishers pressed forward to congratulate her. Taken into the recesses of the Memorial by security guards, she stood for a few minutes under Daniel Chester French's towering sculpture of Lincoln before joining her mother and sisters in a rented limousine that whisked them to the private home where they would spend the night. That no hotel in the rigidly segregated capital city was willing to lift its color bar to accommodate the Andersons underscored the bittersweet character of the occasion.

The entire program, including a short intermission, lasted a mere half hour. In that brief space of time, Marian Anderson became an iconic figure, gaining a new life and identity. Already renowned as a singer, she became forever after a symbol of racial pride and democratic promise. "No one present at that moving performance ever forgot it," the historian Constance McLaughlin Green wrote in 1967. One suspects that Anderson's performance was only slightly less moving for those who listened to the live broadcast of the concert on the NBC radio network. In the days and weeks following the concert, millions more read about it in newspapers and magazines or watched the newsreel footage in movie houses. Most of the news coverage stressed Anderson's humility and dignity as well as the restraint and respectability of the crowd that had gathered to hear her sing. Not everyone welcomed her rising fame, especially in the white South, where Jim Crow segregation was not only a hallowed folkway but also the law of the land. Still, for many Americans, Anderson had become a model of African American achievement. Among black Americans her image took on heroic proportions, while for many northern whites her perceived mode of striving became an attractive alternative to the exploits of more menacing figures such as the boxer Joe Louis, the actor Paul Robeson, and the labor leader A. Philip Randolph. Occupying the moral high ground in her struggle with the DAR and Jim Crow, she helped to reawaken the nation's conscience and its commitment to the American creed of "liberty and justice for all."

About the Author

Born in Philadelphia in 1897, Marian Anderson grew up in a predominantly black neighborhood that exemplified both the strengths and the weaknesses of inner-city life. While her childhood was marked by poverty and the early death of her father, she enjoyed the benefits of being raised in a close-knit extended family that nurtured her personal and musical development. Both sides of her family had migrated to Pennsylvania from Virginia in the early 1890s.

All four of Anderson's grandparents had lived as slaves, but in Philadelphia her parents and grandparents found a measure of freedom and stability anchored in religious faith. Followed closely by two talented younger sisters, Anderson joined the Union Baptist Church junior choir at

Time Line

1939

- **February 27** In her nationally syndicated *My Day* newspaper column, Eleanor Roosevelt announces her resignation from the DAR, triggering a national debate.
- **March 30** After consulting with President Franklin Roosevelt, Secretary of the Interior Harold Ickes announces that Anderson will sing at the Lincoln Memorial.
- **April 9** Anderson sings before seventy-five thousand people at the Lincoln Memorial.

1943

- **January 7** Anderson sings at Constitution Hall for the first time; the occasion is a war bond rally, and the audience is racially integrated.

1955

- **January 7** Anderson becomes the first black singer to perform with the Metropolitan Opera Company in New York.
- **August** Howard Taubman begins taping a series of interviews with Anderson for the memoir *My Lord, What a Morning*.

1963

- **August 28** Marian Anderson returns to the Lincoln Memorial to participate in the March on Washington.

1993

- **April 8** Marian Anderson dies in Portland, Oregon, at the age of ninety-six.

2009

- **April 12** The Abraham Lincoln Bicentennial Committee sponsors a seventieth-anniversary commemorative concert at the Lincoln Memorial.

Marian Anderson performs on the steps of the Lincoln Memorial in April 1939. (Library of Congress)

the age of six and eventually became the pride of the congregation. As an adolescent, she became the leading soloist of the People's Chorus, a revered institution among black Philadelphians. By the time she had reached the age of eighteen, Union Baptist and the surrounding community were raising funds for her musical education. The funds raised were modest, and Anderson was shunned by the first vocal school that she unwittingly tried to desegregate. But by 1917 her prospects for a professional career were brightening, and she had reason to hope that someday she would be able to share her talent with the wider world.

Anderson took her first trip to the South in December 1917, when at the age of twenty she sang before a mixed but segregated audience in Savannah, Georgia. During the mid-1920s, annual southern tours took her to as many as nine states and as far away as Florida. Over time she developed a loyal following among southern whites as well as blacks, but her growing popularity did not protect her from the humiliations of Jim Crow travel and segregated concert halls.

In late 1927, Anderson found a temporary refuge in London, joining the growing number of other black musicians studying and performing in Europe. She returned to the United States in October 1928, but in June 1930 a Rosenwald Fellowship funded an extended visit to Berlin, where she honed her skills as a classical singer of German lieder. By 1931, the escalating tensions of Weimar Germany had driven her to Scandinavia, where she remained for nearly three years. A wildly successful concert tour in 1933 1934 made her a celebrity throughout Scandinavia, and during the following year her fame spread to France, England, Austria, and beyond especially after she signed a contract with the legendary promotional agent Sol Hurok in the fall of 1934.

In 1935 Anderson returned to the United States, where she confronted the ambiguous realities of a depression-ravaged nation that had found a measure of hope in New Deal reforms. These ambiguities were especially apparent in matters of race, and nowhere was this more evident than in the nation's capital, where a rigid color line coexisted with the iconography of democracy and freedom. In mid-February 1936, Anderson sang before a mixed audience in the auditorium of an all-black Washington high school, and a

few days later she entertained Franklin and Eleanor Roosevelt at the White House. Over the next three years, Anderson performed all across the nation to considerable acclaim, but her manager, Sol Hurok, had great difficulty arranging appropriate venues in the Jim Crow South and in Washington. In January 1939, Hurok's unsuccessful attempt to book an Anderson concert in Constitution Hall, the city's only large auditorium, provoked a national controversy that highlighted the racist conservatism of both the DAR and the nation's capital.

From 1939 until her death, Anderson maintained an active role in the civil rights movement. Beginning with her Easter Sunday concert, a series of events and honors reinforced her visibility as a symbol of democratic and racial promise. In July of 1939, at the NAACP's annual convention, Eleanor Roosevelt presented her with the organization's prestigious Spingarn Medal for outstanding achievement. In January of 1943, a mural commemorating her Lincoln Memorial concert was installed at the Department of the Interior. Later that year, she finally appeared at Constitution Hall at a war-relief benefit concert, and in March of 1953 she sang once more at Constitution Hall, this time to an integrated audience. Her celebrated appearance as Ulrica in the Metropolitan Opera's 1955 performance of Verdi's *Un ballo in maschera* broke the Met's long-standing color bar. In 1958 Anderson was appointed as an American delegate to the United Nations Human Rights Committee, and in 1961 she was invited to sing at the inauguration of President John F. Kennedy. Kennedy's successor, Lyndon B. Johnson, awarded her the Presidential Medal of Freedom in 1963. Her farewell tour began at Constitution Hall in October 1964, three months after the signing of the Civil Rights Act, and ended at Carnegie Hall on Easter Sunday 1965, three weeks after the Selma-to-Montgomery voting rights march.

In her twenty-five years of retirement, Anderson made only sporadic stage appearances, but she remained in the public eye as a philanthropist and as an enduring symbol of dignity and courage. When she died in 1993, at the age of ninety-six, there was an outpouring of tribute and affection as Americans of all races and political persuasions lamented the passing of a woman of unrivaled talent and character.

Explanation and Analysis of the Document

Although it is titled "Easter Sunday," Anderson's account actually provides relatively few details about the 1939 Lincoln Memorial Concert or the series of events that led up to it. She remarks that upon finding out that she had been denied access to Constitution Hall, "I was saddened, but as it is my belief that right will win I assumed that a way would be found." Indeed, Anderson appears almost entirely disengaged from the planning of the event, leaving the arrangements to her manager, Sal Hurok, and his staff. She mentions Eleanor Roosevelt's resignation from the DAR only briefly. Although it was a pivotal event in Washington and a large-scale scandal for the DAR, Anderson refers to it as a fleeting headline that caught her attention in passing a newstand.

Rather, in the lead-up to her arrival in Washington, Anderson's energy was focused on the sudden illness of her accompanist Kosti Vehanen. "Here was a crisis of immediate concern to me," she said and concentrated her attention on preparing her new accompanist, Franz Rupp. However, as Easter Sunday approached, Anderson could not avoid the uproar ongoing in Washington. Friends, fans, and reporters were clamoring to find out what she had to say about Washington. But, as she recalls, "I did not want to talk, and I particularly did not want to say anything about the D.A.R." Even nearly twenty years later in her autobiography, Anderson seems to hold back from being overly emotional about the facts. She admits that she "was saddened and ashamed" and describes the situation as mere "unpleasantness."

It is unclear how much she was holding back about her feelings. Anderson was a private person by nature and did not wish to reveal too much to the public. Her autobiography itself was an exercise in reconciling her private and public personae. She was initially opposed to the idea of releasing an autobiography at all, but Hurok persuaded her to allow the *New York Times* music critic Howard Taubman to ghostwrite the project. As Allan Keiler outlines in his biography of Anderson, Taubman spent several months interviewing and tape-recording his conversations with Anderson in order to compile the book. But he encountered difficulties in getting Anderson to open up about her experiences:

> Taubman found her unable to be frank about the difficulties of her childhood, or to talk easily about the prejudice and discrimination she faced. Whenever a subject arose that gave her any discomfort the music school that turned her away, the need to criticize others, the Lincoln Memorial incident she more often than not turned the tape recorder off before she was willing to go on.

Despite the difficulties in eliciting Anderson's memories about the Lincoln Memorial concert, the pages of "Easter Sunday" underscore Anderson's grace under pressure. She struggled with her role in a controversial and embarrassing situation but overcame her discomfort for the greater good. In discussing her decision to approve the concert plan, she admits that she hesitated, but ultimately said yes. She recalls, "I could see that my significance as an individual was small in this affair. I had become, whether I liked it or not, a symbol, representing my people. I had to appear."

Anderson's descriptions of the concert itself do not dwell on the symbolic nature of her performance or on her status as a burgeoning civil rights icon. Instead, she comments on nervousness about performing in front of such a crowd and how she is unsure how she even mustered the ability to sing. She is unfailingly modest about her role in the Lincoln Memorial concert. She avoids any characterizations of herself as a civil rights pioneer, giving herself no credit for influencing the DAR racial policies. She matter-

Eleanor Roosevelt (Library of Congress)

of-factly states, "In time the policy at Constitution Hall changed." Nor does she espouse any sense of triumph at her first Constitution Hall recital: "I had no feeling different from what I have in other halls.… I felt that it was a beautiful concert hall, and I was happy to sing in it."

She ends the chapter remembering the bond she formed with Eleanor Roosevelt in the years following her Easter Sunday concert. The first lady's understated role in the DAR controversy and her quiet support for Anderson throughout her career created a lasting relationship between them. Drawn together by mutual admiration and common purpose, these two remarkable women from radically different backgrounds overcame barriers of race and class to bring about a pivotal moment in the history of the American freedom struggle.

Audience

By the 1950s Marian Anderson had become one of the most recognizable women in the world. Her soulful voice had attracted millions of followers from around the globe, and her role in the early civil rights movement had inspired generations. Anderson and Taubman's collaborative autobiography of 1956 was designed and marketed both as a resource for music lovers and as a book that would appeal to Anderson fans, black and white, who were curious about her views and reflections on topics related to her musical career, her personal life, and her experiences as a public figure.

Impact

Although it lasted for only a half-hour, the 1939 Lincoln Memorial concert had profound and lasting consequences, for Marian Anderson and for the nation. First, on a personal level it established Anderson as a civil rights icon, uniquely identified with the Lincoln Memorial, the Lincoln legacy, and the ongoing struggle for black rights and racial equality. For the remainder of her life, an eventful fifty-four years punctuated with civil rights milestones and public service, she enjoyed an eminence that transcended the world of music.

Second, the 1939 concert initiated a long tradition of civil rights protest and pageantry associated with the Lincoln Memorial. In the years since the original Anderson concert, the Memorial has served as the designated backdrop and ceremonial site for scores of social and political protest rallies, including the epochal August 1963 March for Jobs and Freedom. In 2009 the Memorial was the scene of a memorable pre-inauguration concert celebrating the election of the nation's first African American president, Barack Obama. And four days later, at the actual inauguration ceremony, the great soul singer Aretha Franklin evoked memories of the Easter Sunday concert when she sang "America," the same song that had opened Anderson's history-making performance seventy years earlier.

The third and most important consequence of the 1939 Lincoln Memorial Concert resides in its connection to the broad course of the civil rights movement. For the movement to gain strength and ultimately succeed, several changes had to occur, including the recognition that racial discrimination is a national, not just a sectional, problem that violations of the American creed of "liberty and justice for all" undermine national honor and the prospects for national greatness.

The "rediscovery" of racial discrimination as a national problem began during the mid-1930s, as the rising tide of totalitarianism in Europe brought attention to the dark side of racialist ideology and practice. This rediscovery hinged on a series of public events, of which the Lincoln Memorial concert was one of the most significant. The others included the 1936 Berlin Olympics, when the victorious African American track star Jesse Owens was snubbed by Adolf Hitler; the world heavyweight championship match of 1938, when the "Brown Bomber" Joe Louis defeated the German Max Schmeling at Yankee Stadium; A. Philip Randolph's threatened March on Washington in 1941; the controversy surrounding Jackie Robinson's desegregation of Major League baseball in 1947; and the desegregation of the American armed forces during the Truman Administration.

Each of these episodes helped to push the nation toward recognition of a long-neglected national problem, but the Easter 1939 concert was especially important in this regard. The concert help set the stage for later developments, and the "symbolic geography" of the controversy a segregated national capital, the Lincoln Memorial, and Constitution Hall, in the shadow of the White House magnified the episode's impact. The Washington backdrop a distinctively southern city that served as the

Essential Quotes

"I could see that my significance as an individual was small in this affair. I had become, whether I liked it or not, a symbol, representing my people. I had to appear."

"All I knew then as I stepped forward was the over-whelming impact of that vast multitude. There seemed to be people as far as the eye could see. The crowd stretched in a great semicircle from the Lincoln Memorial around the reflecting pool on to the shaft of the Washington Monument. I had a feeling that a great wave of good will poured out from these people, almost engulfing me."

"The essential point about wanting to appear in the hall was that I wanted to do so because I felt I had that right as an artist."

seat of national government, a community that tolerated and fostered a paradoxical mix of cradle-to-grave segregation and democratic pretense carried special significance for the cause of civil rights. Add to this the national scope and prominence of the DAR, and it made a dramatic conflict that could not help but disturb the complacency of many Americans.

The Anderson-DAR controversy made it difficult to dismiss racial discrimination as a mere sectional problem. For the remainder of her career, Anderson's almost unparalleled celebrity served as a reminder that the national commitment to equal opportunity requires eternal vigilance. By the mid-1950s, public opinion polls identified Anderson as one of the most admired women in the world, yet many

Questions for Further Study

1. Why was the Lincoln Memorial chosen as the site of Anderson's concert after she was refused access to Constitution Hall?

2. What role did First Lady Eleanor Roosevelt play in the debate surrounding Anderson's concert?

3. How would you describe Anderson's tone and attitude with regard to the controversy surrounding her concert? How do you think you would have reacted had you been in her position?

4. What national and international events played a role in the growing civil rights movement of the 1930s? Why were they important?

5. Discuss the following proposition: Marian Anderson's concert was more important for its symbolism than for its music.

Americans could not listen to her voice without recalling both the shameful prejudice that barred her from Constitution Hall and the glorious sound of freedom that enveloped the Lincoln Memorial on Easter Sunday 1939.

See also A. Philip Randolph's "Call to Negro America to March on Washington" (1941); Executive Order 9981 (1948); Civil Rights Act of 1964; Jesse Owen's *Blackthink* (1970); Jackie Robinson's *I Never Had It Made* (1972).

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Raymond Arsenault

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Marian Anderson's *My Lord, What a Morning*

"Easter Sunday"

The division between time spent in Europe and in the United States changed gradually. In my second season under Mr. Hurok's management there was already more to do at home, and less time was devoted to Europe. Soon there were so many concerts to do in the cities of the United States that a trip abroad for concerts had to be squeezed in. There is no doubt that my work was drawing the attention of larger circles of people in wider areas of our country. Fees went up, and I hope that I was making a return in greater service.

Mr. Hurok's aim was to have me accepted as an artist worthy to stand with the finest serious ones, and he sought appearances for me in all the places where the best performers were expected and taken for granted. The nation's capital was such a place. I had sung in Washington years before in schools and churches. It was time to appear on the city's foremost concert platform Constitution Hall.

As it turned out, the decision to arrange an appearance in Constitution Hall proved to be momentous. I left bookings entirely to the management. When this one was being made I did not give it much thought. Negotiations for the renting of the hall were begun while I was touring, and I recall that the first intimation I had that there were difficulties came by accident. Even then I did not find out exactly what was going on; all I knew was the something was amiss. It was only a few weeks before the scheduled date for Washington that I discovered the full truth that the Daughters of the American Revolution, owners of the hall, had decreed that it could not be used by one of my race. I was saddened, but as it is my belief that right will win I assumed that a way would be found. I had no inkling that the thing would become a cause célèbre.

I was in San Francisco, I recall, when I passed a newsstand, and my eye caught a headline: Mrs. Roosevelt Takes Stand. Under this was another line, in bold print just a bit smaller: resigns from D.A.R., etc. I was on my way to the concert hall for my performance and could not stop to buy a paper. I did not get one until after the concert, and I honestly could not conceive that things had gone so far.

As we worked our way back East, continuing with our regular schedule, newspaper people made efforts to obtain some comment from me, but I had nothing to say. I really did not know precisely what the Hurok office was doing about the situation and, since I had no useful opinions to offer, did not discuss it. I trusted the management. I knew it must be working on every possible angle, and somehow I felt I would sing in Washington.

Kosti became ill in St. Louis and could not continue on tour. Here was a crisis of immediate concern to me. I was worried about Kosti's well-being and we had to find a substitute in a hurry. Kosti had had symptoms of this illness some time before and had gone to see a physician in Washington, who had recommended special treatment. It was decided now that Kosti should be taken to Washington and hospitalized there.

Franz Rupp, a young man I had never met before, was rushed out to St. Louis by the management to be the accompanist. I had a piano in my hotel room, and as soon as Franz, who is now my accompanist, arrived, we went over the program. I was impressed by the ease with which he handled the situation. He could transpose a song at sight, and he could play many of my numbers entirely from memory. I found out later that he had had a huge backlog of experience playing for instrumentalists and singers. He assured me that I had seen and heard him in Philadelphia when I had attended a concert by Sigrid Onegin years before, as he had been her accompanist.

Mr. Rupp and I gave the St. Louis concert, and then we filled two other engagements as we headed East. Our objective was Washington. We knew by this time that the date in Constitution Hall would not be filled, but we planned to stop in Washington to visit Kosti. I did not realize that my arrival in Washington would in itself be a cause for a commotion, but I was prepared in advance when Gerald Goode, the public-relations man on Mr. Hurok's staff, came down to Annapolis to board our train and ride into the capital with us.

Mr. Goode is another person who made a contribution to my career the value of which I can scarcely estimate. He was with Mr. Hurok when I joined the roster, and I am sure that he labored devotedly

and effectively from the moment of my return from Europe for that first Hurok season in America. His publicity efforts were always constructive, and they took account of my aversion to things flamboyant. Everything he did was tasteful and helpful. And in the Washington affair he was a tower of strength.

Mr. Goode filled me in on developments as we rode into Washington, and he tried to prepare me for what he knew would happen a barrage of questions from the newspaper people. They were waiting for us in the Washington station. Questions flew at me, and some of them I could not answer because they involved things I did not know about. I tried to get away; I wanted to go straight to the hospital to see Kosti. There was a car waiting for me, and the reporters followed us in another car. I had some difficulty getting into the hospital without several reporters following me. They waited until I had finished my visit, and they questioned me again about Kosti's progress and his opinion of the Washington situation. Finally we got away and traveled on to New York.

The excitement over the denial of Constitution Hall to me did not die down. It seemed to increase and to follow me wherever I went. I felt about the affair as about an election campaign; whatever the outcome, there is bound to be unpleasantness and embarrassment. I could not escape it, of course. My friends wanted to discuss it, and even strangers went out of their way to express their strong feelings of sympathy and support.

What were my own feelings? I was saddened and ashamed. I was sorry for the people who had precipitated the affair. I felt that their behavior stemmed from a lack of understanding. They were not persecuting me personally or as a representative of my people so much as they were doing something that was neither sensible nor good. Could I have erased the bitterness, I would have done so gladly. I do not mean that I would have been prepared to say that I was not entitled to appear in Constitution Hall as might any other performer. But the unpleasantness disturbed me, and if it had been up to me alone I would have sought a way to wipe it out. I cannot say that such a way out suggested itself to me at the time, or that I thought of one after the event. But I have been in this world long enough to know that there are all kinds of people, all suited by their own natures for different tasks. It would be fooling myself to think that I was meant to be a fearless fighter; I was not, just as I was not meant to be a soprano instead of a contralto.

Then the time came when it was decided that I would sing in Washington on Easter Sunday. The invitation to appear in the open, singing from the Lincoln Memorial before as many people as would care to come, without charge, was made formally by Harold L. Ickes, Secretary of the Interior. It was duly reported, and the weight of the Washington affair bore in on me.

Easter Sunday in 1939 was April 9, and I had other concert dates to fill before it came. Wherever we went I was met by reporters and photographers. The inevitable question was, "What about Washington?" My answer was that I knew too little to tell an intelligent story about it. There were occasions, of course, when I knew more than I said. I did not want to talk, and I particularly did not want to say anything about the D.A.R. As I have made clear, I did not feel that I was designed for hand-to-hand combat, and I did not wish to make statements that I would later regret. The management was taking action. That was enough.

It was comforting to have concrete expressions of support for an essential principle. It was touching to hear from a local manager in a Texas city that a block of two hundred tickets had been purchased by the community's D.A.R. people. It was also heartening; it confirmed my conviction that a whole group should not be condemned because an individual or section of the group does a thing that is not right.

I was informed of the plan for the outdoor concert before the news was published. Indeed, I was asked whether I approved. I said yes, but the yes did not come easily or quickly. I don't like a lot of show, and one could not tell in advance what direction the affair would take. I studied my conscience. In principle the idea was sound, but it could not be comfortable to me as an individual. As I thought further, I could see that my significance as an individual was small in this affair. I had become, whether I liked it or not, a symbol, representing my people. I had to appear.

I discussed the problem with Mother, of course. Her comment was characteristic: "It is an important decision to make. You are in this work. You intend to stay in it. You know what your aspirations are. I think you should make your own decision."

Mother knew what the decision would be. In my heart I also knew. I could not run away from this situation. If I had anything to offer, I would have to do so now. It would be misleading, however, to say that once the decision was made I was without doubts.

We reached Washington early that Easter morning and went to the home of Gifford Pinchot, who had been Governor of Pennsylvania. The Pinchots had been kind enough to offer their hospitality, and it was needed because the hotels would not take us.

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Then we drove over to the Lincoln Memorial. Kosti was well enough to play, and we tried out the piano and examined the public-address system, which had six microphones, meant not only for the people who were present but also for a radio audience.

When we returned that afternoon I had sensations unlike any I had experienced before. The only comparable emotion I could recall was the feeling I had had when Maestro Toscanini had appeared in the artist's room in Salzburg. My heart leaped wildly, and I could not talk. I even wondered whether I would be able to sing.

The murmur of the vast assemblage quickened my pulse beat. There were policemen waiting at the car, and they led us through a passageway that other officers kept open in the throng. We entered the monument and were taken to a small room. We were introduced to Mr. Ickes, whom we had not met before. He outlined the program. Then came the signal to go out before the public.

If I did not consult contemporary reports I could not recall who was there. My head and heart were in such turmoil that I looked and hardly saw, I listened and hardly heard. I was led to the platform by Representative Caroline O'Day of New York, who had been born in Georgia, and Oscar Chapman, Assistant Secretary of the Interior, who was a Virginian. On the platform behind me sat Secretary Ickes, Secretary of the Treasury Morgenthau, Supreme Court Justice Black, Senators Wagner, Mead, Barkley, Clark, Guffey, and Capper, and many Representatives, including Representative Arthur W. Mitchell of Illinois, a Negro. Mother was there, as were people from Howard University and from churches in Washington and other cities. So was Walter White, then secretary of the National Association for the Advancement of Colored People. It was Mr. White who at one point stepped to the microphone and appealed to the crowd, probably averting serious accidents when my own people tried to reach me.

I report these things now because I have looked them up. All I knew then as I stepped forward was the over-whelming impact of that vast multitude. There seemed to be people as far as the eye could see. The crowd stretched in a great semicircle from the Lincoln Memorial around the reflecting pool on to the shaft of the Washington Monument. I had a feeling that a great wave of good will poured out from these people, almost engulfing me. And when I stood up to sing our National Anthem I felt for a moment as though I were choking. For a desperate second I thought that the words, well as I know them, would not come.

I sang, I don't know how. There must have been the help of professionalism I had accumulated over the years. Without it I could not have gone through the program. I sang and again I know because I consulted a newspaper clipping "America," the aria "O mio Fernando," Schubert's "Ave Maria," and three spirituals "Gospel Train," "Trampin'," and "My Soul Is Anchored in the Lord."

I regret that a fixed rule was broken, another thing about which I found out later. Photographs were taken from within the Memorial, where the great statue of Lincoln stands, although there was a tradition that no pictures could be taken from within the sanctum.

It seems also that at the end, when the tumult of the crowd's shouting would not die down, I spoke a few words. I read the clipping now and cannot believe that I could have uttered another sound after I had finished singing. "I am overwhelmed," I said. "I just can't talk. I can't tell you what you have done for me today. I thank you from the bottom of my heart again and again."

It was the simple truth. But did I really say it?

There were many in the gathering who were stirred by their own emotions. Perhaps I did not grasp all that was happening, but at the end great numbers of people bore down on me. They were friendly; all they wished to do was to offer their congratulations and good wishes. The police felt that such a concentration of people was a danger, and they escorted me back into the Memorial. Finally we returned to the Pinchot home.

I cannot forget that demonstration of public emotion or my own strong feelings. In the years that have passed I have had constant reminders of that Easter Sunday. It is not at all uncommon to have people come backstage after a concert even now and remark, "You know, I was at that Easter concert." In my travels abroad I have met countless people who heard and remembered about that Easter Sunday.

In time the policy at Constitution Hall changed. I appeared there first in a concert for the benefit of China Relief. The second appearance in the hall, I believe, was also under charitable auspices. Then, at last, I appeared in the hall as does any other musical performer, presented by a concert manager, and I have been appearing in it regularly. The hall is open to other performers of my group. There is no longer an issue, and that is good.

It may be said that my concerts at Constitution Hall are usually sold out. I hope that people come because they expect to hear a fine program in a first-

class performance. If they came for any other reason I would be disappointed. The essential point about wanting to appear in the hall was that I wanted to do so because I felt I had that right as an artist.

I wish I could have thanked personally all the people who stood beside me then. There were musicians who canceled their own scheduled appearances at Constitution Hall out of conviction and principle. Some of these people I did not know personally. I appreciate the stand they took.

May I say that when I finally walked into Constitution Hall and sang from its stage I had no feeling different from what I have in other halls. There was no sense of triumph. I felt that it was a beautiful concert hall, and I was happy to sing in it.

The story of that Easter Sunday had several sequels. A mural was painted in the Department of Interior Building in Washington, commemorating the event, and I was invited down for the unveiling. I met Mr. Ickes again, and as we talked and as I studied the immense mural the impact of it all was unmistakable. More recently I was in Kansas City for a concert, and a young man phoned me and asked whether he could come to see me. He had competed as a painter in the mural contest, and had won second prize. The purpose of his visit was to offer me the painting for the mural that he submitted in the contest. It was a huge picture and, like the prize-winning work, contained a message. I could not find space for so large a painting in my home, and I sent it to the Countee Cullen Foundation in Atlanta. Countee Cullen was a gifted American Negro poet who died prematurely.

I do not recall meeting Mrs. Franklin D. Roosevelt on that Easter Sunday. Some weeks later in 1939 I had the high privilege of making her acquaintance. It was on the occasion of the visit to this country of King George VI and his Queen, and I was one of those honored with an invitation to perform for the royal guests.

While waiting to sing I was in Mrs. Roosevelt's room in the White House. There was a traveling bag on a chair, and the tab on it indicated that she would soon be off again. I can still see it plainly.

Knowing that I would be introduced to the President, I tried to prepare a little speech suitable for such an occasion. When I met him, he spoke first. "You look just like your photographs, don't you?" he said, and my pretty speech flew right out of my head. All I could say was, "Good evening, Mr. President."

After the concert for the visitors was over, we were told that we would be presented to the King and Queen. I had returned to Mrs. Roosevelt's room to prepare myself. It occurred to me that it might be the right thing to curtsy. I had seen people curtsy in the movies, and it looked like the simplest thing in the world. I practiced a few curtsies in Mrs. Roosevelt's room. An aide came to call me, and I happened to be the first woman in line to meet Their Majesties. I remember that I was looking into the queen's eyes as I started my curtsy, and when I had completed it and was upright again I had turned a quarter- or half-circle and no longer faced the queen. I don't know how I managed it so inelegantly, but I never tried one again, not even for the king.

As I approached the center of the receiving line, there stood Mrs. Roosevelt, and at her right His Majesty the King. Mrs. Roosevelt put out her hand and said, "How do you do?"

I met Mrs. Roosevelt a number of times in the ensuing years, in New York, at Hyde Park, in Tokyo, and in Tel-Aviv. When I was in Japan several years ago I heard that Mrs. Roosevelt was about to arrive. I knew from my own experience with the Japanese that an extensive program would be arranged for her and that there would be an abundance of flowers waiting for her everywhere. I thought that an orchid might be the thing to get for her, so I went down to the lobby of the Imperial Hotel, intent on obtaining the orchid. But Mrs. Roosevelt arrived ahead of schedule, entered the hotel, and walked up several steps to where I had been caught standing before I could complete my errand. She stared at me. "Well, how long have you been here?" she asked.

I told her, adding that I was making a tour in Japan.

"When are you singing in Tokyo?" she asked.

"Tonight," I replied.

She turned to the people who were escorting her. "May I hear Marian Anderson tonight?"

I hesitate to think how her hosts had to rearrange their plans for her that evening, but she was at the concert. I know how crowded her schedule must have been, and I am sure that she did not have many minutes to herself. I shall never forget that she took the time to come and listen again.

When I was in Israel, more recently, Mrs. Roosevelt was there too. She was staying at the same hotel in Tel-Aviv, and she had left word at the desk that when I arrived she would like to be informed. We managed to have a brief visit, and soon she was on her way again.

She is one of the most admirable human beings I have ever met. She likes to have first-hand informa-

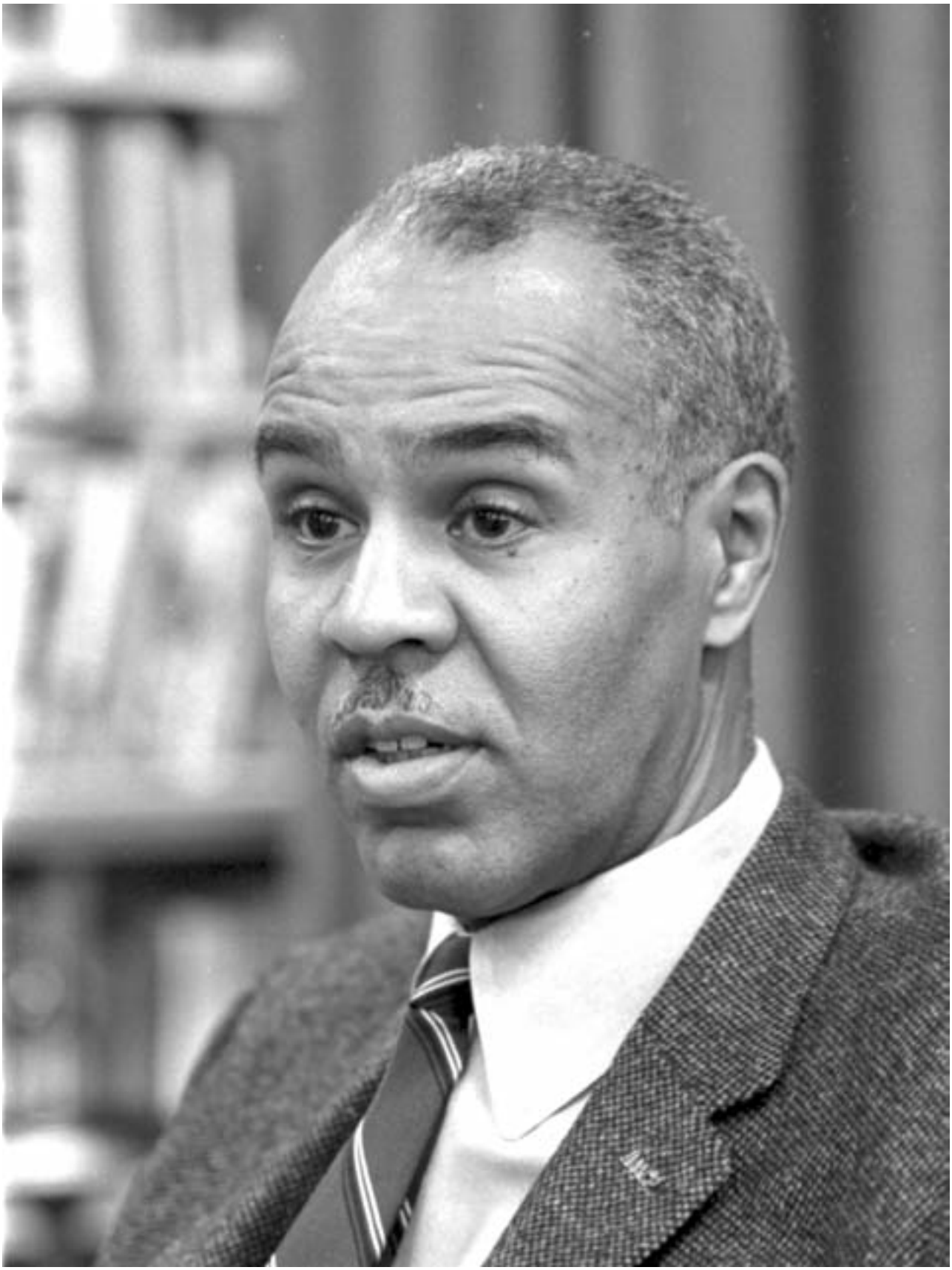
Document Text

tion about the things she talks about and deals with. Her bags seem to be ready for travel at any moment. Wherever she goes there is praise for her and what she stands for. I suspect that she has done a great deal for people that has never been divulged publicly. I know what she did for me.

Once when I was occupying the artist's room of a hall the stage manager told me with great enthusiasm that Mrs. Roosevelt would occupy the same room two days later. And so on the large mirror I left a greeting, written with soap.

Glossary

China Relief	aid to China in the wake of the Japanese invasion of 1937
contralto	a singer whose voice is in the deepest pitch range of female voices
D.A.R.	Daughters of the American Revolution
Daughters of the American Revolution	a heritage organization based on lineage founded in the 1890s
Hurok	Sol Hurok, Anderson's promotional agent
Kosti	Kosti Vehanen, Anderson's accompanist
Maestro Toscanini	"Master" Arturo Toscanini, a famed orchestral conductor
Salzburg	a city in Austria, the birthplace of Mozart and an important musical center
Sigrid Onegin	a noted German contralto singer
soprano	a singer whose voice is in the highest pitch ranges
Tel-Aviv	a city in modern-day Israel



Roy Wilkins (Library of Congress)

Roy Wilkins: "The Clock Will Not Be Turned Back"

1957

"[Little Rock] dealt a stab in the back to American prestige as the leader of the free world."

Overview

"The Clock Will Not Be Turned Back" was a speech given by Roy Wilkins as head of the National Association for the Advancement of Colored People (NAACP), the oldest and largest civil rights organization in the United States. The speech was delivered in San Francisco at the Commonwealth Club of California on November 1, 1957, just over a month after the end of the school desegregation crisis in Little Rock, Arkansas. Founded in 1903 by a group of leading Californians including the *San Francisco Chronicle* editorial writer Edward F. Adams and Frederick Burk, president of what would become San Francisco State University the Commonwealth Club is the nation's oldest public affairs forum, providing an arena where prominent figures can discuss issues of local, national, and international importance. Previous speakers had included former president Theodore Roosevelt, the film director Cecil B. DeMille, and the philosopher (and founder of the Aspen Institute) Mortimer J. Adler. Until 1971 membership in the club was restricted to men.

In his speech, Wilkins addressed directly the problem of racial discrimination in general and the issue of school segregation in particular. The civil rights leader's aim was to make clear that black Americans were entitled to first-class citizenship in all areas of American life, including education. Wilkins also used his speech to argue that civil rights was not simply a moral and legal issue but also a matter of critical importance to America's international prestige and leadership of the free world in the cold war struggle against Communism.

Context

In 1892 Homer Plessy was arrested for traveling in a "whites only" railroad car in his native state of Louisiana. In an effort to strike down segregation laws, Plessy, who was classified as seven-eighths white ("octoroon" in the idiom of his day), might have traveled without notice. As part of a preplanned strategy, however, he bought a first-class ticket and sat down in a "whites only" car. When confronted by the conductor, he refused to move and was arrested. A group of black professionals then challenged the constitutionality of the state's segregation law by appealing Plessy's conviction. In 1896 the case of *Plessy v. Ferguson* reached the U.S. Supreme Court, where, in an eight-to-one decision, the constitutionality of the segregation law was upheld. The decision in *Plessy* provided the legal foundation ("separate but equal") for the broader system of enforced racial segregation that came to characterize the America South.

The 1954 decision in *Brown v. Board of Education of Topeka, Kansas,* in which the U.S. Supreme Court declared that segregated schooling was inherently unequal and thus unconstitutional, marked the crowning achievement of the NAACP's use of litigation to bring change to the South's racial order. Beginning in the 1930s the NAACP filed lawsuits that led to equal rates of pay for black and white teachers and opened up graduate schools to African American students, before launching an all-out assault on the Supreme Court's 1896 decision that the "separate but equal" system was constitutional. The *Brown* ruling actually involved five separate challenges to school segregation (from Delaware, the District of Columbia, Kansas, South Carolina, and Virginia) and numerous plaintiffs. The cases were consolidated as *Brown v. Board of Education of Topeka* (the Brown in question being Oliver Brown, an African American who wanted his daughter, Linda, to attend her local all-white school).

Those who hoped that the *Brown* decision might lead to the rapid demise of segregation were to be disappointed. Encouraged by President Dwight D. Eisenhower's lukewarm reaction to the ruling (in that he refused to state publicly whether he agreed with the justices) and by the court's rather weak enforcement decree in 1955 (*Brown II*) and alarmed by the NAACP's determination to press actively for speedy desegregation, white southerners mobilized to maintain the racial status quo. White Citizens' Councils, white supremacist organizations that sprang up across the South in the wake of the *Brown* decision, lobbied politicians, supported candidates for office who promised to resist desegregation, published alarmist tracts, and used intimidation in an effort to cement white opposition to civil rights. Many of the region's leading politicians began to play the race card for political gain pledging defiance of the *Brown* ruling and championing segregation. On March 12, 1956, all but three

Time Line

1954

- **May 17**
  The U.S. Supreme Court rules in *Brown v. Board of Education* that segregated schools are unconstitutional.

1955

- **May 31**
  In its enforcement ruling, known as *Brown II*, the Supreme Court declares that desegregation should be undertaken "with all deliberate speed."

1956

- **March 12**
  Nineteen southern senators and seventy-seven southern congressmen sign the "Southern Manifesto,' which denounces *Brown* as an abuse of judicial power and pledges to use "all lawful means" to reverse it.

1957

- **May–August**
  The Little Rock School Board prepares a desegregation plan.
- **September 2**
  Arkansas Governor Orval Faubus orders the National Guard to surround Little Rock's Central High School and block any attempt by black students to enter, claiming that this is necessary in order to preserve peace and maintain order.
- **September 4**
  Nine black students attempt to enter Central High School but are turned away by the National Guard.
- **September 20**
  A federal court rules that Faubus was seeking to prevent integration and orders the removal of the National Guard. Faubus complies and then leaves for Georgia.
- **September 23**
  The nine black students enter the school but leave when a one-thousand-strong mob outside becomes unruly.

of the South's senators, along with the overwhelming majority of its congressional representatives, signed the "Southern Manifesto," which denounced the *Brown* ruling as an act of judicial tyranny, upheld the right of the states to govern their internal affairs, and pledged to use all lawful means to reverse the decision. Partly as a result of Massive Resistance, the policy declared by U.S. senator Harry Byrd, Sr., in 1956 to unite the white South in opposition to integration, progress on school desegregation proved painfully slow, and as late as 1963 1964 little more than 1 percent of black children in the South were attending school with whites.

Little Rock was not the only place where a southern governor sought to prevent school desegregation. (Texas governor Allan Shivers had used state troopers to prevent integration in Mansfield in August 1956.) Still, Little Rock was certainly the most famous. On September 2, 1957, Arkansas governor Orval Faubus ordered National Guard troops to Little Rock's Central High School to prevent nine black schoolchildren from attending classes. Faubus justified his actions and his defiance of the federal court ruling that had ordered the school's desegregation on the ground that he was preserving domestic order. On September 4 the black children attempted to attend class but were turned away by the National Guard troops as a hostile mob shoved and jostled the students and shouted abuse. One of the nine black children, Elizabeth Eckford, who had arrived at Central High before the others, had actually been pursued by angry whites who threatened to lynch her, before being spirited away by a sympathetic white woman, Grace Lorch. A subsequent series of tense negotiations involving Faubus, the U.S. Justice Department, and President Eisenhower failed to resolve the crisis, leaving the matter in the hands of the courts.

On September 20 a federal judge granted an injunction preventing any further interference with the desegregation of Central High, and Faubus ordered that the National Guard be withdrawn. He then flew to Georgia for a meeting of southern governors knowing that by having stoked racial tensions the withdrawal of the troops would likely lead to a breakdown of law and order. On September 23 a mob of angry whites surrounded Central High, and at 11 AM the black children were removed from the school for their own safety. The following morning white segregationists again assembled to prevent integration and with the local police unwilling to intervene and the situation deteriorating, Little Rock's mayor, Woodrow Wilson Mann, sent a telegram to the White House requesting that federal troops be deployed as a matter of urgency. That evening, Eisenhower announced that he would send one thousand paratroopers serving with the 101st Airborne Division to Little Rock to enforce federal law; he also placed the Arkansas National Guard under the control of the federal government. On September 25 federal troops escorted the nine black children to classes in Central High. The school desegregation crisis made Faubus, who had previously been a racial moderate, something of a hero to white segregationists. He easily won reelection in 1958 and eventually left the governor's mansion, undefeated, in 1967.

In his television and radio address to the nation explaining his decision to send federal troops to Little Rock, President Eisenhower emphasized the importance of upholding the federal court ruling and maintaining the rule of law. However, he also drew attention to the international repercussions of the crisis, arguing that Little Rock had implications for America's efforts to lead the "free world" in the cold war struggle against international Communism. The respective global positioning of the Soviet Union and United States would come to the forefront of the public consciousness when the Soviets launched *Sputnik*, the world's first man-made satellite, less than two weeks later, on October 4, 1957. In his address, the president noted that America's enemies had been "gloating" over the Little Rock incident, using it to discredit U.S. claims to support democracy and freedom, and the resulting damage done to America's standing in the world was considerable. Indeed, the American government was well aware that its domestic record on race relations was an issue of international significance, particularly because the Soviet Union used the persistence of racial discrimination to try to undermine America's democratic credibility. Moreover, civil rights leaders were eager to exploit this vulnerability to create pressure for meaningful civil rights reform at home; Wilkins's speech to the Commonwealth Club, delivered a month after the Little Rock crisis, demonstrates as much.

Time Line

1957

- **September 24**
  A mob again prevents integration, and President Dwight D. Eisenhower announces that he is sending one thousand members of the U.S. Army's 101st Airborne Division to Little Rock to maintain order and enforce integration. He also federalizes the Arkansas National Guard.
- **September 25**
  The Little Rock Nine are escorted into Central High by federal troops.
- **November 1**
  The NAACP leader Roy Wilkins delivers his speech "The Clock Will Not Be Turned Back" at the Commonwealth Club of California.

1958

- **September 12**
  Governor Faubus orders the closure of Little Rock's three high schools for the entire school year.
- **November**
  Faubus wins reelection as governor in a landslide.

About the Author

Roy Wilkins dedicated more than fifty years of his life to the cause of civil rights for black Americans. Born in 1901 in St. Louis, Missouri, he was raised in St. Paul, Minnesota, by an aunt and uncle after his mother died of tuberculosis when Wilkins was four years old. In an early display of his love of journalism, Wilkins edited the student newspaper while he was a pupil at the integrated Mechanic Arts High School. At the University of Minnesota, where he majored in sociology and minored in journalism, Wilkins took a number of jobs (including slaughterhouse worker and Pullman car waiter) to support his studies, but he also made time to write for the university newspaper, the *Minnesota Daily*; edit the *St. Paul Appeal*, a black weekly; and join the local branch of the NAACP. After graduating in 1924, Wilkins moved to Kansas City to work for the *Kansas City Call*, an influential black newspaper. Rising quickly to the position of managing editor, Wilkins was something of a crusading journalist, using the pages of his paper to urge blacks to mobilize their voting strength to defeat racist politicians. In 1931 Walter White, the NAACP's executive secretary, appointed Wilkins as his assistant. Three years later Wilkins succeeded the legendary W. E. B. Du Bois as editor of the NAACP's magazine, *The Crisis*. In 1955, following Walter White's death, Wilkins became head of the NAACP (the position was later renamed executive director); he would lead the organization until his retirement in July 1977.

Throughout his career Wilkins remained firmly committed to the goal of integration, and he sought equal rights for black Americans within the framework of America's constitutional system. Indeed, Wilkins was a proud patriot who argued that blacks were entitled, as Americans, to life, liberty, and the pursuit of happiness and the equal protection of the laws. Uncomfortable with the civil rights movement's enthusiastic embrace of direct action during the early 1960s, Wilkins chose to emphasize the importance of litigation, court rulings, and legislative victories in winning black freedom. Not renowned as a public speaker, and not a little jealous of the fame and plaudits that came the way of the Reverend Martin Luther King, Jr., Wilkins was most effective when working behind the scenes negotiating with presidents and politicians, testifying before congressional committees, and lobbying for change. In 1950 he helped to found the Leadership Conference on Civil Rights, a coalition of organizations that coordinated national efforts to produce civil rights legislation. During the mid-1960s Wilkins worked particularly closely with the presidential administration of Lyndon B. Johnson and it was Johnson who awarded the Presidential Medal of Freedom, the nation's highest civilian honor, to the NAACP chief in 1969. Often accused of exerting excessive control over the NAACP (as when he sought to eliminate any hint of Communism or racial separatism among the member-

ship), Wilkins was succeeded by Benjamin Hooks in July 1977. Admitted to the New York University Medical Center in August 1981 suffering from heart trouble, Wilkins died from kidney failure, aged eighty, on September 8, 1981.

Explanation and Analysis of the Document

Unsurprisingly, during the fall of 1957 the crisis at Central High occupied a good deal of Wilkins's time and energy. Speaking in Georgia on September 23, for example, the NAACP chief condemned Faubus's actions and the "shameful spectacle" that had occurred in Little Rock. On October 11, in a keynote speech to the North Carolina NAACP state convention, Wilkins spoke at length on the Little Rock crisis, highlighting themes to which he would return in his Commonwealth Club speech, and on November 3 he addressed two thousand five hundred civil rights supporters at a New York City rally held to show support for the Little Rock Nine. Interestingly, Wilkins was not the first speaker to address the Commonwealth Club on the Little Rock crisis. On October 4, Mississippi judge Tom P. Brady, a staunch segregationist and leader of the Citizens' Council movement, had delivered a speech to the club in which he defended segregated schooling and denounced the *Brown* decision.

At the outset of his own speech, Wilkins seeks to create a sense of drama by arguing that white southerners' defiance of the U.S. Supreme Court over the question of school desegregation constitutes the gravest of crises. He then goes on to describe how in Little Rock angry mobs had assailed young black children beating, kicking, and spitting at them simply because they were attempting to attend school. Wilkins claims that the media coverage of these events had brought home to millions of Americans the "ugly" reality of what was happening in the South. But Wilkins was also keen to emphasize that Little Rock was not simply a domestic issue but, indeed, an international crisis one that imperiled America's prestige and standing abroad.

During the late 1940s and early 1950s the United States and the Soviet Union became embroiled in the cold war. Adopting the role of "leader of the free world," America and its allies sought to contain Soviet influence, resist the expansion of Communism, and promote democracy. The American government was particularly keen to win over countries in Africa and Asia that were emerging from European colonialism. Yet, as Wilkins points out, the existence of segregation in the American South was an international embarrassment for the United States and an obstacle to its cold war mission. Indeed, incidents such as the violence at Little Rock were seized upon by the Soviet Union as evidence of America's hypocrisy and made it more difficult for the United States to win the support of newly independent nonwhite nations. Desegregation was not simply a moral or legal issue, then it was also a matter of national security. And Wilkins is uncompromising in his use of language he accuses white segregationists of undermining America's international leadership by stabbing the nation in the back and thus weakening the forces of democracy. Wilkins was not alone in seeking to place the struggle for black rights within the wider international context. Numerous civil rights leaders, including Martin Luther King, Jr., claimed that segregation and the denial of black voting rights in the South undermined America's cold war leadership and argued that government action on civil rights would strengthen the nation's democratic credentials.

Wilkins is also keen to point out that education itself is of vital national importance; he argues that America needs all of its citizens, black as well as white, to achieve their full potential to help defeat the Communist threat. Segregation is, says Wilkins, a source of division that saps the nation's strength and leaves it vulnerable in the face of Soviet advances in science and technology. Indeed, Wilkins speaks of the shadow cast by *Sputnik*, the world's first satellite. When it was launched by the USSR in early October 1957, it had shocked the U.S. public, sparking alarm that the nation was falling behind the Russians. The NAACP chief again raises the stakes, claiming that an intelligent, informed, and educated citizenry is vital to the struggle against international Communism; the provision of equal educational opportunities could, says Wilkins, "mean the difference between democratic life and totalitarian death."

With white southerners seeking to hold the line against the civil rights movement and prevent meaningful change to the racial order, Wilkins makes clear that black Americans are not about to give up. The clock, in his words, is not going to be turned back, and he reminds his audience that the North won the Civil War (with the South's surrender at Appomattox) and that white southerners, despite their efforts, would not be able to overturn this defeat. Wilkins invokes African Americans' positive contribution to national life including their service in the U.S. military to justify the demand for equality, and he argues that white violence and obstruction has not shaken blacks' belief that they are entitled as Americans to first-class citizenship. Indeed, he uses the bravery and dignity of the Little Rock Nine, who maintained their composure in the face of enormous provocation, as proof that black Americans remained resolute in their commitment to achieving equal rights. But Wilkins has a message for northerners too that they must not sit back and simply observe the civil rights fight from afar, viewing it as a regional problem. Instead, they must make a collective decision to support decisive action on civil rights on the basis that it is in the interests not just of black Americans, but the nation as a whole.

Wilkins ends his speech on an optimistic and patriotic note, arguing that the virtues of America's founding values and the strength of her political institutions will help deliver a just solution to the racial problem. While the road to equality might not always run smooth, says Wilkins, it will ultimately lead to the establishment of the "kingdom of righteousness" a society in which all Americans, black as well as white, are able to enjoy justice, equality, dignity, and respect. Here, the NAACP leader goes as far as to claim that God is on the side of civil rights protesters. Like other black leaders, most notably Martin Luther King, Jr., Wilkins views the civil rights movement as being inspired,

Essential Quotes

"[Little Rock] dealt a stab in the back to American prestige as the leader of the free world and presented our totalitarian enemies with made-to-order propaganda."

(Paragraph 2)

"The Negro citizens of our common country, a country they have sweated to build and died to defend, are determined that the verdict at Appomattox will not be renounced, that the clock will not be turned back, that they shall enjoy what is justly theirs."

(Paragraph 4)

"Can we afford to deny to any boy or girl the maximum of education, that education which may mean the difference between democratic life and totalitarian death?"

(Paragraph 8)

"To deny our ability to achieve a just solution within the framework of our Declaration of Independence and our Bill of Rights is to deny the genius of Americans."

(Paragraph 9)

in part, by Christian teaching and as enjoying divine sanction. His speech thus helps illustrate the importance of religion to the civil rights movement.

Audience

Wilkins's speech was delivered before an audience at the Commonwealth Club in San Francisco, California. Doubtless many, if not all, of the educated, civic-minded members of the audience were appalled by the recent violence in Little Rock and generally supportive of Wilkins's remarks. But Wilkins's words were also directed at the broader public in the North, whose support was needed to push forward the civil rights agenda, and his speech was carried on numerous radio stations. In emphasizing the negative impact that segregation had on America's cold war foreign policy, Wilkins was also seeking to increase the pressure on the federal government. Finally, Wilkins's remarks, particularly his emphasis on black dignity, pride, and African Americans' historic contribution to the nation's development, including service in its armed forces, were also intended to boost the morale and the resolve of the wider black community, particularly in the South, where the fight against white supremacy was being fought.

Impact

Wilkins's remarks are important because they reveal how the civil rights movement's leaders sought to invoke the nation's founding ideals of equality and liberty and use the cold war context as leverage in their efforts to secure meaningful change for African Americans. This tactic was particularly astute, given the fact that segregationists sought to portray the civil rights movement as part of an un-American Communist-orchestrated conspiracy. Attempts to use the cold war as leverage worked particularly effectively during the presidency of John F. Kennedy (1961 1963); Kennedy understood that his desire to strengthen America's position vis-à-vis the Soviet Union was threatened by high-profile incidents of discrimination against black

Americans and the failure to make significant progress on civil rights. Ultimately, civil rights leaders' ability to portray their movement as firmly within the mainstream of American democracy and committed to patriotic values (rather than as a radical or subversive threat to them), along with the use of nonviolent protests rooted in Christian teaching, contributed to making the civil rights movement "respectable," thereby helping it win a significant measure of public (and political) support in the North.

In the short term, Faubus's opposition to school desegregation and his defiant stand against the federal government proved fruitful. Indeed, in August 1958, a year after the initial crisis, the governor persuaded a special session of the state legislature to grant him the power to close any school that had been ordered to integrate by the federal authorities. After he ordered that all of Little Rock's schools be shut down, voters in the affected school district endorsed his decision in a referendum by 19,470 votes to 7,561. Faubus's hard-line policy on segregation contributed to his election victory that November, making him only the second governor in the state's history to win a third consecutive term in office.

In the longer term, however, such tactics played into the hands of the civil rights movement. The failure of the *Brown* decision to lead quickly to comprehensive desegregation and the strength of Massive Resistance helped convince civil rights leaders and organizations that new tactics were required to complement litigation (which often proved both expensive and time-consuming). By the early 1960s, nonviolent direct action including sit-ins by blacks demanding service at segregated restaurants and other public facilities, mass marches, and voter registration drives became increasingly prominent. The proliferation of direct action and the stubborn and violent response of many white southerners (encouraged by political leaders who were pledged to Massive Resistance) helped to pressure the federal government to take decisive action. The Civil Rights Act of 1964, which outlawed Jim Crow segregation, and the Voting Rights Act of 1965, which led to the enfranchisement of millions of African Americans, resulted from civil rights campaigns (in Birmingham and Selma, respectively) in which black southerners and their allies took to the streets to demand equal rights, only to be met with violence by the white authorities. As for school desegregation, it would not be until the late 1960s following a series of assertive Supreme Court rulings and threats by the Department of Health, Education, and Welfare to withhold federal funding from segregated school districts that meaningful integration took place in the South.

See also *Plessy v. Ferguson* (1896); *Brown v. Board of Education* (1954); Civil Rights Act of 1964.

Further Reading

Articles

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Questions for Further Study

1. The Supreme Court case *Brown v. Board of Education* was and still is regarded as a major victory in the quest for equal rights. However, at the time, the consequences of *Brown* were disappointing. What subsequent events dramatically illustrated that *Brown* did not resolve the issue of civil rights?

2. In 2002, the majority leader in the U.S. Senate, Republican Trent Lott from Mississippi, was essentially driven out of office by remarks he made that were regarded as racially insensitive about events that had taken place over a half century earlier. Yet Democratic senator Robert Byrd of West Virginia remains in office as the longest-serving member of Congress in history after having been a member of the Ku Klux Klan in the 1940s and after leading the Senate filibuster of the 1964 Civil Rights Act. Do you see any inconsistency in the public reaction to these figures?

3. What impact did the events in Little Rock, Arkansas, have on the civil rights movement? How is this impact reflected in Wilkins's speech?

4. What role did the cold war between the United States and its allies and the Soviet Union and its satellite states have on the civil rights movement of the 1950s?

5. The focus of the civil rights movement from the mid-1930s through the 1950s was education. Using this document in conjunction with Charles Houston's "Educational Inequalities Must Go!", *Sweatt v. Painter*, and *Brown v. Board of Education*, prepare a time line of important cases in the effort to integrate education.

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http://www.eisenhower.archives.gov/Research/Digital_Documents/LittleRock/littlerockdocuments.html.

"History of the Little Rock Nine and *Brown v. Board of Education*." Arkansas Department of Parks and Tourism Web site.
http://www.arkansas.com/central-high/history/.

"Roy Wilkins." The NAACP Web site.
http://naacp.org/about/history/wilkins/index.htm.

Simon Hall

Document Text

Roy Wilkins: "The Clock Will Not Be Turned Back"

It is no exaggeration, I think, to state that the situation presented by the resistance to the 1954 decision of the United States Supreme Court in the public school segregation cases is fully as grave as any which have come under the scrutiny and study of the Commonwealth Club.…

Little Rock brought the desegregation crisis sharply to the attention of the American people and the world. Here at home, it awakened many citizens for the first time to the ugly realities of a challenge to the very unity of our nation. Abroad, it dealt a stab in the back to American prestige as the leader of the free world and presented our totalitarian enemies with made-to-order propaganda for use among the very nations and peoples we need and must have on the side of democracy.…

The world cannot understand nor long respect a nation in which a governor calls out troops to bar little children from school in defiance of the Supreme Court of the land, a nation in which mobs beat and kick and stone and spit upon those who happen not to be white. It asks: "Is this the vaunted democracy? Is this freedom, human dignity and equality of opportunity? Is this fair play? Is this better than Communism?" No, the assertion that Little Rock has damaged America abroad does not call for sneers. Our national security might well hang in the balance.…

The Negro citizens of our common country, a country they have sweated to build and died to defend, are determined that the verdict at Appomattox will not be renounced, that the clock will not be turned back, that they shall enjoy what is justly theirs.…

Their little children, begotten of parents of faith and courage, have shown by their fearlessness and their dignity that a people will not be denied their heritage. Complex as the problem is and hostile as the climate of opinion may be in certain areas, Negro Americans are determined to press for not only a beginning, but a middle and a final solution, in good faith and with American democratic speed.

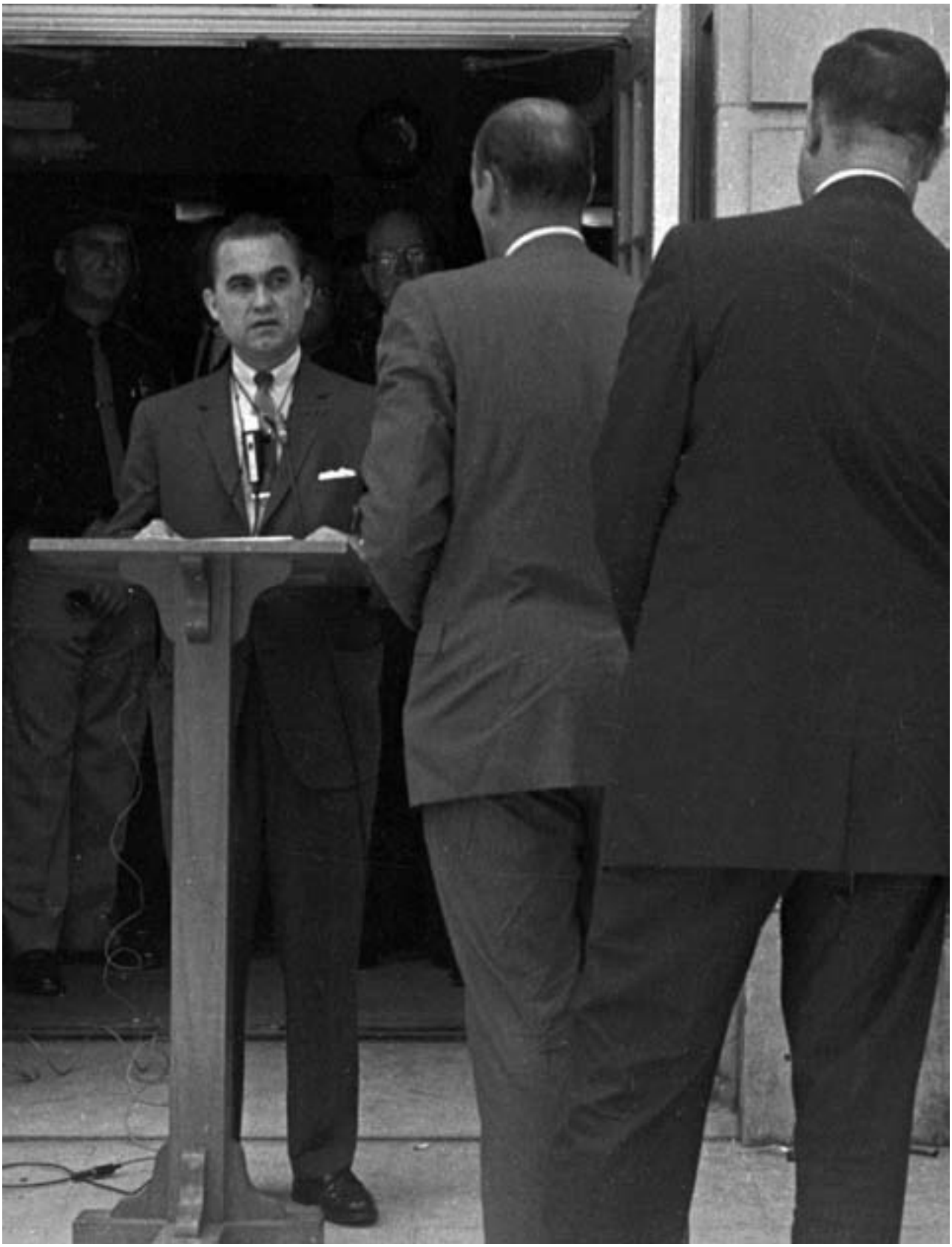
The Negro position is clear. Three years of intimidation on the meanest and most brutal of levels have not broken their ranks or shaken their conviction.

What of the rest of our nation? It must make a decision for morality and legality and move in support of it, not merely for the good of the Negroes, but for the destiny of the nation itself.

Already I have indicated that this is a new and dangerous world. This cold war is a test of survival for the West. The Soviet *Sputnik*, now silent and barely visible, casts a shadow not lightly to be brushed aside. Can we meet the challenge of Moscow in the sciences and in war with a country divided upon race and color? Can we afford to deny to any boy or girl the maximum of education, that education which mean the difference between democratic life and totalitarian death?

To deny our ability to achieve a just solution within the framework of our Declaration of Independence and our Bill of Rights is to deny the genius of Americans. To reject our moral precepts is to renounce our partnership with God in bringing the kingdom of righteousness into being here on earth.

We may falter and stumble, but we cannot fail.



Alabama Governor George Wallace makes his stand against desegregation at the schoolhouse door of the University of Alabama in Tuscaloosa in 1963. (AP/Wide World Photos)

George Wallace's Inaugural Address as Governor

1963

"From this Cradle of the Confederacy … we sound the drum for freedom as have our generations of forebears before us done."

Overview

George Wallace's inaugural address as governor of Alabama, delivered on January 14, 1963, served in many ways both to launch him into national politics and to symbolize the last futile public resistance of the American South in the 1960s to segregation. During the height of the civil rights movement, Wallace proclaimed in the opening of his inaugural address, "I say … segregation today … segregation tomorrow … segregation forever." The Deep South had long been the worst place for African Americans to live, and the white attitudes that brought about this treatment are well evidenced in this speech. However, within six months of Wallace's address, the University of Alabama was integrated, if just in a token manner. Wallace would nonetheless show the resiliency and pliability of politicians by winning office again in the 1970s and even the 1980s, with a majority of the black vote in his last election. He was a national force as well, running in the presidential primaries of 1964, 1972, and 1976 and in the presidential election of 1968, when during his best national showing he won 13.5 percent of the popular vote and five Deep South states with forty-six electoral votes, even though he ran as an independent candidate.

Context

In losing the Civil War, the South was forced to free all African American slaves. However, the South did not decide to treat the former slaves on an equal basis with whites. The North created Reconstruction and the Reconstruction Amendments, including the Fourteenth Amendment (1868), which broadened the definition of citizenship and required equal treatment of all citizens, and the Fifteenth Amendment (1870), which guaranteed male citizens the right to vote regardless of race. The Democratic Party, however, won back political power in the mid-1870s and vowed to reverse the moves toward equality that had occurred under Reconstruction.

Segregation was imposed, generally starting in the early 1890s, in all areas of life, ranging from separate street cars to separate Bibles to swear on in court. While the facilities provided to African Americans were not equal, the dubious "separate but equal" formula was approved by the Supreme Court in the infamous *Plessy v. Ferguson* case in 1896. Constitutions adopted throughout the South made segregation legal. These documents also generally disenfranchised African Americans through some combination of poll taxes, grandfather clauses (which created restrictions on voting except for those whose ancestors had the right to vote at the time of or shortly after the Civil War), and literacy tests.

African Americans protested at the time but accomplished little. Throughout the early twentieth century, the National Association for the Advancement of Colored People fought discrimination in the courts, and this effort accelerated after World War II, resulting in the Supreme Court decision in *Brown v. Board of Education* (1954), which declared segregation in education unconstitutional. The administration of President Dwight D. Eisenhower, however, preferred to ignore or delay implementation of that ruling. In the early 1960s, the administration of President John F. Kennedy started haltingly to enforce desegregation in higher education. For residents of Alabama, this was most notable through actions taken nearby, at the University of Mississippi, in 1962. Federal troops were called in to escort James Meredith, the first African American student to attend that university, throughout the year, after unarmed federal marshals had come under attack when they earlier had tried to calmly and unobtrusively shepherd Meredith through the campus. A riot had ensued, resulting in two deaths and hundreds of injuries, including soldiers and federal marshals wounded by gunfire. Northerners viewed this national tragedy as the result of the South's refusal to follow the law, while many southerners intrepreted the federal presence as an imposition of northern values reminiscent of the Reconstruction era.

Thus, at the time of Wallace's speech, many were wondering how long it would take for the Kennedy administration to finally act and enforce all of the civil rights laws and court rulings across the South. But those who favored civil rights were not the target of Wallace's address; rather, his speech was aimed at winning the loyalty of those citizens who opposed civil rights. The divisiveness of the speech was heightened by the city in which he gave it: Montgomery, the state's capital. It was there that the modern civil rights movement was started with Rosa Parks' defiant stand that

Time Line

1901

- Fourteen years after the end of Reconstruction, Alabama's new constitution formally puts segregation into law in almost all areas and makes change nearly impossible.

1919

- George Wallace is born in Clio, Alabama.

1946

- **May**
  Wallace wins election to the Alabama House of Representatives from Barbour County.

1954

- **May 17**
  The U.S. Supreme Court announces the *Brown v. Board of Education* decision, desegregating public schools. This decision is widely denounced and obstructed by whites in the South.

1955

- **December 1**
  Rosa Parks is arrested in Montgomery, Alabama, an event that touches off the Montgomery bus boycott.

1958

- **May 6**
  Running as a moderate, Wallace is defeated in the Democratic gubernatorial primary by hard-core segregationist John Patterson, who is endorsed by the Ku Klux Klan. This is Wallace's only electoral defeat in Alabama.

1962

- **November**
  Advocating hard-line segregation and "states' rights," Wallace is elected governor of Alabama.

1963

- **January 14**
  Wallace delivers his inaugural address as governor.
- **June 11**
  Wallace temporarily blocks admission of two African Americans into the University of Alabama.

resulted in the Montgomery bus boycott, and it was there that Dr. Martin Luther King, Jr., first came to national attention. Alabama remained one of the two most segregated states of the South, so it was an important battleground.

Wallace's own political history played into the content of his speech. He was first elected as a legislator after World War II and had his eye on higher office much of his life. He positioned himself to be a candidate for governor in 1958 but lost in the Democratic primary to John Patterson. Patterson was a more hard-core segregationist than Wallace, and Wallace vowed never to get outmaneuvered on the segregation issue again. He believed that hard-core segregation was the way to win political favor in the 1960s, and, aiming for national political prominence, that was what he endorsed in his inaugural address.

About the Author

Born in Clio, Alabama, in 1919, Wallace got his first taste of politics as a legislative page in his teens, and he became enraptured. He matriculated at the University of Alabama Law School at age eighteen, graduating in 1942. Wallace then entered the U.S. Army Air Forces and served for three years during World War II. In a show of political ambition, he decided to remain an enlisted man rather than becoming an officer, reasoning that there were more enlisted men than officers in the voting pool, and so remaining an enlisted man would help his political aspirations. In 1946 he won election to the Alabama House of Representatives and, in 1953, was elected a circuit judge. Throughout this period he was known as a moderate on racial issues and, most famously, refused to walk out of the 1948 Democratic National Convention when a strong civil rights plank was added to the Democratic platform. In 1949 Wallace was appointed as a trustee of Tuskegee Institute a private black university that had once been headed by the former slave Booker T. Washington. Wallace then ran for governor of Alabama in 1958, losing in the primaries. He ran as a progressive moderate and was even endorsed by the National Association for the Advancement of Colored People, while his successful opponent was endorsed by the Ku Klux Klan. Wallace then moved to the right and successfully ran for governor in 1962 as a hard-core segregationist.

Through his inaugural speech and initial performance as Alabama's governor, Wallace burst onto the national stage. He ran for president in 1964, winning one-third of the vote in primaries in Wisconsin, Maryland, and Indiana. Prevented by state law from running again for governor in 1966, he nominated his wife, who won and thus allowed Wallace to retain political influence until her death in 1968. Wallace then ran for president in the 1968 campaign on the American Independent Party ticket. He would also run in the 1972 and 1976 presidential primaries, but his best national showing was in the 1968 general election, where he won five states. Wallace was reelected Alabama's governor in 1970, 1974, and 1982. By 1982 he had experienced a change of heart, claiming that his earlier stance on

segregation was a mistake, and in that election he courted the black vote and won handily. On May 15, 1972, Wallace was shot in an assassination attempt while campaigning for the Democratic nomination for president. He remained paralyzed for the rest of his life. At the end of his final stint as governor, Wallace retired from politics, his health in decline. He died in Montgomery on September 13, 1998.

Explanation and Analysis of the Document

Wallace begins his speech by offering his thanks to his hometown and others around the state (many named individually) for electing him and citing the "dear little old lady" and the "mountain man" by way of personalizing his message. His special thanks are reserved for his wife and particularly his mother: "I want my mother to know that I realize my debt to her."

◆ Duty

Wallace then embarks on a discussion of duty, or his version of duty, saying that his focus will be on "honesty and economy in our state government." He says that he will run the liquor agents out of town, returning the money to the people of the state. This was in reference to Alabama's state-controlled system of liquor sales, which supported an extensive patronage and kickbacks system whose beneficiaries were legislators and the governor. Wallace remarks that he is "filling orders for several hundred one-way tickets … out of Alabama" for these agents. In enumerating his duties, he pledges not to forget the senior citizen, the farmer, the laboring man, and children. Wallace next turns to the heart of his speech, a challenge thrown down to the rest of the country.

◆ Cradle of the Confederacy

Wallace invokes the name of the president of the Confederacy, noting that he stood to take his oath of office on the same spot where Jefferson Davis stood more than one hundred years before and that as Davis defended the southern way of life against the North's tyranny, Wallace would defend the South in similar fashion. He links segregation with freedom and argues that the only way to have freedom is to have segregation. It is here that he issues the famous words "In the name of the greatest people that have ever trod this earth, I draw the line in the dust and toss the gauntlet before the feet of tyranny … and I say … segregation today … segregation tomorrow … segregation forever."

Wallace defends the South by pointing out the difficulties that the North was having. He argues that the federal government, rather than desegregating the South, should be policing Washington, D.C. Wallace then suggests that the South will fight the efforts to change its lifestyle and will resist the "heel of tyranny," which was crushing it, in his estimation. The fact that not much of the South's lifestyle had actually changed and that, as of January 1963, no African Americans attended the University of Alabama made no difference to Wallace. The challenge came not in results for Wallace, but in the very idea that segregation should end.

Time Line

1964	■ **July 2** Congress passes the Civil Rights Act.
1965	■ **August 6** Congress passes the Voting Rights Act.
1968	■ Wallace runs for president as the American Independent Party candidate, winning five southern states and 14 percent of the vote.
1970	■ **November 3** Wallace wins election as governor of Alabama.
1974	■ **November 5** Wallace wins election for a third term as governor of Alabama.
1982	■ **November 2** Wallace is reelected governor, winning a majority of the black vote. During his term he announces that his past support of segregation was wrong.
1998	■ **September 13** Wallace dies in Montgomery, Alabama.

Wallace then turns and urges the rest of the nation to support him. He posits that all who have left the South should rally to its defense. The speech also tries to enlist the support of those living beyond the South, arguing that all who love freedom should unite with it: "You are Southerners too and brothers with us in our fight." Freedom, of course, applied only to whites and, more specifically, white males. Wallace's speech was clearly not addressed to those who believed in the notion of freedom for all citizens.

◆ Alabama Blessed by God

Ending his call for whites to defend Alabama and the South, Wallace moves on, proudly referencing Alabama's blessings, her unparalleled natural resources: waterways, minerals, forestry, grasslands. He looks to a future that will see Alabama become a center for meatpacking and prepared foods. And he notes that Alabama is a tourist desti-

nation and is growing in importance in the space industry with the development of a "rocket center" in the Tennessee Valley. This reference is to the National Aeronautics and Space Administration's first field center, the Marshall Space Flight Center in Huntsville, set up in 1961.

Wallace also notes Alabama's shipping industry, citing the port of Mobile as the "gateway" to South America and trade. He cites the rise of manufacturing and, with it, the expansion of settlement. He envisions the "trickle" of workers, growing to a "stream of enterprise and endeavor, capital and expansion." Throughout, Wallace argues that the federal government "encourages our fears" to increase its own power by creating crises and then demanding muscle to fix them. He asserts that Alabama should stand strong against such increased governmental authority. He ignores the negative impacts of segregation and racism while noting that the influx of capital derives from the North and that most of the profits leave the state.

Circling back, the governor then notes how freedom is required to build Alabama and how the federal government, in his estimation, is restricting the freedom of the state. As the government "must increase its expenditures of bounties, then this government must assume more and more police powers." Wallace predicts that if the federal concentration is not stopped, it will become a new god, replacing the Christian God. He heavily emphasizes religion and argues that religion should be at the core, not government. As he puts it, "we find we are become government-fearing people not God-fearing people."

Hand in hand with this, Wallace argues that individual rights and by implication the right to segregate and discriminate should be the main rights protected, rather than "human rights." He then offers up a defense of Alabama's practice of not allowing African Americans to vote, suggesting that voting rights should be given only to those who have the "spiritual responsibility of preserving freedom." Wallace never asserts directly that African Americans are not defenders of freedom. At the time of Wallace's address, African Americans were serving with distinction in the U.S. military and had fought recently in World War II and the Korean War.

Wallace returns to the subject of God and argues that the Ten Commandments were being challenged by progressive ideas. Although he does not mention President Franklin Delano Roosevelt directly by name, Wallace refers to him when he asserts that some politicians thought that the Constitution was written for "horse and buggy days." (Roosevelt had made that claim when the Supreme Court struck down much of his New Deal legislation.) Wallace disagrees with this assessment, adding sarcastically that the Ten Commandments were also "written for 'horse and buggy' days." His implication is that if the Constitution can be updated for progressives, then perhaps the Ten Commandments are also suspect.

◆ International White Minority

Wallace finds historical comparisons to what he believed was occurring in America. Adolph Hitler's Germany and the Roman Empire both had fallen because these societies had "rotted the souls of the builders," and he argues that the United States would be next if it continued on its present course. Turning civil rights on its head, he argues that the whites of Mississippi, who were unjustly wronged when the University of Mississippi was integrated, were a minority being persecuted by the majority: "As the *national* racism of Hitler's Germany persecuted a *national* minority to the whim of a *national* majority, so the *international* racism of the liberals seeks to persecute the *international* white minority to the whim of the *international* colored majority."

Continuing his attack on civil rights, Wallace denigrates the *Brown v. Board of Education* decision, even while never naming it. He combines anti civil rights rhetoric with anti-Communism by noting that many of the scholars cited by the Court in that decision belonged to "communist-front organizations" and continued to attack the Supreme Court, arguing that it was removing prayer from the schools and "In God We Trust" from the currency. Wallace distorts history when he states that the Founding Fathers added "In God We Trust" to the U.S. currency, when in, in fact, this change occurred only in the 1950s as part of the federal government's anti-Communist agenda. He attacks President Kennedy for issuing an executive order banning housing discrimination, claiming that it restricted the freedom of people to sell to those whom they chose, and he castigates Kennedy further for integrating the University of Mississippi, pointing out that the troops would be better defending Berlin against the Communists.

◆ Defying the Supreme Court

Not content to rely on God and anti-Communism, Wallace tries to seize the progressive label for himself. He contends that the real progressives were the Founding Fathers, who, in Wallace's interpretation of history, formed a government based on faith, hard work, and charity, not a fear of government. Wallace makes no mention of the First Amendment, with its emphasis on freedom from government establishment of religion and freedom of religion, and he neglects to comment on major changes since 1776, including the end of slavery.

Wallace directly challenges the authority of the Supreme Court. He notes Alabama's defiance in having set up a sign stating "In God We Trust" in the capitol, and he challenges the Court to "let them make the most of it." Here he is drawing a comparison between himself and Patrick Henry. In 1765, Henry rose in the Virginia House of Burgesses to present resolutions in a debate concerning the newly enacted Stamp Act. In his speech, he criticizes the British Parliament and King George III, allegedly saying that "Caesar had his Brutus and Charles the First his Cromwell" (references to assassinations of leaders) and that George III might "profit by their example." Henry went on to state that if his words were treason, the people of Virginia who were listening should "make the most of it" and rebel. Here Wallace was at least rhetorically calling for a new revolution, or so it would seem.

◆ Unit of One, United of the Many

The governor defends the existence of the states and argues that they should be free to go their own way what might be called states' rights. He also argues that all religious groups, racial groups, and political parties should respect freedom. It is a sign of Alabama at the time that he lists, as examples of religions, "Baptist, Methodist, Presbyterian, Church of Christ" and for political parties "Republican, Democrat, Prohibition." In his discussion of racial groups he proposes that all races have "separate stations" and that those who want to eliminate racial distinctions are Communists. That amalgamation will cause the United States to become "a mongrel unit of one under a single all powerful government," standing "for everything and for nothing."

Wallace then turns and extends a questionable hand of brotherhood to African Americans, offering to let them grow, as long as they stay in their "separate racial station." He refutes the "liberals' theory" that argued that racism and its effects namely, "poverty, discrimination, and lack of opportunity" needed to be addressed because it would lead to Communism. He posits that if such a theory were true, the whole South would have turned to Communism after it was destroyed by the North, with its "vulturous carpetbagger" and the "bayonets" of federal troops. Wallace makes no mention of how rich southerners had disenfranchised African Americans and most poor whites, thus denying them their desires for change. Wallace trumpets that "there are not enough native communists in the South to fill up a telephone booth, and THAT is a matter of public FBI record."

◆ Southland's Fathers

Wallace ends his address with a defense of the South, citing the region's contributions to the founding of America. He praises Patrick Henry, James Madison, George Washington, and others as leading Founding Fathers. Freedom for whites is a key element of his address, and he urges all Alabamians to defend it across America. He mentions the divine inspiration for freedom and argues that it is Alabama's destiny to protect freedom, particularly freedom from fear of government. Finally, Wallace states that he will "Stand Up for Alabama" and wants his listeners to do the same. He concludes his remarks with a prayer, seemingly at odds with the civil rights reforms that he has just stridently denounced: "And my prayer is that the Father who reigns above us will bless all the people of this great sovereign State and nation, both white and black."

Audience

Wallace had two main audiences for his speech. The first was the people who watched, listened to, or read a transcript of the speech, including most Alabamians of the time. Wallace wanted to start out his administration with a bang, and he probably achieved this goal with his speech. Those who favored segregation would have gotten a big boost from the speech. The second audience was composed of those people across the nation who opposed

Jefferson Davis addresses the citizens of Montgomery, Alabama, as president-elect of the Confederacy. (Library of Congress)

desegregation or big government or both. Wallace used the speech as vehicle to move himself onto a larger stage, and in this respect he clearly spoke to a national audience.

Impact

In his inaugural address, Wallace was directly throwing down the gauntlet and challenging those who wanted desegregation. As such, the speech clearly demonstrated that nearly ten years after the *Brown* Supreme Court decision, the South was not willing to accept even the slow progress toward desegregation that had been made during the presidential administrations of Dwight D. Eisenhower and John F. Kennedy. In fact, many court rulings and civil rights laws remained far from enforced after Wallace took office. In 1964, less than 1 percent of schoolchildren in the former Confederate states attended integrated schools. Thus, the Kennedy administration had been able to accomplish token change in the universities, but not elsewhere. The speech, and Wallace's national campaigns in the years that followed, also rallied further opposition to segregation and shifted the political landscape in the South. Wallace's efforts made it difficult for Kennedy to accomplish anything in civil rights, but he and other southern politicians were unable to stop Lyndon Johnson's juggernaut, which pushed through the civil rights legislation in 1964 and 1965. Wallace's campaigning and rhetoric also helped to push the South toward a political shift that resulted in Republican Party dominance in the area. In that it effec-

Essential Quotes

"Today I have stood, where once Jefferson Davis stood, and took an oath to my people. It is very appropriate then that from this Cradle of the Confederacy, this very Heart of the Great Anglo-Saxon Southland, that today we sound the drum for freedom as have our generations of forebears before us done, time and time again through history."

"Hear me, Southerners! You sons and daughters who have moved north and west throughout this nation.… We call on you from your native soil to join with us in national support and vote."

"But the strong, simple faith and sane reasoning of our founding fathers has long since been forgotten as the so-called 'progressives' tell us that our Constitution was written for 'horse and buggy' days. So were the Ten Commandments."

"We intend, quite simply, to practice the free heritage as bequeathed to us as sons of free fathers. We intend to re-vitalize the truly new and progressive form of government that is less than two hundred years old, a government first founded in this nation simply and purely on faith that there is a personal God who rewards good and punishes evil, that hard work will receive its just desserts."

"We invite the negro citizens of Alabama to work with us from his separate racial station, as we will work with him, to develop, to grow in individual freedom and enrichment. We want jobs and a good future for BOTH races, the tubercular and the infirm. This is the basic heritage of my religion, of which I make full practice, for we are all the handiwork of God."

"My pledge to you—to "Stand up for Alabama"—is a stronger pledge today than it was the first day I made that pledge. I shall "Stand up for Alabama," as Governor of our State. You stand with me, and we, together, can give courageous leadership to millions of people throughout this nation who look to the South for their hope in this fight to win and preserve our freedoms and liberties."

tively represented the enduring resistance of the South, Wallace's inaugural gubernatorial address catapulted him to national prominence. Those who opposed liberalism, integration, and social progress had no better spokesman throughout the 1960s.

From a modern perspective, historians today view Wallace's inaugural address both as a brilliant political document, in that it greatly improved Wallace's political standing, and as the last gasp of political support for public segregation. After Wallace's failed stance of the mid-1960s, and after President Johnson pushed through legislation that gave millions more African Americans the vote in the South, it was impossible to argue politically for segregation. Those who opposed civil rights for African Americans or who wanted to pander to those southern whites who opposed civil rights instead used terms like "law and order" and argued for limiting or eliminating such social programs as welfare. These politicians also allowed schools and areas to resegregate. These approaches, taken by politicians like Richard Nixon, were more successful than Wallace's bluntly segregationist efforts.

See also Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); *Plessy v. Ferguson* (1896); *Brown v. Board of Education* (1954); Civil Rights Act of 1964.

Further Reading

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Scott Merriman

Questions for Further Study

1. Do you believe Wallace's segregationist views were the result of political calculation or of deeply held personal convictions?

2. Many people would be surprised to learn that the National Association for the Advancement of Colored People endorsed Wallace's candidacy for governor in 1958 and that in 1982 he won the majority of the black vote in his race for reelection as governor. Why do you think that a man known for his segregationist views would be able to successfully court the black vote?

3. How did Wallace's inaugural speech reflect the ongoing tension in the United States between the power and authority of the federal government and the rights of individual states?

4. Wallace's address was not only a document with implications for the civil rights movement but also a document in the history of America's response to Communism during the cold war. How so?

5. What role did party politics play in the slow pace of integration during the late 1950s and early 1960s? How was Wallace able to exploit the hesitancy of leaders such as presidents Dwight Eisenhower and John Kennedy?

George Wallace's Inaugural Address as Governor

Before I begin my talk with you, I want to ask you for a few minutes patience while I say something that is on my heart: I want to thank those home folks of my county who first gave an anxious country boy his opportunity to serve in state politics. I shall always owe a lot to those who gave me that *first* opportunity to serve.

I will never forget the warm support and close loyalty at the folks of Suttons, Haigler's Mill, Eufaula, Beat 6 and Beat 14, Richards Cross Roads and Gammage Beat; at Baker Hill, Beat 8 and Comer, Spring Hill, Adams Chapel and Mount Andrew, White Oak, Baxter's Station, Clayton, Louisville and Cunnigham Place, Horns Crossroads, Texasville and Blue Springs, where the vote was 304 for Wallace and 1 for the opposition. And the dear little lady whom I heard had made that one vote against me, by mistake, because she couldn't see too well and she had pulled the wrong lever. Bless her heart. At Clio, my birthplace, and Elamville. I shall never forget them. May God bless them.

And I shall forever remember that election day morning as I waited, and suddenly at ten o'clock that morning the first return of a box was flashed over this state: it carried the message "Wallace 15, opposition zero," and it came from the Hamrick Beat at Putman's Mountain where live the great hill people of our state. May God bless the mountain man; his loyalty is unshakeable, he'll do to walk down the road with.

I hope you'll forgive me these few moments of remembering, but I wanted them and you to know, that I shall never forget.

And I wish I could shake hands and thank all of you in this state who voted for me and those of you who did not, for I know you voted your honest convictions, and now, we must stand together and move the great State of Alabama forward.

I would be remiss, this day, if I did not thank my wonderful wife and fine family for their patience, support and loyalty. And there is no man living who does not owe more to his mother than he can ever repay, and I want my mother to know that I realize my debt to her.

This is the day of my Inauguration as Governor of the State of Alabama. And on this day I feel a deep obligation to renew my pledges, my covenants with you, the people of this great state.

General Robert E. Lee said that "duty" is the sublimest word in the English language and I have come, increasingly, to realize what he meant. I SHALL do my duty to you, God helping, to every man, to every woman, yes, to every child in this state. I shall fulfill my duty toward honesty and economy in our state government so that no man shall have a part of his livelihood cheated and no child shall have a bit of his future stolen away.

I have said to you that I would eliminate the liquor agents in this state and that the money saved would be returned to our citizens. I am happy to report to you that I am now filling orders for several hundred one-way tickets and stamped on them are these words "for liquor agents destination: out of Alabama." I am happy to report to you that the big-wheeling cocktail-party boys have gotten the word that their free whiskey and boat rides are over, that the farmer in the field, the worker in the factory, the businessman in his office, the housewife in her home, have decided that the money can be better spent to help our children's education and our older citizens, and they have put a man in office to see that it is done. It shall be done. Let me say one more time: no more liquor drinking in your governor's mansion.

I shall fulfill my duty in working hard to bring industry into our state, not only by maintaining an honest, sober and free-enterprise climate of government in which industry can have confidence but in going out and getting it, so that our people can have industrial jobs in Alabama and provide a better life for their children.

I shall not forget my duty to our senior citizens, so that their lives can be lived in dignity and enrichment of the golden years, nor to our sick, both mental and physical, and they will know we have not forsaken them. I want the farmer to feel confident that in this state government he has a partner who will work with him in raising his income and increasing his markets. And I want the laboring man to know he has a friend who is sincerely striving to better his field of endeavor.

I want to assure every child that this State government is not afraid to invest in their future through education, so that they will not be handicapped on every threshold of their lives.

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Today I have stood, where once Jefferson Davis stood, and took an oath to my people. It is very appropriate then that from this Cradle of the Confederacy, this very Heart of the Great Anglo-Saxon Southland, that today we sound the drum for freedom as have our generations of forebears before us done, time and time again through history. Let us rise to the call of freedom-loving blood that is in us and send our answer to the tyranny that clanks its chains upon the South. In the name of the greatest people that have ever trod this earth, I draw the line in the dust and toss the gauntlet before the feet of tyranny, and I say … segregation today … segregation tomorrow … segregation forever.

The Washington, D.C., school riot report is disgusting and revealing. We will not sacrifice our children to any such type school system and you can write that down. The federal troops in Mississippi could be better used guarding the safety of the citizens of Washington, D.C., where it is even unsafe to walk or go to a ballgame and that is the nation's capitol. I was safer in a B-29 bomber over Japan during the war in an air raid than the people of Washington are walking to the White House neighborhood. A closer example is Atlanta. The city officials fawn for political reasons over school integration and THEN build barricades to stop residential integration what hypocrisy!

Let us send this message back to Washington by our representatives who are with us today, that from this day we are standing up, and the heel of tyranny does not fit the neck of an upright man. That we intend to take the offensive and carry our fight for freedom across the nation, wielding the balance of power we know we possess in the Southland. That WE, not the insipid bloc of voters of some sections will determine in the next election who shall sit in the White House of these United States. That from this day, from this hour, from this minute, we give the word of a race of honor that we will tolerate their boot in our face no longer. And let those certain judges put *that* in their opium pipes of power and smoke it for what it is worth.

Hear me, Southerners! You sons and daughters who have moved north and west throughout this nation. We call on you from your native soil to join with us in national support and vote, and we know, wherever you are away from the hearths of the Southland that you will respond, for though you may live in the farthest reaches of this vast country, your heart has never left Dixieland.

And you native sons and daughters of old New England's rock-ribbed patriotism, and you sturdy natives of the great Midwest, and you descendants of the far West flaming spirit of pioneer freedom: We invite you to come and be with us, for you are of the Southern spirit and the Southern philosophy. You are Southerners too and brothers with us in our fight.

What I have said about segregation goes double this day, and what I have said to or about some federal judges goes TRIPLE this day.

Alabama has been blessed by God as few states in this Union have been blessed. Our state owns ten percent of all the natural resources of all the states in our country. Our inland waterway system is second to none and has the potential of being the greatest waterway transport system in the entire world. We possess over thirty minerals in usable quantities, and our soil is rich and varied, suited to a wide variety of plants. Our native pine and forestry system produces timber faster than we can cut it, and yet we have only pricked the surface of the great lumber and pulp potential.

With ample rainfall and rich grasslands, our livestock industry is in the infancy of a giant future that can make us a center of the big and growing meatpacking and prepared foods marketing. We have the favorable climate, streams, woodlands, beaches, and natural beauty to make us a recreational mecca in the booming tourist and vacation industry. Nestled in the great Tennessee Valley, we possess the rocket center of the world and the keys to the space frontier.

While the trade with a developing Europe built the great port cities of the East Coast, our own fast-developing port of Mobile faces as a magnetic gateway to the great continent of South America, well over twice as large and hundreds of times richer in resources, even now awakening to the growing probes of enterprising capital with a potential of growth and wealth beyond any present dream for our port development and corresponding results throughout the connecting waterways that thread our state.

And while the manufacturing industries of free enterprise have been coming to our state in increasing numbers, attracted by our bountiful natural resources, our growing numbers of skilled workers and our favorable conditions, their present rate of settlement here can be increased from the trickle they now represent to a stream of enterprise and endeavor, capital and expansion that can join us in our work of development and enrichment of the educational futures of our children, the opportunities of our citizens and the fulfillment of our talents as God has given them to us. To realize our ambitions and to bring to fruition our dreams, we as Alabamians must

take cognizance of the world about us. We must redefine our heritage, re-school our thoughts in the lessons our forefathers knew so well, firsthand, in order to function and to grow and to prosper. We can no longer hide our head in the sand and tell ourselves that the ideology of our free fathers is not being attacked and is not being threatened by another idea, for it is. We are faced with an idea that if a centralized government assumes enough authority, enough power over its people, that it can provide a utopian life. That if given the power to dictate, to forbid, to require, to demand, to distribute, to edict and to judge what is best and enforce that will of judgment upon its citizens, it will produce only "good," and it shall be our father and our God. It is an idea of government that encourages our fears and destroys our faith, for where there is faith, there is no fear, and where there is fear, there is no faith. In encouraging our fears of economic insecurity it demands we place that economic management and control with government; in encouraging our fear of educational development it demands we place that education and the minds of our children under management and control of government, and even in feeding our fears of physical infirmities and declining years, it offers and demands to father us through it all and even into the grave. It is a government that claims to us that it is bountiful as it buys its power from us with the fruits of its rapaciousness of the wealth that free men before it have produced and builds on crumbling credit without responsibilities to the debtors, our children. It is an ideology of government erected on the encouragement of fear and fails to recognize the basic law of our fathers that governments do not produce wealth. People produce wealth free people, and those people become less free as they learn there is little reward for ambition; that it requires faith to risk, and they have none. As the government must restrict and penalize and tax incentive and endeavor and must increase its expenditures of bounties, then this government must assume more and more police powers, and we find we are become government-fearing people not God-fearing people. We find we have replaced faith with fear, and though we may give lip service to the Almighty, in reality, government has become our god. It is, therefore, a basically ungodly government and its appeal to the pseudo-intellectual and the politician is to change their status from servant of the people to master of the people, to play at being God without faith in God and without the wisdom of God. It is a system that is the very opposite of Christ, for it feeds and encourages everything degenerate and base in our people as it assumes the responsibilities that we ourselves should assume. Its pseudo-liberal spokesmen and some Harvard advocates have never examined the logic of its substitution of what it calls "human rights" for individual rights, for its propaganda play on words has appeal for the unthinking. Its logic is totally material and irresponsible as it runs the full gamut of human desires, including the theory that everyone has voting rights without the spiritual responsibility of preserving freedom. Our founding fathers recognized those rights, but only within the framework of those spiritual responsibilities. But the strong, simple faith and sane reasoning of our founding fathers has long since been forgotten as the so-called "progressives" tell us that our Constitution was written for "horse and buggy" days. So were the Ten Commandments.

Not so long ago men stood in marvel and awe at the cities, the buildings, the schools, the autobahns that the government of Hitler's Germany had built, just as centuries before they stood in wonder of Rome's building. But it could not stand, for the system that built it had rotted the souls of the builders and in turn rotted the foundation of what God meant that men should be. Today that same system on an international scale is sweeping the world. It is the "changing world" of which we are told; it is called "new" and "liberal." It is as old as the oldest dictator. It is degenerate and decadent. As the *national* racism of Hitler's Germany persecuted a *national* minority to the whim of a *national* majority, so the *international* racism of the liberals seeks to persecute the *international* white minority to the whim of the *international* colored majority so that we are footballed about according to the favor of the Afro-Asian bloc. But the Belgian survivors of the Congo cannot present their case to a war crimes commission, nor the Portuguese of Angola, nor the survivors of Castro, nor the citizens of Oxford, Mississippi.

It is this theory of international power politic that led a group of men on the Supreme Court for the first time in American history to issue an edict, based not on legal precedent, but upon a volume, the editor of which said our Constitution is outdated and must be changed and the writers of which, some had admittedly belonged to as many as half a hundred communist-front organizations. It is this theory that led this same group of men to briefly bare the ungodly core of that philosophy in forbidding little schoolchildren to say a prayer. And we find the evidence of that ungodliness even in the removal of the words "in God we trust"

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from some of our dollars, which was placed there as like evidence by our founding fathers as the faith upon which this system of government was built. It is the spirit of power thirst that caused a President in Washington to take up Caesar's pen and with one stroke of it make a law. A law which the law-making body of Congress refused to pass. A law that tells us that we can or cannot buy or sell our very homes, except by his conditions and except at HIS discretion. It is the spirit of power thirst that led the same President to launch a full offensive of twenty-five thousand troops against a university, of all places, in his own country and against his own people, when this nation maintains only six thousand troops in the beleaguered city of Berlin. We have witnessed such acts of "might makes right" over the world as men yielded to the temptation to play God, but we have never before witnessed it in America. We reject such acts as free men. We do not defy, for there is nothing to defy, since as free men we do not recognize any government right to give freedom or deny freedom. No government erected by man has that right. As Thomas Jefferson said, "The God who gave us life, gave us liberty at the same time; no King holds the right of liberty in his hands." Nor does any ruler in American government.

We intend, quite simply, to practice the free heritage as bequeathed to us as sons of free fathers. We intend to re-vitalize the truly new and progressive form of government that is less than two hundred years old, a government first founded in this nation simply and purely on faith that there is a personal God who rewards good and punishes evil, that hard work will receive its just desserts, that ambition and ingenuity and incentiveness … are admirable traits and goals that the individual is encouraged in his spiritual growth and from that growth arrives at a character that enhances his charity toward others and from that character and that charity so is influenced business and labor and farmer and government. We intend to renew our faith as God-fearing men, *not* government-fearing men nor any other kind of fearing-men. We intend to roll up our sleeves and pitch in to develop this full bounty God has given us, to live full and useful lives and in absolute freedom from all fear. Then can we enjoy the full richness of the Great American Dream.

We have placed this sign, "In God We Trust," upon our State Capitol on this Inauguration Day as physical evidence of determination to renew the faith of our fathers and to practice the free heritage they bequeathed to us. We do this with the clear and solemn knowledge that such physical evidence is evidently a direct violation of the logic of that Supreme Court in Washington, D.C., and if they or their spokesmen in this state wish to term this defiance, I say, then let them make the most of it.

This nation was never meant to be a unit of one but a united of the many. That is the exact reason our freedom-loving forefathers established the states, so as to divide the rights and powers among the states, insuring that no central power could gain master government control.

In united effort we were meant to live under this government, whether Baptist, Methodist, Presbyterian, Church of Christ, or whatever one's denomination or religious belief each respecting the others right to a separate denomination; each, by working to develop his own, enriching the total of all our lives through united effort. And so it was meant in our political lives, whether Republican, Democrat, Prohibition, or whatever political party each striving from his separate political station, [each] respecting the rights of others to be separate and work from within their political framework, and each separate political station making its contribution to our lives.

And so it was meant in our racial lives each race, within its own framework has the freedom to teach, to instruct, to develop, to ask for and receive deserved help from others of separate racial stations. This is the great freedom of our American founding fathers. But if we amalgamate into the one unit as advocated by the communist philosophers, then the enrichment of our lives, the freedom for our development, is gone forever. We become, therefore, a mongrel unit of one under a single all powerful government, and we stand for everything and for nothing.

The true brotherhood of America, of respecting the separateness of others and uniting in effort, has been so twisted and distorted from its original concept that there is a small wonder that communism is winning the world.

We invite the negro citizens of Alabama to work with us from his separate racial station, as we will work with him, to develop, to grow in individual freedom and enrichment. We want jobs and a good future for BOTH races, the tubercular and the infirm. This is the basic heritage of my religion, of which I make full practice, for we are all the handiwork of God.

But we warn those, of any group, who would follow the false doctrine of communistic amalgamation that we will not surrender our system of government, our freedom of race and religion. That freedom was won at a hard price, and if it requires a hard price to retain it, we are able and quite willing to pay it.

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The liberals' theory that poverty, discrimination and lack of opportunity is the cause of communism is a false theory. If it were true, the South would have been the biggest single communist bloc in the western hemisphere long ago. For after the great War between the States, our people faced a desolate land of burned universities, destroyed crops and homes, with manpower depleted and crippled, and even the mule, which was required to work the land, was so scarce that whole communities shared one animal to make the spring plowing. There were no government handouts, no Marshall Plan aid, no coddling to make sure that *our* people would not suffer; instead, the South was set upon by the vulturous carpetbagger and federal troops, all loyal Southerners were denied the vote at the point of bayonet, so that the infamous, illegal 14th Amendment might be passed. There was no money, no food and no hope of either. But our grandfathers bent their knee only in church and bowed their head only to God.

Not for a single instant did they ever consider the easy way of federal dictatorship and amalgamation in return for fat bellies. They fought. They dug sweet roots from the ground with their bare hands and boiled them in iron pots. They gathered poke salad from the woods and acorns from the ground. They fought. They followed no false doctrine. They knew what they wanted, and they fought for freedom! They came up from their knees in the greatest display of sheer nerve, grit and guts that has ever been set

Glossary

Anglo-Saxon	a reference to the Germanic tribes that invaded much of northern Europe early in the medieval period; often used loosely to refer to white northern Europeans
autobahns	the highway system of Germany, similar to the U.S. interstate highway system
Beat	a precinct
Berlin	the largest city in Germany, which, at the time, was surrounded by Communist East Germany and was itself divided into democratic West Berlin and Communist East Berlin
Caesar	Julius Caesar, an ancient Roman emperor whose name is often used as a figure of speech for a temporal ruler
carpetbagger	northerners who traveled to the South (often with their belongings packed in a type of suitcase called a carpetbag) seeking political or economic advantage
Dixieland	the American South, especially the Confederacy during the Civil War; the origins of the nickname are obscure
General Robert E. Lee	the commander of Confederate forces during the Civil War
"The God who gave us life …"	quotation from Thomas Jefferson's "A Summary View of the Rights of British America"
Jefferson Davis	the president of the Confederate States of America during the Civil War
Marshall Plan	a program that provided economic aid to the nations of Europe to rebuild after World War II
poke salad	a food made from boiled pokeweed leaves
Prohibition	a reference to the Prohibition Party, a minor political party whose sole goal was elimination of the consumption of alcohol
Rudyard Kipling	a British author and poet of the late nineteenth and early twentieth centuries
War between the States	the U.S. Civil War

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down in the pages of written history, and they won! The great writer Rudyard Kipling wrote of them that: "There in the Southland of the United States of America, lives the greatest fighting breed of man … in all the world!"

And that is why today, I stand ashamed of the fat, well-fed whimperers who say that it is inevitable that our cause is lost. I am ashamed *of* them, and I am ashamed *for* them. They do not represent the people of the Southland.

And may we take note of one other fact, with all the trouble with communists that some sections of this country have there are not enough native communists in the South to fill up a telephone booth, and THAT is a matter of public FBI record.

We remind all within hearing of this Southland that a *Southerner*, Peyton Randolph, presided over the Continental Congress in our nation's beginning … that a *Southerner*, Thomas Jefferson, wrote the Declaration of Independence, that a *Southerner*, George Washington, is the Father of our country … that a *Southerner*, James Madison, authored our Constitution, that a *Southerner*, George Mason, authored the Bill of Rights and it was a Southerner who said, "Give me liberty, or give me death," Patrick Henry.

Southerners played a most magnificent part in erecting this great divinely inspired system of freedom, and as God is our witnesses, Southerners will save it.

Let us, as Alabamians, grasp the hand of destiny and walk out of the shadow of fear and fill our divine destination. Let us not simply defend, but let us assume the leadership of the fight and carry our leadership across this nation. God has placed us here in this crisis. Let us not fail in this, our most historical moment.

You are here today, present in this audience, and to you over this great state, wherever you are in sound of my voice, I want to humbly and with all sincerity, thank you for your faith in me.

I promise you that I will try to make you a good governor. I promise you that, as God gives me the wisdom and the strength, I will be sincere with you. I will be honest with you.

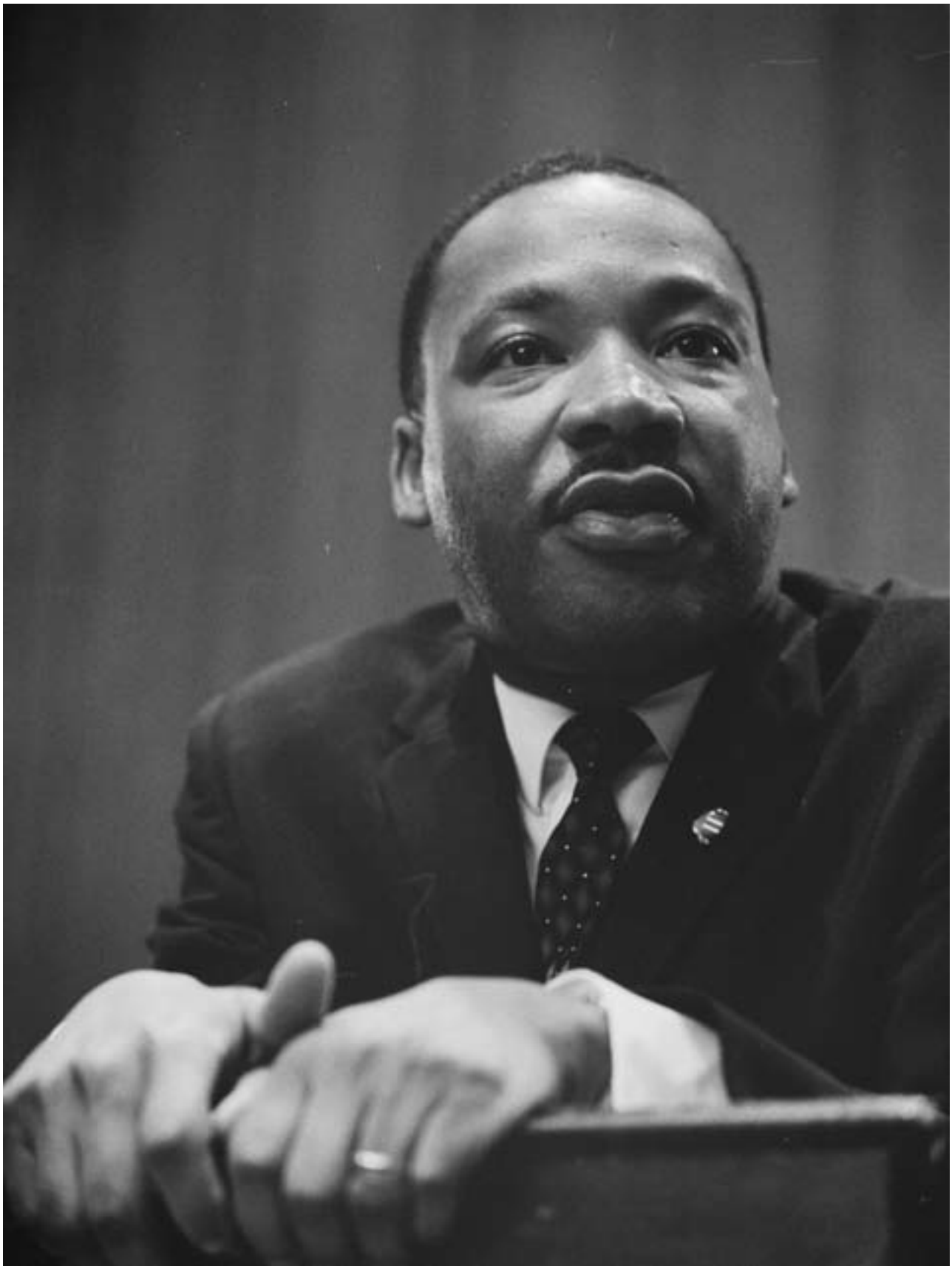
I will apply the old sound rule of our fathers, that anything worthy of our defense is worthy of one hundred percent of our defense. I have been taught that freedom meant freedom from any threat or fear of government. I was born in that freedom. I was raised in that freedom. I intend to live in that freedom. And God willing, when I die, I shall leave that freedom to my children, as my father left it to me.

My pledge to you to "Stand up for Alabama" is a stronger pledge today than it was the first day I made that pledge. I shall "Stand up for Alabama," as Governor of our State. You stand with me, and we, together, can give courageous leadership to millions of people throughout this nation who look to the South for their hope in this fight to win and preserve our freedoms and liberties.

So help me God.

And my prayer is that the Father who reigns above us will bless all the people of this great sovereign State and nation, both white and black.

I thank you.



Martin Luther King, Jr. (Library of Congress)

Martin Luther King, Jr.: "Letter from Birmingham Jail"

1963

"Injustice anywhere is a threat to justice everywhere."

Overview

In his "Letter from Birmingham Jail," Martin Luther King, Jr., delivered an important statement on civil rights and civil disobedience. The 1963 racial crisis in Birmingham, Alabama, was a critical turning point in the struggle for African American civil rights. Nonviolent protestors led by King faced determined opposition from hard-core segregationists. King and his organization, the Southern Christian Leadership Conference (SCLC), needed a victory to sustain the momentum of their movement. The integration of downtown stores and lunch counters was the primary focus of SCLC's "Project C" the "C" stood for *confrontation*. Demonstrations began one day after a new city government was elected. Many observers criticized King for protesting at a time when Birmingham's race relations appeared to be moving in a more positive direction. These critics included eight prominent white clergymen who published a statement characterizing these protests as "unwise and untimely" and asking African Americans to withdraw their support from King's efforts.

The SCLC timed its campaign to coincide with the Easter shopping season. Its strategy involved using economic pressure to force white businesses to remove segregated facilities, extend more courteous treatment to African American customers, and hire black salespeople. King was arrested on Good Friday in 1963 and remained imprisoned for eight days. He used his jail time to compose a response to the clergymen. In his "Letter from Birmingham Jail," King articulated a moral and philosophical defense of his tactics and delivered a stinging rebuke to those who counseled caution on civil rights. Although King's letter was not published until after the Birmingham crisis was resolved, it is widely regarded as the most important written document of the modern civil rights movement and a classic text on civil disobedience.

Context

Birmingham had long had a reputation as one of the most racist and violent cities in the South. Starting in 1947 a series of bombings targeted the homes of African Americans who had moved into previously all-white neighborhoods. The Ku Klux Klan operated openly and was widely believed to be responsible for these attacks. When the outspoken black minister the Reverend Fred Shuttlesworth formed the Alabama Christian Movement for Human Rights to press for civil rights, the terrorists struck his home and church. Because no one was apprehended for any of the more than fifty explosions, Birmingham blacks concluded that the police were in league with the bombers. Public Safety Commissioner Eugene "Bull" Connor, an outspoken segregationist, used all resources at his disposal to preserve the Jim Crow system of laws and social practices that segregated and discriminated against African Americans.

Connor's heavy-handed methods aroused the ire of more temperate civic leaders, who hoped to create a more favorable image for their city. These leaders spearheaded an effort to oust Connor by shifting the form of city government from three commissioners to a mayor and a city council. On April 2, 1963, Birmingham voters rejected Connor and elected Albert Boutwell, a moderate segregationist, as their mayor. The losers immediately sued to prevent the new administration from taking office. For a time Birmingham had two competing city governments.

In January 1963 the SCLC decided to make Birmingham the site of its next major civil rights drive. The SCLC had suffered a serious setback the previous year in Albany, Georgia, where, despite months of nonviolent struggle and hundreds of arrests, African Americans were unable to wrest any concessions from an intransigent city government. Shuttlesworth, the most prominent Birmingham civil rights activist, assured the SCLC board that his city would be different; Connor could be counted on to react in his usual heavy-handed fashion. King also had a larger objective in mind: He hoped that by creating a crisis in Birmingham, he could force President John F. Kennedy to take much-needed action on civil rights.

After a delay in demonstrations until the Boutwell-Connor runoff election was resolved, protests began on April 3 with sit-ins and picketing at downtown department stores. On April 10, Judge W. A. Jenkins issued an injunction prohibiting King and other civil rights leaders from participating in or encouraging any civil disobedience. King decided to defy the court order, and on Good Friday

Time Line

1963

- **January 10**
  The Southern Christian Leadership Conference targets Birmingham for civil rights demonstrations during the pre-Easter shopping season.
- **April 2**
  Albert Boutwell defeats Eugene "Bull" Connor in a runoff election for mayor of Birmingham.
- **April 3**
  Birmingham demonstrations begin.
- **April 12**
  Martin Luther King, Jr., is arrested, refuses bail, and is placed in solitary confinement; "A Call for Unity" by eight Birmingham clergymen appears in the *Birmingham News*.
- **April 16**
  The text of "Letter from Birmingham Jail" is smuggled out of jail.
- **April 20**
  King is released from jail.
- **May 3**
  Connor orders fire hoses and police dogs to be turned on young demonstrators. Television coverage creates a groundswell of support for King's movement.
- **May 9**
  King announces an agreement with Birmingham business leaders to desegregate their establishments, ending the demonstrations.
- **May 28**
  "Letter from Birmingham Jail" is published by the American Friends Service Committee.
- **June 11**
  President John F. Kennedy proposes a comprehensive civil rights bill.
- **August 28**
  King delivers his "I Have a Dream" Speech at the March on Washington for Jobs and Freedom.

(April 12) he, the Reverend Ralph Abernathy, and more than fifty other demonstrators were arrested. They were taken to the Birmingham City Jail, where King was placed in solitary confinement.

On April 12 a statement by eight white clergymen a rabbi, a Catholic bishop, and six prominent Protestant leaders appeared in the *Birmingham News* under the title "A Call for Unity." They characterized the demonstrations as "unwise and untimely" and claimed that the protests were likely to "incite to hatred and violence." The authors praised the Birmingham media and police for the "calm manner" in which they handled the civil rights forces and urged blacks to withdraw their support from King's efforts. They implied that King should return to Atlanta and allow local residents to resolve their differences without outside interference.

King probably read the churchmen's declaration in a newspaper smuggled into his cell. Taylor Branch, author of *Parting the Waters: America in the King Years, 1954 63*, credits Harvey Shapiro, an editor for the *New York Times Magazine*, for planting the idea that King write a letter from prison during the Albany campaign. That message never materialized, but now King realized the time was right. Almost immediately he began formulating a response. When King's lawyer, Clarence Jones, visited him on April 16, the jailed civil rights leader handed Jones the newspaper with his notes scribbled in the margins. S. Jonathan Bass, author of *Blessed Are the Peacemakers: Martin Luther King, Jr., Eight White Religious Leaders, and the "Letter from Birmingham Jail,"* describes what happened next. The Reverend Wyatt T. Walker, SCLC executive director, deciphered King's "chicken scratch" handwriting and dictated to his secretary, Willie Pearl Mackey, who typed the first rough copy. Lawyers returned the draft to King, who continued writing on scraps of paper provided by a black jail trustee. When he was released from jail on April 20, the bulk of the letter was composed, but King, according to Bass, "continued writing, editing, and revising drafts several days after the date on the manuscript."

The SCLC sent the letter to national media in early May, but there was little immediate reaction. The *New York Post* printed excerpts in its May 19 edition. The American Friends Service Committee published the full text of the letter as a pamphlet on May 28. It subsequently appeared in *Christian Century*, the *New Leader*, *Atlantic Monthly*, and *Ebony*. A slightly revised version was included in King's 1964 book *Why We Can't Wait*.

About the Author

Martin Luther King, Jr., was the preeminent leader of the modern civil rights movement. His philosophy of nonviolent direct action and inspirational oratory helped overthrow the Jim Crow system of racial segregation and win greater rights for African Americans.

King was born in Atlanta, Georgia, on January 15, 1929, the son, grandson, and great-grandson of Baptist ministers. He was educated at Morehouse College and Crozier Theo-

logical Seminary. He studied philosophy at Boston University, receiving his doctorate in 1955.

In 1953 he married Coretta Scott, and together they had four children. Also in 1953 he accepted the pastorate of Dexter Avenue Baptist Church in Montgomery, Alabama. After Rosa Parks was arrested on December 1, 1955, for refusing to give up her bus seat to a white passenger, King was persuaded to head the Montgomery Improvement Association, an organization formed to coordinate the 381-day boycott of city buses. King's successful leadership of the boycott and his application of Gandhian nonviolence to civil rights issues thrust him into national prominence.

King and other African American ministers formed the SCLC in 1957 to expand the struggle against racial segregation in the South. In 1962 King and the SCLC suffered a major defeat in Albany, Georgia, where months of demonstrations had failed to desegregate any public facilities. Mass protests in Birmingham produced a more successful outcome. In response to growing pressure for legislative action, President John F. Kennedy introduced a comprehensive civil rights bill. On August 28, 1963, King delivered his "I Have a Dream" Speech before two hundred and fifty thousand people assembled for the March on Washington. He was named *Time* magazine's "Man of the Year" for 1963 and was awarded the Nobel Peace Prize in 1964.

King and the SCLC focused on voting rights in 1965. Selma, Alabama, was targeted for demonstrations because of white authorities' determined opposition to African American voter registration. A vicious attack by Alabama state troopers on nonviolent protesters drew national attention. King then led marchers from Selma to Montgomery to press for national voting rights legislation. President Lyndon B. Johnson responded by sponsoring the Voting Rights Act, which became law that summer. In subsequent years King extended his crusade beyond the South, tackling slum housing in Chicago in 1966, declaring his opposition to the Vietnam War in 1967, and calling for a Poor People's Campaign for economic justice in 1968. King was assassinated in Memphis, Tennessee, on April 4, 1968, while supporting a strike by sanitation workers. In 1983 Congress declared King's birthday a national holiday.

Time Line

1963

- **September 15**
  Birmingham's 16th Street Baptist Church is bombed, killing four young girls attending Sunday school.

1964

- **July 2**
  President Lyndon B. Johnson signs the Civil Rights Act of 1964.
- **December 10**
  King is awarded the Nobel Peace Prize in Oslo, Norway.

1968

- **April 4**
  King is assassinated in Memphis, Tennessee.

1983

- **November 2**
  King's birthday is declared a national holiday.

Explanation and Analysis of the Document

King establishes a tone of rational dialogue as he begins his letter to the eight clergymen. He explains that he rarely responds to critics, but since they are "men of genuine good will" who are sincere in their criticism, he is making an exception. He hopes that they will find his remarks "patient and reasonable." Because they had questioned his presence in Birmingham, he relates that he was invited to their city by the Alabama Christian Movement for Human Rights. A more compelling reason, however, was the pervasive racial oppression in Birmingham. King compares himself to the apostle Paul, who spread the Christian faith among the Gentiles. Paul traveled more widely than any of the early Christian missionaries, preaching and establishing churches throughout Greece and Asia Minor. The "Macedonian call" mentioned in the third paragraph refers to Acts 16:9, in which a man appears to Paul in a dream, asking him to "come over into Macedonia, and help us." During his journeys Paul was persecuted for spreading unpopular beliefs and spent more than four years in prison before being executed by Roman authorities. Three of his famous epistles were written from jail. King justifies his arrest by invoking Paul's sufferings an example that the Christian ministers could appreciate. He further defends his presence in Alabama by citing the "interrelatedness of all communities." King asserts that people living outside Alabama cannot ignore blatant racism in Birmingham. Every citizen has an obligation to act against injustice wherever it may be found, King explains. Those who consider him an "outside agitator" reveal their own "narrow, provincial" outlook.

King takes the clergymen to task for their statement deploring the Birmingham demonstrations. Instead of worrying about threats to public order, they should be concerned about racism and inequality in their city the "underlying causes" that gave rise to the African American protests. Because the white leadership had been unresponsive to repeated appeals to dismantle the Jim Crow system, King contends that black citizens of Birmingham had "no alternative" other than to take to the streets.

King goes on to outline the stages of his nonviolent crusade. Fact finding was the first phase. Among the damaging information uncovered were Birmingham's long history of unpunished attacks on its black citizens

and the failure of city fathers to negotiate in good faith with civil rights advocates. King reminds the clergymen that Birmingham merchants had not honored an earlier agreement to remove Jim Crow signs from their stores. African American activists also were mindful of the need to defeat Connor and thus delayed their demonstrations until the conclusion of the runoff election. Now the merchants must deal with the economic consequences of protests timed to coincide with the Easter shopping season. These actions were not irresponsible, King insists. Rather, black leaders exercised great restraint in the face of numerous provocations.

The second stage was negotiation. The clergymen had criticized King for resorting to confrontation instead of negotiating to achieve his goals. King claims that he, too, desires negotiation but explains that sometimes pressure must be applied to bring reluctant parties to the bargaining table. Rather than avoiding conflict and tension, he freely admits his intention to create a crisis in order to expose the evils of segregation. In support of his position, he cites Socrates, who maintained that mental tension stimulates intellectual growth.

The eight Birmingham clerics had claimed that the Birmingham demonstrations were "untimely." They were not the only observers voicing this objection. Attorney General Robert Kennedy and the *Washington Post*, among others, had complained that the new Boutwell administration should be given a chance to show that it was more open to change than the outgoing Connor regime. King rejects this reasoning. He maintains that those in positions of power cannot be expected to surrender their privileges voluntarily; they must be persuaded forcefully to do the right thing. In this assertion, he echoes the words of the great abolitionist Frederick Douglass, who said, "Power concedes nothing without a demand. It never did and it never will." He also cites the Protestant theologian Reinhold Niebuhr to support his contention that change is more difficult for groups than for individuals.

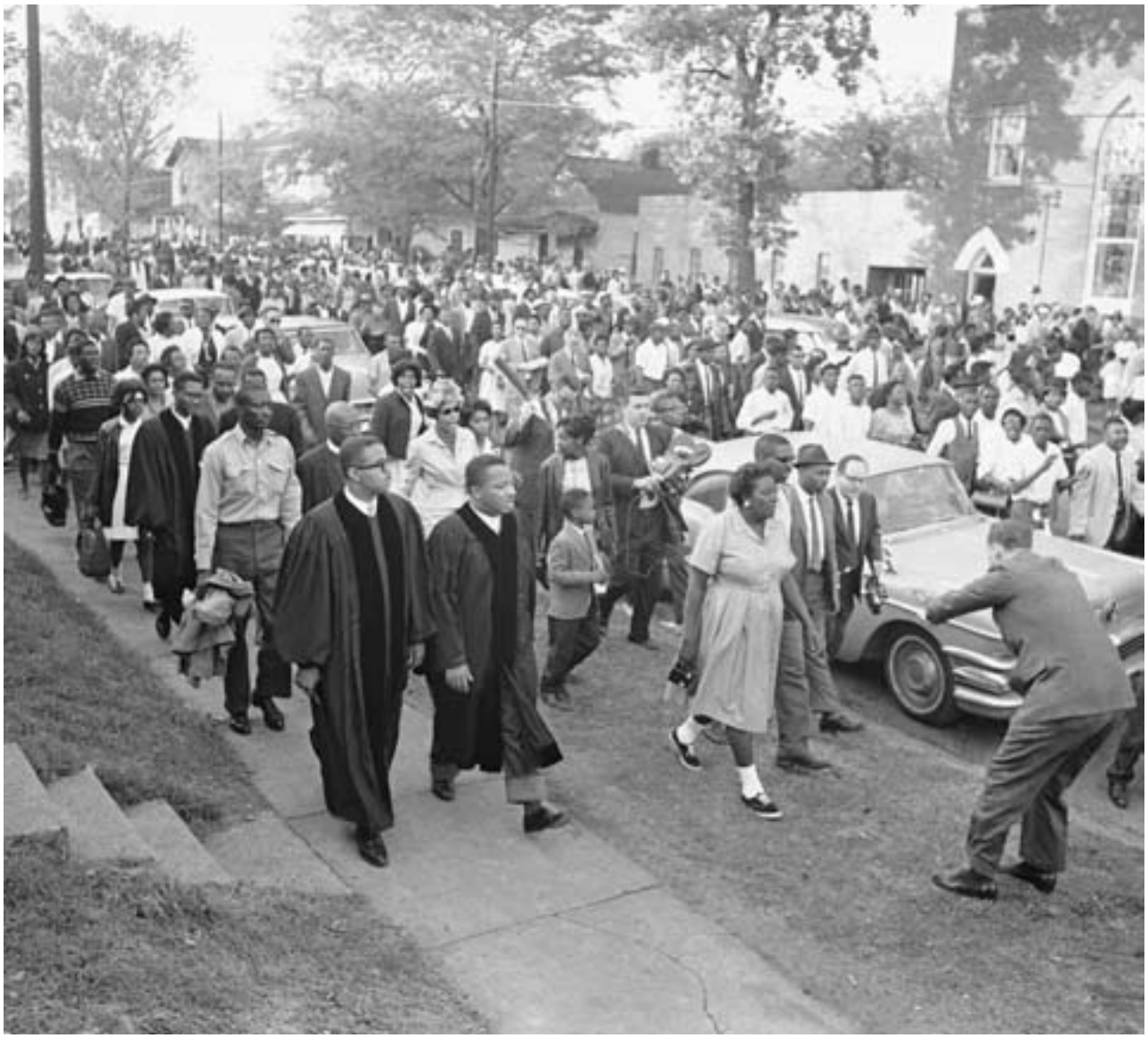
King points out that any action disrupting the status quo is likely to be considered poorly timed by those who are comfortable with existing arrangements. For those suffering from oppression, however, change cannot come soon enough. He then launches into an eloquent defense of his movement by concentrating on the word *wait*. Whites who counsel patience in the quest for civil rights, he asserts, have not personally experienced the harsh sting of discrimination. King explains why he and other African Americans are unwilling to slow the pace of their crusade. He quotes the nineteenth-century British jurist and prime minister William Gladstone, saying that "'justice … delayed is justice denied.'" To drive home the devastating impact of segregation, he recites a weary litany of potent examples of the injuries inflicted by racism. These range from lynch mobs to whites' refusal to use courtesy titles when addressing African Americans. Perhaps the most poignant is the plight of a black father who must explain to his young daughter why she cannot attend the amusement park she has seen advertised on television. One wonders whether this girl is one of King's own children. At the conclusion of this powerful passage, he pleads with the clergymen to understand the "legitimate and unavoidable impatience" felt by African Americans.

King next addresses the most difficult question raised by the Birmingham clergymen: How can he encourage his followers to violate some laws and at the same time urge whites to observe such legal decisions as *Brown v. Board of Education*? Here he draws on the concept of "natural law" developed by Saint Thomas Aquinas and other Catholic philosophers. A man-made law is just if it accords with the divinely established code to uplift the human spirit. All such laws should be obeyed. King cites the Jewish philosopher Martin Buber and the Protestant theologian Paul Tillich to give ecumenical sanction to his contention that segregation laws are immoral and therefore should not be obeyed. Other examples of unjust laws are those applied to one group (African Americans) but not another (whites) and laws adopted by legislatures, such as Alabama's, that exclude participation by large numbers of their citizens. Laws also may be unjust if used to deprive citizens of their constitutionally guaranteed rights.

King maintains that those who advocate civil disobedience do not contribute to anarchy. In the tradition of Henry David Thoreau and Mahatma Gandhi, he asserts that those who violate unjust laws must do so "openly, lovingly, and with a willingness to accept the penalty." Rather than expressing defiance, the protestor shows respect for the law by acting to remove injustice from a community. King cites several well-known examples of civil disobedience of which the eight clergymen would most certainly approve. These include the biblical story from the book of Daniel in which Shadrach, Meshach, and Abednego are cast into a fiery furnace for refusing to worship the golden idol erected by the Babylonian king Nebuchadnezzar. King contends that in the modern era religious people have a moral duty to confront Hitler's anti-Semitic codes and the atheistic decrees of Communist regimes.

The longest section of the letter addresses the role of the white moderate in the struggle for civil rights. King hits hard at the clergymen who objected to the Birmingham demonstrations, expressing his frustration with liberals who claimed to support the goal of equal rights while objecting to the methods of the movement. He accuses them of being almost as harmful as members of the Ku Klux Klan or the White Citizens' Council, a supremacist organization. The main reason for King's impatience is the moderates' frequently expressed insistence that change must be peaceful and orderly. These critics of the movement fail to understand the true source of the conflicts that surface during civil rights protests. These conflicts are not caused by those participating in civil disobedience; rather, the demonstrations bring to the surface long-standing community tensions. If they are to be resolved, they must first be exposed to public scrutiny.

Many detractors also denounced civil rights activists for precipitating violence from those opposed to integration. King has no patience with this line of reasoning. Accusing nonviolent demonstrators of causing violence is a classic



Two robed ministers lead a line of protesters in a racial demonstration in Birmingham, Alabama, April 14, 1963.
(AP/Wide World Photos)

example of blaming the victim. According to King, these critics suffer from distorted vision; they should defend those being attacked and condemn their attackers.

White moderates frequently argued that civil rights advocates like King were pressing too hard to transform southern society. If only African Americans could be more patient, they insisted, change would come in time. King forcefully rebuts this argument. Time is neutral, King insists; it can be used for good or evil. There is nothing inevitable about progress; the passage of time does not guarantee the solution of social problems. People of goodwill cannot afford to be silent in the face of injustice; they must "use time creatively" to realize "the promise of democracy."

The eight clergymen had described the Birmingham protestors as extremists. King at first repudiates this label. Rather than viewing himself as an extremist, he claims that he is a moderate caught between Uncle Toms who have acquiesced to segregation and the Black Muslims who charge that the white man is "the devil." In this context, the true extremists are those advocating separation from American society. Believers in nonviolent, direct action seek inclusion in the larger community, not its destruction. To call them extremists is an error. King even argues that demonstrations against segregation have therapeutic value. They allow African Americans to release their many "pent-up resentments and latent frustrations." Whites should not see them as a threat to the status quo but as a creative alternative to mass violence.

After considering the extremist label, however, King reverses course and embraces it. "Was not Jesus an extrem-

ist?" he asks. He then recites a long list of heroic figures who could be considered extremists: the Old Testament prophet Amos; the New Testament evangelist Paul; the Christian reformer Martin Luther; the English preacher and writer John Bunyan; Abraham Lincoln, who ended slavery; and Thomas Jefferson, author of the Declaration of Independence. All of these men were seen as extremists in their time. King implies that the United States needs more visionaries of this sort.

Although King harshly criticizes those moderates who had failed to defend the civil rights movement, he praises a handful of southern whites who risked persecution and ostracism by their public support of the movement. These people include the Atlanta editor Ralph McGill, the Georgia novelist Lillian Smith, the North Carolina writer Harry Golden, the South Carolina author James McBride Dabbs, the Alabama journalist Anne Braden, and Sarah Patton Boyle, who advocated racial integration in Virginia schools.

King then launches a sustained critique of established religion in the South. He acknowledges a few instances of courageous action by white churches, but these are "notable exceptions." During the Montgomery bus boycott, for example, the leaders of white congregations remained silent or actively opposed the protest. The same was true in Birmingham, where King's organization reached out to white denominations but was consistently rebuffed. King scorns the view that religion should focus solely on the hereafter and avoid involvement in social issues. He squarely embraces the Social Gospel tradition that calls upon Christians to work for the welfare of their fellow humans. The South was known for its strong religious institutions, yet King notes the ironic correlation of high rates of church membership and the popularity of racist governors, like Mississippi's Ross Barnett and Alabama's George Wallace. As the scion of a long line of Baptist ministers, King confesses his love of the church and, at the same time, his deep disappointment in it. He calls upon his white brethren to emulate early Christians who were not afraid to become "disturbers of the peace" while following their divine calling. A few members of the clergy had joined the movement in confronting segregation in the South, but not nearly enough. Nevertheless, despite the opposition of organized religion, King expresses confidence that the movement he leads eventually will be victorious because both the principles of American democracy and the "eternal will of God" require it.

King's final paragraphs dwell on the clergymen's ironic praise of the Birmingham police force for keeping order during the demonstrations. Three weeks after their statement was published, Connor ordered his men to turn police dogs and fire hoses on peaceful demonstrators, revealing to the world the lengths to which Alabama segregationists were willing to go in defense of the Jim Crow system. King points out that the police may have been restrained in public but were harsh in their treatment of jailed activists. He faults the ministers for not praising the discipline and courage of the African American protestors, who remained nonviolent in the face of great provocation. King's clerical critics reveal their one-sided perspective when they defend the white guardians of racial privilege and consistently find fault with those who seek to change this oppressive system.

King closes his letter on a brotherly note, apologizing for the length of his missive and asking for understanding. He expresses the hope that one day they may be able to meet person to person without the antagonism and misunderstanding that currently surround them.

Audience

Although the "Letter from Birmingham Jail" was nominally addressed to the eight white clergymen who had publicly urged African Americans to curtail their Birmingham demonstrations, King had a much wider audience in mind; his letter was produced for national consumption. Specifically, his letter was intended to answer his critics, especially white liberals who questioned the timing of his decision to initiate sit-ins, pickets, and marches following the electoral defeat of Connor. More generally, King hoped to explain the religious and philosophical foundations of nonviolent, direct action to all who shared his Judeo-Christian beliefs.

Impact

King's "Letter from Birmingham Jail" had no direct effect on his Birmingham campaign, since most issues were resolved prior to its publication. The eight white clergymen felt that King had singled them out unfairly. For the rest of their lives they would be known as the men who publicly chastised King. As the letter reached a larger audience, support for civil rights legislation began to swell. Liberal white religious organizations, especially the National Council of Churches, responded by unequivocally endorsing the movement's goals. Religious groups played a critical role in lobbying Congress on behalf of the 1964 Civil Rights Act. When King called upon church leaders to join him for the 1965 march from Selma to Montgomery, hundreds of ministers, rabbis, priests, and nuns came to Alabama to participate in the protest. Their consciences no doubt had been pricked by King's letter.

King's "Letter from Birmingham Jail" has been hailed as the most important written document of the modern civil rights struggle. In it King set forth in prophetic language the aspirations of African Americans to be accepted as human beings entitled to the same respect and rights as other Americans. He articulated the objectives of his movement and offered an eloquent defense of civil disobedience and nonviolent, direct action. His letter has been included in anthologies alongside the classic works of Thoreau and Gandhi. King's words and example have inspired people fighting for freedom around the world, from workers in Poland's Solidarity movement to Chinese students in Beijing's Tiananmen Square.

See also Martin Luther King, Jr.: "I Have a Dream" (1963); John F. Kennedy's Civil Rights Address (1963).

Essential Quotes

"Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly."

(Paragraph 4)

"Nonviolent direct action seeks to create such a crisis and foster such a tension that a community that has constantly refused to negotiate is forced to confront the issue. It seeks to so dramatize the issue that it can no longer be ignored."

(Paragraph 10)

"We have not made a single gain in civil rights without determined legal and nonviolent pressure. Lamentably, it is an historical fact that privileged groups seldom give up their privileges voluntarily."

(Paragraph 12)

"We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed. Frankly, I have yet to engage in a direct-action campaign that was 'well timed' in the view of those who have not suffered unduly from the disease of segregation. For years now I have heard the word 'Wait!' It rings in the ear of every Negro with piercing familiarity. This 'Wait' has almost always meant 'Never.'"

(Paragraph 13)

"One who breaks an unjust law must do so openly, lovingly, and with a willingness to accept the penalty. I submit that an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law."

(Paragraph 20)

"I must confess that over the past few years I have been gravely disappointed with the white moderate … who is more devoted to 'order' than to justice."

(Paragraph 23)

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Paul T. Murray

Questions for Further Study

1. King argues that a person is justified in breaking unjust laws, but how does one distinguish between just and unjust laws? What are some examples of unjust laws in contemporary society?

2. In Birmingham nonviolent demonstrators repeatedly confronted the police, who eventually responded with police dogs and fire hoses. In this case, were the demonstrators guilty of provoking the police? To what extent, if any, were the demonstrators responsible for this violence?

3. King's critics often said that he pushed too hard for change and that he should have allowed his opponents more time to adjust to the social changes he advocated. Why did King reject these arguments? In his opinion, who should determine the timetable for social change? Why?

4. King often was accused of being an "extremist." Is this charge accurate? Why did King both reject and embrace this label?

5. In his letter, King takes white churches to task for not openly denouncing the evil of segregation, yet many ministers maintain that religious organizations should not take sides in partisan political issues. What is the proper role of the church in social issues? Should churches become involved in movements for social change? Why or why not?

Document Text

Martin Luther King, Jr.: "Letter from Birmingham Jail"

My Dear Fellow Clergymen:

While confined here in the Birmingham city jail, I came across your recent statement calling my present activities "unwise and untimely." Seldom do I pause to answer criticism of my work and ideas. If I sought to answer all the criticisms that cross my desk, my secretaries would have little time for anything other than such correspondence in the course of the day, and I would have no time for constructive work. But since I feel that you are men of genuine good will and that your criticisms are sincerely set forth, I want to try to answer your statements in what I hope will be patient and reasonable terms.

I think I should indicate why I am here In Birmingham, since you have been influenced by the view which argues against "outsiders coming in." I have the honor of serving as president of the Southern Christian Leadership Conference, an organization operating in every southern state, with headquarters in Atlanta, Georgia. We have some eighty-five affiliated organizations across the South, and one of them is the Alabama Christian Movement for Human Rights. Frequently we share staff, educational and financial resources with our affiliates. Several months ago the affiliate here in Birmingham asked us to be on call to engage in a nonviolent direct-action program if such were deemed necessary. We readily consented, and when the hour came we lived up to our promise. So I, along with several members of my staff, am here because I was invited here. I am here because I have organizational ties here.

But more basically, I am in Birmingham because injustice is here. Just as the prophets of the eighth century B.C. left their villages and carried their "thus saith the Lord" far beyond the boundaries of their home towns, and just as the Apostle Paul left his village of Tarsus and carried the gospel of Jesus Christ to the far corners of the Greco-Roman world, so am I compelled to carry the gospel of freedom beyond my own home town. Like Paul, I must constantly respond to the Macedonian call for aid.

Moreover, I am cognizant of the interrelatedness of all communities and states. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly. Never again can we afford to live with the narrow, provincial "outside agitator" idea. Anyone who lives inside the United States can never be considered an outsider anywhere within its bounds.

You deplore the demonstrations taking place in Birmingham. But your statement, I am sorry to say, fails to express a similar concern for the conditions that brought about the demonstrations. I am sure that none of you would want to rest content with the superficial kind of social analysis that deals merely with effects and does not grapple with underlying causes. It is unfortunate that demonstrations are taking place in Birmingham, but it is even more unfortunate that the city's white power structure left the Negro community with no alternative.

In any nonviolent campaign there are four basic steps: collection of the facts to determine whether injustices exist; negotiation; self-purification; and direct action. We have gone through all these steps in Birmingham. There can be no gainsaying the fact that racial injustice engulfs this community. Birmingham is probably the most thoroughly segregated city in the United States. Its ugly record of brutality is widely known. Negroes have experienced grossly unjust treatment in the courts. There have been more unsolved bombings of Negro homes and churches in Birmingham than in any other city in the nation. These are the hard, brutal facts of the case. On the basis of these conditions, Negro leaders sought to negotiate with the city fathers. But the latter consistently refused to engage in good-faith negotiation

Then, last September, came the opportunity to talk with leaders of Birmingham's economic community. In the course of the negotiations, certain promises were made by the merchants for example, to remove the stores' humiliating racial signs. On the basis of these promises, the Reverend Fred Shuttlesworth and the leaders of the Alabama Christian Movement for Human Rights agreed to a moratorium on all demonstrations. As the weeks and months went by, we realized that we were the victims of a broken promise. A few signs, briefly removed, returned; the others remained.

Document Text

As in so many past experiences, our hopes had been blasted, and the shadow of deep disappointment settled upon us. We had no alternative except to prepare for direct action, whereby we would present our very bodies as a means of laying our case before the conscience of the local and the national community. Mindful of the difficulties involved, we decided to undertake a process of self-purification. We began a series of workshops on nonviolence, and we repeatedly asked ourselves: "Are you able to accept blows without retaliating?" "Are you able to endure the ordeal of jail?" We decided to schedule our direct-action program for the Easter season, realizing that except for Christmas, this is the main shopping period of the year. Knowing that a strong economic withdrawal program would be the by-product of direct action, we felt that this would be the best time to bring pressure to bear on the merchants for the needed change.

Then it occurred to us that Birmingham's mayoralty election was coming up in March, and we speedily decided to postpone action until after election day. When we discovered that the Commissioner of Public Safety, Eugene "Bull" Connor, had piled up enough votes to be in the run-off, we decided again to postpone action until the day after the run-off so that the demonstrations could not be used to cloud the issues. Like many others, we waited to see Mr. Connor defeated, and to this end we endured postponement after postponement. Having aided in this community need, we felt that our direct-action program could be delayed no longer.

You may well ask: "Why direct action? Why sit-ins, marches and so forth? Isn't negotiation a better path?" You are quite right in calling for negotiation. Indeed, this is the very purpose of direct action. Nonviolent direct action seeks to create such a crisis and foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored. My citing the creation of tension as part of the work of the nonviolent-resister may sound rather shocking. But I must confess that I am not afraid of the word "tension." I have earnestly opposed violent tension, but there is a type of constructive, nonviolent tension which is necessary for growth. Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the bondage of myths and half-truths to the unfettered realm of creative analysis and objective appraisal, so must we see the need for nonviolent gadflies to create the kind of tension in society that will help men rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood.

The purpose of our direct-action program is to create a situation so crisis-packed that it will inevitably open the door to negotiation. I therefore concur with you in your call for negotiation. Too long has our beloved Southland been bogged down in a tragic effort to live in monologue rather than dialogue.

One of the basic points in your statement is that the action that I and my associates have taken in Birmingham is untimely. Some have asked: "Why didn't you give the new city administration time to act?" The only answer that I can give to this query is that the new Birmingham administration must be prodded about as much as the outgoing one, before it will act. We are sadly mistaken if we feel that the election of Albert Boutwell as mayor will bring the millennium to Birmingham. While Mr. Boutwell is a much more gentle person than Mr. Connor, they are both segregationists, dedicated to maintenance of the status quo. I have hope that Mr. Boutwell will be reasonable enough to see the futility of massive resistance to desegregation. But he will not see this without pressure from devotees of civil rights. My friends, I must say to you that we have not made a single gain in civil rights without determined legal and nonviolent pressure. Lamentably, it is an historical fact that privileged groups seldom give up their privileges voluntarily. Individuals may see the moral light and voluntarily give up their unjust posture; but, as Reinhold Niebuhr has reminded us, groups tend to be more immoral than individuals.

We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed. Frankly, I have yet to engage in a direct-action campaign that was "well timed" in the view of those who have not suffered unduly from the disease of segregation. For years now I have heard the word "Wait!" It rings in the ear of every Negro with piercing familiarity. This "Wait" has almost always meant "Never." We must come to see, with one of our distinguished jurists, that "justice too long delayed is justice denied."

We have waited for more than 340 years for our constitutional and God-given rights. The nations of Asia and Africa are moving with jetlike speed toward gaining political independence, but we still creep at horse-and-buggy pace toward gaining a cup of coffee at a lunch counter. Perhaps it is easy for those who have never felt the stinging darts of segregation to say, "Wait." But when you have seen vicious mobs lynch

Document Text

your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate-filled policemen curse, kick and even kill your black brothers and sisters; when you see the vast majority of your twenty million Negro brothers smothering in an airtight cage of poverty in the midst of an affluent society; when you suddenly find your tongue twisted and your speech stammering as you seek to explain to your six-year-old daughter why she can't go to the public amusement park that has just been advertised on television, and see tears welling up in her eyes when she is told that Funtown is closed to colored children, and see ominous clouds of inferiority beginning to form in her little mental sky, and see her beginning to distort her personality by developing an unconscious bitterness toward white people; when you have to concoct an answer for a five-year-old son who is asking: "Daddy, why do white people treat colored people so mean?"; when you take a cross-county drive and find it necessary to sleep night after night in the uncomfortable corners of your automobile because no motel will accept you; when you are humiliated day in and day out by nagging signs reading "white" and "colored"; when your first name becomes "nigger," your middle name becomes "boy" (however old you are) and your last name becomes "John," and your wife and mother are never given the respected title "Mrs."; when you are harried by day and haunted by night by the fact that you are a Negro, living constantly at tiptoe stance, never quite knowing what to expect next, and are plagued with inner fears and outer resentments; when you are forever fighting a degenerating sense of "nobodiness" then you will understand why we find it difficult to wait. There comes a time when the cup of endurance runs over, and men are no longer willing to be plunged into the abyss of despair. I hope, sirs, you can understand our legitimate and unavoidable impatience.

You express a great deal of anxiety over our willingness to break laws. This is certainly a legitimate concern. Since we so diligently urge people to obey the Supreme Court's decision of 1954 outlawing segregation in the public schools, at first glance it may seem rather paradoxical for us consciously to break laws. One may well ask: "How can you advocate breaking some laws and obeying others?" The answer lies in the fact that there are two types of laws: just and unjust. I would be the first to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with St. Augustine that "an unjust law is no law at all."

Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority. Segregation, to use the terminology of the Jewish philosopher Martin Buber, substitutes an "I-it" relationship for an "I-thou" relationship and ends up relegating persons to the status of things. Hence segregation is not only politically, economically and sociologically unsound, it is morally wrong and sinful. Paul Tillich has said that sin is separation. Is not segregation an existential expression of man's tragic separation, his awful estrangement, his terrible sinfulness? Thus it is that I can urge men to obey the 1954 decision of the Supreme Court, for it is morally right; and I can urge them to disobey segregation ordinances, for they are morally wrong.

Let us consider a more concrete example of just and unjust laws. An unjust law is a code that a numerical or power majority group compels a minority group to obey but does not make binding on itself. This is *difference* made legal. By the same token, a just law is a code that a majority compels a minority to follow and that it is willing to follow itself. This is *sameness* made legal.

Let me give another explanation. A law is unjust if it is inflicted on a minority that, as a result of being denied the right to vote, had no part in enacting or devising the law. Who can say that the legislature of Alabama which set up that state's segregation laws was democratically elected? Throughout Alabama all sorts of devious methods are used to prevent Negroes from becoming registered voters, and there are some counties in which, even though Negroes constitute a majority of the population, not a single Negro is registered. Can any law enacted under such circumstances be considered democratically structured?

Sometimes a law is just on its face and unjust in its application. For instance, I have been arrested on a charge of parading without a permit. Now, there is nothing wrong in having an ordinance which requires a permit for a parade. But such an ordinance becomes unjust when it is used to maintain

segregation and to deny citizens the First-Amendment privilege of peaceful assembly and protest.

l hope you are able to see the distinction I am trying to point out. In no sense do I advocate evading or defying the law, as would the rabid segregationist. That would lead to anarchy. One who breaks an unjust law must do so openly, lovingly, and with a willingness to accept the penalty. I submit that an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law.

Of course, there is nothing new about this kind of civil disobedience. It was evidenced sublimely in the refusal of Shadrach, Meshach and Abednego to obey the laws of Nebuchadnezzar, on the ground that a higher moral law was at stake. It was practiced superbly by the early Christians, who were willing to face hungry lions and the excruciating pain of chopping blocks rather than submit to certain unjust laws of the Roman Empire. To a degree, academic freedom is a reality today because Socrates practiced civil disobedience. In our own nation, the Boston Tea Party represented a massive act of civil disobedience.

We should never forget that everything Adolf Hitler did in Germany was "legal" and everything the Hungarian freedom fighters did in Hungary was "illegal." It was "illegal" to aid and comfort a Jew in Hitler's Germany. Even so, I am sure that, had I lived in Germany at the time, I would have aided and comforted my Jewish brothers. If today I lived in a Communist country where certain principles dear to the Christian faith are suppressed, I would openly advocate disobeying that country's antireligious laws.

I must make two honest confessions to you, my Christian and Jewish brothers. First, I must confess that over the past few years I have been gravely disappointed with the white moderate. I have almost reached the regrettable conclusion that the Negro's great stumbling block in his stride toward freedom is not the White Citizens Counciler or the Ku Klux Klanner, but the white moderate, who is more devoted to "order" than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says: "I agree with you in the goal you seek, but I cannot agree with your methods of direct action"; who paternalistically believes he can set the timetable for another man's freedom; who lives by a mythical concept of time and who constantly advises the Negro to wait for a "more convenient season." Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection.

I had hoped that the white moderate would understand that law and order exist for the purpose of establishing justice and that when they fail in this purpose they become the dangerously structured dams that block the flow of social progress. I had hoped that the white moderate would understand that the present tension in the South is a necessary phase of the transition from an obnoxious negative peace, in which the Negro passively accepted his unjust plight, to a substantive and positive peace, in which all men will respect the dignity and worth of human personality Actually, we who engage in nonviolent direct action are not the creators of tension. We merely bring to the surface the hidden tension that is already alive. We bring it out in the open, where it can be seen and dealt with. Like a boil that can never be cured so long as it is covered up but must be opened with all its ugliness to the natural medicines of air and light, injustice must be exposed, with all the tension its exposure creates, to the light of human conscience and the air of national opinion before it can be cured.

In your statement you assert that our actions, even though peaceful, must be condemned because they precipitate violence. But is this a logical assertion? Isn't this like condemning a robbed man because his possession of money precipitated the evil act of robbery? Isn't this like condemning Socrates because his unswerving commitment to truth and his philosophical inquiries precipitated the act by the misguided populace in which they made him drink hemlock? Isn't this like condemning Jesus because his unique God-consciousness and never-ceasing devotion to God's will precipitated the evil act of crucifixion? We must come to see that, as the federal courts have consistently affirmed, it is wrong to urge an individual to cease his efforts to gain his basic constitutional rights because the quest may precipitate violence. Society must protect the robbed and punish the robber.

I had also hoped that the white moderate would reject the myth concerning time in relation to the struggle for freedom. I have just received a letter from a white brother in Texas. He writes: "All Christians know that the colored people will receive equal rights eventually, but it is possible that you are in too great a religious hurry. It has taken Christianity almost two thousand years to accomplish what it has. The teach-

Document Text

ings of Christ take time to come to earth." Such an attitude stems from a tragic misconception of time, from the strangely irrational notion that there is something in the very flow of time that will inevitably cure all ills. Actually, time itself is neutral; it can be used either destructively or constructively. More and more I feel that the people of ill will have used time much more effectively than have the people of good will. We will have to repent in this generation not merely for the hateful words and actions of the bad people but for the appalling silence of the good people. Human progress never rolls in on wheels of inevitability; it comes through the tireless efforts of men willing to be co-workers with God, and without this hard work, time itself becomes an ally of the forces of social stagnation. We must use time creatively, in the knowledge that the time is always ripe to do right. Now is the time to make real the promise of democracy and transform our pending national elegy into a creative psalm of brotherhood. Now is the time to lift our national policy from the quicksand of racial injustice to the solid rock of human dignity.

You speak of our activity in Birmingham as extreme At first I was rather disappointed that fellow clergymen would see my nonviolent efforts as those of an extremist. I began thinking about the fact that I stand in the middle of two opposing forces in the Negro community. One is a force of complacency, made up in part of Negroes who, as a result of long years of oppression, are so drained of self-respect and a sense of "somebodiness" that they have adjusted to segregation; and in part of a few middle-class Negroes who, because of a degree of academic and economic security and because in some ways they profit by segregation, have become insensitive to the problems of the masses. The other force is one of bitterness and hatred, and it comes perilously close to advocating violence. It is expressed in the various black nationalist groups that are springing up across the nation, the largest and best-known being Elijah Muhammad's Muslim movement. Nourished by the Negro's frustration over the continued existence of racial discrimination, this movement is made up of people who have lost faith in America, who have absolutely repudiated Christianity, and who have concluded that the white man is an incorrigible "devil."

I have tried to stand between these two forces, saying that we need emulate neither the "do-nothingism" of the complacent nor the hatred and despair of the black nationalist. For there is the more excellent way of love and nonviolent protest I am grateful to God that, through the influence of the Negro church, the way of nonviolence became an integral part of our struggle.

If this philosophy had not emerged, by now many streets of the South would, I am convinced, be flowing with blood. And I am further convinced that if our white brothers dismiss as "rabble-rousers" and "outside agitators" those of us who employ nonviolent direct action, and if they refuse to support our nonviolent efforts, millions of Negroes will, out of frustration and despair, seek solace and security in black-nationalist ideologies a development that would inevitably lead to a frightening racial nightmare.

Oppressed people cannot remain oppressed forever. The yearning for freedom eventually manifests itself, and that is what has happened to the American Negro. Something within has reminded him of his birthright of freedom, and something without has reminded him that it can be gained. Consciously or unconsciously, he has been caught up by the Zeitgeist and with his black brothers of Africa and his brown and yellow brothers of Asia, South America and the Caribbean, the United States Negro is moving with a sense of great urgency toward the promised land of racial justice. If one recognizes this vital urge that has engulfed the Negro community, one should readily understand why public demonstrations are taking place. The Negro has many pent-up resentments and latent frustrations, and he must release them. So let him march; let him make prayer pilgrimages to the city hall; let him go on freedom rides and try to understand why he must do so. If his repressed emotions are not released in nonviolent ways, they will seek expression through violence; this is not a threat but a fact of history. So I have not said to my people: "Get rid of your discontent." Rather, I have tried to say that this normal and healthy discontent can be channeled into the creative outlet of nonviolent direct action. And now this approach is being termed extremist.

But though I was initially disappointed at being categorized as an extremist, as I continued to think about the matter I gradually gained a measure of satisfaction from the label. Was not Jesus an extremist for love: "Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you." Was not Amos an extremist for justice: "Let justice roll down like waters and righteousness like an everflowing stream." Was not Paul an extremist for the Christian gospel: "I bear in my body the marks of the Lord Jesus." Was not Martin Luther an extremist: "Here I stand; I cannot do otherwise, so help me God." And John Bunyan: "I will stay in jail to the end

of my days before I make a butchery of my conscience." And Abraham Lincoln: "This nation cannot survive half slave and half free." And Thomas Jefferson: "We hold these truths to be self-evident, that all men are created equal..." So the question is not whether we will be extremists, but what kind of extremists we will be. Will we be extremists for hate or for love? Will we be extremist for the preservation of injustice or for the extension of justice? In that dramatic scene on Calvary's hill three men were crucified. We must never forget that all three were crucified for the same crime the crime of extremism. Two were extremists for immorality, and thus fell below their environment. The other, Jesus Christ, was an extremist for love, truth and goodness, and thereby rose above his environment. Perhaps the South, the nation and the world are in dire need of creative extremists.

I had hoped that the white moderate would see this need. Perhaps I was too optimistic; perhaps I expected too much. I suppose I should have realized that few members of the oppressor race can understand the deep groans and passionate yearnings of the oppressed race, and still fewer have the vision to see that injustice must be rooted out by strong, persistent and determined action. I am thankful, however, that some of our white brothers in the South have grasped the meaning of this social revolution and committed themselves to it. They are still too few in quantity, but they are big in quality. Some such as Ralph McGill, Lillian Smith, Harry Golden, James McBride Dabbs, Ann Braden and Sarah Patton Boyle have written about our struggle in eloquent and prophetic terms. Others have marched with us down nameless streets of the South. They have languished in filthy, roach-infested jails, suffering the abuse and brutality of policemen who view them as "dirty nigger-lovers" Unlike so many of their moderate brothers and sisters, they have recognized the urgency of the moment and sensed the need for powerful "action" antidotes to combat the disease of segregation.

Let me take note of my other major disappointment. I have been so greatly disappointed with the white church and its leadership. Of course, there are some notable exceptions. I am not unmindful of the fact that each of you has taken some significant stands on this issue. I commend you, Reverend Stallings, for your Christian stand on this past Sunday, in welcoming Negroes to your worship service on a nonsegregated basis. I commend the Catholic leaders of this state for integrating Spring Hill College several years ago.

But despite these notable exceptions, I must honestly reiterate that I have been disappointed with the church. I do not say this as one of those negative critics who can always find something wrong with the church. I say this as a minister of the gospel, who loves the church; who was nurtured in its bosom; who has been sustained by its spiritual blessings and who will remain true to it as long as the cord of life shall lengthen.

When I was suddenly catapulted into the leadership of the bus protest in Montgomery, Alabama, a few years ago, I felt we would be supported by the white church. I felt that the white ministers, priests and rabbis of the South would be among our strongest allies. Instead, some have been outright opponents, refusing to understand the freedom movement and misrepresenting its leaders; all too many others have been more cautious than courageous and have remained silent behind the anesthetizing security of stained-glass windows.

In spite of my shattered dreams, I came to Birmingham with the hope that the white religious leadership of this community would see the justice of our cause and, with deep moral concern, would serve as the channel through which our just grievances could reach the power structure. I had hoped that each of you would understand. But again I have been disappointed.

I have heard numerous southern religious leaders admonish their worshipers to comply with a desegregation decision because it is the law, but I have longed to hear white ministers declare: "Follow this decree because integration is morally right and because the Negro is your brother." In the midst of blatant injustices inflicted upon the Negro, I have watched white churchmen stand on the sideline and mouth pious irrelevancies and sanctimonious trivialities. In the midst of a mighty struggle to rid our nation of racial and economic injustice, I have heard many ministers say: "Those are social issues, with which the gospel has no real concern." And I have watched many churches commit themselves to a completely other-worldly religion which makes a strange, un-Biblical distinction between body and soul, between the sacred and the secular.

I have traveled the length and breadth of Alabama, Mississippi and all the other southern states. On sweltering summer days and crisp autumn mornings I have looked at the South's beautiful churches with their lofty spires pointing heavenward. I have beheld the impressive outlines of her massive religious-education buildings. Over and over I have found myself asking: "What kind of people worship

Document Text

here? Who is their God? Where were their voices when the lips of Governor Barnett dripped with words of interposition and nullification? Where were they when Governor Wallace gave a clarion call for defiance and hatred? Where were their voices of support when bruised and weary Negro men and women decided to rise from the dark dungeons of complacency to the bright hills of creative protest?"

Yes these questions are still in my mind. In deep disappointment I have wept over the laxity of the church. But be assured that my tears have been tears of love. There can be no deep disappointment where there is not deep love. Yes, I love the church. How could I do otherwise? I am in the rather unique position of being the son, the grandson and the great-grandson of preachers. Yes, I see the church as the body of Christ. But oh! How we have blemished and scarred that body through social neglect and through fear of being nonconformists.

There was a time when the church was very powerful in the time when the early Christians rejoiced at being deemed worthy to suffer for what they believed. In those days the church was not merely a thermometer that recorded the ideas and principles of popular opinion; it was a thermostat that transformed the mores of society. Whenever the early Christians entered a town, the people in power became disturbed and immediately sought to convict the Christians for being "disturbers of the peace" and "outside agitators'" But the Christians pressed on, in the conviction that they were "a colony of heaven," called to obey God rather than man. Small in number, they were big in commitment. They were too God-intoxicated to be "astronomically intimidated." By their effort and example they brought an end to such ancient evils as infanticide and gladiatorial contests.

Things are different now. So often the contemporary church is a weak, ineffectual voice with an uncertain sound. So often it is an archdefender of the status quo. Far from being disturbed by the presence of the church, the power structure of the average community is consoled by the church's silent and often even vocal sanction of things as they are.

But the judgment of God is upon the church as never before. If today's church does not recapture the sacrificial spirit of the early church, it will lose its authenticity, forfeit the loyalty of millions, and be dismissed as an irrelevant social club with no meaning for the twentieth century. Every day I meet young people whose disappointment with the church has turned into outright disgust.

Perhaps I have once again been too optimistic. Is organized religion too inextricably bound to the status quo to save our nation and the world? Perhaps I must turn my faith to the inner spiritual church, the church within the church, as the true *ekklesia* and the hope of the world. But again I am thankful to God that some noble souls from the ranks of organized religion have broken loose from the paralyzing chains of conformity and joined us as active partners in the struggle for freedom. They have left their secure congregations and walked the streets of Albany, Georgia, with us. They have gone down the highways of the South on tortuous rides for freedom. Yes, they have gone to jail with us. Some have been dismissed from their churches, have lost the support of their bishops and fellow ministers. But they have acted in the faith that right defeated is stronger than evil triumphant. Their witness has been the spiritual salt that has preserved the true meaning of the gospel in these troubled times. They have carved a tunnel of hope through the dark mountain of disappointment.

I hope the church as a whole will meet the challenge of this decisive hour. But even if the church does not come to the aid of justice, I have no despair about the future. I have no fear about the outcome of our struggle in Birmingham, even if our motives are at present misunderstood. We will reach the goal of freedom in Birmingham and all over the nation, because the goal of America is freedom. Abused and scorned though we may be, our destiny is tied up with America's destiny. Before the pilgrims landed at Plymouth, we were here. Before the pen of Jefferson etched the majestic words of the Declaration of Independence across the pages of history, we were here. For more than two centuries our forebears labored in this country without wages; they made cotton king; they built the homes of their masters while suffering gross injustice and shameful humiliation and yet out of a bottomless vitality they continued to thrive and develop. If the inexpressible cruelties of slavery could not stop us, the opposition we now face will surely fail. We will win our freedom because the sacred heritage of our nation and the eternal will of God are embodied in our echoing demands.

Before closing I feel impelled to mention one other point in your statement that has troubled me profoundly. You warmly commended the Birmingham police force for keeping "order" and "preventing violence." I doubt that you would have so warmly commended the police force if you had seen its dogs sinking their teeth into unarmed, nonviolent Negroes. I doubt that you would so quickly com-

Document Text

mend the policemen if you were to observe their ugly and inhumane treatment of Negroes here in the city jail; if you were to watch them push and curse old Negro women and young Negro girls; if you were to see them slap and kick old Negro men and young boys; if you were to observe them, as they did on two occasions, refuse to give us food because we wanted to sing our grace together. I cannot join you in your praise of the Birmingham police department.

It is true that the police have exercised a degree of discipline in handling the demonstrators. In this sense they have conducted themselves rather "nonviolently" in public. But for what purpose? To preserve the evil system of segregation. Over the past few years I have consistently preached that nonviolence demands that the means we use must be as pure as the ends we seek. I have tried to make clear that it is wrong to use immoral means to attain moral ends. But now I must affirm that it is just as wrong, or perhaps even more so, to use moral means to preserve immoral ends. Perhaps Mr. Connor and his policemen have been rather nonviolent in public, as was Chief Pritchett in Albany, Georgia, but they have used the moral means of nonviolence to maintain the immoral end of racial injustice. As T. S. Eliot has said: "The last temptation is the greatest treason: To do the right deed for the wrong reason."

I wish you had commended the Negro sit-inners and demonstrators of Birmingham for their sublime courage, their willingness to suffer and their amazing discipline in the midst of great provocation. One day the South will recognize its real heroes. They will be the James Merediths, with the noble sense of purpose that enables them to face jeering, and hostile mobs, and with the agonizing loneliness that characterizes the life of the pioneer. They will be old, oppressed, battered Negro women, symbolized in a seventy-two-year-old woman in Montgomery, Alabama, who rose up with a sense of dignity and with her people decided not to ride segregated buses, and who responded with ungrammatical profundity to one who inquired about her weariness: "My feets is tired, but my soul is at rest." They will be the young high school and college students, the young ministers of the gospel and a host of their elders, courageously and nonviolently sitting in at lunch counters and willingly going to jail for conscience' sake. One day the South will know that when these disinherited children of God sat down at lunch counters, they were in reality standing up for what is best in the American dream and for the most sacred values in our Judaeo-Christian heritage, thereby bringing our nation back to those great wells of democracy which were dug deep by the founding fathers in their formulation of the Constitution and the Declaration of Independence.

Never before have I written so long a letter. I'm afraid it is much too long to take your precious time. I can assure you that it would have been much shorter if I had been writing from a comfortable desk, but what else can one do when he is alone in a narrow jail cell, other than write long letters, think long thoughts and pray long prayers?

If I have said anything in this letter that overstates the truth and indicates an unreasonable impatience, I beg you to forgive me. If I have said anything that understates the truth and indicates my having a patience that allows me to settle for anything less than brotherhood, I beg God to forgive me.

I hope this letter finds you strong in the faith. I also hope that circumstances will soon make it possible for me to meet each of you, not as an integrationist or a civil rights leader but as a fellow clergyman and a Christian brother. Let us all hope that the dark clouds of racial prejudice will soon pass away and the deep fog of misunderstanding will be lifted

Glossary

black nationalism	the belief that blacks should live separately from whites
ekklesia	Greek term for a congregation of believers
gainsaying	contradicting
paternalistically	in a fatherly manner exercised authoritatively
sanctimonious	pretending to be pious or righteous
Zeitgeist	German term for "spirit of the times"

Document Text

from our fear-drenched communities, and in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty.

Yours for the cause of Peace and Brotherhood,
Martin Luther King, Jr.

John F. Kennedy (Library of Congress)

John F. Kennedy's Civil Rights Address

1963

"We are confronted primarily with a moral issue."

Overview

The modern American civil rights movement, which began with the Montgomery bus boycott in 1955, was aimed at regaining the ground that had been achieved in the aftermath of the Civil War, such as through the enactment of the Fourteenth and Fifteenth amendments to the U.S. Constitution and of civil rights laws in 1866 and 1875, and moving toward the complete elimination of racial inequality in all its forms. Civil rights organizations pursued a variety of tactics, including lawsuits, boycotts, lobbying, sit-ins, freedom rides, street demonstrations, and marches, in attempts to demand freedom, equality, jobs, dignity, and an end to racial segregation, disfranchisement, and second-class citizenship.

President John F. Kennedy's Civil Rights Address, delivered to the nation by radio and television, marked the first time that a president called on Americans to recognize civil rights as a lofty moral cause to which all persons should contribute, so that the nation might fully end discrimination against and provide equal treatment to African Americans. In 1963, the centennial year of President Abraham Lincoln's Emancipation Proclamation, to which Kennedy alludes in his speech, the movement led by African Americans and their allies for civil rights reached the center stage of American politics. Although Kennedy had hesitated to seek progress with regard to civil rights during his first two years in the White House because of the strength of southern Democratic opponents in Congress, he now added the moral weight of the presidency to the demand for civil rights, and he emerged as an ally of the movement. Kennedy explained the economic, educational, and moral dimensions of racial discrimination and announced that he would be submitting legislation to ensure equal access to public accommodations and to address other aspects of ongoing discrimination. On July 2, 1964, seven months after Kennedy was assassinated, the Civil Rights Act of 1964, abolishing discrimination in public accommodations, employment, and federally funded programs, became law.

Context

Two sets of events in Alabama in the spring of 1963 brought the civil rights movement a new level of public attention. Television viewers witnessed the Birmingham sheriff Eugene "Bull" Connor's use of water hoses and dogs against demonstrators as young as nine years old who were seeking equal access to public accommodations as well as Governor George Wallace's campaign pledge to "stand in the schoolhouse door" to prevent the integration of any Alabama school. On June 11, 1963, President Kennedy ended Wallace's resistance by federalizing the Alabama National Guard to support the court-mandated entry of Vivian J. Malone and James A. Hood to the University of Alabama. The determination of civil rights demonstrators, the violent and repressive actions of Alabama authorities, the solidarity protests galvanized by national civil rights organizations, and widespread public sympathy for the cause led Kennedy to take dramatic action to support civil rights.

In taking to the television and radio airwaves later that same day (June 11, 1963) to support the civil rights cause, Kennedy abandoned his previous go-slow approach to the issue. Moreover, he departed radically from the silence held by the Republican president Dwight D. Eisenhower when the Supreme Court handed down the historic 1954 *Brown v. Board of Education* decision, overturning the *Plessy v. Ferguson* separate-but-equal precedent of 1896. Kennedy's speech was momentous because he called on the nation to support civil rights as a moral cause.

About the Author

John Fitzgerald Kennedy was born in Massachusetts in 1917, the second of nine children of Joseph P. and Rose Fitzgerald Kennedy. John Kennedy's maternal grandfather had served as mayor of Boston, while his father was a successful businessperson and had served President Franklin Roosevelt as head of the Securities and Exchange Commission and then as ambassador to Great Britain. Kennedy's childhood was shaped by his family's great wealth, his parents' aloofness, attendance at boarding schools beginning in the seventh grade, and frequent illnesses. Kennedy would contend with physical pain and a variety of illnesses throughout his life.

Rose Kennedy's focus on caring for her mentally retarded daughter, Rosemary, who was one year younger than

Time Line

1954

- **May 17**
  Supreme Court decision in *Brown v. Board of Education* overturns the *Plessy v. Ferguson* separate-but-equal ruling and renews the protection of civil rights under the Fourteenth Amendment.

1955

- **December 1**
  The Montgomery bus boycott begins when Rosa Parks, an African American woman, is arrested for refusing to surrender her seat on a bus to a white person; the campaign of protest lasts until December 20, 1956.

1957

- The Southern Christian Leadership Conference, headed by Martin Luther King, Jr., is founded.

1960

- **February 1**
  The first civil rights sit-in demonstration takes place in Greensboro, North Carolina.
- **April 15–17**
  The Student Nonviolent Coordinating Committee is founded at Shaw University, in Raleigh, North Carolina.
- **December 5**
  The Supreme Court decision in *Boynton v. Virginia* bars discrimination against interstate bus passengers in station restaurants.

1961

- The Congress of Racial Equality renews Freedom Rides, a tactic previously used in 1947; Freedom Riders set out to challenge racial segregation by riding various forms of public transportation in the South to challenge local laws or customs that enforced segregation.

1962

- **November 20**
  President John F. Kennedy signs Executive Order 11063, providing for the desegregation of new federal housing.

John, led all the children to emulate their mother's example of caring. Kennedy graduated from Harvard College in 1940. Thanks to his father's prominence and the assistance of the *New York Times* columnist Arthur Krock, Kennedy succeeded in having his senior thesis published as a book, *Why England Slept*.

Kennedy and his older brother, Joseph Kennedy, Jr., both served in World War II, John as a PT boat commander; only John returned home safely. Their father had been grooming Joseph, Jr., for a political career that might culminate in the presidency. When John Kennedy decided to enter politics after a brief stint as a journalist, he received his father's financial and political backing. Kennedy was elected to the U.S. House of Representatives in 1946 and served as a member of the Committee on Education and Labor. His principal interests were foreign and defense policies. He was strongly anti-Communist and critical of the administration of Harry Truman for being insufficiently aggressive. In 1952 he won election to the U.S. Senate.

Kennedy married Jacqueline Bouvier in 1953. The couple had three children, one of whom died in infancy. Kennedy had been promiscuous prior to his marriage, and this behavior continued during the marriage and during his presidency, but in this era the press customarily declined to focus on the private lives of officeholders.

Kennedy's stance on domestic economic issues was liberal, but he failed to join in the 1954 Senate vote to censure Senator Joseph McCarthy for his tactics in pursuing what McCarthy claimed were Communist subversion and sympathizers in the U.S. government. In 1956 Kennedy gained national attention with his unsuccessful bid to win the Democratic nomination for vice president. Kennedy's second book, *Profiles in Courage*, was awarded a Pulitzer Prize in 1957. The book highlights the careers of members of Congress who took principled stands, often in opposition to what was politically prudent. In the Senate, Kennedy served on a special committee on labor and on the Foreign Relations Committee. He was elected to a second term in the Senate in 1958, won the Democratic nomination for president in 1960, and claimed a narrow victory over the Republican candidate, Vice President Richard Nixon, in the general election later that year. Civil rights became a key issue in the campaign when Martin Luther King, Jr., was sentenced to four months of hard labor on a misdemeanor traffic charge, leading some civil rights leaders to fear that King would be killed in prison. Kennedy called Coretta King, King's wife, to express his sympathy, and his brother Robert called the judge and persuaded him to release King on bail. Kennedy won 70 percent of the black vote, 30 percent higher than the Democratic percentage in the 1956 election.

As president, Kennedy initially disappointed civil rights partisans by proceeding slowly with civil rights initiatives and appointing segregationist judges in the South. Kennedy had criticized the Eisenhower administration for failing to ban discrimination in federal housing via an executive order but then delayed the issuance of his own limited executive order addressing the matter until November

1962. Kennedy thought that an assertive approach to civil rights would hurt his chances for spurring legislative action on medical insurance, federal aid to education, and other initiatives, but he failed to achieve gains in these areas even with his go-slow approach to civil rights. His main focus was on an aggressive cold war foreign policy. The failure of the Bay of Pigs invasion in Cuba (in an attempt to overthrow the Communist regime of Fidel Castro) in 1961 and the October 1962 crisis with the Soviet Union over the placement of nuclear missiles in Cuba were key events in his presidency. He was also involved in increasing the number of U.S. military advisers in South Vietnam, where the U.S.-backed government was increasingly unpopular.

In the third and last year of his presidency, Kennedy moved toward rethinking the cold war and affirmative leadership on civil rights. He negotiated the Nuclear Test Ban Treaty with the Soviet Union and Great Britain, spoke out forcefully for civil rights, and submitted a major civil rights proposal to Congress. Kennedy was a popular president, and his assassination on November 22, 1963, shocked the nation. President Lyndon B. Johnson was able to carry to fruition Kennedy's domestic civil rights program.

Time Line

1963

- **June 11**
  Kennedy federalizes the Alabama National Guard to prevent Alabama governor George Wallace's interference with the admission of Vivian Malone and James Hood to the University of Alabama. Kennedy later addresses the nation regarding civil rights on television and radio.
- **June 12**
  Medgar Evers, leader of the National Association for the Advancement of Colored People, in Mississippi, is assassinated.
- **June 19**
  Kennedy submits a civil rights bill to Congress.

1964

- **June 21**
  During the Freedom Summer voting campaign, organized by the Student Nonviolent Coordinating Committee, the civil rights workers Michael Schwerner, Andrew Goodman, and James Chaney are murdered.
- **July 2**
  President Lyndon Johnson signs the Civil Rights Act of 1964.

Explanation and Analysis of the Document

After an initial greeting to his "fellow citizens" marking the familiar tone the president adopted throughout the address Kennedy reports on the day's events at the University of Alabama, where he had acted to enforce a U.S. district court decision for the admission of two African American students, Vivian Malone and James Hood. By federalizing the Alabama National Guard, the president overcame the resistance of Governor George Wallace and ended Alabama's status as the only remaining state with state universities closed to African Americans. In contrast to the president's similar experience with the desegregation of the University of Mississippi the previous year, no violence occurred. The president takes note of this fact and praises students at the University of Alabama "who met their responsibilities in a constructive way." In highlighting the good behavior of students, the president introduces one of the important themes of the address, the need for individual citizens to contribute to the solution of the civil rights crisis.

In the third paragraph the president begins to emphasize the key theme of the address, the morality of the civil rights cause, which he links to the responsibility of each American to act in accord with the nation's values and the principle of basic fairness. In an allusion to President Abraham Lincoln's Gettysburg Address, Kennedy notes that the nation was "founded on the principle that all men are created equal." He implicitly criticizes racist concepts regarding the nation's origins when he affirms that "this Nation was founded by men of many nations and backgrounds." In asserting that "the rights of every man are diminished when the rights of one man are threatened," the president alludes to a long-standing labor movement slogan, "An injury to one is the concern of all." Organized labor was a central constituency of the Democratic Party, and its leaders strongly supported the enactment of civil rights legislation.

In paragraphs 4 6, Kennedy introduces an important theme of the address that the "worldwide struggle to promote and protect the rights of all who wish to be free" was connected with the successful practice of the ideal of freedom for all in America. During World War II, many civil rights partisans raised the idea that eliminating racial discrimination at home was a logical and practical counterpart to the struggle against Fascism abroad, particularly against the Nazi ideology of Aryan racial superiority. In the ensuing cold war between the United States and the Soviet Union, the issue of the connection between freedom at home and freedom abroad loomed in a new way. The Soviet Union, and indeed the world Communist movement, had long criticized racial oppression in the United States and the imperialist oppression of peoples in the developing world. In advocating a heightened struggle against Communism and for the U.S. concept of freedom around the world in his Inaugural Address, Kennedy was aware of the need for the United States to improve its civil rights record at home and

the quality of its interactions with nations in the developing world. In his commencement address at the American University (delivered on June 10, 1963 the day before his Civil Rights Speech), in which he promoted a new approach to the cold war, Kennedy called on Americans to "examine our attitude towards peace and freedom here at home. The quality and spirit of our own society must justify and support our efforts abroad.… Wherever we are, we must all, in our daily lives, live up to the age-old faith that peace and freedom walk together. In too many of our cities today, the peace is not secure because freedom is incomplete."

Noting in paragraph 4 that "we do not ask for whites only" when "Americans are sent to Viet-Nam or West Berlin," Kennedy then argues that Americans "of any color" should be able to attend any public university without needing backup from troops, to register to vote without "interference or fear of reprisal," and to receive "equal service" in public places. In the sixth paragraph, Kennedy couples the theme of equal rights with an allusion to the Golden Rule: "Every American ought to have the right to be treated as he would wish to be treated." A secular person, Kennedy nevertheless included in the address a few spiritual references.

In paragraphs 7 and 8, the president summarizes statistics on the vast economic, educational, and health gaps between blacks and whites and expresses concern about "a rising tide of discontent that threatens the public safety." The perception within the Kennedy administration that deterioration in the Birmingham situation could lead to uncontrollable outbursts by African Americans was, indeed, a major factor in the president's deciding to take to the public airwaves on the spur of the moment.

The president stresses in paragraph 8 that the issue of civil rights is neither a sectional nor a partisan issue. Although the central issue of equal access to public accommodations was primarily a problem in southern states, in keeping with his sense of responsibility as the leader of the entire country, the president asserts that "difficulties over segregation and discrimination" exist in every city and state. His references to the nationwide racial gap and to discontent in cities throughout the country place the issue of southern segregation in its larger national context perhaps to reduce white southerners' feeling that their section was being unfairly targeted. Kennedy's emphasis on nonpartisanship reflected the reality that the strongest opponents of civil rights were white southerners in his own party and evinced his determination to work with Republican leaders in Congress on his civil rights legislative proposal.

Paragraphs 9 11 are among the most important passages in the speech. After stating in paragraph 9 that the country is "confronted primarily with a moral issue," the president calls on all Americans to do the right thing, to put fairness above partisanship, sectionalism, and comfort with the racial status quo. Kennedy makes clear that the basis of his moral appeal is fairness and a concern for others and their rights when he links a religious reference with an allusion to a central secular document of the U.S. polity: "It is as old as the scriptures and is as clear as the American Constitution." As a secular politician, Kennedy personally confronted the issue of anti-Catholic prejudice in his run for the presidency in 1960 when he spoke before Protestant ministers in Houston, Texas, and assured them that he advocated "an America where the separation of church and state is absolute." In this instance, Kennedy used a nondenominational appeal to religious values to reinforce his attempt to inspire the country on a moral issue. Kennedy, like other presidents, had referred to God in his Inaugural Address.

In paragraph 10, Kennedy refers to the obligations of the Golden Rule "The heart of the question is … whether we are going to treat our fellow Americans as we want to be treated" and issues a creative call for white people to imagine how they would feel if they were black. What would you think, he asks, about being denied service at restaurants, access to the best public schools, the right to vote, and "the full and free life which all of us want"? The paragraph closes with an incisive critique of the moderate approach that he himself had earlier followed and which Martin Luther King, Jr., had so sharply criticized two months earlier in his "Letter from Birmingham Jail." The president asks, "Who among us would then be content with the counsels of patience and delay?" Kennedy is asking Americans to look beyond the sometimes disconcerting and disruptive means used by civil rights activists to see the justice of their cause. As the president himself had only recently come to perceive, the time for incremental changes that essentially left the Jim Crow system intact had passed. Those who saw the issue as a struggle between two extremes, violent racists and civil rights activists, were mistaken. Rather, the struggle was between justice and injustice.

To reinforce the notion that the time for ending racial equality had come, Kennedy notes in paragraph 11 that one hundred years had passed "since President Lincoln freed the slaves," yet "their heirs … are not fully free." A few years prior to the anniversary of the Emancipation Proclamation, the National Association for the Advancement of Colored People had begun a "Free by '63" campaign. On the occasion of Lincoln's birthday in 1963, the president and the first lady hosted a reception for African American leaders and their spouses and distributed to the guests the U.S. Commission on Civil Rights report *Freedom to the Free: Century of Emancipation, 1863 1963*. In Paragraph 11, Kennedy also reiterates the opening theme from paragraph 3, the interconnection of one person's freedom with another's, remarking that the nation "will not be fully free until all its citizens are free."

Paragraph 12 focuses on the interconnection between the consequences for the U.S. advocacy of "freedom around the world" and for U.S. foreign policy brought about by the treatment of African Americans as "second-class citizens." As concerned as he was about foreign policy, the president maintains that a bigger problem is that people can "say … to each other that this is the land of the free except for the Negroes." Kennedy emphasizes the heinousness of this situation by alluding to Nazi ideology with the use of the term "master race." For Kennedy, who had fought in World War II, and for all those over the age

President John F. Kennedy discussing civil rights with more than two hundred lawyers on June 21, 1963, at the White House (AP/Wide World Photos)

of thirty-five or so, memories of the struggle against Nazi Germany and the other Axis powers were still vivid.

In paragraphs 13 17, Kennedy emphasizes that crisis conditions are at hand, calling for immediate action. The "cries for equality" are too great to ignore; the president declares in paragraph 14 that with "legal remedies" unavailable, people are taking to the streets in protests that "create tensions and threaten violence and threaten lives." The opponents of civil rights, of course, were the ones who committed the acts of violence. Although civil rights activists' decisions to violate the laws of segregation and to protest in the streets certainly contributed to confrontations, they were committed to nonviolence. Kennedy was worried, however, that spontaneous eruptions of anger among members of the black community could lead to violence. This is the only moment in the speech where the president seems to tilt against the civil rights movement. In the next paragraph he returns to the underlying positive theme of the address, asserting, "We face, therefore, a moral crisis as a country and as a people." He notes that he opposes "repressive police action." While the president says that the situation "cannot be left to increased demonstrations in the streets," he also calls for substantive action, not "token moves or talk," at all levels of society.

In paragraph 16, Kennedy calls on the nation to avoid both sectionalism and attempts to place blame. He characterizes the vast change needed as a "revolution" but notes that it should be "peaceful and constructive for all."

In paragraphs 18 21, Kennedy focuses on the need for civil rights legislation and announces that he will submit a proposal to Congress for equal access to public accommodations, which he characterizes as "an elementary right." He notes that without legislation, the only remedy that African American citizens have for wrongs inflicted on them "is in the street"; "in too many communities, in too many parts of the country," no "remedies at law" could be found. Kennedy maintains that the denial of access is "an arbitrary indignity that no American in 1963 should have to endure, but many do," thus appealing once again to white viewers and listeners to empathize with African Americans and to see that the recognition of equal rights is long overdue.

In paragraph 22 the president reports that he has met with many business leaders and is pleased that they have responded to his call for "voluntary action" to end discrimination in public accommodations. Kennedy comments that despite progress in more than seventy-five cities in the past two weeks, legislation is nevertheless needed because "many are unwilling to act alone."

In paragraphs 23 26, Kennedy outlines additional features of the civil rights legislation that he will propose, including federal government involvement in lawsuits to promote desegregation in schools and "greater protection for the right to vote." He notes that "too many" black students who entered segregated grade schools at the time of the *Brown v. Board of Education* Supreme Court decision "will enter segregated high schools this fall." Only a small percentage of black students had yet moved from segregated to desegregated schools. The consequence of this delayed desegregation, the president argues, is lost job opportunities.

In paragraph 26, the president again emphasizes the need for action "in the homes of every American in every community," while in paragraphs 27 and 28 he praises the "honor" and "courage" of those working for civil rights. Kennedy asserts that these individuals have acted "out of a sense of human decency" and compares them with "our soldiers and sailors" because "they are meeting freedom's challenge on the firing line." This was high praise, indeed, given the importance Kennedy attached to foreign policy and the stress that he placed on political and moral courage in his book *Profiles in Courage*.

In paragraph 29, the president highlights the economic gap between blacks and whites throughout the country. Kennedy argues that this is a problem that "faces us all," in "the North as well as the South." Describing in detail the crisis facing the nation, Kennedy again calls on "every citizen" to care and to act.

In paragraphs 30 and 31, Kennedy makes an appeal based on cultural pluralism, national unity, and equality: The United States "has become one country because all of us and all of the people who came here had an equal chance to develop their talents." He reiterates the need to give the "10 percent of the population" constituted by African Americans alternatives to discrimination and to demonstrations as the only means of gaining rights. The issue, he insists, is one of basic fairness and in the interests of all: "I think we owe them and we owe ourselves a better country than that."

In paragraph 32 the president makes an explicit appeal for people's help and reiterates the theme of treating people as one would want to be treated. In this and the following paragraph, the president emphasizes the theme of equality of opportunity and the importance of treating children right "to give a chance for every child to be educated to the limit of his talents." Kennedy uses exclusively male pronouns here and throughout most of the address.

In paragraph 34 Kennedy speaks of the reciprocal obligation to be held by black citizens ("be responsible … uphold the law") and by society ("the law will be fair … the Constitution will be color blind"). In advocating a color-blind Constitution, Kennedy alludes to John Marshall Harlan's use of this terminology in his dissent in the *Plessy v. Ferguson* separate-but-equal Supreme Court decision of 1896. In the closing paragraph, the president states that basic principles are at stake what the country "stands for" and again asks for the support of "all our citizens."

Audience

President Kennedy's audience for his Civil Rights Speech was the entire population of the United States. The address was carried on television and radio, so the vast majority of the population was in a position to hear the president's words. He asked the three major television networks for airtime for the address, and all readily agreed. As part of their licenses to use the public airwaves, the broadcast companies in the period prior to deregulation were expected to be responsive to such requests.

Although the president was speaking to all "fellow Americans," he was particularly addressing white Americans. For example, he asks people to put themselves in the place of a black person and imagine how they would feel about having their rights denied. Kennedy also says that "we" expect things of the black community but that "they" expect to have equal rights.

Kennedy directed his remarks to people of both parties, of all regions, and of all classes. His remarks included praise for businesspeople responding to his call for voluntary action to desegregate as well as for those working on the front lines of the struggle for racial justice. By appealing to fairness, Kennedy hoped to expand support for his civil rights initiative beyond the ranks of liberals and the left.

In using male language at several points, the president addresses himself primarily to men (as in "one-third as much chance of becoming a professional man," "law alone cannot make men see right," and "if an American, because his skin is dark"). In referring to the effort to secure the admission of two African American students to the University of Alabama, one of whom was female, the president uses gender-neutral language ("clearly qualified young Alabama residents"). In referring to student potential in the close of the address, he shifts between male ("his talents") and gender-neutral language ("their talent").

Impact

Civil rights movement leaders and activists were thrilled by President Kennedy's national address of June 11, 1963. Martin Luther King, Jr., immediately sent Kennedy a message praising the speech. The Kennedy administration had been lending assistance to the civil rights movement and was now staking its own political success on the achievement of fundamental reform in the civil rights arena; the administration acted as a good if imperfect ally of the movement. In fact, when civil rights leaders met with the president on June 22, 1963, the president acknowledged that he did not think that the planned march on Washington, D.C., was a good idea. The difference of opinion was resolved, and Kennedy ended up supporting the march. Although the Student Nonviolent Coordinating Committee leader John Lewis was pressured into modifying his address, the march of two hundred and fifty thousand people from the Washington Monument to the Lincoln Memorial was a great success and further expanded positive public attention for the movement.

Essential Quotes

"Today we are committed to a worldwide struggle to promote and protect the rights of all who wish to be free. And when Americans are sent to Viet-Nam or West Berlin, we do not ask for whites only. It ought to be possible, therefore, for American students of any color to attend any public institution they select without having to be backed up by troops."

(Paragraph 4)

"It ought to be possible for American consumers of any color to receive equal service in places of public accommodation … without being forced to resort to demonstrations in the street, and it ought to be possible for American citizens of any color to register to vote in a free election without interference or fear of reprisal."

(Paragraph 5)

"It ought to be possible, in short, for every American to enjoy the privileges of being American without regard to his race or his color. In short, every American ought to have the right to be treated as he would wish to be treated, as one would wish his children to be treated. But this is not the case."

(Paragraph 6)

"We are confronted primarily with a moral issue. It is as old as the scriptures and is as clear as the American Constitution."

(Paragraph 9)

"The heart of the question is whether all Americans are to be afforded equal rights and equal opportunities, whether we are going to treat our fellow Americans as we want to be treated. If an American, because his skin is dark, cannot eat lunch in a restaurant open to the public, if he cannot send his children to the best public school available, if he cannot vote for the public officials who will represent him, if, in short, he cannot enjoy the full and free life which all of us want, then who among us would be content to have the color of his skin changed and stand in his place? Who among us would then be content with the counsels of patience and delay?"

(Paragraph 10)

The Kennedy administration did experience some immediate negative political repercussions after the address, as southern Congress members withdrew support from other administration proposals. Also, disagreements with the National Association for the Advancement of Colored People occurred over the details of the civil rights bill, with the administration seeking a more moderate version than was sought by the civil rights coalition. Kennedy met with Democratic and Republican House leaders on October 23 to craft a compromise that proved stronger than the administration's bill. The House Judiciary Committee approved the civil rights bill on November 20, 1963, but whether the bill would be successfully processed by the House Rules Committee, chaired by the segregationist Howard W. Smith, was uncertain. Kennedy would not have the opportunity to work on that problem because of his assassination. President Lyndon B. Johnson took up the banner, however, and worked effectively to secure the passage of the Civil Rights Act of 1964. As vice president, Johnson had urged Kennedy to take a moral stance on civil rights. As segregationists left the Democratic Party in the wake of the passage of the Civil Rights Act and the Voting Rights Act of 1965, the party's stance as an ally of the civil rights movement and of African Americans became a permanent fixture of the political landscape.

See also Emancipation Proclamation (1863); *Plessy v. Ferguson* (1896); *Brown v. Board of Education* (1954); George Wallace's Inaugural Address as Governor (1963); Martin Luther King, Jr.: "Letter from Birmingham Jail" (1963); Martin Luther King, Jr.: "I Have a Dream" (1963); Civil Rights Act of 1964.

Further Reading

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Questions for Further Study

1. Compare Kennedy's responses to civil rights crises with those of President Dwight D. Eisenhower to the Supreme Court's *Brown v. Board of Education* decision, to the rise of massive resistance, and to the 1957 Little Rock crisis.

2. In referring to the Supreme Court justice John Marshall Harlan's concept of a color-blind Constitution, was President Kennedy concerned with ending systematic discrimination against African Americans or with eliminating any reference to race in American law and practice, or with both?

3. Kennedy highlighted economic disparities between whites and African Americans in his address. Overcoming economic privation was one of the goals of the March on Washington for Jobs and Freedom of August 28, 1963, and the goal of the Poor People's Campaign, which Martin Luther King, Jr., was leading at the time of his assassination. Examine the extent of economic disparities in society today. To what degree would the universal implementation of affirmation action or a program of reparations contribute to substantially closing racial socioeconomic gaps? Might a modern-day president committed to civil rights take other initiatives to eliminate such gaps?

4. In the 1990s a trend toward the resegregation of public schools began taking place. The 2007 Supreme Court decision in *Parents Involved in Community Schools v. Seattle School District No. 1* against the use of race in assigning students to schools further undermined the promise of the *Brown v. Board of Education* decision that schools would be equal and integrated. What measures might be taken today to restore the goal of establishing equal educational opportunity championed by Kennedy in his Civil Rights Address to the nation?

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■ Web Sites

"John F. Kennedy: American University Commencement Address." American Rhetoric "Top 100 Speeches" Web site. http://www.americanrhetoric.com/speeches/jfkamericanuniversityaddress.html.

Martin Halpern

Document Text

John F. Kennedy's Civil Rights Address

Good evening my fellow citizens:

This afternoon, following a series of threats and defiant statements, the presence of Alabama National Guardsmen was required on the University of Alabama to carry out the final and unequivocal order of the United States District Court of the Northern District of Alabama. That order called for the admission of two clearly qualified young Alabama residents who happened to have been born Negro.

That they were admitted peacefully on the campus is due in good measure to the conduct of the students of the University of Alabama, who met their responsibilities in a constructive way.

I hope that every American, regardless of where he lives, will stop and examine his conscience about this and other related incidents. This Nation was founded by men of many nations and backgrounds. It was founded on the principle that all men are created equal, and that the rights of every man are diminished when the rights of one man are threatened.

Today we are committed to a worldwide struggle to promote and protect the rights of all who wish to be free. And when Americans are sent to Viet-Nam or West Berlin, we do not ask for whites only. It ought to be possible, therefore, for American students of any color to attend any public institution they select without having to be backed up by troops.

It ought to be possible for American consumers of any color to receive equal service in places of public accommodation, such as hotels and restaurants and theaters and retail stores, without being forced to resort to demonstrations in the street, and it ought to be possible for American citizens of any color to register to vote in a free election without interference or fear of reprisal.

It ought to be possible, in short, for every American to enjoy the privileges of being American without regard to his race or his color. In short, every American ought to have the right to be treated as he would wish to be treated, as one would wish his children to be treated. But this is not the case.

The Negro baby born in America today, regardless of the section of the Nation in which he is born, has about one-half as much chance of completing a high school as a white baby born in the same place on the same day, one-third as much chance of completing college, one-third as much chance of becoming a professional man, twice as much chance of becoming unemployed, about one-seventh as much chance of earning $10,000 a year, a life expectancy which is 7 years shorter, and the prospects of earning only half as much.

This is not a sectional issue. Difficulties over segregation and discrimination exist in every city, in every State of the Union, producing in many cities a rising tide of discontent that threatens the public safety. Nor is this a partisan issue. In a time of domestic crisis men of good will and generosity should be able to unite regardless of party or politics. This is not even a legal or legislative issue alone. It is better to settle these matters in the courts than on the streets, and new laws are needed at every level, but law alone cannot make men see right.

We are confronted primarily with a moral issue. It is as old as the scriptures and is as clear as the American Constitution.

The heart of the question is whether all Americans are to be afforded equal rights and equal opportunities, whether we are going to treat our fellow Americans as we want to be treated. If an American, because his skin is dark, cannot eat lunch in a restaurant open to the public, if he cannot send his children to the best public school available, if he cannot vote for the public officials who will represent him, if, in short, he cannot enjoy the full and free life which all of us want, then who among us would be content to have the color of his skin changed and stand in his place? Who among us would then be content with the counsels of patience and delay?

One hundred years of delay have passed since President Lincoln freed the slaves, yet their heirs, their grandsons, are not fully free. They are not yet freed from the bonds of injustice. They are not yet freed from social and economic oppression. And this Nation, for all its hopes and all its boasts, will not be fully free until all its citizens are free.

We preach freedom around the world, and we mean it, and we cherish our freedom here at home, but are we to say to the world, and much more importantly, to each other that this is the land of the free except for the Negroes; that we have no second-class citizens except Negroes; that we have no class

Document Text

or caste system, no ghettoes, no master race except with respect to Negroes?

Now the time has come for this Nation to fulfill its promise. The events in Birmingham and elsewhere have so increased the cries for equality that no city or State or legislative body can prudently choose to ignore them.

The fires of frustration and discord are burning in every city, North and South, where legal remedies are not at hand. Redress is sought in the streets, in demonstrations, parades, and protests which create tensions and threaten violence and threaten lives.

We face, therefore, a moral crisis as a country and as a people. It cannot be met by repressive police action. It cannot be left to increased demonstrations in the streets. It cannot be quieted by token moves or talk. It is time to act in the Congress, in your State and local legislative body and, above all, in all of our daily lives.

It is not enough to pin the blame of others, to say this a problem of one section of the country or another, or deplore the fact that we face. A great change is at hand, and our task, our obligation, is to make that revolution, that change, peaceful and constructive for all.

Those who do nothing are inviting shame as well as violence. Those who act boldly are recognizing right as well as reality.

Next week I shall ask the Congress of the United States to act, to make a commitment it has not fully made in this century to the proposition that race has no place in American life or law. The Federal judiciary has upheld that proposition in the conduct of its affairs, including the employment of Federal personnel, the use of Federal facilities, and the sale of federally financed housing.

But there are other necessary measures which only the Congress can provide, and they must be provided at this session. The old code of equity law under which we live commands for every wrong a remedy, but in too many communities, in too many parts of the country, wrongs are inflicted on Negro citizens and there are no remedies at law. Unless the Congress acts, their only remedy is in the street.

I am, therefore, asking the Congress to enact legislation giving all Americans the right to be served in facilities which are open to the public hotels, restaurants, theaters, retail stores, and similar establishments.

This seems to me to be an elementary right. Its denial is an arbitrary indignity that no American in 1963 should have to endure, but many do.

I have recently met with scores of business leaders urging them to take voluntary action to end this discrimination and I have been encouraged by their response, and in the last 2 weeks over 75 cities have seen progress made in desegregating these kinds of facilities. But many are unwilling to act alone, and for this reason, nationwide legislation is needed if we are to move this problem from the streets to the courts.

I am also asking the Congress to authorize the Federal Government to participate more fully in lawsuits designed to end segregation in public education. We have succeeded in persuading many districts to desegregate voluntarily. Dozens have admitted Negroes without violence. Today a Negro is attending a State-supported institution in every one of our 50 States, but the pace is very slow.

Too many Negro children entering segregated grade schools at the time of the Supreme Court's decision 9 years ago will enter segregated high schools this fall, having suffered a loss which can never be restored. The lack of an adequate education denies the Negro a chance to get a decent job.

The orderly implementation of the Supreme Court decision, therefore, cannot be left solely to those who may not have the economic resources to carry the legal action or who may be subject to harassment.

Other features will also be requested, including greater protection for the right to vote. But legislation, I repeat, cannot solve this problem alone. It must be solved in the homes of every American in every community across our country.

In this respect I want to pay tribute to those citizens North and South who have been working in their communities to make life better for all. They are acting not out of a sense of legal duty but out of a sense of human decency.

Like our soldiers and sailors in all parts of the world they are meeting freedom's challenge on the firing line, and I salute them for their honor and their courage.

My fellow Americans, this is a problem which faces us all in every city of the North as well as the South. Today there are Negroes unemployed, two or three times as many compared to whites, inadequate in education, moving into the large cities, unable to find work, young people particularly out of work without hope, denied equal rights, denied the opportunity to eat at a restaurant or lunch counter or go to a movie theater, denied the right to a decent education, denied almost today the right to attend a State university even though qualified. It seems to me that

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these are matters which concern us all, not merely Presidents or Congressmen or Governors, but every citizen of the United States.

This is one country. It has become one country because all of us and all the people who came here had an equal chance to develop their talents.

We cannot say to 10 percent of the population that you can't have that right; that your children cannot have the chance to develop whatever talents they have; that the only way that they are going to get their rights is to go into the streets and demonstrate. I think we owe them and we owe ourselves a better country than that.

Therefore, I am asking for your help in making it easier for us to move ahead and to provide the kind of equality of treatment which we would want ourselves; to give a chance for every child to be educated to the limit of his talents.

As I have said before, not every child has an equal talent or an equal ability or an equal motivation, but they should have an equal right to develop their talent and their ability and their motivation, to make something of themselves.

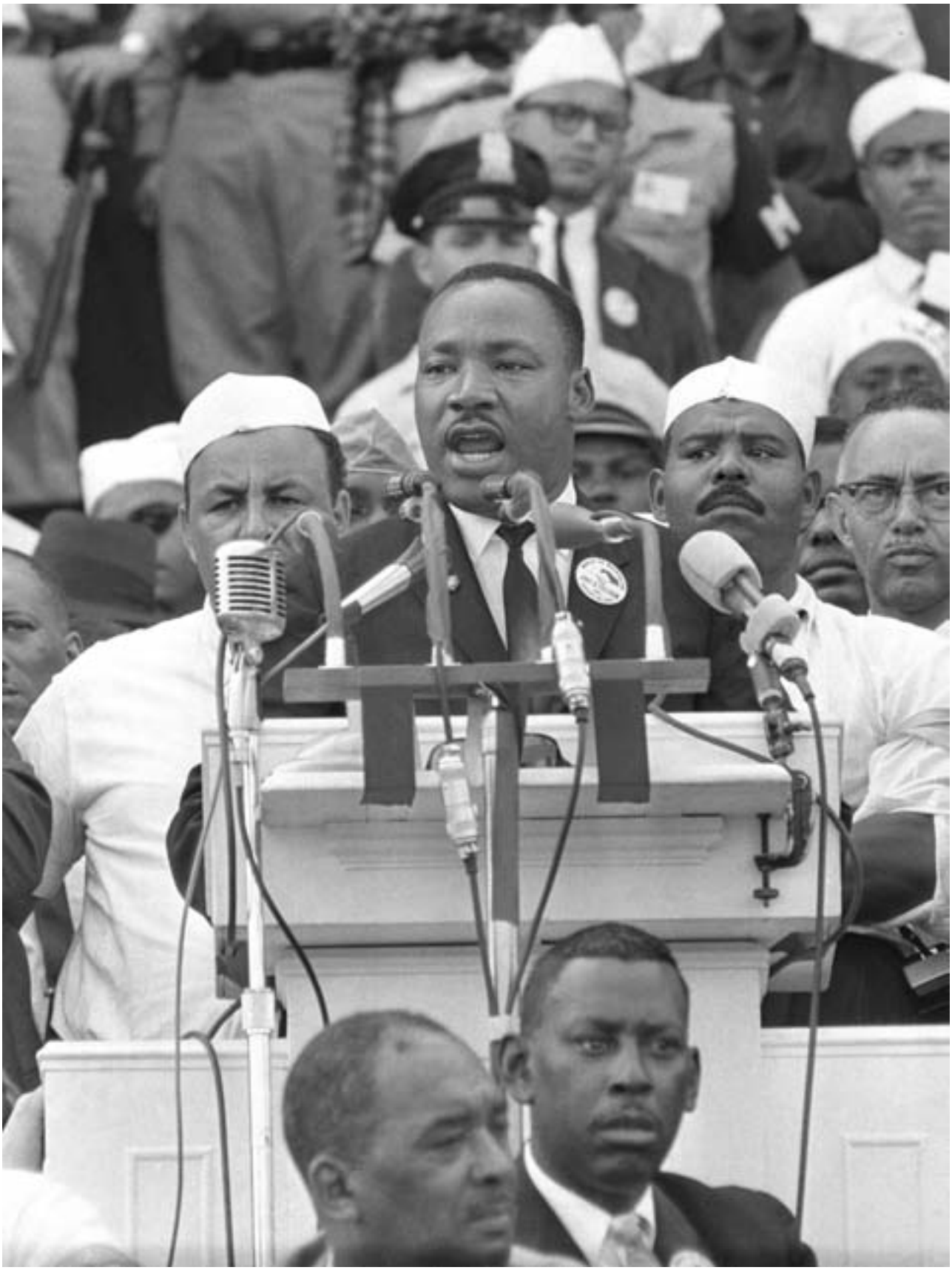
We have a right to expect that the Negro community will be responsible, will uphold the law, but they have a right to expect that the law will be fair, that the Constitution will be color blind, as Justice Harlan said at the turn of the century.

This is what we are talking about and this is a matter which concerns this country and what it stands for, and in meeting it I ask the support of all our citizens.

Thank you very much.

Glossary

equity law	the application of principles of fairness in the absence of rules
public accommodation	facilities serving the public



Martin Luther King, Jr., addresses marchers during his "I Have a Dream" speech in 1963. (AP/Wide World Photos)

Martin Luther King, Jr.: "I Have a Dream"

1963

"From every mountainside, let freedom ring."

Overview

On August 28, 1963, nearly a quarter of a million people arrived in the District of Columbia for the March on Washington for Jobs and Freedom. They had been summoned by the veteran African American labor leader A. Philip Randolph to urge the federal government to broaden economic opportunities for low-income families and to pressure Congress to pass the Civil Rights Act, which was then being debated. Delegations of civil rights supporters from cities across the United States thus joined together for a massive one-day protest.

The orderly crowd assembled in front of the Lincoln Memorial and listened as representatives of labor, religious, and civil rights organizations delivered short addresses. The day's final speaker was Martin Luther King, Jr., the nation's preeminent civil rights leader. The demonstrations against segregation led by King in Birmingham, Alabama, four months earlier had raised the issue of racial equality to the top of the national agenda. Sensing a changing mood in the country, President John F. Kennedy responded by proposing comprehensive civil rights legislation.

King reminded his listeners that day of African Americans' legitimate grievances and promised that they would not rest until full equality was won. As he neared the end of his speech, King departed from his prepared text to deliver his most memorable words: "I have a dream," he thundered, in the powerful preaching cadence of the black Baptist tradition. Using a series of riveting images, King shared his vision of a country free of racial hatred, in which black and white Americans would live as equals. His oration eclipsed the remarks of all other speakers that day and is among the most quoted American public addresses. The "I Have a Dream" speech has come to epitomize the aspirations of the modern civil rights movement.

Context

Gathering in the nation's capital to petition Congress is a time-honored tradition of American political movements. In 1894 Jacob Coxey led an army of unemployed workers to Washington, demanding that the government create more jobs. Thirty thousand World War I veterans seeking early bonuses for their military service camped outside Washington for forty days in 1932, until routed by army troops. In 1941 A. Philip Randolph, the president of the Brotherhood of Sleeping Car Porters, threatened to lead one hundred thousand African Americans down Pennsylvania Avenue, forcing President Franklin D. Roosevelt to act against racial discrimination in defense industries.

As civil rights protests gained momentum in the early 1960s, Randolph revived the idea of a march on Washington. Because he was concerned primarily about African American poverty and unemployment, Randolph proposed a two-day demonstration for jobs to be held in October 1963. He maintained that a massive assembly of black citizens was needed to prod a reluctant President Kennedy into action. Randolph's idea initially drew a lukewarm response from other black leaders until Martin Luther King, Jr., lent his support. King had just finished a successful campaign to desegregate stores and lunch counters in Birmingham, Alabama. Nationally televised scenes of police dogs and fire hoses battering youthful demonstrators roused public sympathy behind the crusade for equal rights. King was looking for a way to sustain the energy of his movement and press for needed civil rights legislation. When he announced his intention to participate in the march, rival civil rights leaders felt compelled to join. After Kennedy submitted his civil rights bill to Congress, the event was renamed the "March for Jobs and Freedom," the date was changed to late August, and the emphasis shifted from economic issues to support for the proposed legislation.

At a meeting at the White House in June, Kennedy tried to convince march organizers that a mass protest would actually derail support for his civil rights bill. When Randolph and King declared their determination to go ahead with the demonstration, the president offered the assistance of federal agencies to ensure that the march proceeded smoothly. In the weeks leading up to the event, Randolph's chief aide, Bayard Rustin, worked around the clock to nail down the smallest details. Marchers would arrive by chartered buses and trains on the morning of August 28 and depart that afternoon; they would carry only signs approved by the march committee; no sit-ins or civil disobedience would be staged; thousands of sandwiches

Time Line

1963

- **January**
  A. Philip Randolph announces plans for a demonstration in Washington, D.C., to force legislative action on economic problems facing African Americans.
- **April–May**
  Police attacks on civil rights demonstrators in Birmingham, Alabama, capture the attention of the nation and increase pressure for federal civil rights legislation.
- **June 11**
  In a nationally televised address, President John F. Kennedy announces that he will send a comprehensive civil rights bill to Congress.
- **June 18**
  Kennedy delivers what will become the Civil Rights Act to Congress.
- **June 22**
  Civil rights leaders meet with Kennedy, who tries to persuade them to drop plans for their march.
- **June 23**
  Martin Luther King, Jr., leads one hundred and twenty-five thousand marchers through the streets of Detroit in a "dress rehearsal" for the March on Washington.
- **July 2**
  Bayard Rustin presents a detailed plan for the march. To ensure that the march will be racially integrated, four prominent whites are added as cochairs of the event.
- **August 27**
  King toils late into the night preparing his address for the march.
- **August 28**
  Some two hundred and fifty thousand demonstrators arrive in Washington, D.C. King delivers his "I Have a Dream" speech, which is broadcast live by all of the major television networks.
- **November 22**
  Kennedy is assassinated in Dallas, Texas. Lyndon B. Johnson becomes president.

would be prepared to feed the hungry throngs; and security would be provided by off-duty New York City police officers and federal personnel.

King began composing his speech four days before the march, asking advisers to prepare drafts for his consideration. When King arrived in Washington on August 27, he still did not have a version that he felt was satisfactory. That evening he retired to his room at the Willard Hotel to work on revisions; at four o'clock the next morning King handed his final handwritten text to aides for typing and distribution to the press.

The day's events began with a program of entertainment on a stage erected near the Washington Monument. Musicians performed, and celebrities were introduced to the well-dressed marchers, but the crowd grew restive. Around eleven o'clock people spontaneously began moving toward the Lincoln Memorial, and the assembled dignitaries had to scramble to catch up with the people they were supposed to be leading. As the huge crowd congregated on either side of the memorial's Reflecting Pool, the speakers took their turns at the podium in the shadow of the Great Emancipator's statue. John Lewis, the young head of the Student Nonviolent Coordinating Committee, delivered the day's most militant address, calling for a "great revolution" to "splinter the segregated south into a thousand pieces." Mahalia Jackson roused the crowd when she sang the traditional spiritual "I've Been 'Buked and I've Been Scorned." Then, Randolph introduced "the moral leader of our nation," Dr. Martin Luther King, Jr., whose address sounded the climactic final note for the day's celebration.

When King concluded his speech, the throngs quickly dispersed, carrying a message of hope back to their home communities. Leaders of the march, in turn, adjourned to the White House, where they ate a hastily prepared lunch and were congratulated by President Kennedy, who was relieved and delighted that the event had gone off without serious controversy or disorder of any kind.

About the Author

Martin Luther King, Jr., was born and raised in Atlanta, Georgia, where both his father and grandfather pastored the Ebenezer Baptist Church. At the age of fifteen he entered Morehouse College to study sociology. He prepared for the ministry at Crozier Theological Seminary, in Pennsylvania, and then earned a doctorate in philosophy from Boston University. While he was in Boston he met and married Coretta Scott, an aspiring concert singer from Marion, Alabama.

In 1953 King returned to the South to become pastor of the Dexter Avenue Baptist Church in Montgomery, Alabama. When Rosa Parks was arrested in 1955 for refusing to give up her seat to a white passenger, King emerged as the leader of a year-long boycott of city buses. His application of Gandhian nonviolent resistance to fight Jim Crow laws and the successful outcome of the Montgomery protest thrust him into the national spotlight. In 1957 he

founded the Southern Christian Leadership Conference to carry his fight for civil rights to other southern communities. Over the next decade King remained at the forefront of the rapidly growing civil rights movement. In 1963 he led a campaign of civil disobedience against segregation in Birmingham, Alabama one of the most violent southern cities. His "Letter from Birmingham Jail," written following his arrest while leading a demonstration, is an eloquent defense of his nonviolent tactics.

King's "I Have a Dream" speech at the March on Washington helped build public support for the landmark Civil Rights Act that was passed by Congress in 1964. In turn, the Voting Rights Act that became law the following year was enacted largely because of his efforts to dramatize the disenfranchisement of African American citizens in Selma, Alabama. In 1966 King turned his attention to the North, where he attacked slum conditions and segregated housing in Chicago. King's growing opposition to the Vietnam War put him in the front ranks of the antiwar movement. At the time of his assassination in 1968, he was preparing to lead the Poor People's Campaign, a multiracial effort to spur government action against poverty.

King received the Nobel Peace Prize in 1964. His birthday is commemorated by a national holiday, and his bust stands in the U.S. Capitol.

Time Line

1964	■ **July 2** Congress passes the Civil Rights Act, which Johnson signs into law.
	■ **December 10** Martin Luther King, Jr., is awarded the Nobel Peace Prize in Oslo, Norway.
1968	■ **April 4** King is assassinated in Memphis, Tennessee. Riots follow in more than one hundred cities, including Washington, D.C.
1983	■ **November 2** A bill establishing a national holiday to commemorate King's birthday is signed by President Ronald Reagan.

Explanation and Analysis of the Document

After a brief salutation, King reminds his listeners of the symbolic importance of the ground they occupy. By locating their rally in the shadow of the Great Emancipator's memorial, march organizers hoped to call attention to Abraham Lincoln's unfinished agenda; a century after the end of slavery, African Americans still were not free. King's use of the archaic "fivescore years ago" is an obvious echo of Lincoln's Gettysburg Address. He briefly mentions the triple problems of segregation, discrimination, and poverty that mark the unequal status of black Americans. King emphasizes the long gap between the Emancipation Proclamation's promise of equality and the lingering reality of pervasive racism by repeating "one hundred years" four times.

Using the words of the Declaration of Independence, King advises his listeners that African Americans are seeking only the rights guaranteed to all citizens. He accuses the United States of bad faith in delivering its pledge of freedom. The Constitution, then, can be viewed as a "promissory note" that has not yet been redeemed for people of color. King employs the metaphor of a bad check to describe the unrealized assurance of full citizenship. In the only trace of humor in this otherwise solemn declamation, he claims that the government's check has bounced owing to "insufficient funds." King does not dwell on past injustices, however. Rather, he concludes this passage on a hopeful note, stating his belief that the United States will soon honor its commitment to its black citizens.

King proceeds to assert that America cannot afford to wait any longer; its black citizens are demanding change now. Many critics were accusing the civil rights movement of impatience, of pressing too hard for reform, but King rejects this argument. He underscores the urgency of African American demands for equal rights by reiterating "now is the time" four times. The United States cannot afford to continue "business as usual," as the stakes are too great. He threatens that "there will be neither rest nor tranquility" until these demands are granted.

Lest he be accused of fomenting violence, King abruptly changes gears and admonishes his fellow African Americans to refrain from bitterness and a desire for revenge. They must conduct themselves with dignity and self-restraint; nonviolence must continue to be the hallmark of their movement. He acknowledges the presence of white supporters, estimated to be about 10 percent of the march's participants. White allies are essential for the movement's success, he insists, because "we cannot walk alone."

King then resumes a more militant tone, listing some of the top priorities of the civil rights movement: an end to police brutality, access to public accommodations, the elimination of housing segregation, the removal of Jim Crow signs, voting rights, and meaningful participation in political affairs. He repeats "we cannot be satisfied" or "we can never be satisfied" seven times as he enumerates black grievances. King then enlists biblical support for his position, ending this litany by paraphrasing the Old Testament prophet Amos in saying that blacks will not be satisfied until "justice rolls down like waters and righteousness like a mighty stream."

This section illustrates King's favorite literary device, anaphora a frequently repeated word or phrase. Drew Hansen, in his text *The Dream: Martin Luther King, Jr., and the Speech That Inspired a Nation*, observes that by

using anaphora, "King could create a series of parallel images, which allowed him to suggest connections between seemingly unrelated topics."

King next turns his attention to those battle-scarred veterans of the civil rights movement in the audience; those who have suffered beatings and imprisonment for the sake of freedom. He salutes their sacrifices and courage. Some of them have questioned the effectiveness of Gandhian civil disobedience, but King encourages them to keep faith in nonviolence. They should return to the South to continue their work with confidence that victory is in sight.

If King had concluded at this point, as he had planned, his address probably would have been little remembered. As Hansen remarks, "There was nothing particularly unusual about the substance of the first ten minutes of King's speech." Many other politicians and activists had covered the same ground. Here, however, King departs from his prepared text to deliver an extemporaneous oration describing his vision for the future of America. David Garrow quotes King's recollection of this moment: "I started out reading the speech … and all of a sudden this thing came to me that I have used I'd used it many times before, that thing about 'I have a dream' and I just felt I wanted to use it here." This is a set piece he had used several times previously most recently in Birmingham in April and in Detroit in June but never more effectively than on this day. Indeed, the speech metamorphoses into a sermon at this point, with King switching to his role as preacher and with the massive audience as his spirited congregation. Using the distinctive call-and-response style perfected by his Baptist forbears, he enlists the crowd as a chorus to affirm and endorse his prophecy. Every time King reveals a new facet of his dream, the crowd replies with affirmation, clamoring for more. Each response sends King to a higher level of emotional intensity.

In the first glimpse of his dream, King refers again to the Declaration of Independence, asserting his belief that one day Americans truly will honor the words "all men are created equal." King then presents a series of vivid images describing what this new reality will look like. In outlining his vision, he utilizes a series of paired contrasting ideas: slavery and brotherhood; oppression and freedom; segregation and integration; despair and hope; and "jangling discord" and "a beautiful symphony." He foresees a society where the barriers of segregation dividing the races no longer will be enforced where blacks and whites will be able to sit down and eat together. Jim Crow laws and southern custom widely prohibited the sharing of meals by black and white people at the same table because this sharing would symbolize equal status and inclusion. King thus anticipates the day when blacks and whites in his native Georgia will be able to break bread together.

King's dream also extends to the state of Mississippi, home to some of the most violent defenders of white supremacy. King does not need to remind the assembled marchers of past injustices committed in the Magnolia State; they well know the names of African Americans lynched for alleged transgressions of the Jim Crow code, including fourteen-year-old Emmett Till, who was abducted from his uncle's home and then beaten and drowned, and Medgar Evers, the martyred leader of the National Association for the Advancement of Colored People, who was shot in the back with a high-powered rifle just ten weeks earlier. Despite this sorry record, King asserts that Mississippi will become "an oasis of freedom and justice."

King next makes the dream very personal by including his four young children. He maintains that one day, instead of being considered inferior beings and denied opportunities to develop their full human potential because of the color of their skin, they will be judged by "the content of their character."

Alabama would also be transformed in this renewed nation. King knew very well how difficult it was to bring change to this state, having led the Montgomery bus boycott and, more recently, having defeated hard-core segregationists in the streets of Birmingham. Without mentioning him by name, King attacks the state's governor, George C. Wallace, who made national headlines earlier that summer with his futile defiance of the federal government while trying to prevent black students from enrolling at the University of Alabama. King offers a vision of a time when "little black boys and black girls" will not be isolated from their white peers. Not only will they see each other as equals, but they will also join hands "as sisters and brothers." The physical intimacy King suggests by this simple act was no doubt offensive to rabid racists but presented a powerful image of innocent fraternity to those in his audience.

King turns back to the Old Testament for the next facet of his vision. Quoting the book of Isaiah, he recalls the prophet's description of the kingdom of God. It is a place where earthly imperfections will disappear; where the mighty will be humbled and the lowly will be exalted; and where "the glory of the Lord shall be revealed" for all to see. King embraces the prophetic role, testifying that the quest for civil rights is part of God's divine plan for America and equating the coming victory over segregation with the arrival of the millennium.

At this point King briefly returns to his prepared text for a few sentences affirming his faith in this vision. This faith gives him strength to resume the struggle for freedom in the South with hope for victory despite entrenched opposition; it gives him confidence that America can overcome its bitter divisions and emerge "into a beautiful symphony of brotherhood." Then, improvising again, he claims that the knowledge that "we will be free one day" is enough to sustain him and other civil rights activists through the difficult battles that undoubtedly lie ahead.

King continues spontaneously, describing a coming era when "all of God's children" will win their freedom. On that day, African Americans will be able to sing the patriotic hymn "America the Beautiful," confident at last that the verses apply to them. Here, King paraphrases a well-known address delivered by the Chicago minister Archibald Carey at the 1952 Republican National Convention. He seizes on the refrain "from every mountainside, let freedom ring," once again using anaphora to launch a series of references to specific geographic regions of the United States. The

first five are mountain ranges outside of the South in New Hampshire, New York, Pennsylvania, Colorado, and California. The final three, then, are more poignant because they locate the need for freedom in the Deep South: King speaks of Georgia's Stone Mountain, Lookout Mountain in Tennessee, and even "every hill and molehill of Mississippi," a state without notable mountain ranges.

At this point the crowd in front of the Lincoln Memorial was cheering wildly. King's rhetoric had brought them to the emotional peak of his oration. He summons a vision of the day when freedom will ring "from every village and every hamlet" and when this message will be embraced by "all of God's children." He offers a closing image of blacks and whites, Jews and Gentiles, Protestants and Catholics all joining hands in brotherhood. Finally as he spoke, he raised his arm in a blessing King invokes an African American spiritual for his benediction: "Free at last, free at last, thank God Almighty, we are free at last."

The final seven minutes were what made King's speech a triumph of American oratory. These are the words that schoolchildren memorize, because King "added something completely fresh to the way that Americans thought about race and civil rights. He gave the nation a vision of what it could look like if all things were made new."

Audience

The immediate audience for King's speech was the approximately two hundred and fifty thousand people gathered on August 28, 1963, in front of the Lincoln Memorial and around the nearby Reflecting Pool. Additional millions listened on the radio and watched on television. King's words were aimed at all Americans. For black listeners they carried a message of hope with the promise that the goals of freedom and equality were within reach. For whites, King articulated the aspirations of African Americans, placing them squarely in the context of the American dream. Each year, on the national holiday commemorating his life, King's message is passed on to new generations.

Impact

King's words were broadcast live by the three major television networks into homes across the United States. Millions of people for whom King had been only a name in the news were thus able to witness the power of his oratory firsthand. One of the many who were impressed was President Kennedy, who remarked while viewing coverage of the march in the White House, "That guy is really good." Despite his privately expressed admiration, however, the chief executive was unwilling to praise King in public for fear of drawing the ire of die-hard segregationists.

Public reaction to the speech was largely favorable. The next day's edition of the *New York Times* was generous in its praise, with a front-page headline reading, "Peroration by Dr. King Sums Up a Day the Capital Will Remember." The

A view of the crowd that gathered for the March on Washington on April 28, 1963 (Library of Congress)

Motown Company released an unauthorized recording of King's speech that sold briskly in African American record stores. A few black militants, however, chided march organizers for not taking a more critical stance toward the Kennedy administration. One of these naysayers was Malcolm X, who acidly lampooned the day's events as "the Farce in Washington."

King's powerful message undoubtedly helped build support for Kennedy's pending civil rights legislation. According to Drew Hansen, "by delivering a message of hope, and not something that was likely to be labeled as angry or extremist, King's speech could only help the civil rights bill." Nonetheless, while the success of the march boosted the morale of civil rights backers, it probably did not influence any congressional votes. The historian Lerone Bennett has pointed to the lack of concrete accomplishments flowing from the march. In his *Confrontation: Black and White*, he states, "It led nowhere and was not intended to lead anywhere. It was not planned as an event with a coherent plan of action. As a result, the march was a stimulating but detached and isolated episode." It would take ten months of bitter partisan wrangling and skillful political maneuvering by President Lyndon B. Johnson to secure the passage of the Civil Rights Act in July 1964.

Essential Quotes

"Now is the time to make real the promises of democracy. Now is the time to rise from the dark and desolate valley of segregation to the sunlit path of racial justice. Now is the time to lift our nation from the quicksands of racial injustice to the solid rock of brotherhood. Now is the time to make justice a reality for all of God's children."

(Paragraph 6)

"No, we are not satisfied and we will not be satisfied until 'justice rolls down like waters and righteousness like a mighty stream.'"

(Paragraph 10)

"I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character."

(Paragraph 16)

"I have a dream that one day down in Alabama … little black boys and black girls will be able to join hands with little white boys and white girls as sisters and brothers."

(Paragraph 17)

"Let freedom ring from Stone Mountain of Georgia. Let freedom ring from Lookout Mountain of Tennessee. Let freedom ring from every hill and molehill of Mississippi. From every mountainside, let freedom ring."

(Paragraphs 26–29)

"When we allow freedom [to] ring … we will be able to speed up that day when all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, 'Free at last! Free at last! Thank God Almighty, we are free at last!'"

(Paragraph 30)

King's heightened public profile following the March on Washington inflamed the Federal Bureau of Investigation director J. Edgar Hoover's animus toward the civil rights leader. Where others saw eloquence, Hoover perceived demagoguery. Richard Gid Powers speaks of the "campaign to utterly discredit King, to destroy him personally and as a public figure" that was touched off by the "I Have a Dream" speech. The bureau had been monitoring King's activities for several years, but "after the March the bureau shifted from a hostile but relatively passive surveillance of King to an aggressive at times violently aggressive campaign to destroy him." The bureau's wiretaps, bugging of hotel rooms, and leaks to the press would continue until King's 1968 assassination in Memphis.

Although King's speech was widely hailed in the days following the march, by the time of his death, in Hansen's words, it "had nearly vanished from public view." In his cogent historical analysis of the speech, Hansen maintains that between 1963 and 1968 "few people spent substantial time talking or thinking about what King had said at the march." One reason for this was the increasingly militant stance taken by the black liberation movement. The Watts riot of 1965 in Los Angeles, in reaction to police brutality and widespread discrimination, and the periods of urban revolt that followed made the interracial harmony prophesied by King seem increasingly unattainable. Whites were offended in 1966 when the young radical Stokely Carmichael proclaimed that "Black Power" should replace "Freedom Now" as the motto of the movement. King himself also became more radical in his views. Faced with the intractable problems of poverty and the Vietnam War in addition to pervasive racism, he also grew increasingly pessimistic. In speeches after 1965 King began saying that his dream had turned into a nightmare. By the time of his death in 1968, the upbeat spirit of the "I Have a Dream" speech seemed hopelessly out of date. Only after King's murder was his speech elevated to the exalted position it now occupies.

According to Hansen, politicians focused on the "I Have a Dream" speech because it helped them "forget King's post-1965 career." Although the speech twice mentions racial problems in the North, its major emphasis is on the Jim Crow discrimination of the South. By the time a nation-

Questions for Further Study

1. On April 3, 1968, the day before he was assassinated, Martin Luther King, Jr., delivered a speech in support of striking Memphis sanitation workers. Known as his "I See the Promised Land" speech, or "the Mountaintop" speech, it is second only to the "I Have a Dream" speech in popularity among King's speeches. Compare the two addresses. How do they differ in tone? How do they differ in content?

2. There is no substitute for watching a film of King's "I Have a Dream" speech. View the speech and closely observe the interaction between King and his audience. At what points of the speech do his listeners react most enthusiastically? How does the audience's response affect King's delivery? In what ways does the impact of the film version differ from the effect of the written document?

3. John Lewis also delivered an important address at the March on Washington. Both King and Lewis were working in the southern civil rights movement, and both came from strong religious backgrounds, yet their speeches are quite different. After reading Lewis's words, compare the two documents. How do they differ? What are the points of agreement? Why is King's speech remembered today while Lewis's is largely forgotten?

4. In 1895 the African American educator Booker T. Washington delivered a memorable speech—the Atlanta Exposition Address—at the Cotton States and International Exposition in Atlanta. Following his address, Washington was hailed—as King would be—as the unquestioned leader of his people. The thrust of Washington's words, however, is almost totally contradictory to that of King's. Compare the two speeches and identify the different historical circumstances that shaped them.

5. In 1852 the black abolitionist Frederick Douglass spoke at a rally commemorating the Declaration of Independence. His "What to the Slave Is the Fourth of July?" explored several of the same themes covered by Martin Luther King, Jr.'s "I Have a Dream" speech. Compare these two documents and discuss the historical circumstances that produced them.

al holiday in King's name was declared in 1983, corresponding with his mid-January birthday, "whites only" signs had disappeared, and discriminatory voting laws were safely in the past. The recycling of King's speech thus allowed the nation to celebrate the elimination of legally sanctioned segregation while ignoring the widespread racial inequality that remained unaffected by civil rights legislation. In an ironic twist, conservative commentators began to quote King's admonition to judge people not by the color of their skin but by "the content of their character" in arguing against affirmative action, a program King himself endorsed.

See also A. Philip Randolph's "Call to Negro America to March on Washington" (1941); Martin Luther King, Jr.: "Letter from Birmingham Jail" (1963); John F. Kennedy's Civil Rights Address (1963); Civil Rights Act of 1964; Stokely Carmichael's "Black Power" (1966).

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Paul T. Murray

Document Text

Martin Luther King, Jr.: "I Have a Dream"

I am happy to join with you today in what will go down in history as the greatest demonstration for freedom in the history of our nation.

Fivescore years ago, a great American, in whose symbolic shadow we stand today, signed the Emancipation Proclamation. This momentous decree came as a great beacon light of hope to millions of Negro slaves who had been seared in the flames of withering injustice. It came as a joyous daybreak to end the long night of their captivity.

But one hundred years later, the Negro still is not free. One hundred years later, the life of the Negro is still sadly crippled by the manacles of segregation and the chains of discrimination. One hundred years later, the Negro lives on a lonely island of poverty in the midst of a vast ocean of material prosperity. One hundred years later the Negro is still languished in the corners of American society and finds himself an exile in his own land. And so we've come here today to dramatize a shameful condition.

In a sense we've come to our nation's capital to cash a check. When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir. This note was a promise that all men, yes, black men as well as white men, would be guaranteed the "unalienable Rights of Life, Liberty, and the pursuit of Happiness." It is obvious today that America has defaulted on this promissory note insofar as her citizens of color are concerned. Instead of honoring this sacred obligation, America has given the Negro people a bad check, a check which has come back marked "insufficient funds."

But we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vaults of opportunity of this nation. And so we've come to cash this check, a check that will give us upon demand the riches of freedom and the security of justice.

We have also come to this hallowed spot to remind America of the fierce urgency of now. This is no time to engage in the luxury of cooling off or to take the tranquilizing drug of gradualism. Now is the time to make real the promises of democracy. Now is the time to rise from the dark and desolate valley of segregation to the sunlit path of racial justice. Now is the time to lift our nation from the quicksands of racial injustice to the solid rock of brotherhood. Now is the time to make justice a reality for all of God's children.

It would be fatal for the nation to overlook the urgency of the moment. This sweltering summer of the Negro's legitimate discontent will not pass until there is an invigorating autumn of freedom and equality. Nineteen sixty-three is not an end, but a beginning. And those who hope that the Negro needed to blow off steam and will now be content will have a rude awakening if the nation returns to business as usual. There will be neither rest nor tranquility in America until the Negro is granted his citizenship rights. The whirlwinds of revolt will continue to shake the foundations of our nation until the bright day of justice emerges.

But there is something that I must say to my people, who stand on the warm threshold which leads into the palace of justice: In the process of gaining our rightful place, we must not be guilty of wrongful deeds. Let us not seek to satisfy our thirst for freedom by drinking from the cup of bitterness and hatred. We must forever conduct our struggle on the high plane of dignity and discipline. We must not allow our creative protest to degenerate into physical violence. Again and again, we must rise to the majestic heights of meeting physical force with soul force. The marvelous new militancy which has engulfed the Negro community must not lead us to a distrust of all white people, for many of our white brothers, as evidenced by their presence here today, have come to realize that their destiny is tied up with our destiny. And they have come to realize that their freedom is inextricably bound to our freedom. We cannot walk alone.

And as we walk, we must make the pledge that we shall always march ahead. We cannot turn back. There are those who are asking the devotees of civil rights, "When will you be satisfied?"

We can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality. We can never be satisfied as long as our bodies, heavy with the fatigue of travel, cannot gain lodging in the motels of the highways and the hotels of the cities. We cannot be satisfied as long as the Negro's basic mobility is from a smaller ghetto to a larger one.

Document Text

We can never be satisfied as long as our children are stripped of their selfhood and robbed of their dignity by signs stating "for whites only." We cannot be satisfied as long as a Negro in Mississippi cannot vote and a Negro in New York believes he has nothing for which to vote. No, no, we are not satisfied and we will not be satisfied until "justice rolls down like waters and righteousness like a mighty stream."

I am not unmindful that some of you have come here out of great trials and tribulations. Some of you have come fresh from narrow jail cells. Some of you have come from areas where your quest for freedom left you battered by the storms of persecution and staggered by the winds of police brutality. You have been the veterans of creative suffering. Continue to work with the faith that unearned suffering is redemptive. Go back to Mississippi, go back to Alabama, go back to South Carolina, go back to Georgia, go back to Louisiana, go back to the slums and ghettos of our northern cities, knowing that somehow this situation can and will be changed. Let us not wallow in the valley of despair.

I say to you today, my friends, so even though we face the difficulties of today and tomorrow, I still have a dream. It is a dream deeply rooted in the American dream.

I have a dream that one day this nation will rise up and live out the true meaning of its creed: "We hold these truths to be self-evident, that all men are created equal."

I have a dream that one day on the red hills of Georgia, the sons of former slaves and the sons of former slave owners will be able to sit down together at the table of brotherhood.

I have a dream that one day even the state of Mississippi, a state sweltering with the heat of injustice, sweltering with the heat of oppression, will be transformed into an oasis of freedom and justice.

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character. I have a dream today.

I have a dream that one day down in Alabama, with its vicious racists, with its governor having his lips dripping with the words of "interposition" and "nullification," one day right there in Alabama little black boys and black girls will be able to join hands with little white boys and white girls as sisters and brothers. I have a dream today.

I have a dream that one day "every valley shall be exalted, and every hill and mountain shall be made low; the rough places will be made plain, and the crooked places will be made straight; and the glory of the Lord shall be revealed, and all flesh shall see it together."

This is our hope. This is the faith that I go back to the South with. With this faith we will be able to hew out of the mountain of despair a stone of hope. With this faith we will be able to transform the jangling discords of our nation into a beautiful symphony of brotherhood. With this faith we will be able to work together, to pray together, to struggle together, to go to jail together, to stand up for freedom together, knowing that we will be free one day. This will be the day, this will be the day when all of God's children will be able to sing with new meaning:

My Country, 'tis of thee, sweet land of liberty,
of thee I Sing.
Land where my fathers died, land of the pilgrim's pride
From every mountainside, let freedom ring!

And if America is to be a great nation, this must become true.

And so let freedom ring from the prodigious hilltops of New Hampshire.

Let freedom ring from the mighty mountains of New York.

Let freedom ring from the heightening Alleghenies of Pennsylvania.

Glossary

interposition and nullification	a discredited legal theory holding that states can nullify federal laws that they consider unconstitutional, as used by segregationists trying to reverse the Supreme Court's *Brown v. Board of Education* decision
promissory note	a written promise to pay a specific amount on demand or at a specific time
fivescore	one hundred—a "score" being twenty

Document Text

Let freedom ring from the snowcapped Rockies of Colorado.

Let freedom ring from the curvaceous slopes of California.

But not only that: Let freedom ring from Stone Mountain of Georgia.

Let freedom ring from Lookout Mountain of Tennessee.

Let freedom ring from every hill and molehill of Mississippi.

From every mountainside, let freedom ring.

And when this happens, when we allow freedom to ring, when we let it ring from every village and every hamlet, from every state and every city; we will be able to speed up that day when all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual:

Free at last! Free at last!

Thank God Almighty, we are free at last!

An Act

To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1964".

TITLE I—VOTING RIGHTS

SEC. 101. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall—

"(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"(B) deny the right of any individual to vote in any Federal election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"(C) employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 (42 U.S.C. 1974–74e; 74 Stat. 88): *Provided, however*, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the prepara-

The Civil Rights Act of 1964 (National Archives and Records Administration)

Civil Rights Act of 1964

1964

"All persons shall be entitled to the full and equal enjoyment ... of any place of public accommodation ... without discrimination or segregation on the ground of race."

Overview

Enacted on July 2, 1964 in the year after President John F. Kennedy's assassination; the bloody campaign to integrate Birmingham, Alabama; and the first March on Washington, which featured Martin Luther King, Jr.'s "I Have a Dream" Speech the Civil Rights Act of 1964 was the most important piece of civil rights legislation passed since the Reconstruction era. It outlawed discrimination on a number of bases, including race, color, religion, national origin, and, with respect to employment, sex. Also of importance was the breadth of areas in which discrimination was outlawed, as the act prohibited discrimination in places of public accommodations, public facilities, federally assisted programs, employment, and voting. It also pushed for the full desegregation of schools and expanded the U.S. Commission on Civil Rights, which had been created by the Civil Rights Act of 1957. Last, the 1964 act created institutions for monitoring and facilitating the advancement of civil rights, such as the Equal Employment Opportunity Commission, to enforce Title VII of the act, and the Community Relations Service, to assist "communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin."

In requiring equality, the Civil Rights Act of 1964 arguably provided many of the freedoms that African Americans should have already enjoyed as a result of the Fourteenth Amendment, extending that amendment close to its logical limit. However, the act went further than Fourteenth Amendment doctrine allowed in regulating purely private conduct in some instances. The regulation of private conduct required that the act be based on Congress's commerce clause power in addition to whatever authority Congress had under its Fourteenth Amendment enforcement power. The act's continual mention of interstate commerce is a nod to that requirement. In truth, without the regulation of private conduct, the act would not be nearly as important as it was and continues to be. Simply put, it remains the broadest, most effective, and most important civil rights bill passed since Reconstruction.

The 1964 act and the debate around it signaled a changing of the guard: Discrimination was officially repudiated, and equality was required in more places than previously imagined. The filibuster of the act by southern senators arguably represented the last-ditch efforts of desperate men who wished to hew to a bygone era. Those who wished to protect and perpetuate the old order were duly told to stand aside, as the United States entered a new era in which all of its citizens were to be treated as equal under the law and as full members of the polity.

Context

The Civil Rights Act of 1964 was passed in the middle of the turmoil and upheaval in American society of the 1950s and 1960s. Seminal events such as the Montgomery bus boycott, the Supreme Court case *Brown v. Board of Education of Topeka*, the integration of Little Rock Central High School, and the March on Washington for Jobs and Freedom had already occurred. Many other events including the attacks in Selma, Alabama; the passage of the Voting Rights Act of 1965; the assassinations of Martin Luther King, Jr., and Malcolm X; and the riots in major American cities were yet on the horizon.

The events that immediately precipitated the 1964 act's introduction in Congress and its eventual passage are fairly clear. President Kennedy originally sent the bill that would become the act to Congress on June 19, 1963, as a reaction to the violence that accompanied the civil rights movement's attempt to integrate Birmingham. The bill had not moved far at the time of President Kennedy's assassination in November 1963. In the immediate aftermath of Kennedy's death, President Lyndon B. Johnson called on Congress to pass the law as a fitting tribute to his predecessor. During the legislative debate on the bill, President Johnson used many of the favors he was owed from his longtime service in Congress to move the bill forward. In addition to Johnson's favors, the supporters of the civil rights legislation used many parliamentary maneuvers, voting power, and sheer will to shepherd the bill through Congress. The need for resolve intensified when the bill was significantly strengthened in the House Judiciary Committee after prodding by civil rights groups. Following passage in the House of Representatives, the bill was sent to the

Time Line

1947

- **December**
  The President's Committee on Civil Rights issues *To Secure These Rights*, urging Congress to pass civil rights legislation.

1954

- **May 17**
  In *Brown v. Board of Education*, the Supreme Court outlaws segregation in public schools.

1955

- **December 1**
  Rosa Parks refuses to vacate her bus seat for a white person, sparking the Montgomery bus boycott.

1957

- **September 4–25**
  Central High School in Little Rock, Arkansas, is integrated in a process that requires that federal troops protect African American students and escort them to classes.
- **September 9**
  The Civil Rights Act of 1957, the first civil rights act since 1875, is signed by President Dwight D. Eisenhower, creating the Commission on Civil Rights and attempting—fairly weakly—to protect the voting rights of African Americans.

1960

- **May 6**
  The Civil Rights Act of 1960 is signed by President Eisenhower.
- **November 8**
  John F. Kennedy is elected president of the United States.

1963

- **April–June**
  Civil rights groups attempt to integrate Birmingham, Alabama, and are met with police dogs and fire hoses.
- **June 11**
  The University of Alabama is integrated.
- **June 12**
  Medgar Evers, Mississippi director of the National Association for the Advancement of Colored People, is slain.

Senate on February 17, 1964; after the longest filibuster on record in the U.S. Senate eighty-two days the act passed in amended form by a vote of 73 27. The Senate bill then passed unamended in the House of Representatives by a vote of 289 126. President Johnson signed the bill on July 2, 1964.

About the Author

The Civil Rights Act of 1964 was shaped by a host of people. The original bill was crafted and drafted in the Department of Justice, headed by Attorney General Robert Kennedy. The drafting group almost certainly included Robert Kennedy and his assistant attorneys general, Burke Marshall and Nicholas Katzenbach, as well as the Justice Department lawyer Harold Greene (who later became a judge). As the bill moved through the committee process in the House of Representatives, it was significantly redrafted and strengthened by members and staff of the House Judiciary Committee, including the Democratic representative Emanuel Celler of New York and the Republican representative William McCulloch of Ohio and their aides. Many amendments were added from the floor of the House, with one of the most momentous being offered by the Democratic representative Howard W. Smith of Virginia, chairman of the House Rules Committee. Smith added the provision including sex discrimination to Title VII of the act as a prohibited mode of discrimination, apparently in an effort to derail the bill. The amendment passed, and the bill ultimately passed the House. On the Senate side, a number of amendments were offered and passed, but the bill was not overwhelmingly altered in substance; Everett Dirksen, a Republican senator from Illinois, was the Senate's most active amender of the bill.

Explanation and Analysis of the Document

The Civil Rights Act of 1964 begins with a simple recitation of its purpose, indicating the range of substantive areas it touches, the federal commissions it creates, and the methods of enforcement it provides. Title I (Voting Rights) is an amendment of the Civil Rights Acts of 1957 and 1960. It applies to federal elections, requiring that all voters be held to the same qualification standards and prohibiting discrimination on the basis of race, color, religion, or national origin. However, this title does not outlaw some of the methods that were being used to discriminate against African Americans, including literacy tests. Regarding such tests, Title I instead attempts to ensure that they are applied as equally as possible. For example, it requires that literacy tests be administered in writing and allows the attorney general to negotiate with state and local authorities regarding their use. This title also allows the attorney general to request that a three-judge panel hear allegations of voting rights violations arising under its statutes. Appeals from the three-judge panel would be directed to the Supreme Court.

Title I was largely superseded by the Voting Rights Act of 1965, which generally prohibited methods of discriminating against minorities, including literacy tests, and strengthened the right to vote in general. The Voting Rights Act was passed pursuant to the Fifteenth Amendment rather than to the Fourteenth Amendment.

Title II (Injunctive Relief against Discrimination in Places of Public Accommodation) prohibits discrimination on the basis of race, color, religion, or national origin in the provision of goods, services, facilities, privileges, advantages, and accommodations at any place of public accommodations. Title II also prohibits attempts to prevent any persons from attempting to enjoy their rights under its terms. Places of public accommodations are held to include lodging places of all kinds other than owner-occupied establishments with five or fewer rooms for rent or hire. Also included under the title's terms are restaurants, theaters, sports arenas, and all establishments located inside of such places if they serve the customers of those places. The title does not cover private clubs and other places not open to the public.

Title II was one of the act's most controversial titles because it struck at the heart of what some thought were the legitimate prerogatives of business owners. By elevating the right of minority patrons to receive equal treatment above the right of business owners to refuse service to anyone, the title became a public expression of the nation's new equality and made sit-ins at lunch counters unnecessary.

Rights granted under Title II could be vindicated in a number of different ways. If rights were violated or about to be violated, aggrieved individuals would be permitted to directly sue for injunctive relief, and under certain circumstances the attorney general could intervene in support of the plaintiff. However, if the activity held to be a violation were to occur in a state or locality that allowed local officials to "grant or seek relief from such practice or to institute criminal proceedings with respect thereto," those local officials had to be given the opportunity to address the issue before an action for federal injunctive relief could be brought. If the violation were to occur in a state or locality that did not authorize local officials to redress the activity, the aggrieved person could sue, although the court might refer the matter to the Community Relations Service, established in Title X of the act, to see whether voluntary compliance might be possible.

Title II tracks the public accommodations provisions of the Civil Rights Act of 1875, which were deemed unconstitutional in the Civil Rights Cases (1883), although the 1964 act's provisions are somewhat narrower. In the 1964 act, Congress limited actionable discrimination to discrimination that involves state action or establishments whose operations affect commerce. In doing so, Congress guaranteed that the title was clearly within either Congress's Fourteenth Amendment enforcement power or its commerce clause power. Nonetheless, two challenges to Title II arose immediately after the 1964 act was passed, with both *Heart of Atlanta Motel v. United States* and *Katzenbach v. McClung* challenging the constitutionality of Title II that

Time Line

1963

- **June 19** President Kennedy sends the civil rights bill that would become the Civil Rights Act of 1964 to Congress.
- **August 28** Martin Luther King, Jr., leads the March on Washington and delivers his "I Have a Dream" Speech.
- **November 22** President Kennedy is assassinated in Dallas, Texas.
- **November 27** President Lyndon B. Johnson calls for the passage of the civil rights bill to honor President Kennedy's memory.

1964

- **July 2** The Civil Rights Act of 1964 is signed by President Johnson.
- **November 3** Lyndon B. Johnson is popularly elected president.

1965

- **February 21** Malcolm X is assassinated in New York City.
- **March 7** The march from Selma to Montgomery for voting rights ends with Alabama state troopers attacking marchers.
- **August 6** The Voting Rights Act of 1965 becomes law.

1968

- **April 4** Martin Luther King, Jr., is assassinated in Memphis, Tennessee.
- **June 5** Robert F. Kennedy is assassinated in Los Angeles.
- **November 5** Richard M. Nixon is elected president of the United States.

same year. In both cases, the Supreme Court determined that Title II was an acceptable exercise of Congress's commerce clause power. Once those cases were settled, the constitutionality of the 1964 act was not in doubt, and the task of fully integrating the country could begin.

Title III (Desegregation of Public Facilities) authorizes the attorney general to file suit on behalf of the United States against a state or locality under certain circumstances when the attorney general has received a complaint from an individual indicating that he or she is being denied equal protection rights because he or she is being denied equal use of a public facility. If the individual is unable to litigate the case fully or properly and if suit by the United States "will materially further the orderly progress of desegregation in public facilities," the attorney general may intervene. This title simply puts the resources of the federal government behind those who attempt to integrate public facilities that should have already been desegregated.

Title IV (Desegregation of Public Education) provides technical and financial assistance to school districts that experience problems with desegregation. It also provides help to those persons whose children are being denied the equal protection of the law by a school board or public college because of race, color, religion, or national origin and who are unable to fully and adequately prosecute the litigation. However, the title makes clear that it is not to apply to cases in which busing is sought to resolve issues of racial imbalance in schools. As with Title III, the resources of the federal government were being made available so that established constitutional requirements, in this case the desegregation of schools, could be met.

Title V (Commission on Civil Rights) renews and retools the mandate of the Commission on Civil Rights, which was created by the Civil Rights Act of 1957. The commission is authorized to investigate allegations related to voting rights and voting fraud allegations. In addition, it is tasked with studying and collecting information and appraising the laws and policies of the federal government regarding denials of equal protection based on race, color, religion, or national origin in the administration of justice. Last, the commission is to "serve as a national clearinghouse for information in respect to denials of equal protection of the laws because of race, color, religion or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice." However, the commission is restricted from investigating the membership practices of fraternal organizations, fraternities, sororities, private clubs, and religious organizations.

Title V's passage was not without problems, as debate occurred regarding whether merely to extend the life of the Commission on Civil Rights or to make it permanent. The 1964 act simply extended the life of the commission, but it has continued to exist through various extensions and reauthorizations.

Title VI (Nondiscrimination in Federally Assisted Programs) focuses on guaranteeing that federal tax money does not go to programs that discriminate on the basis of race, color, or national origin. It directs federal agencies and departments to issue rules and regulations consistent with the principles underlying Title VI and the act as a whole. Title VI was largely intended to discontinue the funds that were being provided to segregated schools in the South. However, the title clearly applies to all sorts of programs that receive federal funding, including hospitals, building projects, and road construction. Indeed, regulations stemming from Title VI may have been the biggest benefit to minority contractors in the country's history.

Title VII (Equal Employment Opportunity) is by far the longest title of the 1964 Civil Rights Act and possibly the act's most controversial. As originally submitted by the Kennedy administration, Title VII merely allowed the president to establish a commission on equal employment opportunity to regulate companies with government contracts. As finally enacted, the title dealt with guaranteeing equality in employment, an area that was historically thought to have been controlled by the prerogative of the employer. The limitation on how employment decisions could be made was arguably second only to the requirement that public accommodations be equal in its effect on the psyche of those whose actions were regulated by the act. The title restricts not only how employers can fill jobs but also how employment agencies can refer people for employment and how labor organizations can include and exclude people from membership. Simply put, under the terms of the act, none of these entities could discriminate against people and employees based on their race, color, religion, sex, or national origin. In addition, none of the entities would be permitted to retaliate against those who formally or informally opposed employment practices made unlawful by Title VII.

The most momentous aspect of Title VII was its inclusion of sex discrimination as a prohibited ground for discrimination. Sex was added as an amendment by the Democratic representative Howard Smith of Virginia. Although he was the powerful chairman of the House Rules Committee, he was outmaneuvered and overruled by those who were determined to pass the 1964 act. As one of his final attempts to derail the bill, he proposed the addition of sex to the terms. Rather than reject the proposal, the House, with the support of most of its female members, accepted the amendment and eventually the entire act. However, because sex was added to the terms near the very end of the legislative process, little legislative history exists to interpret what constitutes the clause. Consequently, courts have had a more difficult time determining what constitutes sex discrimination under Title VII than what constitutes race discrimination under Title VII.

Title VII also creates the Equal Employment Opportunity Commission and gives it primary responsibility for investigating and processing discrimination claims, although the process of adjudicating such claims is largely left to the federal courts. In addition, the commission is to provide technical assistance to those employers and others who wish to properly discharge their responsibilities and duties under Title VII.

Title VII was controversial not only for what it did but also for what some believed it would do. Many claimed that Title VII's provisions would eventually require that businesses maintain quotas to ensure the racial balance of the workforce. A number of representatives and senators disputed this reading of the bill. Nevertheless, specific language was added to the bill to make clear that Title VII would never require a preference for one race based solely on a racial imbalance in the workplace.

Title VIII (Registration and Voting Statistics) authorizes the secretary of commerce to gather voting data on populations and parse the data based on race, color, and national origin. Rather than parsing data for the entire country, the data is to be gathered for whatever geographic areas are suggested by the Commission on Civil Rights. Given that the Bureau of the Census gathers statistics and is a part of the Department of Commerce, the act unsurprisingly tasks the commerce secretary with the responsibility outlined here.

Title IX (Intervention and Procedure after Removal in Civil Rights Cases) is purely procedural in nature. It dictates what is to occur when a case that was filed in state court and then removed to federal court is sent back to the state court. It also addresses when the federal government is allowed to intervene in a civil rights case and the implications of the intervention.

Title X (Establishment of Community Relations Service) creates the Community Relations Service to provide conciliation and mediation in local communities when issues of equality arise that can be solved through means less formal than court filings. The service is purely a problem-solving entity; it is not supposed to be involved in any litigation that might arise out of the matters it handles. The Community Relations Service can be thought of as a mechanism to turn down the heat on a community dispute before it boils over into discord or violence.

Title XI (Miscellaneous), as its title suggests, addresses various issues not dealt with anywhere else in the statute. For example, it addresses rules for criminal contempt in cases brought pursuant to the act. It also notes that nothing in the act should be construed to affect the ability of the attorney general or anyone acting in his stead from intervening in cases based on laws passed prior to the act. Last, the final title notes the severability of any part of the act found to be invalid meaning that if a part of the act were to be deemed unenforceable, the rest of the act would remain valid.

Audience

The intended audience for the 1964 act was the country as a whole. The message was to be sent to all citizens of the United States that discrimination would no longer be acceptable if the government could prevent it. Although the government could not change the hearts and minds of its citizens, it could guarantee equality in the most important spheres of life. People could not be required to think in a certain way; however, they could be influenced in their thinking by the country's collective thoughts on an issue, as expressed in its laws.

President Lyndon Johnson signs into law the Civil Rights Act in ceremonies July 2, 1964, in the East Room of the White House. (AP/Wide World Photos)

Of course, many of the nation's citizens did not need to have their mindsets changed by the act. According to Gallup and Harris polls taken in 1964, the bill had the support of more than half of the American public as it was moving toward passage. Consequently, the act did not have to be sold wholesale to the American people. Rather, the sale needed to be made to certain parts of the country and perhaps to certain segments in every part of the country that were quite vocal in their opposition to equality. Eventually, the chorus for equality drowned out the voices for inequality.

Impact

The Civil Rights Act of 1964 changed the landscape of American race relations forever by indicating that discrimination would no longer be the order of the day. The symbolic significance of the act cannot be overstated. By delving into the realm of private conduct and requiring equality in areas that many thought Congress would never regulate, the 1964 act made equality in public areas the new paradigm. It afforded African Americans everyday dignities that had been owed but not granted to black citizens. The act did not cure racial strife, but it helped make American life significantly more hospitable for minorities. The law may not have altered mindsets as much as it gave voice to the attitudes of the more progressive among the citizenry.

Essential Quotes

"An Act: To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes."

(Introduction)

"All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, and privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin."

(Section 201)

"Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action: (1) any inn, hotel, motel, or other establishment which provides lodging to transient guests…; (2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food."

(Section 201)

"It shall be an unlawful employment practice for an employer—(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin."

(Section 703[a])

Equally important, it removed the cover of law for those with discriminatory views. In the end, the law was accepted, grudgingly or not, and most calls to obey were heeded. Indeed, the law and its sanctions made it almost impossible for businesses to fail to comply.

In many ways, the 1964 act finished much of the work of the Reconstruction amendments. Those amendments provided a constitutional structure that was supposed to make all citizens equal before the law and full members of American society. While the Reconstruction amendments made minority Americans legal citizens, the 1964 act helped allow those citizens to enjoy their full rights of citizenship. Equality finally became the glue that is supposed to hold all Americans together.

The 1964 act was a powerful sequel to the Civil Rights Acts of 1957 and 1960. The 1957 act had been the first significant civil rights bill passed since the Reconstruction-era Civil Rights Act of 1875. However, the 1957 act focused on voting rights and did not have nearly the breadth and importance that the 1964 act would have. Similarly, the Civil Rights Act of 1960 was fairly weak. The 1964 act, to the contrary, opened the floodgates of change. In its immediate wake, Congress passed the Voting Rights Act of 1965, and additional strong antidiscrimination measures were passed soon after. Some, like the Age Discrimination in Employment Act of 1967, targeted the hiring practices of businesses. Others, such as the Fair Housing Act of 1968 and the Equal Credit Opportunity Act of 1974, targeted discrimination more broadly. Beyond the 1960s civil rights era, antidiscrimination legislation continued to be passed, both in the form of revisions, such as those to the 1964 act that occurred in 1972 and 1991, and in the form of new acts, such as the Americans with Disabilities Act of 1990. Thus, the Civil Rights Act of 1964 paved the way for many other laws that have made America even more hospitable to all of her people.

See also Fourteenth Amendment to the U.S. Constitution (1868); *Brown v. Board of Education* (1954); Martin Luther King, Jr.: "I Have a Dream" (1963).

Further Reading

Books

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Klarman, Michael J. *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality*. New York: Oxford University Press, 2004.

Kotz, Nick. *Judgment Days: Lyndon Baines Johnson, Martin Luther King, Jr., and the Laws That Changed America*. Boston: Houghton Mifflin, 2005.

Questions for Further Study

1. The Civil Rights Act of 1964 was justified both as an extension of the Fourteenth Amendment and as a proper application of the commerce clause. Would the Civil Rights Act of 1964 have been reasonable law if it had been passed during the Reconstruction era? How similar are some of its sections to laws passed during Reconstruction?

2. To ensure passage, the Civil Rights Act of 1964 underwent significant changes. In fact, the act as finalized proved stronger than the civil rights bill sent to Congress by President Kennedy in 1963. Does this circumstance reveal anything about President Kennedy's commitment to civil rights, or does it reveal his ability to divine Congress's tolerance for a strong civil rights bill, or does it reveal something entirely different?

3. What effect, if any, do you believe the Civil Rights Act of 1964 has had on the electoral results of the Democratic Party in the South from the 1960s to the present?

4. What might the United States have come to look like had the Civil Rights Act of 1964 not been passed? Would the act have passed had President Kennedy not been assassinated?

5. Arguably, the Civil Rights Act of 1964 was the culmination of the first stage of the civil rights era. Which act was more important to civil rights, the Civil Rights Act of 1964 or the Voting Rights Act of 1965?

Loevy, Robert D., ed. *The Civil Rights Act of 1964: The Passage of the Law That Ended Racial Segregation*. Albany: State University of New York Press, 1997.

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■ Web Sites

Rhodes, Henry A. "An Analysis of the Civil Rights Act of 1964: A Legislated Response to Racial Discrimination in the U.S." Yale New Haven Teachers Institute Web site.
http://www.yale.edu/ynhti/curriculum/units/1982/3/82.03.04.x.html.

"Teaching with Documents: The Civil Rights Act of 1964 and the Equal Employment Opportunity Commission." National Archives "Educators and Students" Web site.
http://www.archives.gov/education/lessons/civil-rights-act/.

Henry L. Chambers, Jr.

Document Text

Civil Rights Act of 1964

An Act: To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1964".

Title I—Voting Rights

SEC. 101. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall

"(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"(B) deny the right of any individual to vote in any Federal election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"(C) employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 (42 U.S.C. 1974-74e; 74 Stat. 88): Provided, however, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

"(3) For purposes of this subsection

"(A) the term 'vote' shall have the same meaning as in subsection (e) of this section;

"(B) the phrase 'literacy test' includes any test of the ability to read, write, understand, or interpret any matter."

(b) Insert immediately following the period at the end of the first sentence of subsection (c) the following new sentence: "If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico where instruction is carried on predominantly

in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any Federal election."

(c) Add the following subsection "(f)" and designate the present subsection "(f)" as subsection "(g)": "(f) When used in subsection (a) or (c) of this section, the words 'Federal election' shall mean any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives."

(d) Add the following subsection "(h)":

"(h) In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief justice of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

"An appeal from the final judgment of such court will lie to the Supreme Court.

"In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or, in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

Title II—Injunctive Relief against Discrimination in Places of Public Accommodation

SEC. 201. (a) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, and privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

(b) Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

(1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;

(3) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

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(4) any establishment (A)(i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

(c) The operations of an establishment affect commerce within the meaning of this title if (1) it is one of the establishments described in paragraph (1) of subsection (b); (2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b), it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph (4) of subsection (b), it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

(d) Discrimination or segregation by an establishment is supported by State action within the meaning of this title if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance, or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of the State or political subdivision thereof.

(e) The provisions of this title shall not apply to a private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

SEC. 202. All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule, or order of a State or any agency or political subdivision thereof.

SEC. 203. No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 201 or 202, or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 201 or 202, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 201 or 202.

SEC. 204. (a) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved and, upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security.

(b) In any action commenced pursuant to this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

(c) In the case of an alleged act or practice prohibited by this title which occurs in a State, or political subdivision of a State, which has a State or local law prohibiting such act or practice and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no civil action may be brought under subsection (a) before the expiration of thirty days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings.

(d) In the case of an alleged act or practice prohibited by this title which occurs in a State, or political subdivision of a State, which has no State or

local law prohibiting such act or practice, a civil action may be brought under subsection (a): Provided, That the court may refer the matter to the Community Relations Service established by title X of this Act for as long as the court believes there is a reasonable possibility of obtaining voluntary compliance, but for not more than sixty days: Provided further, That upon expiration of such sixty-day period, the court may extend such period for an additional period, not to exceed a cumulative total of one hundred and twenty days, if it believes there then exists a reasonable possibility of securing voluntary compliance.

SEC. 205. The Service is authorized to make a full investigation of any complaint referred to it by the court under section 204(d) and may hold such hearings with respect thereto as may be necessary. The Service shall conduct any hearings with respect to any such complaint in executive session, and shall not release any testimony given therein except by agreement of all parties involved in the complaint with the permission of the court, and the Service shall endeavor to bring about a voluntary settlement between the parties.

SEC. 206. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) In any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

SEC. 207. (a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) The remedies provided in this title shall be the exclusive means of enforcing the rights based on this title, but nothing in this title shall preclude any individual or any State or local agency from asserting any right based on any other Federal or State law not inconsistent with this title, including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right.

Title III—Desegregation of Public Facilities

SEC. 301. (a) Whenever the Attorney General receives a complaint in writing signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to the equal protection of the laws, on account of his race, color, religion, or

national origin, by being denied equal utilization of any public facility which is owned, operated, or managed by or on behalf of any State or subdivision thereof, other than a public school or public college as defined in section 401 of title IV hereof, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly progress of desegregation in public facilities, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection

(a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

SEC. 302. In any action or proceeding under this title the United States shall be liable for costs, including a reasonable attorney's fee, the same as a private person.

SEC. 303. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in any facility covered by this title.

SEC. 304. A complaint as used in this title is a writing or document within the meaning of section 1001, title 18, United States Code.

Title IV—Desegregation of Public Education

Definitions

SEC. 401. As used in this title (a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

◆ Survey and Report of Educational Opportunities

SEC. 402. The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.

◆ Technical Assistance

SEC. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

◆ Training Institutes

SEC. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed

to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute.

◆ Grants

SEC. 405. (a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of

(1) giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(2) employing specialists to advise in problems incident to desegregation.

(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

◆ Payments

SEC. 406. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

◆ Suits by the Attorney General

SEC. 407. (a) Whenever the Attorney General receives a complaint in writing

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection

(a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(c) The term "parent" as used in this section includes any person standing in loco parentis. A "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.

SEC. 408. In any action or proceeding under this title the United States shall be liable for costs the same as a private person.

SEC. 409. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

SEC. 410. Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin.

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Title V—Commission on Civil Rights

SEC. 501. Section 102 of the Civil Rights Act of 1957 (42 U.S.C. 1975a; 71 Stat. 634) is amended to read as follows:

"Rules of Procedure of the Commission Hearings: SEC. 102. (a) At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

"(b) A copy of the Commission's rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpoena.

"(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

"(d) The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

"(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpoena additional witnesses.

"(f) Except as provided in sections 102 and 105 (f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpoena additional witnesses.

"(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

"(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

"(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

"(j) A witness attending any session of the Commission shall receive $6 for each day's

attendance and for the time necessarily occupied in going to and returning from the same, and 10 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of $10 per day for expenses of subsistence including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpoena issued on behalf of the Commission or any subcommittee thereof.

"(k) The Commission shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpoenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpoenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

"(l) The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published."

SEC. 502. Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a); 71 Stat. 634) is amended to read as follows:

"SEC. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $75 per day for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C 73b-2; 60 Stat. 808)."

SEC. 503. Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975(b); 71 Stat. 634) is amended to read as follows:

"(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended
(5 U.S.C. 835-42; 63 Stat. 166)."

SEC. 504. (a) Section 104(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a); 71 Stat. 635), as amended, is further amended to read as follows:

"Duties of the Commission: SEC. 104. (a) The Commission shall

"(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

"(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion or national origin or in the administration of justice;

"(3) appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion or national origin or in the administration of justice;

"(4) serve as a national clearinghouse for information in respect to denials of equal protection of the laws because of race, color, religion or national origin, including but not limited to the

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fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice;

"(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of presidential electors, Members of the United States Senate, or of the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election; and

"(6) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization."

(b) Section 104(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(b); 71 Stat. 635), as amended, is further amended by striking out the present subsection "(b)" and by substituting therefore:

"(b) The Commission shall submit interim reports to the President and to the Congress at such times as the Commission, the Congress or the President shall deem desirable, and shall submit to the President and to the Congress a final report of its activities, findings, and recommendations not later than January 31, 1968."

SEC. 505. Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(a); 71 Stat. 636) is amended by striking out in the last sentence thereof "$50 per diem" and inserting in lieu thereof "$75 per diem."

SEC. 506. Section 105(f) and section 105(g) of the Civil Rights Act of 1957 (42 U.S.C. 1975d (f) and (g); 71 Stat. 636) are amended to read as follows:

"(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpoenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 102 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of four members is present.

"(g) In case of contumacy or refusal to obey a subpoena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof."

SEC. 507. Section 105 of the Civil Rights Act of 1957 (42 U.S.C. 1975d; 71 Stat. 636), as amended by section 401 of the Civil Rights Act of 1960 (42 U.S.C. 1975d(h); 74 Stat. 89), is further amended by adding a new subsection at the end to read as follows:

"(i) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this Act."

Title VI—Nondiscrimination in Federally Assisted Programs

SEC. 601. No person in the United States shall, on the ground of race, color, or national origin, be

excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

SEC. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: Provided, however, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

SEC. 603. Any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

SEC. 604. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

SEC. 605. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

Title VII—Equal Employment Opportunity Definitions

SEC. 701. For the purposes of this title

(a) The term "person" includes one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(b) The term "employer" means a person engaged in an industry affecting commerce who has twenty-five or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or a State or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: Provided, That during the first year after the effective date prescribed in subsection (a) of section 716, persons having fewer than one hundred employees (and their agents) shall not be considered employers, and, during the second year after such date, persons having fewer than seventy-five employees (and their agents) shall not be considered employers, and, during the third year after such date, persons having fewer than

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fifty employees (and their agents) shall not be considered employers: Provided further, That it shall be the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex or national origin and the President shall utilize his existing authority to effectuate this policy.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) one hundred or more during the first year after the effective date prescribed in subsection (a) of section 716, (B) seventy-five or more during the second year after such date or fifty or more during the third year, or (C) twenty-five or more thereafter, and such labor organization

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by an employer.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, The Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

◆ Exemption

SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, or society of its religious activities or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution.

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◆ Discrimination Because of Race, Color, Religion, Sex, or National Origin

SEC. 703. (a) It shall be an unlawful employment practice for an employer

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) It shall be an unlawful employment practice for a labor organization

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(f) As used in this title, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

(g) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or admin-

istered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin. It shall not be an unlawful employment practice under this title for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 6(d) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(d)).

(i) Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

◆ Other Unlawful Employment Practices

SEC. 704. (a) It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed, any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

(b) It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

◆ Equal Employment Opportunity Commission

SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman

shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) The Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2201-2209), is further amended

(1) by adding to section 105 thereof (5 U.S.C. 2204) the following clause:

"(32) Chairman, Equal Employment Opportunity Commission"; and

(2) by adding to clause (45) of section 106(a) thereof (5 U.S.C. 2205(a)) the following: "Equal Employment Opportunity Commission (4)."

(f) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place. The Commission may establish such regional or State offices as it deems necessary to accomplish the purpose of this title.

(g) The Commission shall have power

(1) to cooperate with and, with their consent, utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or such other remedial action as is provided by this title;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to the public;

(6) to refer matters to the Attorney General with recommendations for intervention in a civil action brought by an aggrieved party under section 706, or for the institution of a civil action by the Attorney General under section 707, and to advise, consult, and assist the Attorney General on such matters.

(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

(i) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

(j) All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act), notwithstanding any exemption contained in such section.

◆ Prevention of Unlawful Employment Practices

SEC. 706. (a) Whenever it is charged in writing under oath by a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this title has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge, provided that such charge shall not be made public by the Commission. If the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of

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such endeavors may be made public by the Commission without the written consent of the parties, or used as evidence in a subsequent proceeding. Any officer or employee of the Commission, who shall make public in any manner whatever any information in violation of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

(b) In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

(c) In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State, which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

(d) A charge under subsection (a) shall be filed within ninety days after the alleged unlawful employment practice occurred, except that in the case of an unlawful employment practice with respect to which the person aggrieved has followed the procedure set out in subsection (b), such charge shall be filed by the person aggrieved within two hundred and ten days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local, law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

(e) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) (except that in either case such period may be extended to not more than sixty days upon a determination by the Commission that further efforts to secure voluntary compliance are warranted), the Commission has been unable to obtain voluntary compliance with this title, the Commission shall so notify the person aggrieved and a civil action may, within thirty days thereafter, be brought against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (b) or the efforts of the Commission to obtain voluntary compliance.

(f) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the plaintiff would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the

judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

(g) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice). Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex or national origin or in violation of section 704(a).

(h) The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101-115), shall not apply with respect to civil actions brought under this section.

(i) In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under subsection (e), the Commission may commence proceedings to compel compliance with such order.

(j) Any civil action brought under subsection (e) and any proceedings brought under subsection (i) shall be subject to appeal as provided in sections 1291 and 1292, title 28, United States Code.

(k) In any action or proceeding under this title the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person.

SEC. 707. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his

absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

◆ Effect on State Laws

SEC. 708. Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title.

◆ Investigations, Inspections, Records, State Agencies

SEC. 709. (a) In connection with any investigation of a charge filed under section 706, the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to unlawful employment practices covered by this title and is relevant to the charge under investigation.

(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements and under which no person may bring a civil action under section 706 in any cases or class of cases so specified, or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

(c) Except as provided in subsection (d), every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may (1) apply to the Commission for an exemption from the application of such regulation or order, or (2) bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

(d) The provisions of subsection (c) shall not apply to any employer, employment agency, labor organization, or joint labor-management committee with respect to matters occurring in any State or political subdivision thereof which has a fair employment practice law during any period in which such employer, employment agency, labor organization, or joint labor-management committee is subject to such law, except that the Commission may require such notations on records which such employer, employment agency, labor organization, or joint labor-management committee keeps or is required to keep as are necessary because of differences in coverage or methods of enforcement between the State or local law and the provisions of this title. Where an

employer is required by Executive Order 10925, issued March 6, 1961, or by any other Executive order prescribing fair employment practices for Government contractors and subcontractors, or by rules or regulations issued thereunder, to file reports relating to his employment practices with any Federal agency or committee, and he is substantially in compliance with such requirements, the Commission shall not require him to file additional reports pursuant to subsection (c) of this section.

(e) It shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this title involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than one year.

◆ Investigatory Powers

SEC. 710. (a) For the purposes of any investigation of a charge filed under the authority contained in section 706, the Commission shall have authority to examine witnesses under oath and to require the production of documentary evidence relevant or material to the charge under investigation.

(b) If the respondent named in a charge filed under section 706 fails or refuses to comply with a demand of the Commission for permission to examine or to copy evidence in conformity with the provisions of section 709(a), or if any person required to comply with the provisions of section 709(c) or (d) fails or refuses to do so, or if any person fails or refuses to comply with a demand by the Commission to give testimony under oath, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, have jurisdiction to issue to such person an order requiring him to comply with the provisions of section 709(c) or (d) or to comply with the demand of the Commission, but the attendance of a witness may not be required outside the State where he is found, resides, or transacts business and the production of evidence may not be required outside the State where such evidence is kept.

(c) Within twenty days after the service upon any person charged under section 706 of a demand by the Commission for the production of documentary evidence or for permission to examine or to copy evidence in conformity with the provisions of section 709(a), such person may file in the district court of the United States for the judicial district in which he resides, is found, or transacts business, and serve upon the Commission a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this title or with the limitations generally applicable to compulsory process or upon any constitutional or other legal right or privilege of such person. No objection which is not raised by such a petition may be urged in the defense to a proceeding initiated by the Commission under subsection (b) for enforcement of such a demand unless such proceeding is commenced by the Commission prior to the expiration of the twenty-day period, or unless the court determines that the defendant could not reasonably have been aware of the availability of such ground of objection.

(d) In any proceeding brought by the Commission under subsection (b), except as provided in subsection (c) of this section, the defendant may petition the court for an order modifying or setting aside the demand of the Commission.

SEC. 711. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts from or, summaries of, the pertinent provisions of this title and information pertinent to the filing of a complaint.

(b) A willful violation of this section shall be punishable by a fine of not more than $100 for each separate offense.

◆ Veterans' Preference

SEC. 712. Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

◆ Rules and Regulations

SEC. 713. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provi-

sions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this title if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this title regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this title.

◆ Forcibly Resisting the Commission or Its Representatives

SEC. 714. The provisions of section 111, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

◆ Special Study by Secretary of Labor

SEC. 715. The Secretary of Labor shall make a full and complete study of the factors which might tend to result in discrimination in employment because of age and of the consequences of such discrimination on the economy and individuals affected. The Secretary of Labor shall make a report to the Congress not later than June 30, 1965, containing the results of such study and shall include in such report such recommendations for legislation to prevent arbitrary discrimination in employment because of age as he determines advisable.

◆ Effective Date

SEC. 716. (a) This title shall become effective one year after the date of its enactment.

(b) Notwithstanding subsection (a), sections of this title other than sections 703, 704, 706, and 707 shall become effective immediately.

(c) The President shall, as soon as feasible after the enactment of this title, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this title to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this title when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this title.

Title VIII—Registration and Voting Statistics

SEC. 801. The Secretary of Commerce shall promptly conduct a survey to compile registration and voting statistics in such geographic areas as may be recommended by the Commission on Civil Rights. Such a survey and compilation shall, to the extent recommended by the Commission on Civil Rights, only include a count of persons of voting age by race, color, and national origin, and determination of the extent to which such persons are registered to vote, and have voted in any statewide primary or general election in which the Members of the United States House of Representatives are nominated or elected, since January 1, 1960. Such information shall also be collected and compiled in connection with the Nineteenth Decennial Census, and at such other times as the Congress may prescribe. The provisions of section 9 and chapter 7 of title 13, United States Code, shall apply to any survey, collection, or compilation of registration and voting statistics carried out under this title: Provided, however, That no person shall be compelled to disclose his race, color, national origin, or questioned about his political party affiliation, how he voted, or the reasons therefore, nor shall any penalty be imposed for his failure or refusal to make such disclosure. Every person interrogated orally, by written survey or questionnaire or by any other means with respect to such information shall be fully advised with respect to his right to fail or refuse to furnish such information.

Title IX—Intervention and Procedure after Removal in Civil Rights Cases

SEC. 901. Title 28 of the United States Code, section 1447(d), is amended to read as follows:

"An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1443 of this title shall be reviewable by appeal or otherwise."

SEC. 902. Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws under the fourteenth amendment to the Constitution on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

Title X—Establishment of Community Relations Service

SEC. 1001. (a) There is hereby established in and as a part of the Department of Commerce a Community Relations Service (hereinafter referred to as the "Service"), which shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate for a term of four years. The Director is authorized to appoint, subject to the civil service laws and regulations, such other personnel as may be necessary to enable the Service to carry out its functions and duties, and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Director is further authorized to procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U.S.C. 55(a)), but at rates for individuals not in excess of $75 per diem.

(b) Section 106(a) of the Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2205(a)), is further amended by adding the following clause thereto:

"(52) Director, Community Relations Service."

SEC. 1002. It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce. The Service may offer its services in cases of such disputes, disagreements, or difficulties whenever, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby, and it may offer its services either upon its own motion or upon the request of an appropriate State or local official or other interested person.

SEC. 1003. (a) The Service shall, whenever possible, in performing its functions, seek and utilize the cooperation of appropriate State or local, public, or private agencies.

(b) The activities of all officers and employees of the Service in providing conciliation assistance shall be conducted in confidence and without publicity, and the Service shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No officer or employee of the Service shall engage in the performance of investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which he acted on behalf of the Service. Any officer or other employee of the Service, who shall make public in any manner whatever any information in violation of this subsection, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than one year.

SEC. 1004. Subject to the provisions of sections 205 and 1003(b), the Director shall, on or before January 31 of each year, submit to the Congress a report of the activities of the Service during the preceding fiscal year.

Title XI—Miscellaneous

SEC. 1101. In any proceeding for criminal contempt arising under title II, III, IV, V, VI, or VII of this Act, the accused, upon demand therefore, shall be entitled to a trial by jury, which shall conform as near as may be to the practice in criminal cases. Upon conviction, the accused shall not be fined more than $1,000 or imprisoned for more than six months.

This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any

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officer of the court in respect to writs, orders, or process of the court. No person shall be convicted of criminal contempt hereunder unless the act or omission constituting such contempt shall have been intentional, as required in other cases of criminal contempt.

Nor shall anything herein be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

SEC. 1102. No person should be put twice in jeopardy under the laws of the United States for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime under the laws of the United States shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime under the laws of the United States based upon the same act or omission.

SEC. 1103. Nothing in this Act shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or of the United States or any agency or officer thereof under existing law to institute or intervene in any action or proceeding.

SEC. 1104. Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this Act, or any provision thereof.

SEC. 1105. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 1106. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Glossary

civil action	a lawsuit that seeks relief for a wrong
complaint	the opening plea filed in a lawsuit that seeks relief for a wrong
equal protection of the laws	concept drawn from the Fourteenth Amendment that all persons should be treated equally by and under the laws of the government
executive session	the convening of a public body that is closed to the public because of the subject matter to be discussed
injunction	equitable relief granted to a party, requiring that the opposing party perform a specific act or refrain from performing specific acts; also called injunctive relief
literacy test	test of reading or comprehension, such as those that have historically been given to prospective voters specifically to prevent African Americans and members of other minority groups from voting
rebuttable presumption	presumption that arises after specific facts are proved and that can be disproved if contrary evidence is presented
restraining order	order from a court stopping a party from doing a particular act, usually until an action on an injunction is heard
State action	behavior that is done by or on behalf of the state and is required to trigger the protections of the Fourteenth Amendment
subpoena	document requiring that a witness provide evidence in a court case or proceeding

Fannie Lou Hamer testifying at the Democratic National Convention (Library of Congress)

Fannie Lou Hamer's Testimony at the Democratic National Convention

1964

"All of this is on account we want to register, to become first class citizens."

Overview

In 1964 at the Democratic National Convention, Fannie Lou Hamer testified before the party's Credentials Committee to explain the atmosphere of fear in which civil rights workers lived in Mississippi and to challenge the moral legitimacy of the state's "regular" delegation to the convention. Hamer and her colleagues from the Mississippi civil rights movement had generated momentum that year through the Freedom Summer project, which accomplished widespread education and registration of African American voters. The activists used this momentum to launch a new political institution, the Mississippi Freedom Democratic Party (MFDP), to challenge the legitimacy of the state's traditional Democratic Party. (In the one-party Solid South, the Democratic Party was the only one that mattered.) They did so in part simply to bring national attention to Mississippi, but they also held hopes that their gambit would result in the national Democratic Party's stripping the state's traditional branch of its status and recognizing MFDP members instead as the representatives of the Magnolia State.

Hamer emerged as the group's most eloquent spokesperson. She had distinguished herself as a homegrown leader in the civil rights movement, one who excelled at describing the plight of rural black Mississippians and the changes they sought to bring about in vernacular to which rural black Mississippians themselves responded. When the Democratic National Committee held its quadrennial convention in Atlantic City, New Jersey, at the end of the summer, Hamer was a natural choice to speak on behalf of the MFDP. The Freedom Democrats lodged a formal complaint with the national party over the seating of the "regulars"; the complaint would be adjudicated by the national convention's Credentials Committee. The labor lawyer and Democratic Party insider Joseph L. Rauh, Jr., of Washington, D.C., who represented the MFDP in Atlantic City, called on Hamer to testify before the committee on August 22, 1964.

Context

Fannie Lou Hamer was forty-four years old when she first learned she was even eligible to vote. She made two attempts to register at the courthouse in Sunflower County, Mississippi, before her name finally appeared on the voter rolls in early 1963. At the time, fewer than 3 percent of black Mississippians over the age of twenty-one had been allowed to register to vote in the congressional district that included Hamer's home, and the numbers were little better in the rest of the state. Mississippi's schools were completely segregated providing separate and not even close to equal educational experiences for white and black students. The black schools in Hamer's part of the state, known as the Delta, had school years that were only half as long as those of the white schools, with long breaks for various cycles in cotton production. There were few jobs outside of farming available to African Americans; the separate and unequal system constrained their opportunities. As Hamer once said, "We Negroes know Mississippi education hasn't prepared us to live in any other state."

Mississippi blacks who dared challenge the system found themselves the victims of unimaginable amounts of violence. The state government itself was run by white supremacists for the interests of white supremacists. Indeed, many, if not all, of the most essential Mississippi institutions, from the educational to the political, actively worked to the detriment of black interests. African American activists decided that the state's Democratic Party was in many ways the worst of those institutions. Thus, while black activists worked to create better educational opportunities for their children, desegregate public accommodations, and register more black voters, they also organized to confront the state party.

The 1963 Freedom Vote initiative, also called the Freedom Ballot, was an effort to prove to the rest of the nation that black citizens in the state had been systematically denied the franchise but would exercise it if given the chance. The Council of Federated Organizations, an umbrella group coordinating the efforts of various civil rights groups in Mississippi, organized the Freedom Vote to collect and tally ballots cast by unregistered African American voters. The council accepted the volunteer efforts of several dozen white students from elite colleges to assist with the initiative. In the state's official gubernatorial election that year, with over three hundred thousand ballots cast, the segregationist Democratic lieutenant governor

Time Line

1962

- **August**
  Fannie Lou Hamer attends her first civil rights meeting and makes her first attempt at voter registration in Sunflower County, Mississippi.
- **December**
  Hamer becomes a paid field worker for the Student Nonviolent Coordinating Committee (SNCC).

1963

- **January**
  Hamer's name is added to county voter rolls following her second attempt to register.
- **June**
  Returning from a citizenship-education and voter-registration workshop in South Carolina sponsored by the Southern Christian Leadership Conference, Hamer is arrested for attempting to desegregate a restaurant in Winona, Mississippi, and badly beaten by town police.
- **November**
  Mississippi's Council of Federated Organizations conducts the Freedom Vote initiative to demonstrate the political will of the state's African Americans.
- **December**
  The Council of Federated Organizations agrees to spearhead the 1964 Freedom Summer project, which would include alternative schools, voter-registration drives, and the organization of a shadow party to contest the "regular" Mississippi Democratic Party.

1964

- **August 6**
  The Mississippi Freedom Democratic Party (MFDP) holds a state convention and announces its intention to challenge the state's "regular" party at the Democratic National Convention, to be held later that month. Hamer is elected vice chair of the MFDP delegation.

Paul B. Johnson, Jr., defeated the surprisingly strong Republican nominee, Reubel L. Phillips. The shadow vote, which was for obvious reasons unsanctioned by the state, gathered more than eighty-three thousand ballots, nearly all of which went for the "Freedom Ticket" of Aaron Henry for governor and the Reverend Edwin King for lieutenant governor. Henry, a black Clarksdale pharmacist, and King, a white chaplain at the integrated Tougaloo College, would both be active in the MFDP.

The Freedom Vote proved the point that black Mississippians wanted to practice the rights of citizenship and provided an organizational model for the following year's Freedom Summer project, but it had few other short-term practical effects. Its long-term effects, while admittedly difficult to quantify, were greater. Black Mississippians had been told all along that they were incapable of being citizens that they were not worth the time and resources it would take to educate them into knowledgeable voters. The Freedom Vote stripped that varnish away and revealed that voting was not, as the terminology of the time put it, simply "white people's business."

During the Freedom Summer of 1964, black and white college-aged volunteers associated with the Student Nonviolent Coordinating Committee (SNCC) and the Congress of Racial Equality spent the summer building and teaching in "freedom schools" throughout the state and registering voters. The freedom schools served a variety of students, from the young to the elderly, and taught a radically alternative curriculum that emphasized the development of critical thinking skills in addition to voter education. It was during this time that the Mississippi Freedom Democratic Party was created as a parallel institution to the state's white-dominated Democratic Party. The MFDP was one of the most significant outcomes of the Freedom Summer project. As a demonstration of the political will of Mississippi's African Americans, the MFDP challenged the status of the delegation elected by the nearly all-white "regular" Mississippi Democrats as the rightful representatives of the state at the 1964 Democratic National Convention, held that summer in Atlantic City, New Jersey. Hamer was among the MFDP representatives in attendance at the convention, and regarding the Freedom Democrats' challenge, she was chosen to testify before the convention's Credentials Committee to address the matter.

About the Author

Fannie Lou Townsend was born on October 6, 1917, the last of twenty children to her impoverished sharecropping parents. She first worked in the cotton fields of the Mississippi Delta at the age of six and dropped out of school after the sixth grade to work full time in the fields to help support her family. She married Perry "Pap" Hamer in 1944, and they would sharecrop on the Marlow plantation, on the outskirts of the Sunflower County town of Ruleville, for nearly twenty years. Fannie Lou Hamer's Delta was a land of contrast: She and millions of other blacks endured staggering

poverty throughout their lifetimes, but the Delta's cotton economy, made possible by their labors, allowed plantation owners men like the U.S. senator James O. Eastland, Hamer's neighbor to live opulent lifestyles.

Young activists associated with the SNCC and the Southern Christian Leadership Conference moved into the Delta in the early 1960s and began holding community meetings to build support for voter-registration drives among the region's huge African American population. Hamer attended one of the meetings in the summer of 1962 and learned for the first time that she herself was eligible to vote. Hamer's mind began to race while she sat in the meeting, she later recalled. If she could vote, she could improve her community: "I could just see myself votin' people out of office that I know was wrong and didn't do nothin' to help the poor." She traveled with several others from Ruleville to the county seat of Indianola to attempt to register in August 1962; all were denied, and on their return to Ruleville the group was harassed by a state trooper, an Indianola policeman, and several local white segregationists. Because she refused to apologize for or revoke her attempt to register, Hamer was evicted from the Marlow plantation that night. She then decided to take her life into her own hands and threw herself into organizing for the SNCC.

After her eviction from the Marlow plantation, Hamer lived with a succession of friends, never spending more than a few nights at a time in the same place and with good reason, as on September 10, 1962, night riders blasted the homes of three Ruleville families that had stood up for their civil rights. The bullets that ripped into the house of Mary Tucker, the woman who had first introduced Hamer to civil rights work, struck the wall of the bedroom where Hamer had been sleeping only nights before. The incident was one of many in the Delta that fall. James Meredith's attempt to enter the University of Mississippi in nearby Oxford had emboldened white racists to defend segregation and white supremacy by any means necessary. They used horrific amounts of violence and intimidation to keep African American children out of previously all-white schools and deny all blacks their basic rights as citizens.

Hamer would not be intimidated, however. She began speaking and singing to small groups of blacks who showed an interest in standing up for their rights, and before long she embarked on a national fund-raising tour for the SNCC. Hamer's stories about the violent retaliation being inflicted on black would-be voters helped the SNCC raise the profile of its work in Mississippi. Her singing which she invariably included in any public presentation added a religious dimension to the crusade being waged by the civil rights workers. Hamer appropriated and repurposed hymns from the black church, some of which dated back to the struggle against slavery, and used them to share with others her strength for the fight. "This Little Light of Mine" was a particular favorite.

Hamer returned to Ruleville later that fall and dedicated herself to civil rights organizing, accepting full-time employment as a field worker for the SNCC. Hamer devoted herself to the work of distributing food and clothing that had been donated by friends of the SNCC in cities all over the country to African Americans in Sunflower County. Many black farmworkers in the county relied on federally funded, locally administered social welfare programs to make it through the winter (the fallow period of the cotton calendar). When blacks associated with Hamer began agitating for their rights as citizens, local officials made it difficult for them to receive the needed commodities. The SNCC stepped into the breach to provide the supplies, but Hamer, somewhat controversially, imposed a condition: She would dispense food and clothing only to black adults who attempted to register to vote and paid their poll tax. As

Time Line

1964

- **August 22**
  At the Democratic National Convention in Atlantic City, New Jersey, the MFDP formally challenges the state's "regulars"; Hamer testifies on behalf of her party.
- **November–December**
  Hamer, Victoria Gray, and Annie Devine, all members of the MFDP, run against the "regular" Democrats in the election for the U.S. House of Representatives; they challenge the validity of the election after losing.

1965

- **January**
  The U.S. House of Representatives votes to presently seat the three men that Hamer, Gray, and Devine challenged; the three women are granted guest seats in the chamber.
- **September 17**
  Hamer, Gray, and Devine lose their challenge for the House seats.

1966–1968

- Hamer joins MFDP negotiations with liberal whites, labor union officials, and others to form the Loyal Democrats of Mississippi, which aims to unseat the "regular" Democrats at the party's 1968 national convention.

1968

- **August**
  Mississippi sends an integrated Loyalist delegation to the Democratic National Convention.

a result, the number of blacks making the trip to the registrar's office in Indianola skyrocketed.

Hamer attended her first citizenship education course at Dorchester, Georgia, in April 1963. Described by a fellow participant as a workshop for people like Hamer who had been deeply involved in civil rights work to "unbrainwash themselves," the citizenship education course taught local people skills they could then take back to their communities. For instance, the course provided basic literacy-education techniques that would help African American would-be voters pass registration tests. Hamer, the Greenwood teenager June Johnson, the Greenwood Southern Christian Leadership Conference activist Annelle Ponder, and a handful of other black Mississippians were selected to attend a second course, in South Carolina, the following month.

Vincent Harding, a civil rights movement participant and later one of its finest historians, was among the instructors at the South Carolina course. He encouraged the workshop attendees to begin living the changes they wanted to create in society. If they wanted to desegregate Mississippi, they had to refuse to be segregated themselves. If they wanted equality in society, they had to refuse to be treated as inferiors. Hamer's group took the lesson to heart. On their way home to the Delta they sat down at a lunch counter reserved for whites only in the town of Columbus, Mississippi. To their surprise, they were served without incident. They repeated the action in the town of Winona, but instead of being served they found themselves arrested and confined to the Montgomery County jail. Hamer's description of the group's treatment in the jail formed the basis of her testimony to the Democratic National Convention's Credentials Committee.

By 1964, when the SNCC, the Southern Christian Leadership Conference, the Congress of Racial Equality, and the National Association for the Advancement of Colored People coordinated efforts for what became known as the Freedom Summer project, Hamer was an experienced organizer and spokesperson for the SNCC. She epitomized the group's motto, "Let the People Decide": SNCC workers were to go into southern communities and help local blacks define for themselves the problems they faced and design their own solutions. Rather than acting as outside experts, SNCC workers facilitated and encouraged the development of local leaders. The SNCC helped Hamer develop her own abilities, and she reciprocated by taking the group's philosophy into new communities. Blessed with the ability to speak eloquently within the rhetorical tradition of the rural black church and the American political protest tradition, using simple language that anyone could understand, Hamer connected black Mississippians' struggles "to live as decent human beings" as phrased in her testimony with their collective desire to practice their rights as American citizens.

Hamer remained active in the MFDP after the disappointment of Atlantic City, and following four more years of dedication to political work, she was rewarded in being named one of the representatives in the integrated Loyalist coalition sent as the state's delegation to the Democratic National Convention in 1968. In the ensuing years, though she did run for elected office again and supported other black candidates for office, for the most part Hamer turned to alternative strategies for change. She founded Freedom Farm, a cooperative enterprise with high ambitions, in Sunflower County. In its short existence Freedom Farm succeeded in feeding dozens of families who would otherwise have gone hungry, but it proved to be an organizational challenge beyond Hamer's best efforts. She was hospitalized for nervous exhaustion at least twice in the early 1970s as she tried to sustain the farm's operations. Having survived polio as a girl and having fought diabetes, hypertension, and breast cancer as an adult, Hamer finally succumbed on March 14, 1977, to heart failure.

Explanation and Analysis of the Document

Hamer used plain speech at the Democratic National Convention to describe the hardships she had endured simply because she wanted to exercise the rights of citizenship. She "testified" before the Credentials Committee in two senses of the word: In some ways her speech reads like a legal affidavit attesting to her suffering as a civil rights worker, but she performed as though it were religious testimony. Hamer's appearance was but one part of a multipronged effort to persuade the members of the committee to award Mississippi's seats at the convention to the MFDP, an effort that would take most of an afternoon. Joseph L. Rauh, Jr., handled the legal arguments, and others would also testify as to the electoral benefits the party would reap in the South if the MFDP were seated. Hamer was to inject morality into the equation, and out of the dozens of hours of testimony heard by the Credentials Committee that year, it was Hamer's that everyone remembered.

In her testimony, Hamer recounts the indignities and horrific beatings she endured because she wanted African Americans in Mississippi to be able to vote. Her stories serve as illustrations not only of the determination of African Americans in the Deep South to be treated as equal citizens and human beings but also of the violence it took to maintain the region's system of white supremacy. Would national Democrats stand with the blacks of Mississippi and defend their rights? Hamer put them on the spot and demanded that they do so.

The testimony does include one minor inaccuracy: While the U.S. senator James O. Eastland did live and own a plantation empire in Sunflower County, Senator John C. Stennis did not (as Hamer seems to suggest in her introductory sentence). Everything else stated by Hamer was all too sadly true. The provocation with which she concluded her testimony may not have immediately won the case for the MFDP in the 1964 seating challenge, but it echoed into future conventions, all of which would demand that state delegations be integrated.

Audience

Hamer testified immediately following Aaron Henry and Edwin King, the victors of the Freedom Vote; Rita Schwer-

Aaron Henry, chair of the Mississippi Freedom Democratic Party delegation, speaking before the Democratic National Convention (Library of Congress)

ner (the widow of the slain civil rights organizer Michael Schwerner), the National Association for the Advancement of Colored People executive secretary Roy Wilkins, and Martin Luther King, Jr., followed her. Hamer spoke specifically to the 110 members of the Credentials Committee, but because her appearance was to be nationally televised, she delivered her testimony in a way that was intended to bring pressure from Democrats throughout the country on members of the committee and on party leaders, ideally forcing them to recognize the Freedom Democrats as the rightful Mississippi delegation.

President Lyndon B. Johnson, who was worried that white southern voters would break with the party over his handling of civil rights issues and fearful of the scene that would result if the Credentials Committee sided with the MFDP over the "regulars," attempted to defuse the situation by calling a press conference while Hamer testified. His plan backfired. The national television networks ended up broadcasting Hamer's dramatic testimony in full in prime time before a much larger viewing audience than would have been able to see her testify live in the daytime. The attention Hamer's testimony generated made her arguably the most famous poor woman in America at the time.

Impact

If Johnson had hoped that he could ignore the MFDP or sweep the party's concerns under the rug, he was sorely mistaken. Hamer's dramatic testimony brought an emotional dimension to what were normally dry proceedings turning on legalisms. The question of how democratic the Democratic Party's process of selecting state delegations was and the subject of civil rights more generally suddenly became the defining issues of the convention. The president tasked U.S. senator Hubert H. Humphrey, whom Johnson was considering as his nominee for vice president, with fashioning a compromise to satisfy both the MFDP's moral claim for the seats and the national party's desire not to drive white southerners out of the party.

Humphrey settled on a solution whereby Mississippi's "regulars" would be seated, the MFDP would be granted two at-large seats in the convention hall, and all parties concerned would agree to reforms that would democratize and desegregate state delegation procedures in the future. Tellingly, however, the "compromise" dictated that Henry and King would receive the two seats and provided no real chance for the rank and file of the MFDP to vote on whether or not to accept it, much less elect their own rep-

Essential Quotes

"Mr. Chairman, and the Credentials Committee, my name is Mrs. Fannie Lou Hamer, and I live at 626 East Lafayette Street, Ruleville, Mississippi, Sunflower County, the home of Senator James O. Eastland."

"The plantation owner came, and … he said, 'If you don't go down and withdraw your registration, you will have to leave.… You will—you might have to go because we are not ready for that in Mississippi.' And I addressed him and told him and said, 'I didn't try to register for you. I tried to register for myself.' I had to leave that same night."

"I was carried to the county jail, and … after I was placed in the cell I began to hear the sound of licks and horrible screams, and I could hear somebody say, 'Can you say, yes sir, nigger? Can you say yes, sir?' … She says, 'I don't know you well enough.' They beat her, I don't know how long, and after a while she began to pray, and asked God to have mercy on those people."

"All of this is on account we want to register, to become first-class citizens, and if the freedom Democratic Party is not seated now, I question America, is this America, the land of the free and the home of the brave where we have to sleep with our telephones off of the hooks because our lives be threatened daily because we want to live as decent human beings, in America?"

resentatives. The compromise was accepted for them, but that did not stop the MFDP's membership from debating the settlement among themselves and with leaders from the national party and civil rights establishment. Those debates opened divides that eventually convinced many MFDP members that their interests would be best served outside of traditional electoral politics, or at least outside of the two existing parties. Hamer, for one, rejected the arrangement out of hand: "We didn't come all this way for no two seats," she announced, rejecting the argument that the arrangement at least comprised a moral victory.

Hamer's initial foray into electoral politics left a bad taste in her mouth, but it did not prevent her from returning to Mississippi to campaign for Johnson. She also continued to press for change via the traditional political process. Four MFDP candidates Hamer, Annie Devine, Victoria Gray, and Aaron Henry ran for three U.S. House seats and a U.S. Senate seat in the 1964 election. State officials, however, refused to place their names on the ballot, even though their candidacies met the specifications of state election laws. The officials' decision was foolish; the MFDP candidates could not have won a fair election because there were so few black registered voters at the time, and striking their names from the ballot opened an avenue to legal disputes.

Hamer, Devine, and Gray indeed challenged the seating of the three white U.S. representatives they had tried to run against, through both a federal suit and a House of Representatives rules challenge sponsored by the Democrat William Fitts Ryan of New York. Neither challenge had much hope of succeeding and, in fact, neither did but together they provided another national platform for Hamer and the MFDP. At the very least, Hamer, Devine, and Gray kept the issue of black disenfranchisement in the national spotlight and helped to build momentum for the

legislation that would become the Voting Rights Act, signed into law by Johnson in 1965.

The most ignored plank of Humphrey's 1964 compromise the stipulation that state delegations would have to be integrated by 1968 provided what may have been the most important and long-lasting outcome of the 1964 convention challenge. In the months leading up to the 1968 national party convention, Hamer and the MFDP worked in coalition with white liberals, union organizers, and the state civil rights establishment to form the Loyal Democrats of Mississippi, or Loyalists. Again in 1968, the "regulars" systematically excluded blacks from their ranks and demonstrated how undemocratic the state Democratic Party machinery truly was. Again the challengers pressed their case before the national convention's Credentials Committee. This time the rules were indisputable, and the committee sided with the challengers, recognizing the Loyalists as the rightful representatives of Mississippi. The episode's outcome fundamentally altered the operations of the Democratic Party. Just as significantly, coming as it did on the heels of the 1965 Voting Rights Act, which brought millions of blacks into the political process for the first time, it changed Democratic intraparty politics in the South forever.

For many Americans, nearly all of whom were introduced to Fannie Lou Hamer via her Atlantic City testimony, the humble civil rights activist was the embodiment of the physical courage and emotional strength demonstrated by black Mississippians in their decades-long efforts to kill Jim Crow. Her testimony offered a powerful moral rebuke to Mississippi officials and helped to convince Americans outside the state that what happened there affected them, too. By demanding to know "Is this America?" as she plaintively wondered, Hamer forced national officials and citizens everywhere to take a side. Ultimately, they took hers.

See also Roy Wilkins: "The Clock Will Not Be Turned Back" (1957); Martin Luther King, Jr.: "I Have a Dream" (1963).

Further Reading

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Moye, J. Todd. *Let the People Decide: Black Freedom and White Resistance Movements in Sunflower County, Mississippi, 1945 1986*. Chapel Hill: University of North Carolina Press, 2004.

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Questions for Further Study

1. What was the "Solid South," and what role did it play in politics during this time period? What effect did the Solid South and concern about it in Washington, D.C., have on African Americans?

2. What impact did Fannie Lou Hamer and her colleagues have on the civil rights movement? What future events could be said to have grown out of her efforts?

3. Given the experiences that Hamer narrates, it seems almost unimaginable that by the end of the first decade of the twenty-first century, Mississippi had more black elected officials than any other state in the Union. What do you think accounts for this remarkable turnaround?

4. Compare this document with Sojourner Truth's "Ain't I a Woman?" speech. In what ways are the documents similar? How did the two women exercise the same kind of moral authority?

5. Make the argument that if it were not for the growing prevalence of television in American homes beginning in the 1950s, the civil rights movement would have been delayed.

■ Web Sites

"Civil Rights Movement Veterans." Civil Rights Movement Veterans Web site.
http://www.crmvet.org.

"The Hamer Institute." Jackson State University "Fannie Lou Hamer National Institute on Citizenship and Democracy" Web site.
http://www.jsums.edu/~hamer.institute/.

"Oh Freedom over Me." American RadioWorks Web site.
http://americanradioworks.publicradio.org/features/oh_freedom/.

"An Oral History with Fannie Lou Hamer." University of Southern Mississippi Libraries "Civil Rights in Mississippi Digital Archive" Web site.
http://www.lib.usm.edu/~spcol/crda/oh/hamer.htm?hamertrans.htm~mainFrame.

J. Todd Moye

Document Text

Fannie Lou Hamer's Testimony at the Democratic National Convention

Mr. Chairman, and the Credentials Committee, my name is Mrs. Fannie Lou Hamer, and I live at 626 East Lafayette Street, Ruleville, Mississippi, Sunflower County, the home of Senator James O. Eastland, and Senator Stennis.

It was the 31st of August in 1962 that 18 of us traveled twenty-six miles to the county courthouse in Indianola to try to register to try to become first-class citizens. We was met in Indianola by Mississippi men, highway patrolmens and they only allowed two of us in to take the literacy test at the time. After we had taken this test and started back to Ruleville, we was held up by the City Police and the State Highway Patrolmen and carried back to Indianola, where the bus driver was charged that day with driving a bus the wrong color.

After we paid the fine among us, we continued on to Ruleville, and Reverend Jeff Sunny carried me four miles in the rural area where I had worked as a timekeeper and sharecropper for eighteen years. I was met there by my children, who told me that the plantation owner was angry because I had gone down to try to register.

After they told me, my husband came, and said that the plantation owner was raising cain because I had tried to register, and before he quit talking the plantation owner came, and said, "Fannie Lou, do you know did Pap tell you what I said?"

And I said, "yes, sir."

He said, "I mean that," he said, "If you don't go down and withdraw your registration, you will have to leave," said, "Then if you go down and withdraw," he said, "You will you might have to go because we are not ready for that in Mississippi."

And I addressed him and told him and said, "I didn't try to register for you. I tried to register for myself." I had to leave that same night.

On the 10th of September, 1962, sixteen bullets was fired into the home of Mr. and Mrs. Robert Tucker for me. That same night two girls were shot in Ruleville, Mississippi. Also Mr. Joe McDonald's house was shot in.

And in June, the 9th, 1963, I had attended a voter registration workshop, was returning back to Mississippi. Ten of us was traveling by the Continental Trailway bus. When we got to Winona, Mississippi, which is in Montgomery County, four of the people got off to use the washroom, and two of the people to use the restaurant two of the people wanted to use the washroom. The four people that had gone in to use the restaurant was ordered out. During this time I was on the bus. But when I looked through the window and saw they had rushed out, I got off of the bus to see what had happened, and one of the ladies said, "It was a state highway patrolman and a chief of police ordered us out."

I got back on the bus and one of the persons had used the washroom got back on the bus, too. As soon as I was seated on the bus, I saw when they began to get the four people in a highway patrolman's car. I stepped off of the bus to see what was happening and somebody screamed from the car that the four workers was in and said, "Get that one there," and when I went to get in the car, when the man told me I was under arrest, he kicked me.

I was carried to the county jail, and put in the booking room. They left some of the people in the booking room and began to place us in cells. I was placed in a cell with a young woman called Miss Euvester Simpson. After I was placed in the cell I began to hear the sound of licks and horrible screams, and I could hear somebody say, "Can you say, yes sir, nigger? Can you say yes, sir?"

And they would say other horrible names. She would say, "Yes, I can say yes, sir."

"So say it."

She says, "I don't know you well enough."

They beat her, I don't know how long, and after a while she began to pray, and asked God to have mercy on those people.

And it wasn't too long before three white men came to my cell. One of these men was a State Highway Patrolman and he asked me where I was from, and I told him Ruleville, he said, "We are going to check this." And they left my cell and it wasn't too long before they came back. He said, "You are from Ruleville all right," and he used a curse work, and he said, "We are going to make you wish you was dead."

I was carried out of that cell into another cell where they had two Negro prisoners. The State Highway Patrolmen ordered the first Negro to take the blackjack. The first Negro prisoner ordered me,

Document Text

by orders from the State Highway Patrolman for me, to lay down on a bunk bed on my face, and I laid on my face. The first Negro began to beat, and I was beat by the first Negro until he was exhausted, and I was holding my hands behind me at that time on my left side because I suffered from polio when I was six years old. After the first Negro had beat until he was exhausted the State Highway Patrolman ordered the second Negro to take the blackjack.

The second Negro began to beat and I began to work my feet, and the State Highway Patrolman ordered the first Negro who had beat to set on my feet to keep me from working my feet. I began to scream and one white man got up and began to beat me my head and told me to hush. One white man my dress had worked up high, he walked over and pulled my dress down and he pulled my dress back, back up.

I was in jail when Medgar Evers was murdered.

All of this is on account we want to register, to become first-class citizens, and if the freedom Democratic Party is not seated now, I question America, is this America, the land of the free and the home of the brave where we have to sleep with our telephones off of the hooks because our lives be threatened daily because we want to live as decent human beings, in America?

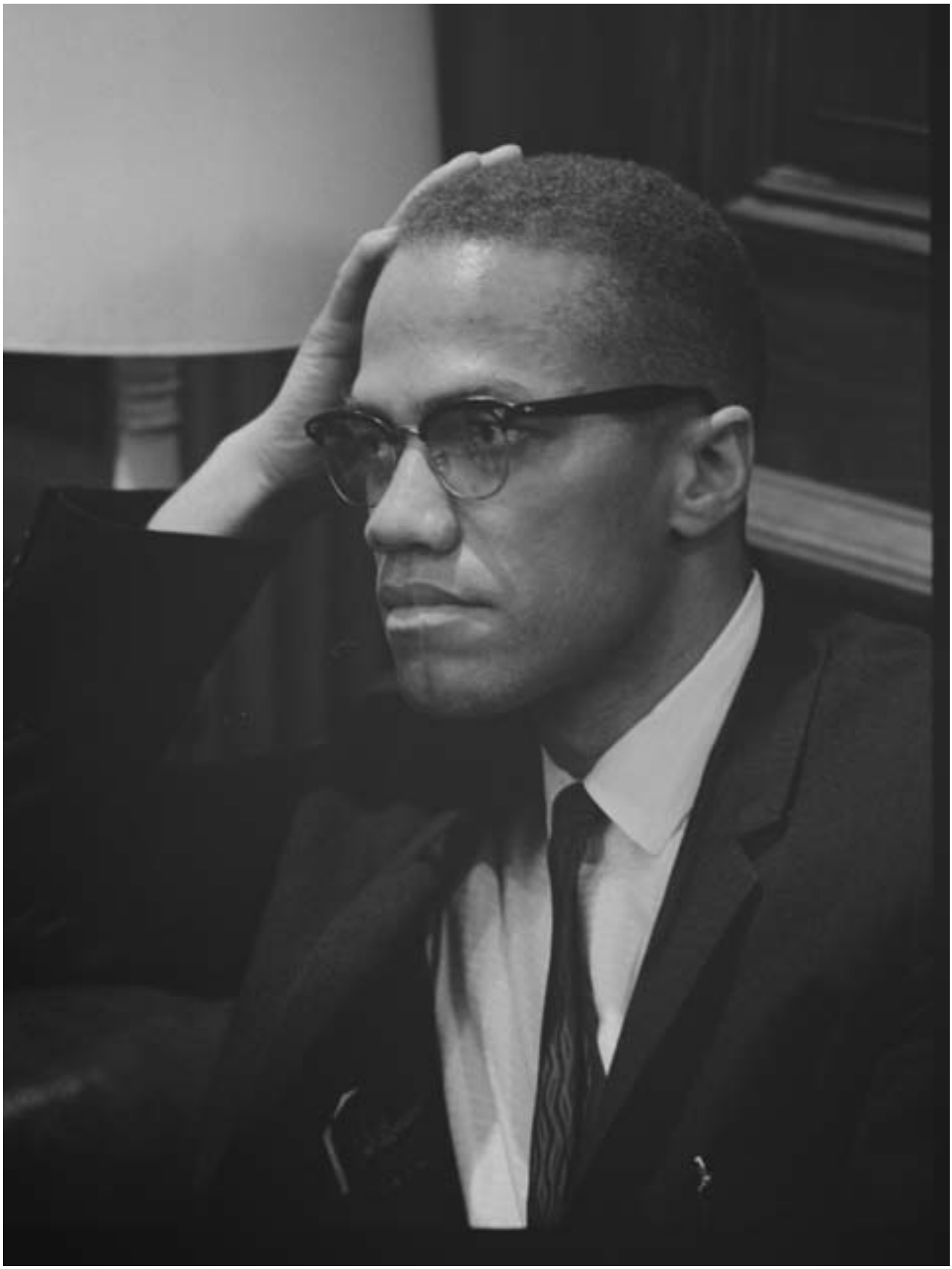
Thank you.

Glossary

blackjack a baton or truncheon used by police as a weapon; a billy club

Medgar Evers a Mississippi civil rights activist assassinated outside his home on June 12, 1963

1965 - 2009



Malcolm X (Library of Congress)

Malcolm X: "After the Bombing"

1965

"This society is controlled primarily by racists and segregationists ... who are in Washington, D.C., in positions of power."

Overview

On February 14, 1965, the African American activist Malcolm X addressed a crowd consisting primarily of college students at the Henry and Edsel Ford Auditorium in Detroit, Michigan, in what would be his final speech. The occasion of his speech was an event that had taken place the night before: the firebombing of his house in Queens, New York. He used this opportunity to address a wide range of issues of concern to him and to the African American community.

Born Malcolm Little in 1925, Malcolm X had witnessed racism firsthand as a child. He turned to a life of crime and was eventually convicted and incarcerated. While he was in prison, he converted to the religion known as the Nation of Islam. Throughout the 1950s and early 1960s, he was second only to the Nation of Islam's leader, Elijah Muhammad, as the public face of that organization. The Nation of Islam advocated African American separatism and pan-African unity and denounced nonviolence as a workable tactic for the civil rights movement. In 1964, though, Malcolm X broke with Muhammad but continued to speak out against racism and oppression worldwide. He converted to Sunni Islam, which he believed offered a path to racial harmony without requiring black separatism. The speech delivered at the Ford Auditorium in 1965 reflected this post Nation of Islam viewpoint, especially with respect to Malcolm X's view of colonialism and the need for unity between Africans and African Americans as well as his insistence that sometimes victims of oppression must resist "by any means necessary." His break with the Nation of Islam had resulted in death threats and the firebombing of his house. Just a week after his speech, Malcolm X was assassinated by members of the Nation of Islam.

Context

Malcolm X's final speech was given in the context of troubled times, with civil rights issues, the Vietnam War, and assassinations making the headlines and in the forefront of Americans' minds. The last years of Malcolm X's life corresponded with the heyday of the civil rights movement in the United States. While its roots extend back to the formation of the Republic, the modern civil rights movement can be said to have begun in May 1954 with the U.S. Supreme Court's decision in *Brown v. Board of Education*. This decision brought about the desegregation of public education nationwide by striking down the separate-but-equal doctrine that had been enshrined in the Court's *Plessy v. Ferguson* decision issued in 1896. After the *Brown* decision, events in the civil rights movement unfolded rapidly, beginning with Rosa Parks's refusal to give up her seat on a bus to a white man, an event that sparked the Montgomery, Alabama, bus boycott of 1955 and 1956. It was this event that brought the Reverend Martin Luther King, Jr., to national prominence and made him the face of the civil rights movement.

In 1957 the nation's conscience was pricked when troops from the 101st Airborne Division had to protect black students who were trying to enroll at Central High School in Little Rock, Arkansas, after the state's governor, Orval Faubus, had resisted a federal order to integrate the school. Later, in 1963, Alabama Governor George Wallace tried to prevent the integration of the University of Alabama, going so far as to physically block the path of two black students who wanted to register for classes. The sit-in became a tool in the civil rights arsenal after college students in Greensboro, North Carolina, in 1960 peaceably sat at a segregated lunch counter at a Woolworth's store. The Freedom Rides of 1961, in which blacks and whites rode buses throughout the South and integrated restrooms, bus terminals, and drinking fountains, often led to violence when the Freedom Riders were attacked.

Voter registration drives, too, prompted violence in the South; in an infamous incident in June 1964, three civil rights workers were murdered by the Ku Klux Klan in Mississippi. In the spring of 1963, Americans were shocked by the heavy-handed tactics of Eugene "Bull" Connor, the commissioner of public safety in Birmingham, Alabama, after Martin Luther King. Jr., and the Southern Christian Leadership Conference, a civil rights organization, organized a movement to integrate public facilities and places of business in the city's downtown. After King had led a march on the Birmingham city hall, he was arrested and briefly imprisoned; it was then that he wrote his famous "Letter from Birmingham Jail." Later that year, in September, four girls were killed in a Klan bombing of Birming-

Time Line

1925

- **May 19**
  Malcolm X is born Malcolm Little in Omaha, Nebraska.

1931

- **September 28**
  Earl Little, Malcolm's father, dies in what authorities call an accident but many consider to be murder by white supremacists.

1938

- **December**
  Louise Little, Malcolm's mother, has a nervous breakdown and is committed to a mental institution; Malcolm and six siblings begin living in foster homes.

1943

- Malcolm moves to New York City and begins a life of crime.

1946

- **February 27**
  Malcolm begins serving an eight-year prison sentence in Massachusetts.

1948

- Malcolm converts to the Nation of Islam.

1952

- **August 7**
  Malcolm is released from prison and becomes active in the Nation of Islam; soon, he will change his name from Malcolm Little to Malcolm X.

1963

- Malcolm X begins writing his autobiography with Alex Haley; unfinished at the time of his assassination, it will be completed by Haley in late 1965.

1964

- **March 8**
  Malcolm X publicly breaks from the Nation of Islam.
- **April 13**
  Malcolm X, now a Sunni Muslim, embarks on a hajj, or pilgrimage, to Mecca, Saudi Arabia.

ham's Sixteenth Street Baptist Church. Also in 1963, Medgar Evers, a prominent civil rights leader, was murdered outside his home in Mississippi by a Klan member, dying just hours after President John F. Kennedy had delivered a major televised national address on civil rights. This address prefigured the Civil Rights Act of 1964, which was passed during the presidency of Lyndon B. Johnson after Kennedy's assassination in November 1963.

Also on the nation's mind was the deepening American involvement in Vietnam. In early August 1964, two U.S. naval destroyers in the Gulf of Tonkin reported having been attacked by Communist North Vietnamese forces. On August 5, Congress passed the Gulf of Tonkin Resolution by a unanimous vote in the House of Representatives and with just two nays in the Senate. This resolution (based on what seems to have been a false report) gave President Johnson the authority to send combat troops to South Vietnam. Less than one month after Malcolm X's death in February 1965, the first U.S. combat troops thirty-five hundred Marines joined twenty-three thousand U.S. military advisers already in Vietnam. By the end of 1965, nearly two hundred thousand American troops would be in Vietnam.

To some extent, turmoil within the Nation of Islam reflected the turmoil within U.S. society. The Nation of Islam had been formed in Detroit in 1930 by Wallace D. Fard, also known as Wallace D. Fard Muhammad. After Fard's disappearance in 1934, leadership of the Nation of Islam was assumed by one of his disciples, Elijah Poole, who later took the name Elijah Muhammad. One of the central tenets of the Nation of Islam was that African American youth were being put at a disadvantage by the nation's schools. Accordingly, the Nation of Islam established its own schools in various cities, often placing themselves at odds with state and local authorities because the schools were unaccredited. Although the Nation of Islam's members professed to be Muslims, they departed from traditional Islam in a number of important respects, notably in their belief that Fard was not only the Messiah of Christianity but also the Mahdi, or redeemer, of Islam. The Nation of Islam's teachings emphasized resistance to white supremacy. The organization argued that slavery and the African diaspora had been designed to deprive Africans of knowledge of their history, that blacks were the original humans, and that black separatism was the only hope for black Americans.

Throughout the late 1950s and early 1960s, Malcolm X was one of the Nation of Islam's most prominent spokesmen. He was also a highly controversial figure because of his belief that blacks were genetically superior to whites and for his provocative statements such as his remark that the white man was a "blue-eyed devil." That comment came at a time when he was fully under the influence of Elijah Muhammad and his belief that all whites were evil, a position Malcolm X would renounce after his conversion to Sunni Islam. Perhaps he referred to whites by reference to eye color rather than skin color because of his own lighter-than-average skin, a result of the fact that his mother was half white. Regardless of his skin tone, he became famous in large part through his inflammatory speeches and his

public persona as an angry black man. He was critical of mainstream civil rights leaders such as Martin Luther King, rejecting King's doctrine of nonviolence and the Christian religion that was the source of King's inspiration.

In contrast to more radical groups such as the Black Panthers, Malcolm X did not preach revolution but rather a doctrine of self-help. He and his followers resisted confrontations with the police, arguing that the black community should police itself. He spoke with such power and eloquence that he was able to attract followers and supporters from outside the Nation of Islam, and it was this that had led to tensions between him and Elijah Muhammad and the Nation of Islam at large. When Malcolm X discovered that Muhammad had been having affairs with his secretaries, he became disillusioned with Muhammad and began to modify some of his positions. In particular, his travels in the Middle East convinced him that black separatism was not the path to racial equality and that Sunni Islam could provide a source of unity for peoples of all colors. Thus, just as King was growing more militant because of his opposition to the Vietnam War, Malcolm X was moving toward some of King's earlier positions. All of these strands of thought underpinned Malcolm X's final speech at Ford Auditorium in February 1965.

Time Line

1964

- **June 28**
  Malcolm X founds the Organization of Afro-American Unity, a civil rights group.

1965

- **February 14**
  Malcolm X's house is firebombed in the early morning hours, allegedly by members of the Nation of Islam; later that day he delivers his final speech.
- **February 21**
  Malcolm X is assassinated by three Black Muslims.

About the Author

Malcolm X was born Malcolm Little on May 19, 1925, in Omaha, Nebraska. Early in his life, he was exposed to issues of race and racism. His father, Earl Little, was a Baptist preacher and a supporter of Marcus Garvey, the flamboyant founder of the Universal Negro Improvement Association. The elder Little moved the family first to Milwaukee, Wisconsin, and then to Lansing, Michigan, to avoid death threats, but in 1929 the family's Lansing house was burned. Then, in 1931, Earl Little was killed by a streetcar in what authorities ruled was an accident. Malcolm, who was six at the time, believed that white supremacists had murdered Earl Little and made it appear to have been an accident.

Malcolm's mother, Louise Little, was half Scottish, and he had inherited light skin and reddish hair from her traits that troubled him throughout his life. Louise's mental condition deteriorated after Earl's death, and several years later she was declared insane; Malcolm and his six siblings were then sent to foster homes. Initially a good student, Malcolm dropped out of school in the eighth grade after a white teacher told him that his goal of becoming a lawyer was unrealistic for an African American. After living in several foster homes, Malcolm moved to Boston to live with an older sister in 1941. He drifted through various jobs in various cities, but in 1943 he landed in New York City's Harlem, where he became involved in a variety of criminal activities. He returned to Boston, where he continued his involvement in illegal enterprises. He was arrested and in early 1946 sentenced to eight to ten years at the Massachusetts State Prison on charges of larceny and breaking and entering. Although he was initially hostile to all religion, while in prison he became acquainted with Elijah Muhammad's Nation of Islam. He corresponded with Elijah Muhammad and by 1948, while still in prison, had become a member of the Nation of Islam.

When Malcolm was released in 1952, he visited Elijah Muhammad in Chicago and changed his last name from Little to X. As he stated in his autobiography, "For me, my 'X' replaced the white slavemaster name of 'Little' which some blue-eyed devil named Little had imposed upon my paternal forebears." In 1953, a year that also marked the beginning of the Federal Bureau of Investigation's surveillance of Malcolm X, he became an assistant minister at Temple No. 1 in Detroit (Nation of Islam temples were numbered in the order in which they were founded). He rose rapidly in the Nation of Islam through his tireless work and convincing rhetorical style. In his speeches, he advocated separatism for African Americans and rejected the more mainstream civil rights movement's call for nonviolence. His mesmerizing speeches helped increase membership in the Nation of Islam dramatically.

Shortly after the death of President John F. Kennedy in 1963, Malcolm X delivered a speech he had prepared titled "God's Judgment of White America," which expressed his familiar theme based on the biblical statement "As you sow, so shall you reap." His point was that white America would be punished by God for its racism and hypocrisy. Thus, when asked after the speech about the Kennedy assassination, he made an easy transition from the biblical quote to the more colloquial expression of the same meaning, about the "chickens coming home to roost," a remark he later said he delivered "without a second thought." Angry whites, he believed, had not stopped at killing innocent blacks but had killed their own president as well. He believed that many people around the world agreed with the notion that America's "climate of hate" had caused the assassination, but controversy sparked when the media seized on his remarks unfairly, he contended. Nonetheless, he was censured by the Nation of Islam and told he could not speak publicly for ninety days as a result of the remark.

Malcolm X's New York City home is seen partially damaged after two Molotov cocktails sparked a flash fire (AP/Wide World Photos)

That incident represented growing tension between Malcolm X and the Nation of Islam. In 1964 he broke with Elijah Muhammad after his discovery that Muhammad had engaged in a series of affairs with his secretaries. Malcolm X then founded Muslim Mosque, Inc., a religious organization, and, on the secular side, the Organization of Afro-American Unity. He also converted to the Sunni branch of Islam and made a pilgrimage to Mecca, Saudi Arabia, that spring. This pilgrimage led to an epiphany of sorts, for he came to believe that Islam could be a means to eliminate racial divisions. After the pilgrimage, he traveled throughout Africa, where he met with many prominent African leaders, and also visited Europe.

As Malcolm X continued his speaking engagements in the United States, he began receiving death threats from members of the Nation of Islam, which also sued to recover the New York City house in the borough of Queens in which he and his family were living. The Nation won the suit, but a hearing was scheduled for February 14, 1965, to argue for a postponement of his eviction date. However, the house was firebombed in the early-morning hours of that day. That evening, he delivered his "After the Bombing" address. This would prove to be his last speech, for on February 21, 1965, as he was speaking at a meeting of the Organization of Afro-American Unity, he was attacked by three men and shot to death. The three men, all members of the Nation of Islam, were convicted in the shooting.

Explanation and Analysis of the Document

Malcolm X's final speech, a portion of which is reproduced here, ranged over a broad variety of topics. But his first remarks place the speech in context. He begins, "Distinguished guests, brothers and sisters, ladies and gentlemen, friends and enemies." Although the FBI had opened a file on Malcolm X and monitored his activities, at this point he had more reason to be concerned about Black Muslims, who had made death threats against him and were the likely suspects in the firebombing of his house. Since he escaped the firebombing with literally the clothes on his back, he asks his audience to excuse his appearance.

◆ Colonialism and the African Revolution

Malcolm X then turns to the substantive points of his speech. First, he addresses the independence movements in Africa, arguing that the United States, along with Great Britain and France, was more worried about these movements than similar ones in Latin America and Asia because of the large number of African Americans in the United States. This statement reflects one of his persistent themes: stressing the unity of all persons of African origin, whether they were still in Africa or were part of the African diaspora in the United States and elsewhere. At the time, Africa and other portions of the world were throwing off colonialism. India had achieved independence from Great Britain in 1948, Algeria had begun to free itself from French influence with the Proclamation of the Algerian National Front in 1954, Patrice Lumumba had issued the Proclamation of Congolese Independence in 1960, and the Palestinian National Charter was adopted in May 1964. These and other events signaled a profound shift in the relationships between former colonial powers and nations in the developing world.

Malcolm X then castigates the African Americans he had seen while in Africa, arguing that they were "just socializing, [that] they had turned their back on the cause over here." He compares those African Americans unfavorably to people of African heritage in countries such as Ghana or Tanzania. He then goes on to describe his organizational efforts throughout Africa, in particular the establishment of a branch of the Organization of Afro-American United. Later, he organized a similar group in Paris.

◆ The Power Structure

Malcolm X points to what he regards as the fear of the colonial powers, arguing that colonialism and imperialism are not just confined to the United States, which, he says, is "in cahoots" with Britain and France. He sees this alignment as an effort to "suppress the masses of dark-skinned people all over the world and exploit them of their natural resources." He argues that "the newly awakened people all over the world pose a problem for what's known as Western interests … imperialism, colonialism, racism, and all these other negative isms or vulturistic isms." He then expresses his advocacy for a coalition of Africans, African Americans, Arabs, and Asians, which he says could be perceived as threatening by Western powers. In this context, he speaks of his meetings with Presidents Julius K. Nyerere of Tanzania, Jomo Kenyatta of Kenya, Nnamdi Azikiwe of Nigeria, Kwame Nkrumah of Ghana, and Ahmed Sékou Touré of

Guinea, all of whom were major national figures in African independence movements who also supported the advancement of African Americans. Malcolm X also speaks of his meeting with Gamal Abdel Nasser of Egypt, who recently had challenged the West by nationalizing the Suez Canal, provoking an international crisis and threatening to cut off oil exports. He notes, too, the plight of "dark-skinned people in the Western Hemisphere," including people in Venezuela, Honduras, and other Central American countries, as well as the United States and Canada.

◆ Racism and Religion

Malcolm X then turns to issues of racism and religion, stating: "I don't believe in any form of racism. I don't believe in any form of discrimination or segregation. I believe in Islam. I am a Muslim." He stresses the unity of the three monotheistic religions Judaism, Christianity, and Islam and asserts that all believe in the same God and that Muhammad of Islam was simply the last in a line of prophets that stretched back to Abraham and had included Moses and Jesus. This theme of religious unity had started to appear in his speeches after his break with the Nation of Islam and his pilgrimage to Mecca ("Makkah" in the document). He goes on to observe that the religious beliefs espoused by the Nation of Islam were not "the real religion of Islam." He states that in reality Islam "doesn't teach anyone to judge another human being by the color of his skin" but rather judges people by their deeds. He indicates his rejection of the Black Muslim movement because it "didn't have the real religion of Islam." He comments favorably on his experience in Mecca, where "white" was simply an adjective. "White," he says, is a different thing in America, an indication of presumed racial superiority.

◆ Nonviolence

Malcolm X then articulates his position on violence in a "society … controlled primarily by racists and segregationists," the government of which has continued to perpetrate violence in such places as Saigon and Hanoi (in Vietnam) and the Congo. He states that he has "never advocated any violence" but adds that African Americans should defend themselves from violence perpetrated by the Ku Klux Klan and other groups. In contrast, Malcolm X views the efforts of those African Americans who have attempted to overcome violence solely with the "capacity to love" as disgraceful and even encouraging of further acts of violence against blacks. He points out the hypocrisy of the position of nonviolence, noting that governments perpetrate violence in many places in the world but then urge blacks to remain nonviolent in the face of lynchings. He also takes the mass media to task for creating the impression that he advocates violence.

At this point in his speech, Malcolm X builds to perhaps his most notorious statement. He discusses the "language" that racists understand, the language of "brute force," which cannot be met merely with overtures of peace. He states that since the Klan knows "one language," victims of the Klan's oppression need to "start learning a new language" that the Klan understands. He characterizes the Klan as a "cowardly outfit" that has been able to remain safe only by making blacks afraid. He then quotes the words of Christ as he was being crucified "Forgive them, Lord, they know not what they do" while bitterly noting how some blacks might have uttered something similar as the lynch rope was being placed around their necks. Unlike Christ's persecutors, the lynch mobs, says Malcolm, have very much known what they've been doing and have had plenty of practice at it. He then observes that, because the federal government is unwilling to take action, it is the duty of African Americans to organize themselves and stop the actions of the Klan. He concludes this portion of the speech by repeating his statement that he does not believe in violence, which is why he wants to stop violence. Violence cannot be stopped with love but only by "vigorous action in self-defense." That action, he says, is to be initiated "by any means necessary." In the view of many observers, this statement was a call to arms literally. This remark was taken out of context and was later used to accuse Malcolm X and his followers of having advocated violence.

Audience

Although Malcolm X enjoyed speaking before college audiences and was not averse to speaking to white and mixed audiences after his conversion from the Nation of Islam to Sunni Islam, he most often spoke in large cities in the Northeast, Midwest, and West before audiences of African Americans, many of whom may have been part of the civil rights movement but were discouraged with the speed of change the movement had thus far realized. With respect to the audience, then, his last speech, taking place in Detroit, Michigan, was typical northern, urban, and primarily though not exclusively black. The audience would not have contained any members of the Nation of Islam, as members of that organization were forbidden to attend his speeches, but would have included members of his Organization of Afro-American Unity.

Impact

Malcolm X's speeches, whether delivered for the Nation of Islam or later, like this one, on his own, always had significant effects on his audience. He was a forceful speaker who always drew listeners to his cause. His "After the Bombing" speech is well remembered and often used in anthologies because it was his last, but the main points could have been taken from many of the speeches he delivered in the final period of his life. He forcefully advocated community action paired with African American self-help; the rejection of tobacco, alcohol, drugs, and promiscuity; and, in his later years, unity regardless of race or religion. He also refused to forswear violence, though condoning it only in self-defense. In this respect he served as a counterbalance to Martin Luther King, Jr.'s nonviolent positions.

Indeed, Malcolm X's impact was in part based on his distinction from other black leaders. He specifically rejected

Essential Quotes

"And I might point out right here that colonialism or imperialism, as the slave system of the West is called, is not something that's just confined to England or France or the United States.… It's an international power structure. And this international power structure is used to suppress the masses of dark-skinned people all over the world and exploit them of their natural resources."

(The Power Structure)

"The newly awakened people all over the world pose a problem for what's known as Western interests … imperialism, colonialism, racism, and all these other negative isms or vulturistic isms. Just as the external forces pose a grave threat, they can now see that the internal forces pose an even greater threat. But the internal forces pose an even greater threat only when they have properly analyzed the situation and know what the stakes really are."

(The Power Structure)

"So we saw that the first thing to do was to unite our people, not only unite us internally, but we have to be united with our brothers and sisters abroad."

(The Power Structure)

"I don't believe in any form of racism. I don't believe in any form of discrimination or segregation. I believe in Islam. I am a Muslim."

(Racism and Religion)

"This society is controlled primarily by racists and segregationists … who are in Washington, D.C., in positions of power. And from Washington, D.C., they exercise the same forms of brutal oppression against dark-skinned people in South and North Vietnam, or in the Congo, or in Cuba, or in any other place on this earth where they're trying to exploit and oppress."

(Nonviolence)

"So, we only mean vigorous action in self-defense, and that vigorous action we feel we're justified in initiating by any means necessary."

(Nonviolence)

the nonviolence of King and his followers, who advocated a civil rights movement that looked to the gradual integration of African Americans into American society. He also took issue with black churches and the role of Christianity in thwarting the hopes of African Americans. But by 1965 Malcolm X had evolved beyond his role as a Black Muslim dissenter and rejected the black separatism of the Nation of Islam. The change he underwent was seen less in his public speeches and more in his autobiography, in which he examines his life as a spiritual and political pilgrimage that in the end led him to question his radicalism and his views about revolution and the white power structure. Published after his death, *The Autobiography of Malcolm X* inspired and continues to inspire African Americans and others and remains required reading in many high schools and colleges.

Despite some softening of his positions, Malcolm X became no less assertive in his determination to secure freedom for black America. As an outspoken black leader who had abandoned the politics of black nationalism, he became a symbol of the individual's role in interpreting and making history. Historically, though, Malcolm X exemplified one extreme of black protest. In the 1950s and early 1960s the public saw him as the opposite of King, but through his evolution as a thinker and public leader, his critique of American culture in part began to converge with King's. Beyond that, the self-criticism with which Malcolm X infused the discussion of African American lives makes him a figure who transcends the particular views he expressed in his speeches, including "After the Bombing." One can only speculate what he might have done and said given more time to evolve his views. His was an independent mind searching the world over for a version of truth.

See also *Plessy v. Ferguson* (1896); *Brown v. Board of Education* (1954); Martin Luther King, Jr.: "Letter from Birmingham Jail" (1963); George Wallace's Inaugural Address as Governor (1963); John F. Kennedy's Civil Rights Address (1963); Civil Rights Act of 1964; Martin Luther King, Jr.: "Beyond Vietnam: A Time to Break Silence" (1967).

Further Reading

Books

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Questions for Further Study

1. At the time, Malcolm X was regarded as a bit of a frightening figure by mainstream America—and perhaps he still is. Why do you think this was so? Based on his speech, how "frightening" do you think Malcolm X really was?

2. Why did Malcolm X break with the Nation of Islam and black nationalism? To what extent do you think his defection weakened that organization?

3. On what basis did Malcolm X castigate American blacks he encountered in Africa?

4. Malcolm X was often regarded as a foil to Martin Luther King, Jr., and the two men were seen as standing on opposite poles of the civil rights movement. On what basis did people think this? Do you believe that this is an accurate comparison? Explain.

5. Imagine that Malcolm X had not been assassinated. What impact do you think he might have had on the civil rights and antiwar movements of the late 1960s and into the 1970s?

■ Web Sites

"The Detroit Speeches of Malcolm X." Malcolm Web site. http://www.brothermalcolm.net/.

Malcolm-X.org Web site. http://www.malcolm-x.org/.

The Malcolm X Project at Columbia University Web site. http://www.columbia.edu/cu/ccbh/mxp/.

The Official Web Site of Malcolm X. http://www.cmgww.com/historic/malcolm/home.php.

Keith E. Sealing

Document Text

Malcolm X: "After the Bombing"

Distinguished guests, brothers and sisters, ladies and gentlemen, friends and enemies:

I want to point out first that I am very happy to be here this evening and I'm thankful [to the Afro-American Broadcasting Company] for the invitation to come here to Detroit this evening. I was in a house last night that was bombed, my own. It didn't destroy all my clothes, not all, but you know what happens when fire dashes through they get smoky. The only thing I could get my hands on before leaving was what I have on now.

It isn't something that made me lose confidence in what I am doing, because my wife understands and I have children from this size on down, and even in their young age they understand. I think they would rather have a father or brother or whatever the situation may be who will take a stand in the face of any kind of reaction from narrow-minded people rather than to compromise and later on have to grow up in shame and in disgrace.

So I just ask you to excuse my appearance. I don't normally come out in front of people without a shirt and a tie. I guess that's somewhat a holdover from the "Black Muslim" movement, which I was in. That's one of the good aspects of that movement. It teaches you to be very careful and conscious of how you look, which is a positive contribution on their part. But that positive contribution on their part is greatly offset by too many other liabilities.…

Tonight one of the things that has to be stressed is that which has not only the United States very much worried but which also has France, Great Britain, and most of the powers, who formerly were known as colonial powers, worried also, and that primarily is the African revolution. They are more concerned with the revolution that's taking place on the African continent than they are with the revolution in Asia and in Latin America. And this is because there are so many people of African ancestry within the domestic confines or jurisdiction of these various governments.

There are four different types of people in the Western Hemisphere, all of whom have Africa as a common heritage, common origin, and that's the those of our people in Latin America, who are Black, but who are in the Spanish-speaking areas. Many of them ofttimes migrate back to Spain, the only difference being Spain has such bad economic conditions until many of the people from Latin America don't think it's worthwhile to migrate back there. And then the British and the French had a great deal of control in the Caribbean, in the West Indies. And so now you have many people from the West Indies migrating to both London rather both England and France. The people from the British West Indies go to London, and those from the French West Indies go to Paris. And it has put France and England since World War II in the precarious position of having a sort of a commonwealth structure that makes it easy for all of the people in the commonwealth territories to come into their country with no restrictions. So there's an increasing number of dark-skinned people in England and also in France.

When I was in Africa in May, I noticed a tendency on the part of the Afro-Americans to, what I call lollygag. Everybody else who was over there had something on the ball, something they were doing, something constructive. For instance, in Ghana, just to take Ghana as an example. There would be many refugees in Ghana from South Africa. But those who were in Ghana were organized and were serving as pressure groups, some were training for military some were being trained in how to be soldiers, but others were involved as a pressure group or lobby group to let the people of Ghana never forget what's happening to the brother in South Africa. Also you'd have brothers there from Angola and Mozambique. But all of the Africans who were exiles from their particular country and would be in a place like Ghana or Tanganyika, now Tanzania, they would be training. Their every move would still be designed to offset what was happening to their people back home where they had left.

The only difference on the continent was the American Negro. Those who were over there weren't even thinking about these over here. This was the basic difference. The Africans, when they escaped from their respective countries that were still colonized, they didn't try and run away from the problem. But as soon as they got where they were going, they then began to organize into pressure groups to get governmental support at the international level against the injustices they were experiencing back home.

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And as I said, the American Negro, or the Afro-American, who was in these various countries, some working for this government, some working for that government, some just in business they were just socializing, they had turned their back on the cause over here, they were partying, you know.

And when I went through one country in particular, I heard a lot of their complaints and I didn't make any move on them.

But when I got to another country, I found the Afro-Americans there were making the same complaints. So we sat down and talked and we organized a branch in this particular country, a branch of the OAAU, Organization of Afro-American Unity. That one was the only one in existence at that time. Then during the summer, when I went back to Africa, I was able in each country that I visited, to get the Afro-American community together and organize them and make them aware of their responsibility to those of us who are still here in the lion's den.

They began to do this quite well, and when I got to Paris and London there are many Afro-Americans in Paris, and many in London. And in December no, November we organized a group in Paris and just within a very short time they had grown into a well-organized unit. And they, in conjunction with the African community, invited me to Paris, Tuesday, to address a large gathering of Parisians and Afro-Americans and people from the Caribbean and also from Africa who were interested in our struggle in this country and the rate of progress that we have been making.

But since the French government and the British government and this government here, the United States, know that I have been almost fanatically stressing the importance of the Afro-American uniting with the African and working as a coalition, especially in areas which are of mutual benefit to all of us. And the governments in these different places were frightened because they know that the Black revolution that's taking place on the outside of their house.

And I might point out right here that colonialism or imperialism, as the slave system of the West is called, is not something that's just confined to England or France or the United States. But the interests in this country are in cahoots with the interests in France and the interests in Britain. It's one huge complex or combine, and it creates what's known as not the American power structure or the French power structure, but it's an international power structure. And this international power structure is used to suppress the masses of dark-skinned people all over the world and exploit them of their natural resources.

So that the era in which you and I have been living during the past ten years most specifically has witnessed the upsurge on the part of the Black man in Africa against the power structure.

He wants his freedom.

Now, mind you, the power structure is international, and as such, its own domestic base is in London, in Paris, in Washington, D.C., and so forth. And the outside or external phase of the revolution, which is manifest in the attitude and action of the Africans today is troublesome enough. The revolution on the outside of the house, or the outside of the structure, is troublesome enough. But now the powers that be are beginning to see that this struggle on the outside by the Black man is affecting, infecting the Black man who is on the inside of that structure. I hope you understand what I'm trying to say.

The newly awakened people all over the world pose a problem for what's known as Western interests, which is imperialism, colonialism, racism, and all these other negative isms or vulturistic isms. Just as the external forces pose a grave threat, they can now see that the internal forces pose an even greater threat. But the internal forces pose an even greater threat only when they have properly analyzed the situation and know what the stakes really are.

Just by advocating a coalition of Africans, Afro-Americans, Arabs, and Asians who live within the structure, it automatically has upset France, which is supposed to be one of the most liberal heh! countries on earth, and it made them expose their hand. England the same way. And I don't have to tell you about this country that we are living in now.

So when you count the number of dark-skinned people in the Western Hemisphere you can see that there are probably over 100 million. When you consider Brazil has two-thirds what we call colored, or nonwhite, and Venezuela, Honduras and other Central American countries, Cuba and Jamaica, and the United States and even Canada when you total all these people up, you have probably over 100 million. And this 100 million on the inside of the power structure today is what is causing a great deal of concern for the power structure itself.

Not a great deal of concern for all white people, but a great deal of concern for most white people. See, if I said "all white people" then they would call me a racist for giving a blanket condemnation of things.

And this is true; this is how they do it. They take one little word out of what you say, ignore all the rest, and then begin to magnify it all over the world

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to make you look like what you actually aren't. And I'm very used to that.

So we saw that the first thing to do was to unite our people, not only unite us internally, but we have to be united with our brothers and sisters abroad. It was for that purpose that I spent five months in the Middle East and Africa during the summer. The trip was very enlightening, inspiring, and fruitful. I didn't go into any African country, or any country in the Middle East for that matter, and run into any closed door, closed mind, or closed heart. I found a warm reception and an amazingly deep interest and sympathy for the Black man in this country in regards to our struggle for human rights.

While I was traveling, I had a chance to speak in Cairo, or rather Alexandria, with President [Gamal Abdel-]Nasser for about an hour and a half. He's a very brilliant man. And I can see why they're so afraid of him, and they are afraid of him they know he can cut off their oil. And actually the only thing power respects is power. Whenever you find a man who's in a position to show power against power then that man is respected. But you can take a man who has power and love him all the rest of your life, nonviolently and forgivingly and all the rest of those ofttime things, and you won't get anything out of it.

So I also had a chance to speak to President [Julius K.] Nyerere in Tanganyika, which is now Tanzania, and also [President Jomo] Kenyata I know that all of you know him. He was the head of the Mau Mau, which really brought freedom to many of the African countries. This is true. The Mau Mau played a major role in bringing about freedom for Kenya, and not only for Kenya but other African countries. Because what the Mau Mau did frightened the white man so much in other countries until he said, "Well I better get this thing straight before some of them pop up here." This is good to study because you see what makes him react: Nothing loving makes him react, nothing forgiving makes him react. The only time he reacts is when he knows you can hurt him, and when you let him know you can hurt him he has to think two or three times before he tries to hurt you. But if you're not going to do nothing but return that hurt with love why good night! He knows you're out of your mind.

And also I had an opportunity to speak with President [Nnamdi] Azikiwe in Nigeria, President [Kwame] Nkrumah in Ghana, and President Sekou Toure in Guinea. And in all of these people I found nothing but warmth, friendship, sympathy, and a desire to help the Black man in this country in fighting our problem. And we have a very complex problem.

Before I get involved in anything nowadays, I have to straighten out my own position, which is clear. I am not a racist in any form whatsoever. I don't believe in any form of racism. I don't believe in any form of discrimination or segregation. I believe in Islam. I am a Muslim. And there's nothing wrong with being a Muslim, nothing wrong with the religion of Islam. It just teaches us to believe in Allah as the God. Those of you who are Christians probably believe in the same God, because I think you believe in the God who created the universe. That's the One we believe in, the one who created the universe, the only difference being you call Him God and I we call Him Allah. The Jews call him Jehovah. If you could understand Hebrew, you'd probably call him Jehovah too. If you could understand Arabic, you'd probably call him Allah.

But since the white man, your "friend," took your language away from you during slavery, the only language you know is his language. You know, your friend's language. So you call for the same God he calls for. When he's putting a rope around your neck, you call for God and he calls for God. And you wonder why the one you call on never answers you.

So that once you realize that I believe in the Supreme Being who created the universe, and believe in him as being one I also have been taught in Islam that one God only has one religion, and that religion is called Islam, and all of the prophets who came forth taught that religion Abraham, Moses, Jesus, Mohammed, all of them. And by believing in one God and one religion and all of the prophets, it creates unity. There's no room for argument, no need for us to be arguing with each other.

And also in that religion, of the real religion of Islam when I was in the Black Muslim movement, I wasn't they didn't have the real religion of Islam in that movement. It was something else. And the real religion of Islam doesn't teach anyone to judge another human being by the color of his skin. The yardstick that is used by the Muslim to measure another man is not the man's color but the man's deeds, the man's conscious behavior, the man's intentions. And when you use that as a standard of measurement or judgment, you never go wrong.

But when you just judge a man because of the color of his skin, then you're committing a crime, because that's the worst kind of judgment. If you judged him just because he was a Jew, that's not as bad as judging him because he's Black. Because a Jew can hide his religion. He can say he's something

else and which a lot of them do that, they say they're something else. But the Black man can't hide. When they start indicting us because of our color that means we're indicted before we're born, which is the worst kind of crime that can be committed. The Muslim religion has eliminated all tendencies to judge a man according to the color of his skin, but rather the judgment is based upon his deeds.

And when, prior to going into the Muslim world, I didn't have any Elijah Muhammad had taught us that the white man could not enter into Makkah in Arabia, and all of us who followed him, we believed it. And he said the reason he couldn't enter was because he's white and inherently evil, it's impossible to change him. And the only thing that would change him is Islam, and he can't accept Islam because by nature he's evil. And therefore by not being able to accept Islam and become a Muslim, he could never enter Makkah. This is how he taught us, you know.

So when I got over there and went to Makkah and saw these people who were blond and blue-eyed and pale-skinned and all those things, I said, "Well!" But I watched them closely. And I noticed that though they were white, and they would call themselves white, there was a difference between them and the white one over here. And that basic difference was this: in Asia or the Arab world or in Africa, where the Muslims are, if you find one who says he's white, all he's doing is using an adjective to describe something that's incidental about him, one of his incidental characteristics; so there's nothing else to it, he's just white.

But when you get the white man over here in America and he says he's white, he means something else. You can listen to the sound of his voice when he says he's white, he means he's a boss. That's right. That's what "white" means in this language. You know the expression, "free, white, and twenty-one." He made that up. He's letting you know all of them mean the same. "White" means free, boss. He's up there. So that when he says he's white he has a little different sound in his voice. I know you know what I'm talking about.

This was what I saw was missing in the Muslim world. If they said they were white, it was incidental. White, black, brown, red, yellow, doesn't make any difference what color you are. So this was the religion that I had accepted and had gone there to get a better knowledge of it.

But despite the fact that I saw that Islam was a religion of brotherhood, I also had to face reality. And when I got back into this American society, I'm not in a society that practices brotherhood. I'm in a society that might preach it on Sunday, but they don't practice it on no day on any day. And so, since I could see that America itself is a society where there is no brotherhood and that this society is controlled primarily by racists and segregationists and it is who are in Washington, D.C., in positions of power. And from Washington, D.C., they exercise the same forms of brutal oppression against dark-skinned people in South and North Vietnam, or in the Congo, or in Cuba, or in any other place on this earth where they're trying to exploit and oppress. This is a society whose government doesn't hesitate to inflict the most brutal form of punishment and oppression upon dark-skinned people all over the world.

To wit, right now what's going on in and around Saigon and Hanoi and in the Congo and elsewhere. They are violent when their interests are at stake. But all of that violence that they display at the international level, when you and I want just a little bit of freedom, we're supposed to be nonviolent. They're violent. They're violent in Korea, they're violent in Germany, they're violent in the South Pacific, they're violent in Cuba, they're violent wherever they go. But when it comes time for you and me to protect ourselves against lynchings, they tell us to be nonviolent.

That's a shame. Because we get tricked into being nonviolent, and when somebody stands up and talks like I just did, they say, "Why, he's advocating violence!" Isn't that what they say? Every time you pick up your newspaper, you see where one of these things has written into it that I'm advocating violence. I have never advocated any violence. I've only said that Black people who are the victims of organized violence perpetrated upon us by the Klan, the Citizens' Council, and many other forms, we should defend ourselves. And when I say that we should defend ourselves against the violence of others, they use their press skillfully to make the world think that I'm calling on violence, period. I wouldn't call on anybody to be violent without a cause. But I think the Black man in this country, above and beyond people all over the world, will be more justified when he stands up and starts to protect himself, no matter how many necks he has to break and heads he has to crack.

I saw in the paper where they on the television where they took this Black woman down in Selma, Alabama, and knocked her right down on the ground, dragging her down the street. You saw it, you're trying to pretend like you didn't see it 'cause you knew you should've done something about it and didn't. It showed the sheriff and his henchmen throwing this Black woman on the ground on the ground.

Document Text

And Negro men standing around doing nothing about it saying, "Well, let's overcome them with our capacity to love." What kind of phrase is that? "Overcome them with our capacity to love." And then it disgraces the rest of us, because all over the world the picture is splashed showing a Black woman with some white brutes, with their knees on her holding her down, and full-grown Black men standing around watching it. Why, you are lucky they let you stay on earth, much less stay in the country.

When I saw it I dispatched a wire to Rockwell; Rockwell was one of the agitators down there, Rockwell, this [George] Lincoln Rockwell [leader of the American Nazi Party].

And the wire said in essence that this is to warn him that I am no longer held in check from fighting white supremacists by Elijah Muhammad's separatist "Black Muslim" movement. And that if Rockwell's presence in Alabama causes harm to come to Dr. King or any other Black person in Alabama who's doing nothing other than trying to enjoy their rights, then Rockwell and his Ku Klux Klan friends would be met with maximum retaliation from those of us who are not handcuffed by this nonviolent philosophy. And I haven't heard from Rockwell since.

Brothers and sisters, if you and I would just realize that once we learn to talk the language that they understand, they will then get the point. You can't ever reach a man if you don't speak his language. If a man speaks the language of brute force, you can't come to him with peace. Why, good night! He'll break you in two, as he has been doing all along. If a man speaks French, you can't speak to him in German. If he speaks Swahili, you can't communicate with him in Chinese. You have to find out what does this man speak. And once you

Glossary

Abraham, Moses	two of the major Jewish patriarchs of the Christian Old Testament
"Black Muslim" movement	the movement centered on the Nation of Islam
British West Indies	the island nations in the Caribbean that were part of the British Empire, including such nations as the Bahamas and Jamaica
Citizens' Council	the White Citizens' Council, also called the Citizens' Council of America, a white supremacist organization
Congo	probably a reference to the Democratic Republic of the Congo, where Patrice Lumumba led a nationalist movement beginning in 1960; possibly a reference to the Republic of the Congo, which gained independence from the French in 1960
Elijah Muhammad	the Nation of Islam leader who attracted Malcolm X to the organization
"Forgive them, Lord …"	words spoken by Jesus at the time of his Crucifixion
French West Indies	the island nations in the Caribbean that were (and in some instances still are) part of the French empire, including, for example, Guadeloupe and Martinique
Klan	the Ku Klux Klan, a white supremacist organization
Makkah	usually spelled Mecca, a city in Saudi Arabia and Islam's holiest site
Mau Mau	the name given to an insurgency in Kenya against British colonial rule from 1952 to 1960, often called the Mau Mau Uprising
Mohammad	usually spelled Muhammad, the seventh-century founder of Islam
Organization of Afro-American Unity	a civil rights group Malcolm X founded in 1964
Saigon and Hanoi	the capitals of South Vietnam and North Vietnam, respectively, and thus a reference to the Vietnam War

know his language, learn how to speak his language, and he'll get the point. There'll be some dialogue, some communication, and some understanding will be developed.

You've been in this country long enough to know the language the Klan speaks. They only know one language. And what you and I have to start doing in 1965 I mean that's what you have to do, because most of us already been doing it is start learning a new language. Learn the language that they understand. And then when they come up on our doorstep to talk, we can talk. And they will get the point. There'll be a dialogue, there'll be some communication, and I'm quite certain there will then be some understanding. Why? Because the Klan is a cowardly outfit. They have perfected the art of making Negroes be afraid. As long as the Negro's afraid, the Klan is safe. But the Klan itself is cowardly. One of them will never come after one of you. They all come together. Sure, and they're scared of you.

And you sit there when they're putting the rope around your neck saying, "Forgive them, Lord, they know not what they do." As long as they've been doing it, they're experts at it, they know what they're doing!

No, since the federal government has shown that it isn't going to do anything about it but talk, it is a duty, it's your and my duty as men, as human beings, it is our duty to our people, to organize ourselves and let the government know that if they don't stop that Klan, we'll stop it ourselves. And then you'll see the government start doing something about it. But don't ever think that they're going to do it just on some kind of morality basis, no. So I don't believe in violence that's why I want to stop it. And you can't stop it with love, not love of those things down there, no. So, we only mean vigorous action in self-defense, and that vigorous action we feel we're justified in initiating by any means necessary.

Daniel Patrick Moynihan (AP/Wide World Photos)

Moynihan Report

1965

"Equality of opportunity almost insures inequality of results."

Overview

Few policy papers in American history have stirred more controversy than *The Negro Family: The Case for National Action*, otherwise known as the Moynihan Report. Drafted as an internal memo by a young assistant secretary of labor named Daniel Patrick Moynihan in 1965, the report threw gasoline on the highly flammable race question in the United States, blaming racial inequality on black illegitimacy and divorce. Convinced that the civil rights movement had vanquished formal inequality, Moynihan focused on the matriarchal black family as the primary impediment to black success.

Although it was unoriginal in many of its findings, Moynihan's report came at a critical time in American race relations. Not long after its completion, the largely African American Watts section of Los Angeles experienced one of the nation's biggest urban riots, leading conservative readers of Moynihan's report to blame black absentee fathers for the violence. Even liberals like President Lyndon B. Johnson adopted portions of the report, hoping to shift some of the burden of responsibility for racial reform onto black shoulders. While black activists expressed outrage, Moynihan survived the controversy generated by his work, using it to launch a long career as a policy expert, public intellectual, and U.S. senator.

Context

Drafted in the early months of 1965, the Moynihan Report emerged at a critical moment in American civil rights history. Just the summer before, Congress had enacted the 1964 Civil Rights Act, a sweeping move to end employment discrimination, housing discrimination, and segregated schools in the United States. Although the federal executive had cautiously stressed civil rights reform since Harry S. Truman issued "To Secure These Rights" in 1947, and the Supreme Court had mandated equal treatment at least since *Brown v. Board of Education* in 1954, congressional action proved halting until civil rights demonstrations began to rock the South in the 1960s.

The demonstrations began in Greensboro, North Carolina, in 1960, when four black college students sat at a whites-only lunch counter and demanded service. Similar protests quickly spread across the South, as did media coverage of white southerners attacking peaceful demonstrators. One year later, the Congress of Racial Equality organized integrated bus rides through the Deep South, again hoping to draw white resistance and generate publicity for the black plight in Dixie. When a white mob stopped and burned a bus outside of Anniston, Alabama, the "Freedom Riders" gained national attention.

Hoping to generate further support nationally, the Southern Christian Leadership Conference decided to stage a battery of demonstrations in Birmingham, Alabama, in the spring of 1963, and the noted activist minister Martin Luther King, Jr., held a mass rally in front of the Lincoln Memorial in Washington, D.C., later that year. As white Americans took inspiration from King and recoiled at the attacks by Birmingham police officers on black demonstrators, national opinion began to veer toward more robust federal enforcement of civil rights. Support for civil rights reform accelerated when President John F. Kennedy was assassinated in Dallas in November 1963 and his successor, Lyndon Johnson, made passage of a civil rights act a central part both of fulfilling Kennedy's legacy and his own political platform. With Johnson's help, northern and western senators overrode southern opposition in the 1964 spring session, pushing the nation's most robust civil rights act into law in July 1964.

Although the federal Civil Rights Act of 1964 was a categorical victory for the movement, more disturbing events clouded black hopes for truly radical reform. One was violence. Following the successful civil rights demonstrations in Birmingham in 1963, African Americans ambivalent about nonviolence rioted, spreading fear in Birmingham's white community. One year later, riots broke out in New York, Rochester, and Philadelphia, all northern cities with significant black populations. The following summer, a massive six-day riot exploded in the Watts neighborhood of Los Angeles, killing thirty-four and stunning the nation.

Complicating white understandings of Watts was the fact that only five months earlier, the civil rights movement had engaged in its most successful protest ever, a series of demonstrations in Selma, Alabama, that persuaded Congress to enact a robust Voting Rights Act removing obsta-

Time Line

1954

- **May 17**
  The U.S. Supreme Court issues the *Brown v. Board of Education* decision, reversing precedent by deeming segregated schools inherently unequal.

1960

- **February 1**
  "Sit-in" protests begin in Greensboro, North Carolina.

1961

- **May**
  Freedom Rides begin.

1964

- **July 2**
  President Lyndon B. Johnson signs the Civil Rights Act of 1964.

1965

- **March**
  Daniel Patrick Moynihan completes *The Negro Family: The Case for National Action*, which is made public in July.
- **March 7**
  In the "Bloody Sunday" incident, police officers beat unarmed protestors attempting to cross the Edmund Pettus Bridge in Selma, Alabama, during a march from Selma to Montgomery.
- **June 4**
  President Johnson delivers the Howard University commencement address embracing the need for change in racial attitudes and practices.
- **August 6**
  President Johnson signs the Voting Rights Act of 1965.
- **August 11**
  Six days of rioting begin in the Watts neighborhood of Los Angeles.

1967

- **July**
  Massive rioting erupts in Newark, New Jersey, and Detroit, Michigan.

cles to black voting in the South. Signed into law on August 6, 1965, the Voting Rights Act preceded the inferno in Watts by only five days, leading many to wonder what, precisely, was driving black unrest.

Clearly, civil rights reform in the American South did not satisfy residents of predominantly black ghettos in the North and West. Free from the overt legal repression suffered by their counterparts in the South, urban blacks elsewhere still encountered significant barriers to job entry, quality education, and decent housing. Exacerbating such concerns was a mass migration of blacks from the South to the North and West from the 1940s through the 1950s, a number upward of one million, dramatically altering the demographics of American cities. When such immigrants found themselves forced into urban ghettos with few economic or educational opportunities, hope turned to resentment, often exploding during moments of police intervention in ghetto areas. The ensuing riots proved difficult to understand for many whites, particularly when contrasted with the highly disciplined, well-organized civil rights demonstrations of the same era.

For federal leaders like Johnson, urban unrest brought with it the added problem of compromising America's cold war image. Already involved in a hot war against Communism in Vietnam, Johnson realized that the cold war had an ideological component as well, one compromised by Soviet propaganda highlighting American racial unrest. For precisely this reason, Johnson took an interest in the work of Daniel Patrick Moynihan, allowing him to cowrite the commencement address that Johnson delivered at historically black Howard University in June of 1965, based on the still-unpublished Moynihan Report. The report itself was originally intended as an internal memorandum providing support for Johnson's War on Poverty and remained unpublished until July.

About the Author

Born on March 16, 1927, Moynihan grew up in several poor neighborhoods of New York City, shining shoes and working odd jobs to help support his family. In an ironic foreshadowing of his later claims that absentee fathers were to be blamed for black problems, his own father abandoned his family when he was ten, leaving his mother to care for him, his sister, and his brother. Apparently unaffected, Moynihan briefly attended the City College of New York and then, after naval service, earned his bachelor's and master's degrees at Tufts University. He won a Fulbright Scholarship to the London School of Economics and then went on to gain a PhD in political science from the Fletcher School of Law and Diplomacy at Tufts. Moynihan obtained a job as assistant to the New York governor Averell Harriman from 1955 to 1959, directed the New York State Government Research Project at Syracuse University from 1959 to 1961, and then traveled to Washington, D.C., to be a part of John F. Kennedy's New Frontier. Upon Kennedy's death, Moynihan found himself serving as assis-

tant secretary of labor and director of the Department of Labor's Office of Policy Planning and Research under Lyndon Johnson, a position that required him not simply to fulfill bureaucratic tasks but also to draft substantive policy reports. Drawing from his own experiences growing up in ethnically diverse New York, Moynihan became interested in ethnicity and injustice, coauthoring a book with the sociologist Nathan Glazer titled *Beyond the Melting Pot: The Negroes, Puerto Ricans, Jews, Italians, and Irish of New York City* (1963). Positive reviews stoked Moynihan's interest in race and ethnicity, leading him to focus exclusively on the plight of African Americans in urban centers in 1965. In later years Moynihan alternated between academic posts at Harvard University and government service. He was elected as a Democratic U.S. senator from New York State in 1976 and served until 2001. He died on March 26, 2003.

Time Line

1968

- **April 4** Martin Luther King, Jr., is assassinated in Memphis, Tennessee.

1976

- Herbert G. Gutman publishes *The Black Family in Slavery and Freedom, 1750–1925*, contesting Moynihan's thesis.

Explanation and Analysis of the Document

"The United States is approaching a new crisis in race relations," writes Moynihan in the introduction to his report. Although state and local governments had struggled to preserve racial segregation in the South, such reactionary politics were "doomed" by the civil rights movement, ushering in a "new period" during which African Americans would soon begin to demand "equal opportunities for them as a group." Impeding this process, however, were two obstacles: continued racial prejudice on the part of whites something that would inevitably last "for at least another generation" and the "crumbling" state of the black family.

Choosing to focus on the black family, Moynihan proceeds to document how precisely "conventional social relationships had all but disintegrated" in urban black communities. To accomplish this goal, he divides his report into five sections. The first reviews the achievements of the civil rights struggle, the second focuses on the black family structure, the third discusses historical origins of black familial collapse, the fourth analyzes what Moynihan identified as a "tangle of pathology" gripping black communities, and the fifth outlines policy implications.

◆ "Chapter I: The Negro American Revolution"

In the first chapter Moynihan declares the civil rights movement to be the "most important domestic event" following World War II. Noting that civil rights leaders and demonstrators acted "with the strictest propriety" something that Moynihan would argue black families were not doing he acknowledges the movement's significance for international cold war politics. Not only did the movement derive inspiration from Mohandas Gandhi's rebellion against British rule in India, says Moynihan, but it also consciously paralleled black freedom struggles against European colonial powers in Africa. To Moynihan's mind, such international events indicated that the nations of the world were preparing to "divide along color lines" making it all the more imperative that America continue its race revolution, precisely so that it could serve as a positive model of "what can, or must, happen in the world at large."

To truly become a model of racial harmony, however, the United States needed to acknowledge that the formal struggle for civil rights was over. This struggle, Moynihan argues, was a resounding success, consisting of three basic components: political organizing, "administrative events," and court rulings. Thanks to "disciplined" movement leadership, the civil rights movement developed close ties with "religious groups," "trade unions," and the administrations of John F. Kennedy and Lyndon B. Johnson, both of whom promised significant reform. And reforms came. Congress enacted a Manpower Development and Training Act in 1962 and passed a significant Economic Opportunity Act and an even more significant Civil Rights Act in 1964. Meanwhile, the Supreme Court "used every opportunity" that it had to "combat unequal treatment of Negro citizens," beginning with its 1954 ruling in *Brown v. Board of Education*. Thanks to the success of the civil rights movement, Moynihan declares that a new struggle was taking shape, one that did not focus simply on removing discriminatory laws but also on achieving racial equality. Equality, muses Moynihan, was not necessarily equal opportunity but had taken on "a different meaning for Negroes," one that implied equality of results. Convinced that equal outcomes were desirable, Moynihan ends by declaring that policy should be aligned with the goal of placing blacks and whites on equal footing, a goal that invariably required dealing with the primary obstacle to black advancement, namely the "Negro social structure, in particular the Negro family."

◆ "Chapter II: The Negro American Family"

"Nearly a Quarter of Urban Negro Marriages Are Dissolved," notes Moynihan in Chapter II of his report, observing that in the urban Northeast "26 percent of Negro women ever married are either divorced, separated, or have their husbands absent." Consequently, between 1940 and 1963, the average rate of illegitimate births in black communities spiked, jumping from 16.8 percent to 23.6 percent, compared with 2 percent and 3.07 percent, respectively, for whites. "As a direct result of this high rate of divorce, separation, and desertion," continues Moynihan, "a very large percentage of Negro families are headed by females," and, concomitantly, "the majority of Negro chil-

dren receive public assistance under the AFDC [Aid to Families with Dependent Children] program at one point or another in their childhood."

As the result of such indicators of "family disorganization," asserts Moynihan, African American children did not receive the same level of socialization as white children. This meant that they were less likely to develop discipline, character, and a strong work ethic, robbing them of the ability to compete successfully with their white peers. Thus hobbled, black youth would inevitably turn to crime and delinquency both to advance their material position and to find the support network denied them by their weak, occasional fathers.

The single most important factor determining the fate of black youth, posits Moynihan, was the failure of fathers to play traditional gender roles, a problem necessitating public policy solutions aimed at enabling male parents to gain employment and return to their rightful position as patriarchs. "In essence," observes Moynihan, who was himself the product of a single-parent home,

> the Negro community has been forced into a matriarchal structure which, because it is so out of line with the rest of the American society, seriously retards the progress of the group as a whole, and imposes a crushing burden on the Negro male and, in consequence, on a great many Negro women as well. Restoring patriarchy, Moynihan implies, should be the primary object of government, a nuanced policy goal that would prove both controversial and complex.

◆ "Chapter III: The Roots of the Problem"

How had the black family devolved so badly? In Chapter III of his report, Moynihan identifies the roots of the decline, beginning with slavery. Working off a popular slavery study by Stanley M. Elkins, *Slavery: A Problem in American Institutional and Intellectual Life* (1959), Moynihan begins by observing that American slavery was "the most awful the world has ever known" a quote from Nathan Glazer's introduction to Elkins's text. Not realizing that Elkins's findings were exaggerated (and would later be refuted by scholars like Eugene Genovese, Laura Edwards, and others), Moynihan adopts the thesis that southern plantations were, like Nazi concentration camps, places where family life was "vitiated" by the auctioning-off of slave parents and the forced creation of "a fatherless matrifocal (mother-centered) pattern."

Emancipation did little to help matters, as racial segregation imposed new burdens on African Americans, particularly black males. Under Jim Crow, black men were even more "humiliated" than black women, argues Moynihan, since "the black male was more likely to use public facilities," whose inferiority was "more destructive to the male than to the female personality."

Moynihan's gendered thesis evocatively weaves together the experiences of the black male during slavery and Jim Crow, both legal institutions that "worked against the emergence of a strong father figure." Yet the authorities that he relied on proved shaky over time. While Elkins had argued that slavery emasculated black men, studies such as his made inaccurate comparisons between southern plantations and Nazi concentration camps, ignored slave resistance, and downplayed the extent to which black family structures emerged and survived the antebellum plantation South, a subject that the historian Herbert Gutman would take on in his seminal work *The Black Family in Slavery and Freedom, 1750 1925* (1976), written partly in response to Moynihan's report. Further, Moynihan's synthesis of sources was itself problematic. While Elkins did maintain that slavery engendered docility, the black sociologist E. Franklin Frazier argued that the opposite was true in the postbellum North. There, black males proved aggressive and violent, not docile as Moynihan claims. Inexplicably, Moynihan neglects to mention this aspect of Frazier's work, despite citing him twice. Moynihan also fails to mention the work of scholars like Abram Kardiner and Lionel Ovesey, both of whom had supported his thesis about black male inefficacy in the 1962 publication *The Mark of Oppression: Explorations in the Personality of the American Negro*, which did not provoke the sort of backlash that the Moynihan Report did.

Careful to veil his more speculative claims in terms that were as noncontroversial as possible, Moynihan clings to his thesis that American law had crippled the black male, stating that Jim Crow segregation, like slavery, humiliated African American men more than it did black women. To his mind, "the very essence of the male animal" was "to strut," a practice denied black males, for "the 'sassy nigger' *[sic]* was lynched." Such purple prose undermined the persuasive power of his work, leading many to doubt even his most solid scientific data, including numbers culled from Frazier and from other respected scholars like Thomas Pettigrew and Martin Deutsch. Indeed, not expecting the firestorm that his work would engender, Moynihan largely drew from the work of those several scholars, resulting in the banal reality that little of what he recounted was either "new or startling," as the historians Lee Rainwater and William Yancey would declare in 1967.

◆ "Chapter IV: The Tangle of Pathology"

Moynihan's report introduces a diagnostic term that, while not particularly new, would come to have a lasting effect. In Chapter IV, he summarizes the plight of the African American family as nothing short of a "tangle of pathology." Much of this pathology stemmed from the fact that matriarchal families were "out of line with the rest of the American society," producing a "subculture" that placed African Americans, and particularly black men, "at a distinct disadvantage."

Careful not to identify the black community as a whole as pathological, Moynihan stresses the existence of a more positive black middle class. He notes (in a passage not reproduced here) that up to one-half of the black community belongs to the middle class, a demographic in which family units are generally functioning and stable. But even the black middle class risked being compromised by con-

tact with the pathological black underclass, owing to segregated housing patterns that forced the black middle class into neighborhoods adjoining those of the black poor. Moynihan recognizes (in another passage excluded here) that while whites also have their share of poor neighborhoods and matriarchal families, even the fatherless children at least perceive and absorb the notion that men usually work. Black children, on the other hand, perceive a different pattern, with women not only working but also staying in school longer, succeeding in school better, and remaining at home.

Female success, argues Moynihan, has a doubly negative effect on males, leading to criminality and withdrawal. Contrasting black life under slavery and segregation with black life in the midst of the civil rights movement, Moynihan warns that at least in the past black males had been an integral part of the southern workforce and had learned to deal with whites on a regular basis. In the post-*Brown* era, however, African American males rarely had any interaction with whites whatsoever, save perhaps with the police. The result of this "alienation" was that the tangle of pathology was "tightening."

◆ "Chapter V: The Case for National Action"

Convinced that black pathology was intensifying, Moynihan uses the last chapter of his report to make a policy recommendation. Rather than focus on the expansion of civil rights or compensation for harms caused by slavery, Moynihan argues that governmental programs needed to be "directed towards the question of family structure." In short, the goal of federal policy should be to "strengthen the Negro family so as to enable it to raise and support its members as do other families."

How, precisely, the government was to accomplish this task remained unclear. Moynihan refrains from making any precise policy recommendations, partly because he felt that it was enough to simply establish that "the problem exists." Also, Moynihan concedes that an appropriate solution was at best "difficult" to discern and might not even be possible. "It is necessary to acknowledge the view," laments Moynihan, "that this problem may in fact be out of control." On this somewhat dour note, Moynihan concludes his report, leaving readers to presume that progress in matters of racial equality was no longer a goal that lent itself to easy political solutions.

Audience

Moynihan's immediate audience was the senior membership of the Department of Labor and the White House staff. Although both groups held the potential to affect policy, Moynihan gravitated to the White House, inspired in part by the study conducted by President Kennedy's Task Force on Manpower Conservation, published in 1964 as *One-Third of a Nation: A Report on Young Men Found Unqualified for Military Service* a document that informed President Johnson's War on Poverty proposals. Also, Moynihan held a joint appointment as director of the Office of Policy Planning and Research, an executive branch position that provided him with a remarkable degree of access to the president's staff. Were it not for this position, it is unlikely that Moynihan's report would have drawn the attention of Johnson as quickly as it did, nor is it likely that the report would have been leaked as quickly as it was. Hints of the report first emerged on July 11, 1965, from the *Washington Star* reporter Mary McGrory, who revealed that President Johnson had enlisted Moynihan as an expert to come up with policy recommendations for the government's role in the next phase of the civil rights struggle. One week later, the administration deliberately leaked contents of the report to the *New York Times* reporter John D. Pomfret, hoping that he would publicize its contents.

Although Moynihan had probably not intended it, his report received a warm reception from conservative pundits and political commentators, many of whom had grown tired of black rights demands and demonstrations. The Watts riot in the summer of 1965 only intensified this audience's respect for Moynihan, so much so that he later received an offer of employment in the Republican administration of President Richard M. Nixon. For many years, conservatives remained his most enthusiastic audience.

Moynihan's least responsive audience was the African American community. Pilloried by civil rights activists like Pauli Murray and John Lewis, Moynihan came to be remembered by many blacks as a reactionary, a blundering bureaucrat insensitive to black demands and ignorant of black urban realities. Even white liberals protested, prompting scholarly refutations, including Herbert Gutman's thoroughly researched 1976 book on the history of the African American family.

Impact

Although its conclusions echoed studies by black social scientists like Franklin Frazier and Kenneth Clark whose influential *Dark Ghetto* was also published in 1965 and made many of the same claims the Moynihan Report became a lightning rod for political dissension and debate. Much of this debate was recorded in Lee Rainwater and William L. Yancey's 1967 study *The Moynihan Report and the Politics of Controversy: A Trans-action Social Science and Public Policy Report*. The black activist and lawyer Pauli Murray read Moynihan's report as an indictment of black women, noting the irony that black women should be faulted for their efforts to persevere in a situation not of their own making. The civil rights activist Bayard Rustin concurred with the assessment that white society bore responsibility for the present circumstances of African Americans; he noted that it was "amazing" that "black families exist at all" given the history of the embattled black family under slavery, where children were often sold from parents and masters sexually exploited their female slaves. Perhaps the most intense attack was leveled by the Congress of Racial Equality leader James Farmer, who charged that

> by laying off the primary blame for present-day inequalities on the pathological condition of the Negro family and community, Moynihan has provided a massive academic cop-out for the white conscience and clearly implied that Negroes in this nation will never secure a substantial measure of freedom until we learn to behave ourselves.

Even though black activists blasted Moynihan for trying to shift the burden of racial reform onto black shoulders, the Moynihan Report played a critical role in President Johnson's larger strategy of outflanking the civil rights movement. Until 1965, Johnson had been consistently pressured into making concessions to blacks, a posture that led him to seek a way to leapfrog the movement by coming up with a policy position that would shift some of the burden of reform off the shoulders of the federal government and onto the shoulders of African Americans. Moynihan's study gave Johnson a way to counter movement demands and return initiative to his administration.

Conservatives, in turn, took the report as a convenient explanation for growing racial unrest, particularly ghetto riots like the one that broke out in the Watts neighborhood of Los Angeles in August 1965. On August 14, three days after the outbreak of the riot, the *Los Angeles Times* printed a story by Thomas Foley asserting that the cause of the unrest was a breakdown in black family structure, a subtle allusion to black immorality and lack of sexual discipline. As he put it, "The administration is redirecting its main focus on racial problems from the South to large urban areas as the result of an unpublished Labor Department report that blames Negro unrest on the breakdown of the Negro family structure." The report in question, of course, was the one authored by Moynihan.

Two days later, the *Wall Street Journal* printed an article titled "Family Life Breakdown in Negro Slums Sows Seeds of Race Violence," declaring Moynihan's still-unpublished but widely leaked report to hold the explanation for the riots and claiming that the rioting was the result of the spreading disintegration of Negro family life in the northern and western cities. According to the article,

> The rioters who by yesterday had brought death to 31 people and injuries to another 676 and who had burned an estimated $175 million worth of property, including entire blocks, in Los Angeles were not protesting any specific civil rights grievances. They were primarily young hoodlums lashing out against society.… A growing army of such youths is being bred in the Negro sections of cities across the country by broken homes, illegitimacy and other social ills that have grown steadily worse in recent decades.

The emphasis on broken homes led directly to the citation of black illegitimacy rates. Borrowing from the same set of data that Moynihan focused on, the conservative paper noted that in New York City, for example, "one of every five Negro children born is illegitimate."

The *Wall Street Journal* was not the only major newspaper to identify black illegitimacy rates as a cause of rioting. On August 18, the conservative columnists Rowland Evans and Robert Novak expressly cited the Moynihan Report in the *New York Times*, stating, "Weeks before the Negro ghetto of Los Angeles erupted in violence, intense debate over how to handle such racial powder kegs was under way deep inside the Johnson administration." The crux of this debate, continued Novak and Evans, was the Moynihan Report, "a much suppressed, much leaked Labor Department document that strips away usual equivocations and exposes the ugly truth about the big-city Negro's plight."

Given a copy of the report by Moynihan himself, Evans and Novak framed the study as something that the Johnson administration was reluctant to endorse openly, saying that Secretary of Labor W. Willard Wirtz had stopped Moynihan from releasing it in fear that "evidence of Negro illegitimacy would be grist for racist propaganda mills." The idea that Moynihan's report might bolster southern critiques of black civil rights was not lost on the White House. Others within the Johnson administration expressed similar views, the special assistant and counsel to the president Harry McPherson among them.

Despite warnings, Moynihan continued to push his report, distributing it freely to anyone who indicated interest and eventually succeeding in getting the president's ear. Together with Johnson's aide Richard Goodwin, Moynihan used the report to draft a presidential speech at Howard University mere weeks after the civil rights movement's dramatic confrontations with southern police on the Edmund Pettus Bridge in Selma, Alabama. Johnson's decision to draw from the report at Howard was telling, particularly since few, if any, of the middle- and upper-middle-class African American students at the predominantly black university were from the kinds of slum backgrounds that Moynihan had described, and they hardly needed a lecture on prudence. Nor did they necessarily need a lecture on how African Americans were at least partly responsible for their plight. Johnson, however, needed a response to increasingly radical demands coming from the black elite, even as he hoped to keep his civil rights agenda on track. Watts threatened this agenda, endangering the very programs that Johnson had drafted to help ease racial inequality.

Although some contended that Johnson's Howard speech constituted an attempt to steal initiative from the civil rights movement, providing the White House with a reasoned argument for countering movement demands, Moynihan denied any such intention. Still, he did indicate that his report explained the race riots that started rocking the country during the summer of 1965, stating in the Jesuit publication *America* that the primary lesson in American history was that any community in which large numbers of males grew up in female-led broken homes could expect chaos as a result. Crime and violence were inevitable.

Moynihan's implication that female-dominated homes and not police brutality or racism had caused Watts was surprising, yet it reflected a larger concern on Moynihan's part that his report, and by extension his policy predictions, might

Essential Quotes

"Equality of opportunity almost insures inequality of results."

(Chapter I)

"The very essence of the male animal, from the bantam rooster to the four-star general, is to strut. Indeed, in 19th century America, a particular type of exaggerated male boastfulness became almost a national style. Not for the Negro male. The 'sassy nigger [sic]*' was lynched."*

(Chapter III)

"In essence, the Negro community has been forced into a matriarchal structure which, because it is so out of line with the rest of the American society, seriously retards the progress of the group as a whole."

(Chapter IV)

be lost in the aftermath of violence. It also reflected his conviction that prevailing welfare policies, because they did not empower men, were detrimental to the family. Conservatives agreed, but not in a way that most would find familiar today. Lamenting the five days of rioting in Los Angeles, Senator Robert C. Byrd of West Virginia stood before Congress and called for family planning, saying that the high birth rate and illegitimacy among blacks played a part. To bolster his position, he cited the statistic that in New York City's Harlem (one scene of rioting) one of every five black children was illegitimate. Speaking for many of his white constituents in South Carolina, Senator Strom Thurmond agreed. "Dear Citizens," began a letter introduced by Thurmond into the *Congressional Record* in the wake of the Watts riots, "no society or nation is stronger than the homes that make up that nation or society. Until every man and woman is willing to stand before God and his neighbors and say: 'We are united 'til death do us part,' and every parent is willing to say: 'You are my child until death do us part,' we as a nation will find our Government corrupt."

Attention to marital fidelity and family planning were, if not entirely new components of American domestic politics, at least heightened by the coincidence of the Moynihan Report, ghetto rioting, and the climax of the civil rights movement. As late as 1959, President Dwight Eisenhower had vowed not to include family planning in his domestic agenda, saying that it was not the business of government. By the end of 1965, birth control had become very much a part of America's business. Lyndon Johnson promised to encourage it in his 1965 State of the Union address. The Department of Health, Education, and Welfare, in line with the president's wishes, established both an assistant secretary for science and population as well as a secretary's Committee on Population and Family Planning. Even the Supreme Court in *Griswold v. Connecticut* (1965) sanctioned forays into family planning by creating a previously unknown right to privacy for couples desiring contraceptives, both married and unmarried.

As America sped down the road toward birth control and family planning, the South, contrary to its reputation for moral conservatism, led the way. As early as 1961, Charlotte, North Carolina, had already begun encouraging birth control as a matter of state policy. That the South had fewer moral qualms about interfering in the natural process of reproduction stemmed directly from its racial politics. The federal assault on Jim Crow led many white southerners to call for draconian policies of sexual discipline and control, partly out of a desire to punish blacks but also as an attempt to reframe resistance to integration as a moral crusade rather than a racist campaign. This crusade removed culpability from white shoulders at the same time that it provided opportunities for reducing welfare expenditures on blacks, a segment of the southern population that suddenly stood to command increased social services.

For Moynihan, the controversy over his report would lead to a central position in Republican policy making. Following his victory in the 1968 presidential election, Richard M. Nixon hired Moynihan to be in charge of domestic policy apart from economic matters. This gave Moynihan unprecedented freedom to pursue policy interests, including the plight of African Americans in the United States. On January 26, 1970, he sent Nixon a report documenting con-

tinued problems with racial inequality but suggesting that the president do nothing, adopting a policy of what Moynihan termed "benign neglect." Although public outrage ensued once the report was leaked, Moynihan cemented his reputation as an influential, bipartisan policy adviser, helping to lay the groundwork for future federal programs aimed at helping African American males, not least of them Richard Nixon's Office of Minority Business Enterprise and ensuing Philadelphia Plan, requiring government contractors to hire minority workers.

See also *To Secure These Rights* (1947); *Brown v. Board of Education* (1954); Civil Rights Act of 1964.

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Anders Walker

Questions for Further Study

1. The Moynihan Report seems essentially sympathetic to the plight of a people who had been subjected to slavery, discrimination, and poverty. Why do you think the report stirred so much controversy—that it became a "lightning rod"?

2. What were some of the intersections between race relations in America and international politics at the time?

3. What was Moynihan's principal purpose in writing the report?

4. What impact do you think the Moynihan Report had on the racial climate of the mid- to late 1960s?

5. How were Moynihan's views similar to—and different from—the views of earlier black authors who espoused a doctrine of black self-help, such as W. E. B. Du Bois and Malcolm X?

Document Text

Moynihan Report

Two hundred years ago, in 1765, nine assembled colonies first joined together to demand freedom from arbitrary power.

For the first century we struggled to hold together the first continental union of democracy in the history of man. One hundred years ago, in 1865, following a terrible test of blood and fire, the compact of union was finally sealed.

For a second century we labored to establish a unity of purpose and interest among the many groups which make up the American community.

That struggle has often brought pain and violence. It is not yet over.

State of the Union Message of President Lyndon B. Johnson, January 4, 1965.

The United States is approaching a new crisis in race relations.

In the decade that began with the school desegregation decision of the Supreme Court, and ended with the passage of the Civil Rights Act of 1964, the demand of Negro Americans for full recognition of their civil rights was finally met.

The effort, no matter how savage and brutal, of some State and local governments to thwart the exercise of those rights is doomed. The nation will not put up with it least of all the Negroes. The present moment will pass. In the meantime, a new period is beginning.

In this new period the expectations of the Negro Americans will go beyond civil rights. Being Americans, they will now expect that in the near future equal opportunities for them as a group will produce roughly equal results, as compared with other groups. This is not going to happen. Nor will it happen for generations to come unless a new and special effort is made.

There are two reasons. First, the racist virus in the American blood stream still afflicts us: Negroes will encounter serious personal prejudice for at least another generation. Second, three centuries of sometimes unimaginable mistreatment have taken their toll on the Negro people. The harsh fact is that as a group, at the present time, in terms of ability to win out in the competitions of American life, they are not equal to most of those groups with which they will be competing. Individually, Negro Americans reach the highest peaks of achievement. But collectively, in the spectrum of American ethnic and religious and regional groups, where some get plenty and some get none, where some send eighty percent of their children to college and others pull them out of school at the 8th grade, Negroes are among the weakest.

The most difficult fact for white Americans to understand is that in these terms the circumstances of the Negro American community in recent years has probably been getting *worse, not better*.

Indices of dollars of income, standards of living, and years of education deceive. The gap between the Negro and most other groups in American society is widening.

The fundamental problem, in which this is most clearly the case, is that of family structure. The evidence not final, but powerfully persuasive is that the Negro family in the urban ghettos is crumbling. A middle-class group has managed to save itself, but for vast numbers of the unskilled, poorly educated city working class the fabric of conventional social relationships has all but disintegrated. There are indications that the situation may have been arrested in the past few years, but the general post-war trend is unmistakable. So long as this situation persists, the cycle of poverty and disadvantage will continue to repeat itself.

The thesis of this paper is that these events, in combination, confront the nation with a new kind of problem. Measures that have worked in the past, or would work for most groups in the present, will not work here. A national effort is required that will give a unity of purpose to the many activities of the Federal government in this area, directed to a new kind of national goal: the establishment of a stable Negro family structure.

This would be a new departure for Federal policy. And a difficult one. But it almost certainly offers the only possibility of resolving in our time what is, after

all, the nation's oldest, and most intransigent, and now its most dangerous social problem. What Gunnar Myrdal said in An American Dilemma remains true today: *"America is free to chose whether the Negro shall remain her liability or become her opportunity."*

Chapter I: The Negro American Revolution

The Negro American revolution is rightly regarded as the most important domestic event of the postwar period in the United States.

Nothing like it has occurred since the upheavals of the 1930's which led to the organization of the great industrial trade unions, and which in turn profoundly altered both the economy and the political scene. There have been few other events in our history the American Revolution itself, the surge of Jacksonian Democracy in the 1830's, the Abolitionist movement, and the Populist movement of the late 19th century comparable to the current Negro movement.

There has been none more important. The Negro American revolution holds forth the prospect that the American Republic, which at birth was flawed by the institution of Negro slavery, and which throughout its history has been marred by the unequal treatment of Negro citizens, will at last redeem the full promise of the Declaration of Independence.

Although the Negro leadership has conducted itself with the strictest propriety, acting always and only as American citizens asserting their rights within the framework of the American political system, it is no less clear that the movement has profound international implications.

It was in no way a matter of chance that the nonviolent tactics and philosophy of the movement, as it began in the South, were consciously adapted from the techniques by which the Congress Party undertook to free the Indian nation from British colonial rule. It was not a matter of chance that the Negro movement caught fire in America at just that moment when the nations of Africa were gaining their freedom. Nor is it merely incidental that the world should have fastened its attention on events in the United States at a time when the possibility that the nations of the world will divide along color lines seems suddenly not only possible, but even imminent.

(Such racist views have made progress within the Negro American community itself which can hardly be expected to be immune to a virus that is endemic in the white community. The Black Muslim doctrines, based on total alienation from the white world, exert a powerful influence. On the far left, the attraction of Chinese Communism can no longer be ignored.)

It is clear that what happens in America is being taken as a sign of what can, or must, happen in the world at large. The course of world events will be profoundly affected by the success or failure of the Negro American revolution in seeking the peaceful assimilation of the races in the United States. The award of the Nobel Peace Prize to Dr. Martin Luther King was as much an expression of the hope for the future, as it was recognition for past achievement.

It is no less clear that carrying this revolution forward to a successful conclusion is a first priority confronting the Great Society.

◆ The End of the Beginning

The major events of the onset of the Negro revolution are now behind us.

The *political events* were three: First, the Negroes themselves organized as a mass movement. Their organizations have been in some ways better disciplined and better led than any in our history. They have established an unprecedented alliance with religious groups throughout the nation and have maintained close ties with both political parties and with most segments of the trade union movement. Second, the Kennedy-Johnson Administration committed the Federal government to the cause of Negro equality. This had never happened before. Third, the 1964 Presidential election was practically a referendum on this commitment: if these were terms made by the opposition, they were in effect accepted by the President.

The overwhelming victory of President Johnson must be taken as emphatic popular endorsement of the unmistakable, and openly avowed course which the Federal government has pursued under his leadership.

The *administrative events* were threefold as well: First, beginning with the establishment of the President's Committee on Equal Employment Opportunity and on to the enactment of the Manpower Development and Training Act of 1962, the Federal government has launched a major national effort to redress the profound imbalance between the economic position of the Negro citizens and the rest of the nation that derives primarily from their unequal position in the labor market. Second, the Economic Opportunity Act of 1964 began a major national effort to abolish poverty, a condition in which almost half of Negro families are living. Third, the Civil Rights Act of 1964 marked the end of the era of legal and formal discrimination against Negroes and cre-

ated important new machinery for combating covert discrimination and unequal treatment. (The Act does not guarantee an end to harassment in matters such as voter registration, but does make it more or less incumbent upon government to take further steps to thwart such efforts when they do occur.)

The *legal events* were no less specific. Beginning with *Brown. V. Board of Education* in 1954, through the decade that culminated in the recent decisions upholding Title II of the Civil Rights Act, the Federal judiciary, led by the Supreme Court, has used every opportunity to combat unequal treatment of Negro citizens. It may be put as a general proposition that the laws of the United States now look upon any such treatment as obnoxious, and that the courts will strike it down wherever it appears.

◆ The Demand for Equality

With these events behind us, the nation now faces a different set of challenges, which may prove more difficult to meet, if only because they cannot be cast as concrete propositions of right and wrong.

The fundamental problem here is that the Negro revolution, like the industrial upheaval of the 1930's, is a movement for equality as well as for liberty.

Liberty and Equality are the twin ideals of American democracy. But they are not the same thing. Nor, most importantly, are they equally attractive to all groups at any given time nor yet are they always compatible, one with the other.

Many persons who would gladly die for liberty are appalled by equality. Many who are devoted to equality are puzzled and even troubled by liberty. Much of the political history of the American nation can be seen as a competition between these two ideals, as for example, the unending troubles between capital and labor.

By and large, liberty has been the ideal with the higher social prestige in America. It has been the middle class aspiration, par excellence. (Note the assertions of the conservative right that ours is a republic, not a democracy.) Equality, on the other hand, has enjoyed tolerance more than acceptance. Yet it has roots deep in Western civilization and "is at least coeval with, if not prior to, liberty in the history of Western political thought."

American democracy has not always been successful in maintaining a balance between these two ideals, and notably so where the Negro American is concerned. "Lincoln freed the slaves," but they were given liberty, not equality. It was therefore possible in the century that followed to deprive their descendants of much of their liberty as well.

The ideal of equality does not ordain that all persons end up, as well as start out equal. In traditional terms, as put by Faulkner, "there is no such thing as equality *per se*, but only equality *to*: equal right and opportunity to make the best one can of one's life within one's capability, without fear of injustice or oppression or threat of violence." But the evolution of American politics, with the distinct persistence of ethnic and religious groups, has added a profoundly significant new dimension to that egalitarian ideal. It is increasingly demanded that the distribution of success and failure within one group be roughly comparable to that within other groups. It is not enough that all individuals start out on even terms, if the members of one group almost invariably end up well to the fore, and those of another far to the rear. This is what ethnic politics are all about in America, and in the main the Negro American demands are being put forth in this now traditional and established framework.

Here a point of semantics must be grasped. The demand for Equality of Opportunity has been generally perceived by white Americans as a demand for liberty, a demand not to be excluded from the competitions of life at the polling place, in the scholarship examinations, at the personnel office, on the housing market. Liberty does, of course, demand that everyone be free to try his luck, or test his skill in such matters. But these opportunities do not necessarily produce equality: on the contrary, to the extent that winners imply losers, equality of opportunity almost insures inequality of results.

The point of semantics is that equality of opportunity now has a different meaning for Negroes than it has for whites. It is not (or at least no longer) a demand for liberty alone, but also for equality in terms of group results. In Bayard Rustin's terms, "It is now concerned not merely with removing the barriers to full *opportunity* but with achieving the fact of *equality*." By equality Rustin means a distribution of achievements among Negroes roughly comparable to that among whites.

As Nathan Glazer has put it, "The demand for economic equality is now not the demand for equal opportunities for the equally qualified: it is now the demand for equality of economic results.... The demand for equality in education ... has also become a demand for equality of results, of outcomes."

Some aspects of the new laws do guarantee results, in the sense that upon enactment and enforcement they bring about an objective that is an end in itself, e.g., the public accommodations titles of the Civil Rights Act.

Other provisions are at once terminal and intermediary. The portions of the Civil Rights Act dealing with voting rights will no doubt lead to further enlargements of the freedom of the Negro American.

But by and large, the programs that have been enacted in the first phase of the Negro revolution Manpower Retraining, the Job Corps, Community Action, et al. only make opportunities available. They cannot insure the outcome.

The principal challenge of the next phase of the Negro revolution is to make certain that equality of results will now follow. If we do not, there will be no social peace in the United States for generations.

◆ The Prospect for Equality

The time, therefore, is at hand for an unflinching look at the present potential of Negro Americans to move from where they now are to where they want, and ought to be.

There is no very satisfactory way, at present, to measure social health or social pathology within an ethnic, or religious, or geographical community. Data are few and uncertain, and conclusions drawn from them, including the conclusions that follow, are subject to the grossest error. Nonetheless, the opportunities, no less than the dangers, of the present moment, demand that an assessment be made.

That being the case, it has to be said that there is a considerable body of evidence to support the conclusion that Negro social structure, in particular the Negro family, battered and harassed by discrimination, injustice, and uprooting, is in the deepest trouble. While many young Negroes are moving ahead to unprecedented levels of achievement, many more are falling further and further behind.

After an intensive study of the life of central Harlem, the board of directors of Harlem Youth Opportunities Unlimited, Inc. summed up their findings in one statement: "Massive deterioration of the fabric of society and its institutions…."

It is the conclusion of this survey of the available national data, that what is true of central Harlem, can be said to be true of the Negro American world in general.

If this is so, it is the single most important social fact of the United States today.

Chapter II: The Negro American Family

At the heart of the deterioration of the fabric of Negro society is the deterioration of the Negro family.

It is the fundamental source of the weakness of the Negro community at the present time.

There is probably no single fact of Negro American life so little understood by whites.

The Negro situation is commonly perceived by whites in terms of the visible manifestation of discrimination and poverty, in part because Negro protest is directed against such obstacles, and in part, no doubt, because these are facts which involve the actions and attitudes of the white community as well. It is more difficult, however, for whites to perceive the effect that three centuries of exploitation have had on the fabric of Negro society itself. Here the consequences of the historic injustices done to Negro Americans are silent and hidden from view. But here is where the true injury has occurred: unless this damage is repaired, all the effort to end discrimination and poverty and injustice will come to little.

The role of the family in shaping character and ability is so pervasive as to be easily overlooked. The family is the basic social unit of American life; it is the basic socializing unit. By and large, adult conduct in society is learned as a child.

A fundamental insight of psychoanalytic theory, for example, is that the child learns a way of looking at life in his early years through which all later experience is viewed and which profoundly shapes his adult conduct.

It may be hazarded that the reason family structure does not loom larger in public discussion of social issues is that people tend to assume that the nature of family life is about the same throughout American society. The mass media and the development of suburbia have created an image of the American family as a highly standardized phenomenon. It is therefore easy to assume that whatever it is that makes for differences among individuals or groups of individuals, it is not a different family structure.

There is much truth to this; as with any other nation, Americans are producing a recognizable family system. But that process is not completed by any means. There are still, for example, important differences in family patterns surviving from the age of the great European migration to the United States, and these variations account for notable differences in the progress and assimilation of various ethnic and religious groups. A number of immigrant groups were characterized by unusually strong family bonds; these groups have characteristically progressed more rapidly than others.

But there is one truly great discontinuity in family structure in the United States at the present time:

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that between the white world in general and that of the Negro American.

The white family has achieved a high degree of stability and is maintaining that stability.

By contrast, the family structure of lower class Negroes is highly unstable, and in many urban centers is approaching complete breakdown.

N.b. There is considerable evidence that the Negro community is in fact dividing between a stable middle-class group that is steadily growing stronger and more successful, and an increasingly disorganized and disadvantaged lower-class group. There are indications, for example, that the middle-class Negro family puts a higher premium on family stability and the conserving of family resources than does the white middle-class family. The discussion of this paper is not, obviously, directed to the first group excepting as it is affected by the experiences of the second an important exception. (See Chapter IV: The Tangle of Pathology.)

There are two points to be noted in this context.

First, the emergence and increasing visibility of a Negro middle-class may beguile the nation into supposing that the circumstances of the remainder of the Negro community are equally prosperous, whereas just the opposite is true at present, and is likely to continue so.

Second, the lumping of all Negroes together in one statistical measurement very probably conceals the extent of the disorganization among the lower-class group. If conditions are improving for one and deteriorating for the other, the resultant statistical averages might show no change. Further, the statistics on the Negro family and most other subjects treated in this paper refer only to a specific point in time. They are a vertical measure of the situation at a given movement. They do not measure the experience of individuals over time. Thus the average monthly unemployment rate for Negro males for 1964 is recorded as 9 percent. But *during* 1964, some 29 percent of Negro males were unemployed *at one time or another*. Similarly, for example, if 36 percent of Negro children are living in broken homes *at any specific moment*, it is likely that a far higher proportion of Negro children find themselves in that situation at one time or another in their lives.

◆ Nearly a Quarter of Urban Negro Marriages Are Dissolved

Nearly a quarter of Negro women living in cities who have ever married are divorced, separated, or are living apart from their husbands.

The rates are highest in the urban Northeast where 26 percent of Negro women ever married are either divorced, separated, or have their husbands absent.

On the urban frontier, the proportion of husbands absent is even higher. In New York City in 1960, it was 30.2 percent, *not* including divorces.

Among ever-married nonwhite women in the nation, the proportion with husbands present *declined* in *every* age group over the decade 1950 60 as follows: [chart not reproduced]

Although similar declines occurred among white females, the proportion of white husbands present never dropped below 90 percent except for the first and last age group.

◆ Nearly One-Quarter of Negro Births Are Now Illegitimate

Both white and Negro illegitimacy rates have been increasing, although from dramatically different bases. The white rate was 2 percent in 1940; it was 3.07 percent in 1963. In that period, the Negro rate went from 16.8 percent to 23.6 percent.

The number of illegitimate children per 1,000 live births increased by 11 among whites in the period 1940 63, but by 68 among nonwhites. There are, of course, limits to the dependability of these statistics. There are almost certainly a considerable number of Negro children who, although technically illegitimate, are in fact the offspring of stable unions. On the other hand, it may be assumed that many births that are in fact illegitimate are recorded otherwise. Probably the two opposite effects cancel each other out.

On the urban frontier, the nonwhite illegitimacy rates are usually higher than the national average, and the increase of late has been drastic.

In the District of Columbia, the illegitimacy rate for nonwhites grew from 21.8 percent in 1950, to 29.5 percent in 1964.

A similar picture of disintegrating Negro marriages emerges from the divorce statistics. Divorces have increased of late for both whites and nonwhites, but at a much greater rate for the latter. In 1940 both groups had a divorce rate of 2.2 percent. By 1964 the white rate had risen to 3.6 percent, but the nonwhite rate had reached 5.1 percent 40 percent greater than the formerly equal white rate.

◆ Almost One-Fourth of Negro Families Are Headed by Females

As a direct result of this high rate of divorce, separation, and desertion, a very large percent of Negro

families are headed by females. While the percentage of such families among whites has been dropping since 1940, it has been rising among Negroes.

The percent of nonwhite families headed by a female is more than double the percent for whites. Fatherless nonwhite families increased by a sixth between 1950 and 1960, but held constant for white families.

It has been estimated that only a minority of Negro children reach the age of 18 having lived all their lives with both of their parents.

Once again, this measure of family disorganization is found to be diminishing among white families and increasing among Negro families.

◆ The Breakdown of the Negro Family Has Led to a Startling Increase in Welfare Dependency

The majority of Negro children receive public assistance under the AFDC program at one point or another in their childhood.

At present, 14 percent of Negro children are receiving AFDC assistance, as against 2 percent of white children. Eight percent of white children receive such assistance at some time, as against 56 percent of nonwhites, according to an extrapolation based on HEW data. (Let it be noted, however, that out of a total of 1.8 million nonwhite illegitimate children in the nation in 1961, 1.3 million were *not* receiving aid under the AFDC program, although a substantial number have, or will, receive aid at some time in their lives.)

Again, the situation may be said to be worsening. The AFDC program, deriving from the long established Mothers' Aid programs, was established in 1935 principally to care for widows and orphans, although the legislation covered all children in homes deprived of parental support because one or both of their parents are absent or incapacitated.

In the beginning, the number of AFDC families in which the father was absent because of desertion was less than a third of the total. Today it is two-thirds. HEW estimates "that between two-thirds and three-fourths of the 50 percent increase from 1948 to 1955 in the number of absent-father families receiving ADC may be explained by an increase in broken homes in the population."

A 1960 study of Aid to Dependent Children in Cook County, Ill. stated:

"The 'typical' ADC mother in Cook County was married and had children by her husband, who deserted; his whereabouts are unknown, and he does not contribute to the support of his children. She is not free to remarry and has had an illegitimate child since her husband left. (Almost 90 percent of the ADC families are Negro.)"

The steady expansion of this welfare program, as of public assistance programs in general, can be taken as a measure of the steady disintegration of the Negro family structure over the past generation in the United States.

Chapter III: The Roots of the Problem

◆ Slavery

The most perplexing question abut American slavery, which has never been altogether explained, and which indeed most Americans hardly know exists, has been stated by Nathan Glazer as follows: "Why was American slavery the most awful the world has ever known?" The only thing that can be said with certainty is that this is true: it was.

American slavery was profoundly different from, and in its lasting effects on individuals and their children, indescribably worse than, any recorded servitude, ancient or modern. The peculiar nature of American slavery was noted by Alexis de Tocqueville and others, but it was not until 1948 that Frank Tannenbaum, a South American specialist, pointed to the striking differences between Brazilian and American slavery. The feudal, Catholic society of Brazil had a legal and religious tradition which accorded the slave a place as a human being in the hierarchy of society a luckless, miserable place, to be sure, but a place withal. In contrast, there was nothing in the tradition of English law or Protestant theology which could accommodate to the fact of human bondage the slaves were therefore reduced to the status of chattels often, no doubt, well cared for, even privileged chattels, but chattels nevertheless.

Glazer, also focusing on the Brazil United States comparison, continues:

"In Brazil, the slave had many more rights than in the United States: he could legally marry, he could, indeed had to, be baptized and become a member of the Catholic Church, his family could not be broken up for sale, and he had many days on which he could either rest or earn money to buy his freedom. The Government encouraged manumission, and the freedom of infants could often be purchased for a small sum at the baptismal font. In short: the Brazilian slave knew he was a man, and that he differed in degree, not in kind, from his master."

"[In the United States,] the slave was totally removed from the protection of organized society

(compare the elaborate provisions for the protection of slaves in the Bible), his existence as a human being was given no recognition by any religious or secular agency, he was totally ignorant of and completely cut off from his past, and he was offered absolutely no hope for the future. His children could be sold, his marriage was not recognized, his wife could be violated or sold (there was something comic about calling the woman with whom the master permitted him to live a 'wife'), and he could also be subject, without redress, to frightful barbarities there were presumably as many sadists among slaveowners, men and women, as there are in other groups. The slave could not, by law, be taught to read or write; he could not practice any religion without the permission of his master, and could never meet with his fellows, for religious or any other purposes, except in the presence of a white; and finally, if a master wished to free him, every legal obstacle was used to thwart such action. This was not what slavery meant in the ancient world, in medieval and early modern Europe, or in Brazil and the West Indies."

"More important, American slavery was also awful in its effects. If we compared the present situation of the American Negro with that of, let us say, Brazilian Negroes (who were slaves 20 years longer), we begin to suspect that the differences are the result of very different patterns of slavery. Today the Brazilian Negroes are Brazilians; though most are poor and do the hard and dirty work of the country, as Negroes do in the United States, they are not cut off from society. They reach into its highest strata, merging there in smaller and smaller numbers, it is true, but with complete acceptance with other Brazilians of all kinds. The relations between Negroes and whites in Brazil show nothing of the mass irrationality that prevails in this country."

Stanley M. Elkins, drawing on the aberrant behavior of the prisoners in Nazi concentration camps, drew an elaborate parallel between the two institutions. This thesis has been summarized as follows by Thomas Pettigrew:

"Both were closed systems, with little chance of manumission, emphasis on survival, and a single, omnipresent authority. The profound personality change created by Nazi internment, as independently reported by a number of psychologists and psychiatrists who survived, was toward childishness and total acceptance of the SS guards as father-figures a syndrome strikingly similar to the 'Sambo' caricature of the Southern slave. Nineteenth-century racists readily believed that the 'Sambo' personality was simply an inborn racial type. Yet no African anthropological data have ever shown any personality type resembling Sambo; and the concentration camps molded the equivalent personality pattern in a wide variety of Caucasian prisoners. Nor was Sambo merely a product of 'slavery' in the abstract, for the less devastating Latin American system never developed such a type."

"Extending this line of reasoning, psychologists point out that slavery in all its forms sharply lowered the need for achievement in slaves.... Negroes in bondage, stripped of their African heritage, were placed in a completely dependent role. All of their rewards came, not from individual initiative and enterprise, but from absolute obedience a situation that severely depresses the need for achievement among all peoples. Most important of all, slavery vitiated family life.... Since many slaveowners neither fostered Christian marriage among their slave couples nor hesitated to separate them on the auction block, the slave household often developed a fatherless matrifocal (mother-centered) pattern."

◆ The Reconstruction

With the emancipation of the slaves, the Negro American family began to form in the United States on a widespread scale. But it did so in an atmosphere markedly different from that which has produced the white American family.

The Negro was given liberty, but not equality. Life remained hazardous and marginal. Of the greatest importance, the Negro male, particularly in the South, became an object of intense hostility, an attitude unquestionably based in some measure of fear.

When Jim Crow made its appearance towards the end of the 19th century, it may be speculated that it was the Negro male who was most humiliated thereby; the male was more likely to use public facilities, which rapidly became segregated once the process began, and just as important, segregation, and the submissiveness it exacts, is surely more destructive to the male than to the female personality. Keeping the Negro "in his place" can be translated as keeping the Negro male in his place: the female was not a threat to anyone.

Unquestionably, these events worked against the emergence of a strong father figure. The very essence of the male animal, from the bantam rooster to the four-star general, is to strut. Indeed, in 19th century America, a particular type of exaggerated male boastfulness became almost a national style. Not for the Negro male. The "sassy nigger *[sic]*" was lynched.

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In this situation, the Negro family made but little progress toward the middle-class pattern of the present time. Margaret Mead has pointed out that "In every known human society, everywhere in the world, the young male learns that when he grows up one of the things which he must do in order to be a full member of society is to provide food for some female and her young." This pattern is not immutable, however: it can be broken, even though it has always eventually reasserted itself.

"Within the family, each new generation of young males learn the appropriate nurturing behavior and superimpose upon their biologically given maleness this learned parental role. When the family breaks down as it does under slavery, under certain forms of indentured labor and serfdom, in periods of extreme social unrest during wars, revolutions, famines, and epidemics, or in periods of abrupt transition from one type of economy to another this delicate line of transmission is broken. Men may founder badly in these periods, during which the primary unit may again become mother and child, the biologically given, and the special conditions under which man has held his social traditions in trust are violated and distorted."

E. Franklin Frazier makes clear that at the time of emancipation Negro women were already "accustomed to playing the dominant role in family and marriage relations" and that this role persisted in the decades of rural life that followed.

◆ Urbanization

Country life and city life are profoundly different. The gradual shift of American society from a rural to an urban basis over the past century and a half has caused abundant strains, many of which are still much in evidence. When this shift occurs suddenly, drastically, in one or two generations, the effect is immensely disruptive of traditional social patterns.

It was this abrupt transition that produced the wild Irish slums of the 19th century Northeast. Drunkenness, crime, corruption, discrimination, family disorganization, juvenile delinquency were the routine of that era. In our own time, the same sudden transition has produced the Negro slum different from, but hardly better than its predecessors, and fundamentally the result of the same process.

Negroes are now more urbanized than whites.

Negro families in the cities are more frequently headed by a woman than those in the country. The difference between the white and Negro proportions of families headed by a woman is greater in the city than in the country.

The promise of the city has so far been denied the majority of Negro migrants, and most particularly the Negro family.

In 1939, E. Franklin Frazier described its plight movingly in that part of *The Negro Family* entitled "In the City of Destruction":

"The impact of hundreds of thousands of rural southern Negroes upon northern metropolitan communities presents a bewildering spectacle. Striking contrasts in levels of civilization and economic well-being among these newcomers to modern civilization seem to baffle any attempt to discover order and direction in their mode of life."

"In many cases, of course, the dissolution of the simple family organization has begun before the family reaches the northern city. But, if these families have managed to preserve their integrity until they reach the northern city, poverty, ignorance, and color force them to seek homes in deteriorated slum areas from which practically all institutional life has disappeared. Hence, at the same time that these simple rural families are losing their internal cohesion, they are being freed from the controlling force of public opinion and communal institutions. Family desertion among Negroes in cities appears, then, to be one of the inevitable consequences of the impact of urban life on the simple family organization and folk culture which the Negro has evolved in the rural South. The distribution of desertions in relation to the general economic and cultural organization of Negro communities that have grown up in our American cities shows in a striking manner the influence of selective factors in the process of adjustment to the urban environment." …

Chapter IV: The Tangle of Pathology

That the Negro American has survived at all is extraordinary a lesser people might simply have died out, as indeed others have. That the Negro community has not only survived, but in this political generation has entered national affairs as a moderate, humane, and constructive national force is the highest testament to the healing powers of the democratic ideal and the creative vitality of the Negro people.

But it may not be supposed that the Negro American community has not paid a fearful price for the incredible mistreatment to which it has been subjected over the past three centuries.

In essence, the Negro community has been forced into a matriarchal structure which, because it is so out

of line with the rest of the American society, seriously retards the progress of the group as a whole, and imposes a crushing burden on the Negro male and, in consequence, on a great many Negro women as well.

There is, presumably, no special reason why a society in which males are dominant in family relationships is to be preferred to a matriarchal arrangement. However, it is clearly a disadvantage for a minority group to be operating on one principle, while the great majority of the population, and the one with the most advantages to begin with, is operating on another. This is the present situation of the Negro. Ours is a society which presumes male leadership in private and public affairs. The arrangements of society facilitate such leadership and reward it. A subculture, such as that of the Negro American, in which this is not the pattern, is placed at a distinct disadvantage.…

◆ Matriarchy

A fundamental fact of Negro American family life is the often reversed roles of husband and wife.

Robert O. Blood, Jr. and Donald M. Wolfe, in a study of Detroit families, note that "Negro husbands have unusually low power," and while this is characteristic of all low income families, the pattern pervades the Negro social structure: "the cumulative result of discrimination in jobs … , the segregated housing, and the poor schooling of Negro men." In 44 percent of the Negro families studied, the wife was dominant, as against 20 percent of white wives. "Whereas the majority of white families are equalitarian, the largest percentage of Negro families are dominated by the wife."

The matriarchal pattern of so many Negro families reinforces itself over the generations. This process begins with education. Although the gap appears to be closing at the moment, for a long while, Negro females were better educated than Negro males, and this remains true today for the Negro population as a whole.

The difference in educational attainment between nonwhite men and women in the labor force is even greater; men lag 1.1 years behind women.

The disparity in educational attainment of male and female youth 16 to 21 who were out of school in February 1963, is striking. Among the nonwhite males, 66.3 percent were not high school graduates, compared with 55.0 percent of the females. A similar difference existed at the college level, with 4.5 percent of the males having completed 1 to 3 years of college compared with 7.3 percent of the females.

The poorer performance of the male in school exists from the very beginning, and the magnitude of the difference was documented by the 1960 Census in statistics on the number of children who have fallen one or more grades below the typical grade for children of the same age. The boys have more frequently fallen behind at every age level. (White boys also lag behind white girls, but at a differential of 1 to 6 percentage points.)

In 1960, 39 percent of all white persons 25 years of age and over who had completed 4 or more years of college were women. Fifty-three percent of the nonwhites who had attained this level were women.…

◆ Alienation

…Along with the diminution of white middle-class contacts for a large percentage of Negroes, observers report that the Negro churches have all but lost contact with men in the Northern cities as well. This may be a normal condition of urban life, but it is probably a changed condition for the Negro American and cannot be a socially desirable development.

The only religious movement that appears to have enlisted a considerable number of lower class Negro males in Northern cities of late is that of the Black Muslims: a movement based on total rejection of white society, even though it emulates whites more.

In a word: the tangle of pathology is tightening.

Chapter V: The Case for National Action

The object of this study has been to define a problem, rather than propose solutions to it. We have kept within these confines for three reasons.

First, there are many persons, within and without the Government, who do not feel the problem exists, at least in any serious degree. These persons feel that, with the legal obstacles to assimilation out of the way, matters will take care of themselves in the normal course of events. This is a fundamental issue, and requires a decision within the government.

Second, it is our view that the problem is so interrelated, one thing with another, that any list of program proposals would necessarily be incomplete, and would distract attention from the main point of inter-relatedness. We have shown a clear relation between male employment, for example, and the number of welfare dependent children. Employment in turn reflects educational achievement, which depends in large part on family stability, which reflects employment. Where we should break into

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this cycle, and how, are the most difficult domestic questions facing the United States. We must first reach agreement on what the problem is, then we will know what questions must be answered.

Third, it is necessary to acknowledge the view, held by a number of responsible persons, that this problem may in fact be out of control. This is a view with which we emphatically and totally disagree, but the view must be acknowledged. The persistent rise in Negro educational achievement is probably the main trend that belies this thesis. On the other hand our study has produced some clear indications that the situation may indeed have begun to feed on itself. It may be noted, for example, that for most of the post-war period male Negro unemployment and the number of new AFDC cases rose and fell together as if connected by a chain from 1948 to 1962. The correlation between the two series of data was an astonishing .91. (This would mean that 83 percent of the rise and fall in AFDC cases can be statistically ascribed to the rise and fall in the unemployment rate.) In 1960, however, for the first time, unemployment declined, but the number of new AFDC cases rose. In 1963 this happened a second time. In 1964 a third. The possible implications of these and other data are serious enough that they, too, should be understood before program proposals are made.

However, the argument of this paper does lead to one central conclusion: Whatever the specific elements of a national effort designed to resolve this problem, those elements must be coordinated in terms of one general strategy.

What then is that problem? We feel the answer is clear enough. Three centuries of injustice have brought about deep-seated structural distortions in the life of the Negro American. At this point, the present tangle of pathology is capable of perpetuating itself without assistance from the white world. The cycle can be broken only if these distortions are set right.

In a word, a national effort towards the problems of Negro Americans must be directed towards the question of family structure. The object should be to strengthen the Negro family so as to enable it to raise and support its members as do other families. After that, how this group of Americans chooses to run its affairs, take advantage of its opportunities, or fail to do so, is none of the nation's business.

The fundamental importance and urgency of restoring the Negro American Family structure has been evident for some time.…

The President has committed the nation to an all out effort to eliminate poverty wherever it exists, among whites or Negroes, and a militant, organized, and responsible Negro movement exists to join in that effort.

Such a national effort could be stated thus:

The policy of the United States is to bring the Negro American to full and equal sharing in the

Glossary

AFDC	Aid to Families with Dependent Children
Alexis de Toqueville	a nineteenth-century French political theorist, best known for *Democracy in America*
Bayard Rustin	a twentieth-century civil rights activist
Brown v. Board of Education	the landmark 1954 Supreme Court case that ended school segregation
Congress Party	the political party in India that pushed for and achieved Indian independence from British rule
E. Franklin Frazier	an African American sociologist, best known for his several studies of black families
Faulkner	American author William Faulkner
Frank Tannenbaum	an Austrian who immigrated to the United States to become a prominent historian and sociologist at Cornell University and later Columbia University
Great Society	the term given to the domestic policies of President Lyndon Johnson
Gunnar Myrdal	a Swedish politician, economist, and Nobel Prize winner

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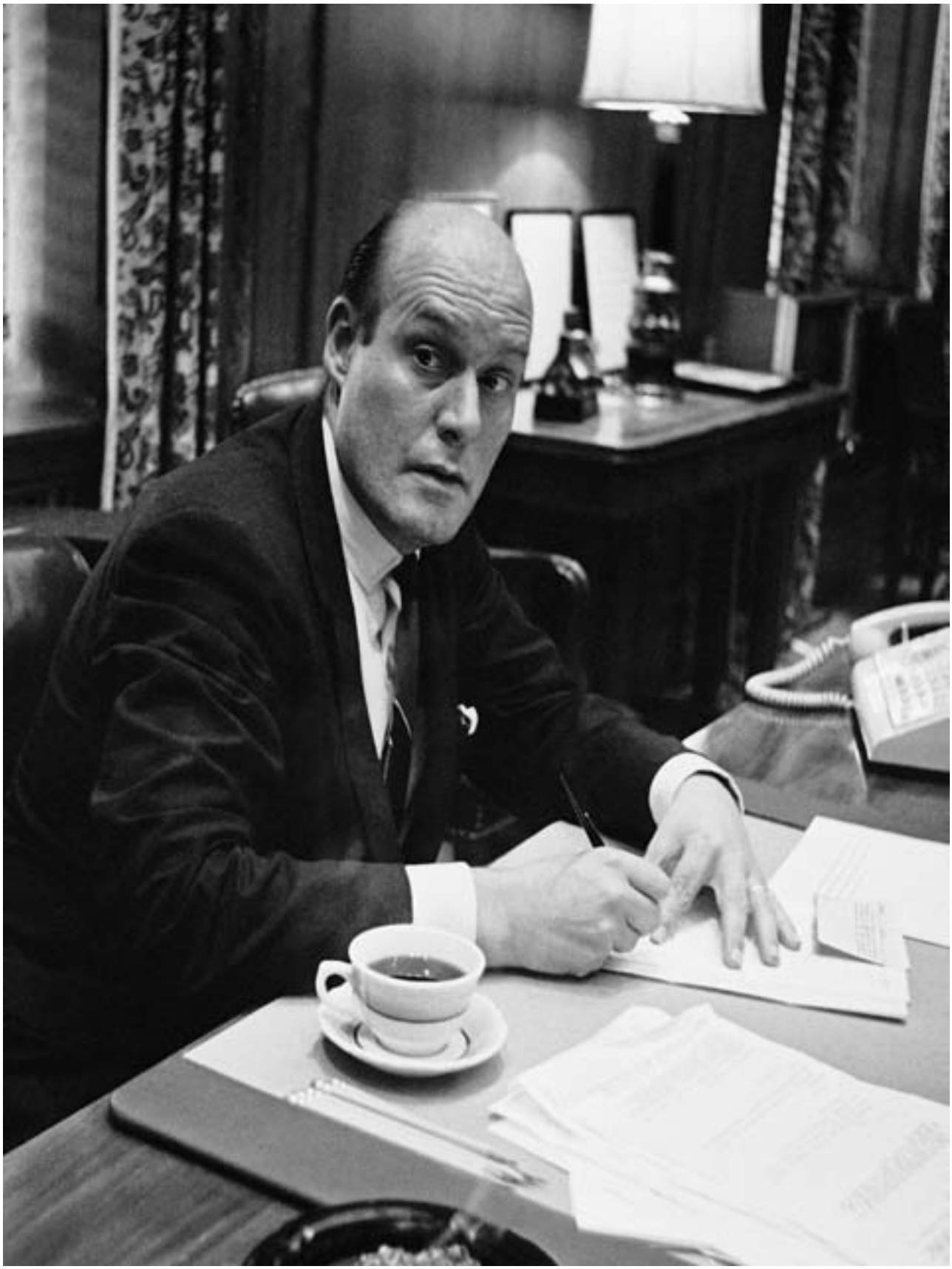
responsibilities and rewards of citizenship. To this end, the programs of the Federal government bearing on this objective shall be designed to have the effect, directly or indirectly, of enhancing the stability and resources of the Negro American family.



Nicholas Katzenbach (AP/Wide World Photos)

South Carolina v. Katzenbach

1966

"The Voting Rights Act was designed by Congress to banish the blight of racial discrimination in voting."

Overview

The case of *South Carolina v. Katzenbach* constituted the first time the U.S. Supreme Court ruled on the Voting Rights Act of 1965. Passed in March 1965, the Voting Rights Act gave the federal government sweeping new powers to combat the pervasive disenfranchisement of African Americans perpetuated by southern government officials. Many across the South denied Congress's power to pass such sweeping legislation. They argued that Congress had overstepped the bounds of the Fifth and Fifteenth Amendments to the U.S. Constitution. They also objected to the act's wider social and political objectives as a piece of civil rights legislation.

In South Carolina, the state attorney general, Daniel R. McCleod, quickly filed a bill of complaint directly with the Supreme Court attacking the constitutionality of the act and asking for an injunction against enforcement by the attorney general of the United States, Nicholas Katzenbach. McCleod challenged the Voting Rights Act as an unconstitutional encroachment on states' rights, as a violation of the principle of equality between the states, and as an illegal bill of attainder (a legislative punishment enforced without due process of law). More specifically, the complaint directly challenged the "triggering mechanism" in Section 4 of the act, which brought South Carolina under the act's provisions, and argued that Section 5's preclearance provisions (under which any changes to South Carolina's election laws or procedures had to be cleared in advance by the Department of Justice) exceeded Congress's constitutional powers.

South Carolina was joined in its attack on the Voting Rights Act by five other southern states: Georgia, Alabama, Louisiana, Virginia, and Mississippi. Twenty states, among them Illinois, Massachusetts, and California, filed amicus curiae (friend of the court) briefs in support of the act's provisions and powers. As a consequence, the case of *South Carolina v. Katzenbach* took on an even wider significance than normal in a state challenge to a new federal law. At issue in this case was the constitutional legitimacy not only of the Voting Rights Act but, indeed, of the entire federal effort to defend, uphold, and enhance minority civil rights.

Context

In the years following the Civil War, hope dawned for the nation's millions of African Americans that freedom would bring with it a full entry into American public life an entry best represented by the right to vote. Most Americans understood the Thirteenth Amendment's requirement (1865) that "neither slavery nor involuntary servitude … shall exist within the United States" to mean that newly freed blacks would acquire all aspects of freedom, including the right to vote. The Fourteenth Amendment's promise (1868) of equal protection and its defense of the "privileges or immunities of citizens of the United States" added support to newly freed African Americans' claims to the right to vote. Finally the Fifteenth Amendment (1870) declared: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." It seemed that the path to the polls would be a clear and simple one for African Americans.

Events proved otherwise. Most white southerners disliked the federally mandated program of postwar "Reconstruction" and opposed the Republican- and black-led governments organized under this process. As early as 1866, white terrorist organizations the Ku Klux Klan being the best known instituted waves of race-based violence and terror that soon spread across the South. In the worst instances, white mobs attacked entire groups of blacks, terrorizing most and killing many. Bad economic times, well-publicized political scandals, and heavy campaigning by Democrats among the region's white voters added to the Republicans' woes. The chilling effects of violence on black voting, not to mention election fraud by Democratic-leaning local white officials, led by the mid-1870s to the rise of Democratic "redeemer" governments opposed to all black civil and political rights.

Once in power, these white Democratic officials began a slow, steady, and ultimately successful campaign of race-based disenfranchisement. Among the techniques used to exclude black voters were the use of unfairly applied literacy or understanding tests in which voters had to read, understand, or interpret any section of the state constitution to the satisfaction of a white (and usually hostile) elec-

Time Line

1865

- **December 6**
  The Thirteenth Amendment is ratified, abolishing slavery.

1868

- **July 9**
  The Fourteenth Amendment is ratified, extending citizenship and due-process rights to all persons born or naturalized in the United States.

1870

- **February 3**
  The Fifteenth Amendment is ratified, prohibiting any discrimination in voting based on race, color, or previous condition of slavery.

1915

- **June 21**
  The Supreme Court outlaws the "grandfather clause" in *Guinn v. United States* as a violation of the Fifteenth Amendment.

1944

- **April 3**
  The Supreme Court overturns the "all-white primary" in *Smith v. Allwright* as a violation of the equal protection clause of the Fourteenth Amendment.

1949

- In *Schnell v. Davis* the Supreme Court declares that Alabama's "understanding test" to vote arbitrarily excluded blacks from the polls.

1957

- **September 9**
  President Dwight D. Eisenhower signs a Civil Rights Act establishing both the Commission on Civil Rights and the office of Assistant Attorney General for Civil Rights.

1960

- **May 6**
  President Eisenhower signs a Civil Rights Act that increases the powers of the Justice Department in voting-rights suits.

tion official; complicated registration requirements that excluded minority voters on technical grounds; and financial barriers such as poll taxes. Intimidation and threats of violence were also effective means of keeping southern blacks from the polls. One of the simplest ways of undermining the black vote involved setting up polling places in areas inconvenient for blacks. Many polling places, for instance, were placed at distant locations or in the middle of white sections of the town or county. Similarly, some polls were established in businesses owned by known opponents of African American voting. Finally, in an effort to exclude all possibility that southern blacks could have a voice in government through the election process, state legislatures across the South implemented rules prohibiting blacks from voting in the politically dominant Democratic Party primaries. Since the Democratic candidate almost always won in the general election, this exclusion denied southern blacks a chance to participate in the one election that mattered most.

The results of such efforts were immediate and drastic. By 1896 black voter participation in Mississippi had declined to fewer than nine thousand out of a potential one hundred forty-seven thousand voting-age blacks. In Louisiana registered black voting had declined by 99 percent. Alabama had only three thousand registered black voters in 1902. Texas saw black voting decline to a mere five thousand votes by 1906. In Georgia, only 4 percent of black males were registered to vote as of 1910. In fact, across the entire region voter turnout fell from a high of 85 percent of all voters during Reconstruction to less than 50 percent for whites and single-digit percentages for blacks by the early twentieth century. Mid-twentieth-century attacks on a number of disenfranchising techniques in the federal courts resulted only in the revision and modification of these methods, not their abandonment. As late as 1940, only 3 percent of voting-age southern blacks were registered to vote. Fewer still were actually able to cast a meaningful ballot.

In the 1950s this situation began to change. By 1956, 25 percent of voting-age blacks were registered to vote; by 1964 this number had increased to 43.3 percent across the South. Raw numbers can be deceiving, however. Most registered black voters lived in the border states or in Florida; in the Deep South, where most blacks lived, African American voter registration stood at only 22.5 percent as late as 1964, with Mississippi setting the lowest standard at 6.7 percent (itself an increase from a rate of 1.98 percent a mere two years earlier). Worse yet, the application of such vote-dilution techniques as voting-list purges, at-large elections, and full-slate and majority-vote requirements not to mention the ever-present threat of economic reprisals and physical violence against any black trying to vote meant that, even in those areas where blacks could vote, actual African American voting rates were much lower.

The Voting Rights Act of 1965 was designed to directly combat this race-specific, regionally based disenfranchisement. Previous federal efforts to end southern black disenfranchisement in the courts had been ineffectual and even

counterproductive. Civil rights legislation passed in 1957, 1960, and 1964 had expanded the federal government's role in minority vote protection, but with few concrete results to show for the effort. The problem lay with the enforcement tools available to the federal courts. Litigation as an enforcement mechanism was a slow and unwieldy process. It offered recalcitrant southern election officials (not to mention segregationist federal judges) numerous opportunities for delay and obstructionism. Every time the courts overturned laws aimed at disenfranchising southern black voters, southern election officials simply turned to new or different techniques to achieve the same discriminatory end techniques not covered by the courts' orders and thus still permissible until invalidated by another court proceeding. In consequence, opponents of black vote denial were forced to initiate case after case in their efforts to gain the vote with very little practical gain.

Expressly designed to attack the sources of delay in the case-by-case litigation approach, the nineteen sections of the Voting Rights Act imposed a completely new enforcement methodology for voting-rights violations. Not only did the act outlaw vote denial based on race or color in Section 2, it also gave both the executive branch and the federal courts a powerful new set of approaches for voting-rights enforcement. Among them were the power to appoint federal examiners and observers in whatever numbers the president felt necessary, prohibitions on literacy tests and poll taxes, and rules outlawing any action "under color of the law" that prevented qualified voters from voting or having their votes fairly counted. Most important of all, the act froze all southern election laws in place as of November 1, 1964. If local or state officials wanted to change an election law or procedure, they were required first to receive clearance from the Justice Department or the federal courts before acting. In this way, the southern strategy of using ever-shifting techniques of voter denial to derail election reforms was effectively ended. These enforcement provisions along with the more general issue of congressional authority to adopt such extreme and powerful provisions were what South Carolina challenged in *South Carolina v. Katzenbach*.

About the Author

The majority opinion in *South Carolina v. Katzenbach* was written by Chief Justice Earl Warren. He was joined in this majority by seven of his colleagues. One justice, Hugo L. Black, concurred as to the bulk of the opinion but dissented as to those sections upholding the constitutionality of Section 5 of the Voting Rights Act.

Warren had been appointed as chief justice in 1953 by President Dwight D. Eisenhower. A former state attorney general and governor of California, Warren had the reputation of being a fundamentally conservative, yet bipartisan Republican politician. Once on the Court, however, Warren swung quickly to the left on such key civil rights and liberties issues as school desegregation, the rights of the accused, and freedom of religion. He was joined in this shift by a majority of his brethren on the bench. Hence, by the time he wrote the opinion in *South Carolina v. Katzenbach*, Warren (who would retire in 1969) and the Court were approaching the end of a period of sweeping judicial activity that had transformed the constitutional status of individual civil rights and liberties in America.

The dissenting justice, Hugo Black, served on the Supreme Court for thirty-four years (1937 1971). Appointed to the Court by President Franklin D. Roosevelt, Black's judicial philosophy centered on a close textual reading of the U.S. Constitution, a reading that stressed the idea that the liberties guaranteed in the Bill of Rights were "incorporated" on the states by the Fourteenth Amendment. While this belief led Black to be a leader in the Warren Court's expansion of civil liberties and rights in most instances, in certain cases, such as *Katzenbach*, it pushed Black to oppose legislation that he felt exceeded the textual reach of the Constitution. As Black explained in his *Katzenbach* dissent, he saw "no reason to read into the Constitution meanings it did not have when it was adopted and which have not been put into it since."

Time Line

1964

- **July 2**
  President Lyndon B. Johnson signs a Civil Rights Act outlawing racial segregation in schools, employment, and most public places. Voting rights are not explicitly covered, except for a provision allowing for the use of three-judge district courts to hear voting-rights suits.

1965

- **August 6**
  President Johnson signs the Voting Rights Act of 1965, establishing executive and judicial mechanisms to enforce compliance with previous legislation.

1966

- **March 7**
  The Supreme Court in *South Carolina v. Katzenbach* upholds the Voting Rights Act as a valid exercise of Congress's plenary power to enforce the Fifteenth Amendment.

Explanation and Analysis of the Document

The central question in *South Carolina v. Katzenbach* was the power of Congress to pass the Voting Rights Act of

1965, with all of its sweeping and transformative powers powers that the federal government had never before claimed or applied in the realm of voting rights. In its complaint, South Carolina had attacked the Voting Rights Act as an unconstitutional encroachment on "an area reserved to the States by the Constitution," as a violation of the principle of equality between the states, and as an illegal bill of attainder (a legislative punishment enforced without due process of law). More specifically, the complaint directly challenged the "triggering mechanism" in Section 4 that brought South Carolina under the act's provisions, objected to that section's "temporary suspension of a State's voting tests or devices," and argued that Section 5's preclearance provisions exceeded Congress's constitutional powers. Also receiving special notice was the act's use of examiners to supervise state electoral procedures.

The federal government had responded to these charges by noting the long history of race-based discrimination as practiced in South Carolina and other southern states, stressing the pressing need for reform, and showing the failure of the case-by-case litigation approach in combating voting discrimination under the Civil Rights Acts of 1957, 1960, and 1964. More generally, the government lawyers stressed Congress's supreme authority to act in these matters under its inherent legislative powers.

◆ "Mr. Chief Justice Warren Delivered the Opinion of the Court"

In responding to these arguments, Chief Justice Warren began the Court's opinion with the recognition that any ruling as to "the constitutional propriety of the Voting Rights Act of 1965" had to be "judged with reference to the historical experience which it reflected." That context was the extensive record of race-based discrimination found throughout the South. The Court identified "an insidious and pervasive evil which had been perpetuated in certain parts of our country through unremitting and ingenious defiance of the Constitution." Noting also the history of "unsuccessful remedies," it accepted the need for "sterner and more elaborate measures in order to satisfy the clear commands of the Fifteenth Amendment."

The Voting Rights Act of 1965 thus reflected "Congress' firm intention to rid the country of racial discrimination in voting." The crucial question before the Court, therefore, was the constitutional legitimacy of this "complex scheme of stringent remedies aimed at areas where voting discrimination has been most flagrant." Did Congress have the power to pass such laws? And assuming that Congress had such broad powers, were such new and innovative enforcement techniques as preclearance a legitimate application of Congress's powers under the Fifteenth Amendment? Moreover, did these new powers come into conflict with other fundamental constitutional rights and doctrines, such as that of "the equality of States," "due process," and the ban on federal courts issuing "advisory opinions"?

In terms of the general question of Congress's power to legislate, the Court's answer was short and direct: In light of the many years of southern obstruction, Congress had every right to decide "to shift the advantage of time and inertia from the perpetrators of the evil to its victims." The Fifteenth Amendment, combined with established constitutional interpretation, clearly authorized Congress to "effectuate the prohibition of racial discrimination in voting." Besides, noted Warren, the act's provisions strictly applied to those states where discrimination was most prevalent, which clearly constituted "a permissible method of dealing with the problem."

But what of the specific provisions of the act? The Court again came down fully in support of Congress's powers to act as it saw fit. In the case of the coverage formula, which limited the scope of the act to certain southern states and counties, the Court held that the formula was relevant to the specific problem. That was enough to justify congressional intervention under the "express powers under the Fifteenth Amendment."

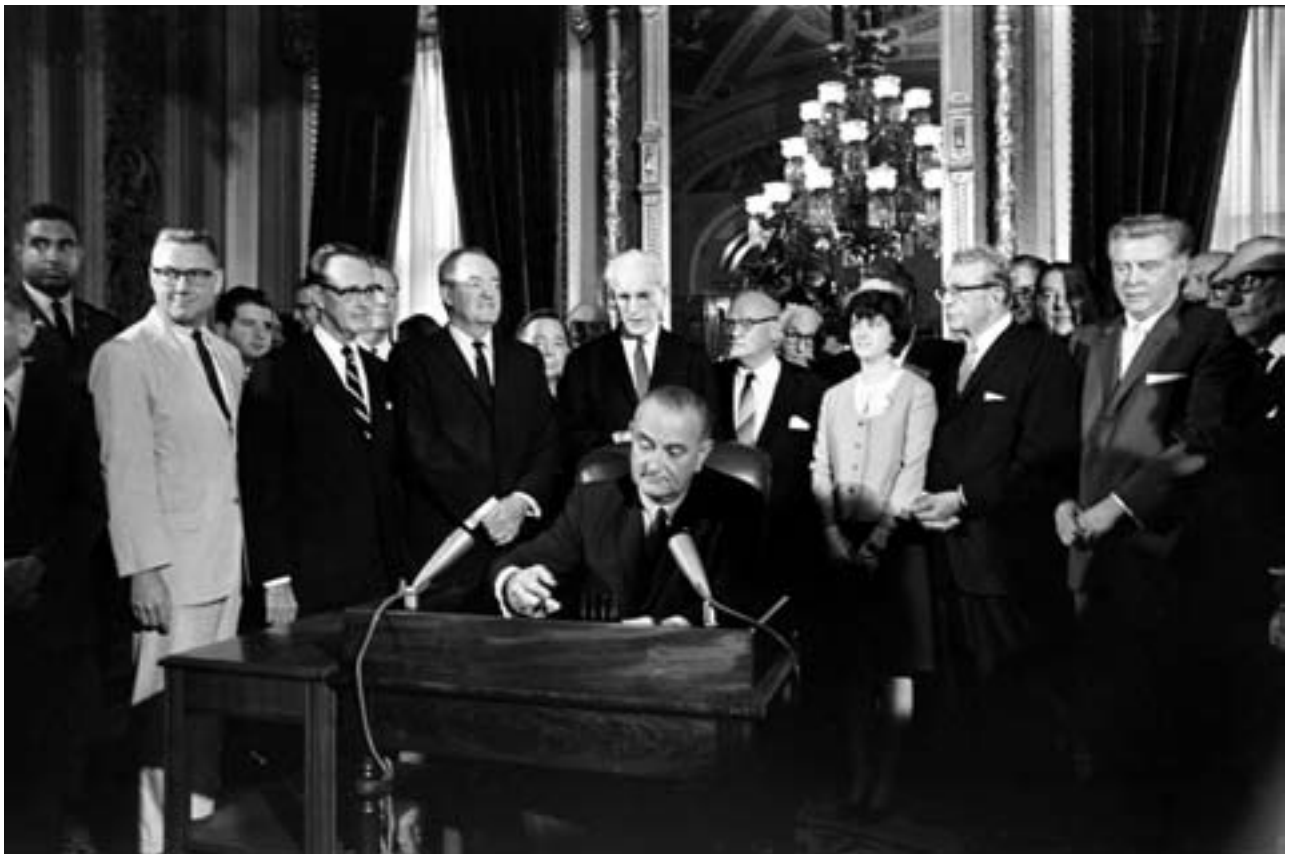
The Court endorsed the act's temporary suspension of existing voting qualifications on the ground that Congress "knew that continuance of the tests and devices in use … , no matter how fairly administered in the future, would freeze the effect of past discrimination in favor of unqualified white registrants." Given this fact, Congress's determination that such tests were in violation of the Fifteenth Amendment was "a legitimate response to the problem, for which there is ample precedent under other constitutional provisions."

Perhaps most important, Warren found that the imposition of a preclearance requirement for any changes to existing or new election laws and procedures was constitutionally permissible. "This may have been an uncommon exercise of congressional power," explained Warren, "but the Court has recognized that exceptional conditions can justify legislative measures not otherwise appropriate." For years southern states had avoided the intent of the law by "the extraordinary stratagem" of devising ad hoc regulations to frustrate "adverse federal court decrees." Congress knew this and properly acted to put a stop to future evasions of the law. Given such "unique circumstances," Warren concluded, "Congress responded in a permissibly decisive manner."

In conclusion, Warren noted how "after enduring nearly a century of widespread resistance to the Fifteenth Amendment, Congress has marshalled an array of potent weapons against the evil, with authority in the Attorney General to employ them effectively." This was a good and necessary thing, one that should be applauded. "We here hold that the portions of the Voting Rights Act properly before us are a valid means for carrying out the commands of the Fifteenth Amendment." The opinion concludes by expressing hope for true equality of democratic participation for all: "We may finally look forward to the day when truly 'the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.'"

◆ "Mr. Justice Black, Concurring and Dissenting"

Only one justice dissented from this opinion, and he did so only in response to a single aspect of the ruling. Justice Hugo Black agreed with "substantially all of the Court's



President Lyndon B. Johnson signs the Voting Rights Act of 1965. (AP/Wide World Photos)

opinion sustaining the power of Congress under ß2 of the Fifteenth Amendment." His only concern was with Section 5 and preclearance.

First, on purely technical ground, Black argued that "the Constitution gives federal courts jurisdiction over cases and controversies only." Such was not the case with preclearance. Black found it hard "to believe that a justiciable controversy can arise in the constitutional sense from a desire by the United States Government or some of its officials to determine in advance what legislative provisions a State may enact or what constitutional amendments it may adopt." This was regulation, not litigation.

Second, and much more important, Section 5 distorted "our constitutional structure of government as to render any distinction drawn in the Constitution between state and federal power almost meaningless." The federal government was a limited government under a constitution that reserved all powers not explicitly granted to the federal government to the states or the people. Such was not the case with Section 5. Black feared that forcing local laws to be preapproved in Washington could "create the impression that the State or States treated in this way are little more than conquered provinces."

Despite Justice Black's worries and concerns, *South Carolina v. Katzenbach* was a sweeping endorsement of the Voting Rights Act of 1965. Notwithstanding that act's innovative and to some, constitutionally radical enforcement approaches, the justices concluded that the scope of the problem demanded extreme action and thus gave the act their full support,

Audience

There is an art to writing a Supreme Court opinion. Judicial opinions have a standard structure and purpose that dictate what goes into an opinion and what gets left out. Opinions are written to achieve very specific goals. They have to lay out in detail the unique situation underlying the legal dispute; they have to set out the key legal and constitutional questions raised by the case and then provide answers to these questions; and, finally, they have to explain why the justices ruled as they did and make clear the scope and extent of their rulings. In a very real sense, a justice writing a Supreme Court opinion is responsible to several constituencies. There are the litigants in the case, whose primary focus is winning and losing. Then there are the judges from whence the case originated, who need to be informed of their errors. Lower court judges hearing similar cases make up a third group, in need of a clear precedent regarding the meaning of a law or constitutional point. Finally, there is the wider community of Americans,

Essential Quotes

"The Voting Rights Act was designed by Congress to banish the blight of racial discrimination in voting, which has infected the electoral process in parts of our country for nearly a century.... We hold that the sections of the Act which are properly before us are an appropriate means for carrying out Congress' constitutional responsibilities and are consonant with all other provisions of the Constitution."

("Mr. Chief Justice Warren Delivered the Opinion of the Court")

"After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims. The question remains, of course, whether the specific remedies prescribed in the Act were an appropriate means of combating the evil."

("Mr. Chief Justice Warren Delivered the Opinion of the Court")

"The Constitution gives federal courts jurisdiction over cases and controversies only.... It is hard for me to believe that a justiciable controversy can arise in the constitutional sense from a desire by the United States Government or some of its officials to determine in advance what legislative provisions a State may enact or what constitutional amendments it may adopt."

("Mr. Justice Black, Concurring and Dissenting")

"I see no reason to read into the Constitution meanings it did not have when it was adopted and which have not been put into it since."

("Mr. Justice Black, Concurring and Dissenting")

for whom a Supreme Court ruling can act as an important means of education on the workings of our constitutional system of government.

Like most Supreme Court decisions, *South Carolina v. Katzenbach* was written with all three groups in mind. It represented a clear ruling on the specific charges and challenges brought by South Carolina and its fellow southern states. Similarly, it provided a strong set of guidelines to other judges on the permissible scope of the Voting Rights Act of 1965. Finally, the opinion made clear the Court's ongoing commitment to civil rights and the campaign to open the ballot box to all Americans, no matter their race or ethnicity. Discrimination of the sort attacked by the Voting Rights Act was not permissible in modern-day America. Any and all efforts to retain such discrimination even a remnant would have to go.

Impact

As with most landmark civil rights opinions, the Supreme Court's ruling in *South Carolina v. Katzenbach* is

an important document. As a statement of intent by the Supreme Court that race-based disenfranchisement was not constitutionally permissible, the opinion made clear the Court's willingness to act (or, alternatively, to accept action on the part of the other branches of the federal government) in defense of African American voting rights. One cannot overstate the importance that this willingness of the Court to act had in the ongoing civil rights process in America. Although the Voting Rights Act shifted much of the enforcement from the courts to the executive branch of the federal government, the Justice Department (not to mention oppressed minority groups) was still going to need the willing assistance of the federal courts. Had the courts proved unwilling to help in these matters, the Justice Department's lawyers would have faced a much more difficult task in implementing what the voting-rights scholars Chandler Davidson and Bernard Grofman called the "Quiet Revolution" in their landmark book on this process.

Of course, *South Carolina v. Katzenbach* cannot be viewed in isolation. It was the first ruling by the Supreme Court on the constitutionality of the Voting Rights Act of 1965, but it was not the last. In the next few years, the Court would often return to elements of the act, upholding its provisions time and again. In some instances, such as *Allen v. State Board of Elections* (1969), which addressed race-based vote dilution as well as vote denial, the Court would significantly expand the reach of the Voting Rights Act. None of this would have happened if the Court had not first upheld the act's basic constitutionality in *Katzenbach*.

See also Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); Civil Rights Act of 1964.

Further Reading

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Charles L. Zelden

Questions for Further Study

1. On what constitutional basis did some states and individuals oppose the Voting Rights Act of 1965? How did other states respond to these objections?

2. In what ways did some states, particularly in the South, disenfranchise black voters? How did the Voting Rights Act attempt to correct this situation?

3. The Voting Rights Act was one piece of civil rights legislation passed in the 1960s. What other bills were passed during this era, and what effect did they have on the condition of African Americans?

4. What was the relationship between the Voting Rights Act and the Fifteenth Amendment to the Constitution? What role did this relationship play in *South Carolina v. Katzenbach*?

5. In the modern era, an increasing number of people object to gerrymandering, or the creation of bizarrely shaped electoral districts with a view to grouping together racial or ethnic groups into a single district. To what extent, if any, do you believe that this practice is a violation of the spirit of the Voting Rights Act and *South Carolina v. Katzenbach*?

South Carolina v. Katzenbach

Mr. Chief Justice Warren delivered the opinion of the Court

The Voting Rights Act was designed by Congress to banish the blight of racial discrimination in voting, which has infected the electoral process in parts of our country for nearly a century. The Act creates stringent new remedies for voting discrimination where it persists on a pervasive scale, and in addition the statute strengthens existing remedies for pockets of voting discrimination elsewhere in the country. Congress assumed the power to prescribe these remedies from § 2 of the Fifteenth Amendment, which authorizes the National Legislature to effectuate by "appropriate" measures the constitutional prohibition against racial discrimination in voting. We hold that the sections of the Act which are properly before us are an appropriate means for carrying out Congress' constitutional responsibilities and are consonant with all other provisions of the Constitution. We therefore deny South Carolina's request that enforcement of these sections of the Act be enjoined.

◆ I

The constitutional propriety of the Voting Rights Act of 1965 must be judged with reference to the historical experience which it reflects.…

Two points emerge vividly from the voluminous legislative history of the Act.… First: Congress felt itself confronted by an insidious and pervasive evil which had been perpetuated in certain parts of our country through unremitting and ingenious defiance of the Constitution. Second: Congress concluded that the unsuccessful remedies which it had prescribed in the past would have to be replaced by sterner and more elaborate measures in order to satisfy the clear commands of the Fifteenth Amendment.…

According to the evidence in recent Justice Department voting suits, [discriminatory application of voting tests] … is now the principal method used to bar Negroes from the polls. Discriminatory administration of voting qualifications has been found in all eight Alabama cases, in all nine Louisiana cases, and in all nine Mississippi cases which have gone to final judgment. Moreover, in almost all of these cases, the courts have held that the discrimination was pursuant to a widespread "pattern or practice." White applicants for registration have often been excused altogether from the literacy and understanding tests or have been given easy versions, have received extensive help from voting officials, and have been registered despite serious errors in their answers. Negroes, on the other hand, have typically been required to pass difficult versions of all the tests, without any outside assistance and without the slightest error. The good-morals requirement is so vague and subjective that it has constituted an open invitation to abuse at the hands of voting officials. Negroes obliged to obtain vouchers from registered voters have found it virtually impossible to comply in areas where almost no Negroes are on the rolls.

In recent years, Congress has repeatedly tried to cope with the problem by facilitating case-by-case litigation against voting discrimination.…

Despite the earnest efforts of the Justice Department and of many federal judges, these new laws have done little to cure the problem of voting discrimination. According to estimates by the Attorney General during hearings on the Act, registration of voting-age Negroes in Alabama rose only from 14.2% to 19.4% between 1958 and 1964; in Louisiana it barely inched ahead from 31.7% to 31.8% between 1956 and 1965; and in Mississippi it increased only from 4.4% to 6.4% between 1954 and 1964. In each instance, registration of voting-age whites ran roughly 50 percentage points or more ahead of Negro registration.

The previous legislation has proved ineffective for a number of reasons. Voting suits are unusually onerous to prepare, sometimes requiring as many as 6,000 manhours spent combing through registration records in preparation for trial. Litigation has been exceedingly slow, in part because of the ample opportunities for delay afforded voting officials and others involved in the proceedings. Even when favorable decisions have finally been obtained, some of the States affected have merely switched to discriminatory devices not covered by the federal decrees or have enacted difficult new tests designed to prolong the existing disparity between white and Negro registration. Alternatively, certain local officials have defied and evaded court orders or have simply closed their registration offices to freeze the voting rolls. The pro-

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vision of the 1960 law authorizing registration by federal officers has had little impact on local maladministration because of its procedural complexities.…

◆ II

The Voting Rights Act of 1965 reflects Congress' firm intention to rid the country of racial discrimination in voting. The heart of the Act is a complex scheme of stringent remedies aimed at areas where voting discrimination has been most flagrant. Section 4 (a) (d) lays down a formula defining the States and political subdivisions to which these new remedies apply. The first of the remedies, contained in §4 (a), is the suspension of literacy tests and similar voting qualifications for a period of five years from the last occurrence of substantial voting discrimination. Section 5 prescribes a second remedy, the suspension of all new voting regulations pending review by federal authorities to determine whether their use would perpetuate voting discrimination. The third remedy, covered in §§6 (b), 7, 9, and 13 (a), is the assignment of federal examiners on certification by the Attorney General to list qualified applicants who are thereafter entitled to vote in all elections.…

◆ III

These provisions of the Voting Rights Act of 1965 are challenged on the fundamental ground that they exceed the powers of Congress and encroach on an area reserved to the States by the Constitution. South Carolina and certain of the *amici curiae* also attack specific sections of the Act for more particular reasons. They argue that the coverage formula prescribed in §4 (a)-(d) violates the principle of the equality of States, denies due process by employing an invalid presumption and by barring judicial review of administrative findings, constitutes a forbidden bill of attainder, and impairs the separation of powers by adjudicating guilt through legislation. They claim that the review of new voting rules required in §5 infringes Article III by directing the District Court to issue advisory opinions. They contend that the assignment of federal examiners authorized in §6 (b) abridges due process by precluding judicial review of administrative findings and impairs the separation of powers by giving the Attorney General judicial functions; also that the challenge procedure prescribed in §9 denies due process on account of its speed. Finally, South Carolina and certain of the *amici curiae* maintain that §§4 (a) and 5, buttressed by §14 (b) of the Act, abridge due process by limiting litigation to a distant forum.

Some of these contentions may be dismissed at the outset. The word "person" in the context of the Due Process Clause of the Fifth Amendment cannot, by any reasonable mode of interpretation, be expanded to encompass the States of the Union, and to our knowledge this has never been done by any court.… Likewise, courts have consistently regarded the Bill of Attainder Clause of Article I and the principle of the separation of powers only as protections for individual persons and private groups, those who are peculiarly vulnerable to nonjudicial determinations of guilt.… Nor does a State have standing as the parent of its citizens to invoke these constitutional provisions against the Federal Government, the ultimate parens patriae of every American citizen.… The objections to the Act which are raised under these provisions may therefore be considered only as additional aspects of the basic question presented by the case: Has Congress exercised its powers under the Fifteenth Amendment in an appropriate manner with relation to the States?

The ground rules for resolving this question are clear. The language and purpose of the Fifteenth Amendment, the prior decisions construing its several provisions, and the general doctrines of constitutional interpretation, all point to one fundamental principle. As against the reserved powers of the States, Congress may use any rational means to effectuate the constitutional prohibition of racial discrimination in voting.… We turn now to a more detailed description of the standards which govern our review of the Act.

Section 1 of the Fifteenth Amendment declares that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." This declaration has always been treated as self-executing and has repeatedly been construed, without further legislative specification, to invalidate state voting qualifications or procedures which are discriminatory on their face or in practice.…These decisions have been rendered with full respect for the general rule, reiterated last Term in Carrington v. Rash … that States "have broad powers to determine the conditions under which the right of suffrage may be exercised." The gist of the matter is that the Fifteenth Amendment supersedes contrary exertions of state power. "When a State exercises power wholly within the domain of state interest, it is insulated from federal judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right." …

South Carolina contends that the cases cited above are precedents only for the authority of the judiciary to strike down state statutes and procedures that to allow an exercise of this authority by Congress would be to rob the courts of their rightful constitutional role. On the contrary, §2 of the Fifteenth Amendment expressly declares that "Congress shall have power to enforce this article by appropriate legislation." By adding this authorization, the Framers indicated that Congress was to be chiefly responsible for implementing the rights created in §1. "It is the power of Congress which has been enlarged. Congress is authorized to enforce the prohibitions by appropriate legislation. Some legislation is contemplated to make the [Civil War] amendments fully effective." Ex parte Virginia.... Accordingly, in addition to the courts, Congress has full remedial powers to effectuate the constitutional prohibition against racial discrimination in voting.

Congress has repeatedly exercised these powers in the past, and its enactments have repeatedly been upheld. For recent examples, see the Civil Rights Act of 1957, which was sustained in United States v. Raines, ... United States v. Thomas, ... and Hannah v. Larche, ... and the Civil Rights Act of 1960, which was upheld in Alabama v. United States, ... Louisiana v. United States, ... and United States v. Mississippi.... On the rare occasions when the Court has found an unconstitutional exercise of these powers, in its opinion Congress had attacked evils not comprehended by the Fifteenth Amendment....

The basic test to be applied in a case involving §2 of the Fifteenth Amendment is the same as in all cases concerning the express powers of Congress with relation to the reserved powers of the States. Chief Justice Marshall laid down the classic formulation, 50 years before the Fifteenth Amendment was ratified:

"Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional."...

The Court has subsequently echoed his language in describing each of the Civil War Amendments:

"Whatever legislation is appropriate, that is, adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against State denial or invasion, if not prohibited, is brought within the domain of congressional power." ...

This language was again employed, nearly 50 years later, with reference to Congress' related authority under §2 of the Eighteenth Amendment....

We therefore reject South Carolina's argument that Congress may appropriately do no more than to forbid violations of the Fifteenth Amendment in general terms that the task of fashioning specific remedies or of applying them to particular localities must necessarily be left entirely to the courts. Congress is not circumscribed by any such artificial rules under §2 of the Fifteenth Amendment. In the oft-repeated words of Chief Justice Marshall, referring to another specific legislative authorization in the Constitution, "This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the constitution." ...

◆ IV

Congress exercised its authority under the Fifteenth Amendment in an inventive manner when it enacted the Voting Rights Act of 1965. First: The measure prescribes remedies for voting discrimination which go into effect without any need for prior adjudication. This was clearly a legitimate response to the problem, for which there is ample precedent under other constitutional provisions.... Congress had found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting, because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims. The question remains, of course, whether the specific remedies prescribed in the Act were an appropriate means of combating the evil, and to this question we shall presently address ourselves.

Second: The Act intentionally confines these remedies to a small number of States and political subdivisions which in most instances were familiar to Congress by name. This, too, was a permissible method of dealing with the problem. Congress had learned that substantial voting discrimination presently occurs in certain sections of the country, and it knew no way of accurately forecasting whether the evil might spread elsewhere in the future. In acceptable legislative fashion, Congress chose to limit its attention to the geographic areas where immediate action seemed necessary. The doctrine of

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the equality of States, invoked by South Carolina, does not bar this approach, for that doctrine applies only to the terms upon which States are admitted to the Union, and not to the remedies for local evils which have subsequently appeared.

Coverage formula.

We now consider the related question of whether the specific States and political subdivisions within §4 (b) of the Act were an appropriate target for the new remedies. South Carolina contends that the coverage formula is awkwardly designed in a number of respects and that it disregards various local conditions which have nothing to do with racial discrimination. These arguments, however, are largely beside the point. Congress began work with reliable evidence of actual voting discrimination in a great majority of the States and political subdivisions affected by the new remedies of the Act. The formula eventually evolved to describe these areas was relevant to the problem of voting discrimination, and Congress was therefore entitled to infer a significant danger of the evil in the few remaining States and political subdivisions covered by §4 (b) of the Act. No more was required to justify the application to these areas of Congress' express powers under the Fifteenth Amendment.…

To be specific, the new remedies of the Act are imposed on three States Alabama, Louisiana, and Mississippi in which federal courts have repeatedly found substantial voting discrimination. Section 4 (b) of the Act also embraces two other States Georgia and South Carolina plus large portions of a third State North Carolina for which there was more fragmentary evidence of recent voting discrimination mainly adduced by the Justice Department and the Civil Rights Commission. All of these areas were appropriately subjected to the new remedies. In identifying past evils, Congress obviously may avail itself of information from any probative source.…

The areas listed above, for which there was evidence of actual voting discrimination, share two characteristics incorporated by Congress into the coverage formula: the use of tests and devices for voter registration, and a voting rate in the 1964 presidential election at least 12 points below the national average. Tests and devices are relevant to voting discrimination because of their long history as a tool for perpetrating the evil; a low voting rate is pertinent for the obvious reason that widespread disenfranchisement must inevitably affect the number of actual voters. Accordingly, the coverage formula is rational in both practice and theory. It was therefore permissible to impose the new remedies on the few remaining States and political subdivisions covered by the formula, at least in the absence of proof that they have been free of substantial voting discrimination in recent years. Congress is clearly not bound by the rules relating to statutory presumptions in criminal cases when it prescribes civil remedies against other organs of government under §2 of the Fifteenth Amendment.…

It is irrelevant that the coverage formula excludes certain localities which do not employ voting tests and devices but for which there is evidence of voting discrimination by other means. Congress had learned that widespread and persistent discrimination in voting during recent years has typically entailed the misuse of tests and devices, and this was the evil for which the new remedies were specifically designed. At the same time, through §§3, 6 (a), and 13 (b) of the Act, Congress strengthened existing remedies for voting discrimination in other areas of the country. Legislation need not deal with all phases of a problem in the same way, so long as the distinctions drawn have some basis in practical experience.… There are no States or political subdivisions exempted from coverage under §4 (b) in which the record reveals recent racial discrimination involving tests and devices. This fact confirms the rationality of the formula.

Acknowledging the possibility of overbreadth, the Act provides for termination of special statutory coverage at the behest of States and political subdivisions in which the danger of substantial voting discrimination has not materialized during the preceding five years. Despite South Carolina's argument to the contrary, Congress might appropriately limit litigation under this provision to a single court in the District of Columbia, pursuant to its constitutional power under Art. III, §1, to "ordain and establish" inferior federal tribunals.… At the present time, contractual claims against the United States for more than $10,000 must be brought in the Court of Claims, and, until 1962, the District of Columbia was the sole venue of suits against federal officers officially residing in the Nation's Capital. We have discovered no suggestion that Congress exceeded constitutional bounds in imposing these limitations on litigation against the Federal Government, and the Act is no less reasonable in this respect.

South Carolina contends that these termination procedures are a nullity because they impose an impossible burden of proof upon States and political subdivisions entitled to relief. As the Attorney General pointed out during hearings on the Act, however,

an area need do no more than submit affidavits from voting officials, asserting that they have not been guilty of racial discrimination through the use of tests and devices during the past five years, and then refute whatever evidence to the contrary may be adduced by the Federal Government. Section 4 (d) further assures that an area need not disprove each isolated instance of voting discrimination in order to obtain relief in the termination proceedings. The burden of proof is therefore quite bearable, particularly since the relevant facts relating to the conduct of voting officials are peculiarly within the knowledge of the States and political subdivisions themselves.…

The Act bars direct judicial review of the findings by the Attorney General and the Director of the Census which trigger application of the coverage formula. We reject the claim by Alabama as amicus curiae that this provision is invalid because it allows the new remedies of the Act to be imposed in an arbitrary way. The Court has already permitted Congress to withdraw judicial review of administrative determinations in numerous cases involving the statutory rights of private parties. For example, see United States v. California Eastern Line, … Switchmen's Union v. National Mediation Bd.… In this instance, the findings not subject to review consist of objective statistical determinations by the Census Bureau and a routine analysis of state statutes by the Justice Department. These functions are unlikely to arouse any plausible dispute, as South Carolina apparently concedes. In the event that the formula is improperly applied, the area affected can always go into court and obtain termination of coverage under §4 (b), provided of course that it has not been guilty of voting discrimination in recent years. This procedure serves as a partial substitute for direct judicial review.

Suspension of tests.

We now arrive at consideration of the specific remedies prescribed by the Act for areas included within the coverage formula. South Carolina assails the temporary suspension of existing voting qualifications, reciting the rule laid down by Lassiter v. Northampton County Bd. of Elections, … that literacy tests and related devices are not in themselves contrary to the Fifteenth Amendment. In that very case, however, the Court went on to say, "Of course a literacy test, fair on its face, may be employed to perpetuate that discrimination which the Fifteenth Amendment was designed to uproot." …

The record shows that in most of the States covered by the Act, including South Carolina, various tests and devices have been instituted with the purpose of disenfranchising Negroes, have been framed in such a way as to facilitate this aim, and have been administered in a discriminatory fashion for many years. Under these circumstances, the Fifteenth Amendment has clearly been violated.…

The Act suspends literacy tests and similar devices for a period of five years from the last occurrence of substantial voting discrimination. This was a legitimate response to the problem, for which there is ample precedent in Fifteenth Amendment cases. Underlying the response was the feeling that States and political subdivisions which had been allowing white illiterates to vote for years could not sincerely complain about "dilution" of their electorates through the registration of Negro illiterates. Congress knew that continuance of the tests and devices in use at the present time, no matter how fairly administered in the future, would freeze the effect of past discrimination in favor of unqualified white registrants. Congress permissibly rejected the alternative of requiring a complete re-registration of all voters, believing that this would be too harsh on many whites who had enjoyed the franchise for their entire adult lives.

Review of new rules.

The Act suspends new voting regulations pending scrutiny by federal authorities to determine whether their use would violate the Fifteenth Amendment. This may have been an uncommon exercise of congressional power, as South Carolina contends, but the Court has recognized that exceptional conditions can justify legislative measures not otherwise appropriate.… Congress knew that some of the States covered by §4 (b) of the Act had resorted to the extraordinary stratagem of contriving new rules of various kinds for the sole purpose of perpetuating voting discrimination in the face of adverse federal court decrees. Congress had reason to suppose that these States might try similar maneuvers in the future in order to evade the remedies for voting discrimination contained in the Act itself. Under the compulsion of these unique circumstances, Congress responded in a permissibly decisive manner.

For reasons already stated, there was nothing inappropriate about limiting litigation under this provision to the District Court for the District of Columbia, and in putting the burden of proof on the areas seeking relief. Nor has Congress authorized the District Court to issue advisory opinions, in violation of the principles of Article III invoked by Georgia as amicus curiae. The Act automatically suspends the operation of voting regulations enacted after November 1, 1964, and furnishes mechanisms for enforcing

the suspension. A State or political subdivision wishing to make use of a recent amendment to its voting laws therefore has a concrete and immediate "controversy" with the Federal Government.... An appropriate remedy is a judicial determination that continued suspension of the new rule is unnecessary to vindicate rights guaranteed by the Fifteenth Amendment.

Federal examiners.

The Act authorizes the appointment of federal examiners to list qualified applicants who are thereafter entitled to vote, subject to an expeditious challenge procedure. This was clearly an appropriate response to the problem, closely related to remedies authorized in prior cases.... In many of the political subdivisions covered by §4 (b) of the Act, voting officials have persistently employed a variety of procedural tactics to deny Negroes the franchise, often in direct defiance or evasion of federal court decrees. Congress realized that merely to suspend voting rules which have been misused or are subject to misuse might leave this localized evil undisturbed. As for the briskness of the challenge procedure, Congress knew that in some of the areas affected, challenges had been persistently employed to harass registered Negroes. It chose to forestall this abuse, at the same time providing alternative ways for removing persons listed through error or fraud. In addition to the judicial challenge procedure, §7 (d) allows for the removal of names by the examiner himself, and §11 (c) makes it a crime to obtain a listing through fraud.

In recognition of the fact that there were political subdivisions covered by §4 (b) of the Act in which the appointment of federal examiners might be unnecessary, Congress assigned the Attorney General the task of determining the localities to which examiners should be sent. There is no warrant for the claim, asserted by Georgia as amicus curiae, that the Attorney General is free to use this power in an arbitrary fashion, without regard to the purposes of the Act. Section 6 (b) sets adequate standards to guide the exercise of his discretion, by directing him to calculate the registration ratio of non-whites to whites, and to weigh evidence of good-faith efforts to avoid possible voting discrimination. At the same time, the special termination procedures of §13 (a) provide indirect judicial review for the political subdivisions affected, assuring the withdrawal of federal examiners from areas where they are clearly not needed....

After enduring nearly a century of widespread resistance to the Fifteenth Amendment, Congress has marshalled an array of potent weapons against the evil, with authority in the Attorney General to employ them effectively. Many of the areas directly affected by this development have indicated their willingness to abide by any restraints legitimately imposed upon them. We here hold that the portions of the Voting Rights Act properly before us are a valid means for carrying out the commands of the Fifteenth Amendment. Hopefully, millions of non-white Americans will now be able to participate for the first time on an equal basis in the government under which they live. We may finally look forward to the day when truly "[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

The bill of complaint is Dismissed.

Mr. Justice Black, concurring and dissenting

I agree with substantially all of the Court's opinion sustaining the power of Congress under §2 of the Fifteenth Amendment to suspend state literacy tests and similar voting qualifications and to authorize the Attorney General to secure the appointment of federal examiners to register qualified voters in various sections of the country. Section 1 of the Fifteenth Amendment provides that "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

In addition to this unequivocal command to the States and the Federal Government that no citizen shall have his right to vote denied or abridged because of race or color, §2 of the Amendment unmistakably gives Congress specific power to go further and pass appropriate legislation to protect this right to vote against any method of abridgment no matter how subtle. Compare my dissenting opinion in Bell v. Maryland.... I have no doubt whatever as to the power of Congress under §2 to enact the provisions of the Voting Rights Act of 1965 dealing with the suspension of state voting tests that have been used as notorious means to deny and abridge voting rights on racial grounds. This same congressional power necessarily exists to authorize appointment of federal examiners. I also agree with the judgment of the Court upholding §4 (b) of the Act which sets out a formula for determining when and where the major remedial sections of the Act take effect. I reach this conclusion, however, for a somewhat different reason than that stated by the Court, which is that "the coverage formula is rational in both prac-

tice and theory." I do not base my conclusion on the fact that the formula is rational, for it is enough for me that Congress by creating this formula has merely exercised its hitherto unquestioned and undisputed power to decide when, where, and upon what conditions its laws shall go into effect. By stating in specific detail that the major remedial sections of the Act are to be applied in areas where certain conditions exist, and by granting the Attorney General and the Director of the Census unreviewable power to make the mechanical determination of which areas come within the formula of §4 (b), I believe that Congress has acted within its established power to set out preconditions upon which the Act is to go into effect.…

Though, as I have said, I agree with most of the Court's conclusions, I dissent from its holding that every part of §5 of the Act is constitutional. Section 4 (a), to which §5 is linked, suspends for five years all literacy tests and similar devices in those States coming within the formula of §4 (b). Section 5 goes on to provide that a State covered by §4 (b) can in no way amend its constitution or laws relating to voting without first trying to persuade the Attorney General of the United States or the Federal District Court for the District of Columbia that the new proposed laws do not have the purpose and will not have the effect of denying the right to vote to citizens on account of their race or color. I think this section is unconstitutional on at least two grounds.

(a) The Constitution gives federal courts jurisdiction over cases and controversies only. If it can be said that any case or controversy arises under this section which gives the District Court for the District of Columbia jurisdiction to approve or reject state laws or constitutional amendments, then the case or controversy must be between a State and the United States Government. But it is hard for me to believe that a justiciable controversy can arise in the constitutional sense from a desire by the United States Government or some of its officials to determine in advance what legislative provisions a State may enact or what constitutional amendments it may adopt. If this dispute between the Federal Government and the States amounts to a case or controversy it is a far cry from the traditional constitutional notion of a case or controversy as a dispute over the meaning of enforceable laws or the manner in which they are applied. And if by this section Congress has created a case or controversy, and I do not believe it has, then it seems to me that the most appropriate judicial forum for settling these important questions is this Court acting under its original Art. III, §2, jurisdiction to try cases in which a State is a party. At least a trial in this Court would treat the States with the dignity to which they should be entitled as constituent members of our Federal Union.

The form of words and the manipulation of presumptions used in §5 to create the illusion of a case or controversy should not be allowed to cloud the effect of that section. By requiring a State to ask a federal court to approve the validity of a proposed law which has in no way become operative, Congress has asked the State to secure precisely the type of advisory opinion our Constitution forbids. As I have pointed out elsewhere, … some of those drafting our Constitution wanted to give the federal courts the power to issue advisory opinions and propose new laws to the legislative body. These suggestions were rejected. We should likewise reject any attempt by Congress to flout constitutional limitations by authorizing federal courts to render advisory opinions when there is no case or controversy before them. Congress has ample power to protect the rights of citizens to vote without resorting to the unnecessarily circuitous, indirect and unconstitutional route it has adopted in this section.

(b) My second and more basic objection to §5 is that Congress has here exercised its power under §2 of the Fifteenth Amendment through the adoption of means that conflict with the most basic principles of the Constitution. As the Court says the limitations of the power granted under §2 are the same as the limitations imposed on the exercise of any of the powers expressly granted Congress by the Constitution. The classic formulation of these constitutional limitations was stated by Chief Justice Marshall when he said in McCulloch v. Maryland, 4 Wheat.… "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional."

Section 5, by providing that some of the States cannot pass state laws or adopt state constitutional amendments without first being compelled to beg federal authorities to approve their policies, so distorts our constitutional structure of government as to render any distinction drawn in the Constitution between state and federal power almost meaningless. One of the most basic premises upon which our structure of government was founded was that the Federal Government was to have certain specific and limited powers and no others, and all other power

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was to be reserved either "to the States respectively, or to the people." Certainly if all the provisions of our Constitution which limit the power of the Federal Government and reserve other power to the States are to mean anything, they mean at least that the States have power to pass laws and amend their constitutions without first sending their officials hundreds of miles away to beg federal authorities to approve them. Moreover, it seems to me that §5 which gives federal officials power to veto state laws they do not like is in direct conflict with the clear command of our Constitution that "The United States shall guarantee to every State in this Union a Republican Form of Government." I cannot help but believe that the inevitable effect of any such law which forces any one of the States to entreat federal authorities in far-away places for approval of local laws before they can become effective is to create the impression that the State or States treated in this way are little more than conquered provinces. And if one law concerning voting can make the States plead for this approval by a distant federal court or the United States Attorney General, other laws on different subjects can force the States to seek the advance approval not only of the Attorney General but of the President himself or any other chosen members of his staff. It is inconceivable to me that such a radical degradation of state power was intended in any of the provisions of our Constitution or its Amendments. Of course I do not mean to cast any doubt whatever upon the indisputable power of the Federal Government to invalidate a state law once enacted and operative on the ground that it intrudes into the area of supreme federal power. But the Federal Government has heretofore always been content to exercise this power to protect federal supremacy by authorizing its agents to bring lawsuits against state officials once an operative state law has created an actual case and controversy. A federal law which assumes the power to compel the States to submit in advance any proposed legislation they have for approval by federal agents approaches dangerously near to wiping the States out as useful and effective units in the government of our country. I cannot

Glossary

amici curiae	Latin for "friends of the court"; persons or organizations with an interest in a case but who are not party to it and who file court briefs with a view to influencing a case's outcome
bill of attainder	a law that punishes a person or group of persons without benefit of trial
Chief Justice Marshall	John Marshall, the chief justice of the United States in the early nineteenth century, whose decisions tended to enforce the power of the federal government
Civil War Amendments	the Thirteenth, Fourteenth, and Fifteenth Amendments to the U.S. Constitution, passed in the wake of the Civil War
Constitutional Convention	the convention in Philadelphia in 1787 at which the U.S. Constitution was drafted
ex parte	Latin for "by (or for) one party," used in the law to refer to a legal proceeding brought by one party without the presence of the other being required
justiciable	able to come under the authority of the court
literacy tests	written tests administered to potential voters to determine, as a condition for voting, whether they can read
McCulloch v. Maryland	a landmark 1819 U.S. Supreme Court decision in which Chief Justice John Marshall held that states could not impede the power of the federal government
nullity	legal ineffectiveness or invalidity
parens patriae	Latin for "parents of the nation," referring to the power of the state to intervene to protect people from an abuse

agree to any constitutional interpretation that leads inevitably to such a result.

I see no reason to read into the Constitution meanings it did not have when it was adopted and which have not been put into it since. The proceedings of the original Constitutional Convention show beyond all doubt that the power to veto or negative state laws was denied Congress. On several occasions proposals were submitted to the convention to grant this power to Congress. These proposals were debated extensively and on every occasion when submitted for vote they were overwhelmingly rejected. The refusal to give Congress this extraordinary power to veto state laws was based on the belief that if such power resided in Congress the States would be helpless to function as effective governments. Since that time neither the Fifteenth Amendment nor any other Amendment to the Constitution has given the slightest indication of a purpose to grant Congress the power to veto state laws either by itself or its agents. Nor does any provision in the Constitution endow the federal courts with power to participate with state legislative bodies in determining what state policies shall be enacted into law. The judicial power to invalidate a law in a case or controversy after the law has become effective is a long way from the power to prevent a State from passing a law. I cannot agree with the Court that Congress denied a power in itself to veto a state law can delegate this same power to the Attorney General or the District Court for the District of Columbia. For the effect on the States is the same in both cases they cannot pass their laws without sending their agents to the City of Washington to plead to federal officials for their advance approval.

In this and other prior Acts Congress has quite properly vested the Attorney General with extremely broad power to protect voting rights of citizens against discrimination on account of race or color. Section 5 viewed in this context is of very minor importance and in my judgment is likely to serve more as an irritant to the States than as an aid to the enforcement of the Act. I would hold §5 invalid for the reasons stated above with full confidence that the Attorney General has ample power to give vigorous, expeditious and effective protection to the voting rights of all citizens.

Stokely Carmichael (AP/Wide World Photos)

Stokely Carmichael's "Black Power"

1966

"The only time I hear people talk about nonviolence is when black people move to defend themselves against white people."

Overview

On October 29, 1966, Stokely Carmichael addressed an audience consisting primarily of college students at the open-air Greek Theater at the University of California at Berkeley. Carmichael was a leading spokesperson for the American civil rights movement as well as for international human rights and the relationship between the two movements; he was also an outspoken critic of the Vietnam War. Carmichael had first become known as a representative of the Student Nonviolent Coordinating Committee, or SNCC, commonly pronounced "snick." After breaking with SNCC in 1967, Carmichael became affiliated with the more militant Black Panther Party. Finally, after breaking with the Black Panthers, he spoke from his own platform during a period of self-imposed exile before his death in the Republic of Guinea. His UC Berkeley speech is usually referred to as the "Black Power" speech, although he gave other speeches that stressed the same theme and sometimes have been referred to by that same title. Carmichael touched on a broad range of issues in his UC Berkeley speech, including SNCC's condemnation of white America's "institutional racism" (a term he has been credited with coining) and fear of the term "Black Power." Carmichael also discussed the relationship between the American civil rights movement and unrest in much of the postcolonial world, the need for white activists to organize in white communities, nonviolence versus self-defense in the face of racial oppression, and the evil of the Vietnam War.

Carmichael was talking to an audience of largely left-leaning students on one of the most liberal, even radical, campuses in the country at a time when the civil rights movement had begun to hit its stride. He was speaking as a representative of SNCC and cited the positions taken as those of SNCC, whose platform he was largely responsible for developing and articulating. Although SNCC espoused nonviolence at the time and included whites in its membership, Carmichael was already moving away from white inclusion in SNCC, calling instead for whites to organize nonracist whites in their own communities. He was also questioning the workability of nonviolence in the face of violence against peaceful African American demonstrators by whites in positions of power. It would be these two issues that caused Carmichael to separate himself from SNCC which would itself move away from its dedication to nonviolence in the coming years and join the more radical Black Panther Party.

Context

The year 1966 was pivotal for both of Carmichael's major concerns: civil rights and the Vietnam War. His address was delivered at a time when the political and social climate of the country was being shaped by the assassinations of three major figures. President John F. Kennedy had been assassinated on November 22, 1963, and the black civil rights activist Malcolm X had been killed on February 21, 1965. Eighteen months after the UC Berkeley speech, on April 4, 1968, the Reverend Martin Luther King, Jr., would be murdered in Memphis, Tennessee. Several months before the UC Berkeley speech, Carmichael had taken part in the March against Fear from Memphis, Tennessee, to Jackson, Mississippi. The march had been organized by James Meredith, the first African American student at the University of Mississippi, where he had been subject to constant harassment. After graduation he organized the march, which began on June 5, 1966, in order to bring attention to black voting rights issues in the South and to help blacks overcome fear of violence. During the march he was shot in an assassination attempt by Aubrey James Norvell, but he survived. Several civil rights leaders, including Carmichael, joined the march after the shooting. Carmichael was arrested in Greenwood, Mississippi, while participating in the march. When he rejoined the marchers, he galvanized them with a speech at a rally; this speech has also been referred to as his "Black Power" speech.

At the time of his speech at UC Berkeley, Carmichael was still not only a member of SNCC but also in many ways its public face and certainly its most charismatic speaker. He was particularly highly regarded as a speaker on college campuses. SNCC, formed in 1960, was a major force in the civil rights movement. It organized voter registration drives throughout the South and events such as the 1963 March on Washington. Leaders of the organization included such

Time Line

1941

- **June 29**
  Stokely Carmichael is born in Port-of-Spain, Trinidad and Tobago.

1960

- Carmichael enrolls at Howard University in Washington, D.C., and joins the Student Nonviolent Coordinating Committee.

1963

- **November 22**
  President John F. Kennedy is assassinated.

1964

- **August**
  After reports of a North Vietnamese attack on two U.S. naval vessels, Congress gives President Lyndon Johnson the authority to move combat troops into South Vietnam.

1965

- **February 21**
  Malcolm X is assassinated by three members of the Nation of Islam.
- **March**
  Six hundred marchers begin a fifty-four-mile trek from Selma, Alabama, to the state capital at Montgomery on March 7 and are assaulted by state troopers at the Edmund Pettus Bridge. On March 9, the Reverend Martin Luther King, Jr., arrives in Selma to lead the marchers, who eventually arrive in Montgomery on March 25; in its final days, the march draws over twenty-five thousand participants.
- **August 11**
  The Watts riot erupts in Los Angeles, lasting until August 16.

1966

- **June**
  Carmichael joins Martin Luther King, Jr., and others to continue James Meredith's March against Fear from Memphis, Tennessee, to Jackson, Mississippi, after Meredith is shot and hospitalized.

notables of the civil rights movement as Julian Bond, John Lewis, Marion Barry, and Carmichael's successor as chairman, H. Rap Brown (later known as Jamil Abdullah Al-Amin). In addition to its "Black Power" focus, SNCC was also involved in protests against the Vietnam War.

On March 9, 1965, the Reverend Martin Luther King, Jr., arrived in Selma, Alabama, to lead a nonviolent march of activists, both black and white, to the state capital at Montgomery. The march had already begun two days earlier, but its participants had encountered violent resistance from state troopers and local law enforcement at the Edmund Pettus Bridge on Selma's outskirts. On March 25, the marchers, under King's leadership and the protection of National Guard troops authorized by President Lyndon Johnson, arrived in Montgomery. The march had attracted over twenty-five thousand participants in its final days, but its triumph would soon be overshadowed by other events. In August of that same year, riots erupted in the Watts section of Los Angeles. During the five days of disturbances, over fourteen thousand National Guard troops were sent to South Central Los Angeles. When the dust settled, thirty-four had died (most of them black), more than one thousand had been injured, and property damage had amounted to an estimated $40 million, possibly much more. During the following months up to the time of Carmichael's UC Berkeley speech, violent conflict involving blacks and local law enforcement swept through cities across the nation. These events prompted SNCC's leadership to begin to move away from strict adherence to the principle of nonviolence.

Also on the nation's mind was the deepening American involvement in Vietnam. In August 1964 the Communist North Vietnamese attacked two U.S. naval destroyers. In response, Congress passed the Gulf of Tonkin Resolution (unanimously in the House of Representatives and with just two nays in the Senate), which gave President Lyndon Johnson the authority to send combat troops to South Vietnam. In March 1965, the first U.S. combat troops thirty-five hundred Marines joined twenty-three thousand U.S. advisers and special forces already in Vietnam. By the end of that year nearly two hundred thousand American troops would be in Vietnam. Antiwar sentiment was strongly felt on many college campuses in the mid-1960s, but the liberal UC Berkeley campus was a hotbed of student protest. In the spring of 1965, the Vietnam Day Committee a coalition of student groups, political groups, labor organizations, and churches was formed on the campus by the activists Jerry Rubin, Abbie Hoffman, and others. A campus protest on May 21 and 22 of that year, during which President Johnson was burned in effigy, attracted some thirty-five thousand people. In his speech at UC Berkeley in 1966, Carmichael would have been speaking before a highly receptive audience.

About the Author

Stokely Carmichael, later in life known also as Kwame Ture, was born on June 29, 1941, in Port-of-Spain,

Trinidad and Tobago. His parents left him in the care of his grandparents at an early age and immigrated to New York City, where they worked in blue-collar jobs. Carmichael eventually joined his parents in New York and attended the Bronx High School of Science. In 1960 he began attending Howard University, where he became involved with the newly formed SNCC. While he was a member of SNCC in 1965, Carmichael established his effectiveness as an organizer when he played a lead role in increasing the number of registered black voters in Lowndes County, Alabama, from seventy to twenty-six hundred. There he worked with the Lowndes County Freedom Organization. Coincidentally for the future member of the California-based Black Panther organization, the Lowndes County Freedom Organization had as its mascot a black panther, which it used in juxtaposition with the white-controlled Democratic Party's local mascot, a white rooster instead of the nationwide symbol of the donkey. As a representative of the militant wing of SNCC, Carmichael rose to become the organization's chairman in 1966.

Carmichael was at first supportive of the work of Martin Luther King. He joined with King in 1966 to continue James Meredith's March against Fear from Memphis, Tennessee, to Jackson, Mississippi, after Meredith had been shot by a white sniper. Carmichael would later repudiate King's nonviolent stance, although as late as April 15, 1967, he joined King in speaking out against the Vietnam War. Through the force of his rhetoric, Carmichael became a celebrity, but others in SNCC resented his prominence. He was replaced as chairman of SNCC by H. Rap Brown in 1967 and was soon formally expelled from the organization. That year, Carmichael joined the more militant Black Panther Party. As "honorary prime minister" of the Panthers, he became an even more forceful critic of the Vietnam War and lectured throughout the world and the United States, often on college campuses. However, Carmichael never rose to become the official spokesperson for the Panthers. Eventually, he broke with the Panthers over the issue of whether whites should be allowed to become members.

After the assassination of King on April 4, 1968, Carmichael was in Washington, D.C., and, although he was no longer officially a member of SNCC, led members of that organization in trying to maintain order. In 1969 he left the United States and the Panthers to live in the Republic of Guinea, which had gained independence from France in 1958. There he changed his name to Kwame Ture in honor of two figures: Guinea's president, Ahmed Sékou Touré, who ruled the country from its liberation until his death in 1984; and Kwame Nkrumah, the former president of Ghana, who, after he had been overthrown, was offered refuge by Touré. From his base in Guinea, Carmichael wrote and spoke, advocating pan-Africanism and Socialism.

Carmichael died of prostate cancer on November 15, 1998, at the age of fifty-seven, Before his death, he had claimed that the Federal Bureau of Investigation had infected him with a strain of cancer in order to assassinate him. It was later learned that he had been the subject of surveillance by the FBI and the Central Intelligence Agency since 1968.

Time Line

1966

- **October 15**
  The Black Panther Party is formed in Oakland, California, by Bobby Seale and Huey P. Newton.
- **October 29**
  Carmichael delivers his "Black Power" speech at the Greek Theater at the University of California at Berkeley.

1967

- **June**
  Carmichael steps down as chairman of SNCC and joins the Black Panthers.

1968

- **April 4**
  Martin Luther King, Jr., is assassinated in Memphis, Tennessee.

1969

- The Student Nonviolent Coordinating Committee changes its name to the Student National Coordinating Committee in recognition of its more militant stance. Carmichael splits from the Black Panthers and moves to the Republic of Guinea.

1998

- **November 15**
  Carmichael dies of prostate cancer in Guinea.

Explanation and Analysis of the Document

Carmichael begins his speech at UC Berkeley with a mocking dig at his audience, in which he describes the university and its environs as the "white intellectual ghetto of the West." Continuing in this edgy but humorous vein, he announces that, based upon SNCC's successes at voter registration, he would be running for president, although he notes next that he is ineligible because he was not born in the United States. He then states that he would not get caught up in questions about the meaning of "Black Power" leaving that to the press though he mocks reporters, calling them "advertisers."

◆ Condemnation

Carmichael then turns to his first major point, the question of "whether or not a man can condemn himself." In breaking down this question, he turns to the thought of three intellectuals. Albert Camus and Jean-Paul Sartre were both French intellectuals and writers of the early- to mid-twentieth century. Camus, born in Algeria to parents of French and Spanish origin, was the first African-born writer to win the Nobel Prize. Although his name was often linked with existentialism, Camus rejected this label and thought of himself as an absurdist. He was also associated with the European Union movement and opposition to totalitarianism. Jean-Paul Sartre was a French existentialist and Communist who opposed French rule in Algeria. Frantz Fanon was a writer, philosopher, and revolutionary who was born in Martinique and whose books *The Wretched of the Earth*, *Black Skin, White Masks*, and *A Dying Colonialism* were key documents in the anticolonial movement and would likely have been familiar to many in Carmichael's UC Berkeley audience. Carmichael asserts that SNCC's leaders also believed that man cannot condemn himself. Carmichael's point is that since "white America cannot condemn herself," SNCC has condemned it. He then mentions Sheriff Lawrence Rainey in Neshoba County, Mississippi; this is a reference to the notorious murder in 1964 of three civil rights workers, two of them white and one black, through the collusion of local law enforcement agencies and the Ku Klux Klan.

◆ White Supremacy

With paragraph 6, Carmichael takes up the issue of white supremacy. He begins by arguing that integration is an "insidious subterfuge" that in fact maintains white supremacy. He compares integration to thalidomide, a drug given to pregnant women that infamously had turned out to cause severe birth defects. He makes reference to Ross Barnett, who had been the segregationist governor of Mississippi, and Jim Clark, the sheriff of Dallas County, Alabama, who had been responsible for authorizing the violent assaults and arrests of activists during the Selma-to-Montgomery march of 1965. He argues that American institutions are racist (Carmichael has been credited with having coined the term *institutional racism*) and then asks rhetorically what whites who are not racists can do to change the system.

Carmichael rejects the idea that whites can give anybody their freedom. "A man is born free" and then enslaved, so whites must stop denying freedom, rather than trying to "give" freedom. He then states that it follows logically that civil rights legislation, passed by white people, is ultimately for the benefit of white people. Laws regarding public accommodations and the right to vote, he argues, show white people that African Americans have certain rights; however, African Americans should already be aware that they are entitled to those rights. Voting, for example, is a right, not a privilege.

Carmichael next discusses white failures at democracy in the international sphere, citing Vietnam, South Africa, the Philippines, South America, and Puerto Rico. He states, in paragraph 11:

> We not only condemn the [United States] for what it's done internally, but we must condemn it for what it does externally. We see this country trying to rule the world, and someone must stand up and start articulating that this country is not God, and cannot rule the world.

In this vein he condemns missionary work in Africa as a component of white supremacy, arguing that missionary work was premised on the belief that Africans were uncivilized. He also portrays missionaries as exchanging Bibles for natives' land. Carmichael then links domestic endeavors such as Head Start to the same agenda. He rejects the notion that people are poor simply because they do not work. If this were actually the criterion for poverty, then such people as Nelson Rockefeller (the governor of New York and heir to the Standard Oil fortune), Bobby Kennedy (the brother of president John F. Kennedy), President Johnson and his wife, Lady Bird Johnson, and other powerful Americans should be poor, for in Carmichael's view, they do not work.

◆ Black Power

Carmichael then argues, in paragraph 16, that the debate over the use of the term *Black Power* is part of a psychological struggle over whether African Americans can use terms without white approval. He states that black Americans are often put in the position of having to defend their actions and maintains that it is time for white America to be put in the position of having to defend its actions "defending themselves as to why they have oppressed and exploited us." He draws attention to the extent of segregation by noting that only 6 percent of black children are enrolled in integrated schools. Although the particular source that gave him this statistic is uncertain, a number of contemporary documents cited such a figure, including the decision in *United States v. Jefferson County Board of Education* (1966) by Justice John Minor Wisdom of the U.S. Court of Appeals for the Fifth Circuit, a judge who wrote a number of influential opinions on school desegregation. In paragraph 21, Carmichael draws his listeners' attention to the heavy-handed police presence in Oakland, California, and then asks what the nation's political parties can do to create institutions that "will become the political expressions of people on a day-to-day basis."

◆ White Activism

Carmichael then discusses true integration as being a two-way street. He argues that white activists must organize in the white community to change white society. He rejects the idea of whites working in the African American community as damaging on a psychological basis and concludes that his position on this is not "reverse racist." In this light, he alludes to the gubernatorial race in California; the election was held just over one week after his speech.

Secretary of Defense Robert McNamara pointing to a map of Vietnam at a press conference (Library of Congress)

The "two clowns" to whom he refers are the Democratic candidate and then-incumbent governor Edmund G. "Pat" Brown and the Republican candidate and future president Ronald Reagan, who would soon win by a margin of 15 percentage points. Interestingly, Carmichael asserts that SNCC did not believe that the Democratic Party represents the needs of black people. He argues that what was needed was a new coalition of voters who would start building new political and social institutions that would meet the needs of all people. After a reference to the nineteenth-century African American leader Frederick Douglass, Carmichael calls for a new generation of leaders in the black community, declaring, in paragraph 26, that "black people must be seen in positions of power, doing and articulating for themselves."

◆ The Vietnam War

Carmichael then turns to an attack on the Vietnam War as an "illegal and immoral war" and rhetorically asks the audience how it could be stopped. His answer is resistance to the draft. He refers to U.S. Secretary of Defense Robert McNamara as a "racist" and calls President Johnson a "buffoon" and describes American troops as "hired killers." The peace movement, he argues, has been ineffective because it consists of college students who are exempt from the draft anyway. A draft board classification of II-S ("2S" in the speech) gives deferred military service for students actively engaged in study. He calls attention to the irony of referring to black militancy as violent when black militant groups were fighting for human rights and the end of violence in places like Vietnam. As for African American soldiers who had been drafted and were fighting in Vietnam, he characterizes them as black mercenaries.

◆ Student Activism and Politics

Carmichael next challenges students on university campuses. He notes, in paragraph 34, that it is impossible for whites and blacks to form "human relationships" given the nature of the country's institutions. He refers to the "myths" about the United States, calling them "downright lies." He suggests that a form of social hypocrisy has become manifest in the economic insecurity of many African Americans and the unwillingness of most affluent whites to share their relative economic security with the black community. He calls on his listeners to examine "the histories that we have been told" and observes that in countries around the world students have led revolutions. He goes on to characterize American college students essentially his audience as "perhaps the most politically unsophisticated students in the world" and says that they, unlike many students throughout the rest of the world, have been unable or unwilling to become revolutionaries. Once again he lambastes the Democratic political establishment, including

such people as Johnson, Bobby Kennedy, Wayne Morse (a U.S. senator from Oregon who, ironically, was one of only two U.S. senators who voted against the Gulf of Tonkin Resolution), James Eastland (a conservative U.S. senator from Mississippi), and George Wallace (the segregationist governor of Alabama). Carmichael states that it would be impossible to reach a common moral ground with these political figures, all of them at the time Democrats. Only the seizure of power by revolution would put these and other members of the political establishment out of business.

◆ SNCC

Carmichael then turns specifically to a discussion of SNCC. He states, in paragraph 42, that he does not want a "part of the American pie" and notes that a central purpose of SNCC was to raise questions. One of these questions was how the United States had come to be a world power and the world's wealthiest nation. He thus segues into a discussion of nonviolence at a time when he was coming to reject his initial stance and that of SNCC in favor of advocating violent social change. Groups like SNCC and the Quakers are not the ones who need to espouse nonviolence, he argues; rather, white supremacists in small Mississippi towns such as Cicero and Grenada need to be persuaded to act without violence toward peaceful demonstrators.

Once again Carmichael returns to the relationship between the American civil rights struggle and the international movement against postcolonialism, that is, Western domination of a postcolonial world largely inhabited by people of color. Again, he condemns the Peace Corps, as did Malcolm X, as a method of stealing nations' natural resources while teaching their citizens to read and write. He makes glancing references to hot spots in the world other than Vietnam. Among them are Santo Domingo (the capital of the Dominican Republic), South Africa (still in the grip of apartheid, or systematic segregation), and Zimbabwe (a former British colony then known as Rhodesia, which had recently declared its independence but was under white minority rule). He notes that the United States had tolerated oppression in these and other places as a way of opposing Communist expansion and aggression. He again alludes to the theft of smaller countries' natural resources through organizations like the Peace Corps, and again he urges (in paragraph 51) the white community "to have the courage to go into white communities and start organizing them." He then discusses the emergence of the organizational precursor to the Black Panther Party in Lowndes County, Alabama, as well as the fear that many white people have of anything black and the association of blackness with evil. Once more he stresses the double standard of urging nonviolence while the United States was "bombing the hell out [of] Vietnam." He sees a further irony in comments by the president and vice president (at the time, Hubert Humphrey) about looting during urban race riots, when the United States was in effect looting Vietnam. Carmichael challenges his listeners to consider whether Ho Chi Minh, the leader of Communist North Vietnam, would agree with him about America's illegal looting of Vietnam. He concludes his speech by stating that the chief issue facing African Americans was the psychological battle to define themselves and organize themselves as they saw fit. An important question related to this issue was how white activists could build new political institutions to destroy the old racist ones.

Audience

Stokely Carmichael's audience consisted of students at the University of California at Berkeley. At the time, the school was a major center of student activism; a large percentage of its students were, if not strident activists, opposed to the war in Vietnam and proponents of civil rights. Indeed, UC Berkeley was the home of the radical antiwar *Berkeley Barb*, and on October 16, 1965, the campus had been the starting point of a massive antiwar march to Oakland, one of the earliest mass protests in the antiwar movement.

Carmichael somewhat humorously attacks his audience as "the white intellectual ghetto of the West." The audience would have been primarily, though not exclusively, white. Carmichael plays off the left-wing leanings of his audience as well, with references to Albert Camus, Jean-Paul Sartre, and Frantz Fanon, all icons of the student left. His address has survived and has come to be regarded as a key document in the civil rights movement.

Impact

Although he was already questioning the direction of SNCC at the time of his UC Berkeley speech, Carmichael was then at the height of his prominence as SNCC's representative speaker both on and off college campuses. Along with King and Malcolm X, he was a leading figure in both the civil rights and the antiwar movements. All three men saw these movements as linked with issues of international human rights, yet there would be much debate over the successes and failures of the civil rights and antiwar movements as well as the extent of their broader influence. The year after the UC Berkeley speech, President Lyndon Johnson would name the first African American Supreme Court justice, Thurgood Marshall, but on April 4, 1968, King would be assassinated. Long before SNCC disbanded in the 1970s (a new branch, however, has recently been established at the University of Louisville), Carmichael would move to a more militant stance as a member of the Black Panther Party.

On October 15, 1966, two weeks before Carmichael's UC Berkeley speech, the Black Panther Party was formed in Oakland, California, by Bobby Seale and Huey P. Newton with the goal of protecting African American neighborhoods from police brutality. Carmichael's comments on the absurdity of counseling nonviolence to African Americans

Essential Quotes

"We were never fighting for the right to integrate, we were fighting against white supremacy."

(White Supremacy)

"Now, then, in order to understand white supremacy we must dismiss the fallacious notion that white people can give anybody their freedom. No man can give anybody his freedom. A man is born free."

(White Supremacy)

"I knew that I could vote and that that wasn't a privilege; it was my right. Every time I tried I was shot, killed or jailed, beaten or economically deprived."

(White Supremacy)

"In order for America to really live on a basic principle of human relationships, a new society must be born. Racism must die, and the economic exploitation of this country of non-white peoples around the world must also die."

(White Activism)

"I maintain, as we have in SNCC, that the war in Vietnam is an illegal and immoral war. And the question is, What can we do to stop that war? … The only power we have is the power to say, 'Hell no!' to the draft."

(The Vietnam War)

"I do not want to be a part of the American pie. The American pie means raping South Africa, beating Vietnam, beating South America, raping the Philippines, raping every country you've been in. I don't want any of your blood money."

(SNCC)

"The only time I hear people talk about nonviolence is when black people move to defend themselves against white people."

(SNCC)

rather than to the white supremacists who constantly perpetrated violence against black people were indicative of the Black Panthers' stance on condoning violence in self-defense. The Panthers originally espoused black nationalism but ultimately came to reject that view and favor Socialism without race consciousness. The organization was known for its Ten-Point Program and its demand that African American men be exempted from the draft. In addition to Seale and Newton, the best known of the Panthers was Eldridge Cleaver, who edited its newspaper, raising circulation to two hundred fifty thousand. The Panthers quickly grew to national prominence, but its chapters in cities across the country became subject to extensive police harassment and federal surveillance ordered by FBI Director J. Edgar Hoover. At least two dozen members of the Panthers died at the hands of law enforcement agencies before the group faded out of existence in the 1970s.

Regardless of the fate of the Black Panther Party, the Black Power movement, in which Carmichael was a major leader, was a significant chapter in American history. On the international front, efforts to stop the Vietnam War were ongoing and growing with the elevating attention of the public reflecting Carmichael's association of the anti Vietnam War movement with the broader international human rights and anticolonialist movements prompting President Johnson to announce that he would not run for reelection in 1968. Meanwhile, both the war and the antiwar movement continued to escalate until the years of conflict at last drew to a close: the shootings of unarmed antiwar protesters by National Guard troops at Kent State University in Ohio took place on May 4, 1970; the last American was helicoptered off the roof of the U.S. embassy in Saigon, South Vietnam, marking the end of the Vietnam War, on April 29, 1975.

See also George Wallace's Inaugural Address as Governor (1963); Martin Luther King, Jr.: "Letter from Birmingham Jail" (1963); Martin Luther King, Jr.: "Beyond Vietnam: A Time to Break Silence" (1967); Eldridge Cleaver's "Education and Revolution" (1969).

Further Reading

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Questions for Further Study

1. Compare Carmichael's comments on the Democratic Party in this document with Fannie Lou Hamer's Testimony at the Democratic National Convention. What were the problems that some, perhaps many, African Americans had with the Democratic Party at that time, particularly in the South?

2. Do you agree with Carmichael that many people were afraid of Black Power primarily because of the word *black* and that if the movement had had a different name, people might have responded to it more favorably? Why or why not?

3. Compare Stokely Carmichael's opposition to the war in Vietnam with that of Martin Luther King, Jr., in "Beyond Vietnam: A Time to Break Silence." On what grounds did the two men oppose the war? Did they have differing reasons for opposing the war?

4. Carmichael was speaking to an audience of primarily university students. In what ways did he tailor his remarks to appeal to the interests and concerns of students at that time?

5. Carmichael refers to voting as a right, and he is correct. But is there not a sense in which voting is also a privilege? Agree or disagree, and explain.

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Keith E. Sealing

Document Text

Stokely Carmichael's "Black Power"

Thank you very much. It's a privilege and an honor to be in the white intellectual ghetto of the West. We wanted to do a couple of things before we started. The first is that, based on the fact that SNCC, through the articulation of its program by its chairman, has been able to win elections in Georgia, Alabama, Maryland, and by our appearance here will win an election in California, in 1968 I'm going to run for President of the United States. I just can't make it, 'cause I wasn't born in the United States. That's the only thing holding me back.

We wanted to say that this is a student conference, as it should be, held on a campus, and that we're not ever to be caught up in the intellectual masturbation of the question of Black Power. That's a function of people who are advertisers that call themselves reporters. Oh, for my members and friends of the press, my self-appointed white critics, I was reading Mr. Bernard Shaw two days ago, and I came across a very important quote which I think is most apropos for you. He says, "All criticism is a[n] autobiography." Dig yourself. Okay.

The philosophers Camus and Sartre raise the question whether or not a man can condemn himself. The black existentialist philosopher who is pragmatic, Frantz Fanon, answered the question. He said that man could not. Camus and Sartre does not. We in SNCC tend to agree with Camus and Sartre that a man cannot condemn himself. Were he to condemn himself, he would then have to inflict punishment upon himself. An example would be the Nazis. Any prisoner who any of the Nazi prisoners who admitted, after he was caught and incarcerated, that he committed crimes, that he killed all the many people that he killed, he committed suicide. The only ones who were able to stay alive were the ones who never admitted that they committed crimes against people that is, the ones who rationalized that Jews were not human beings and deserved to be killed, or that they were only following orders.

On a more immediate scene, the officials and the population the white population in Neshoba County, Mississippi that's where Philadelphia is could not could not condemn [Sheriff] Rainey, his deputies, and the other fourteen men that killed three human beings. They could not because they elected Mr. Rainey to do precisely what he did and that for them to condemn him will be for them to condemn themselves.

In a much larger view, SNCC says that white America cannot condemn herself. And since we are liberal, we have done it: You stand condemned. Now, a number of things that arises from that answer of how do you condemn yourselves. Seems to me that the institutions that function in this country are clearly racist, and that they're built upon racism. And the question, then, is how can black people inside of this country move? And then how can white people who say they're not a part of those institutions begin to move? And how then do we begin to clear away the obstacles that we have in this society, that make us live like human beings? How can we begin to build institutions that will allow people to relate with each other as human beings? This country has never done that, especially around the country of white or black.

Now, several people have been upset because we've said that integration was irrelevant when initiated by blacks, and that in fact it was a subterfuge, an insidious subterfuge, for the maintenance of white supremacy. Now we maintain that in the past six years or so, this country has been feeding us a "thalidomide drug of integration" and that some negroes have been walking down a dream street talking about sitting next to white people and that that does not begin to solve the problem, that when we went to Mississippi we did not go to sit next to Ross Barnett; we did not go to sit next to Jim Clark; we went to get them out of our way and that people ought to understand that; that we were never fighting for the right to integrate, we were fighting against white supremacy.

Now, then, in order to understand white supremacy we must dismiss the fallacious notion that white people can give anybody their freedom. No man can give anybody his freedom. A man is born free. You may enslave a man after he is born free, and that is in fact what this country does. It enslaves black people after they're born, so that the only acts that white people can do is to stop denying black people their freedom; that is, they must stop denying freedom. They never give it to anyone.

Now we want to take that to its logical extension, so that we could understand, then, what its relevan-

Document Text

cy would be in terms of new civil rights bills. I maintain that every civil rights bill in this country was passed for white people, not for black people. For example, I am black. I know that. I also know that while I am black I am a human being, and therefore I have the right to go into any public place. White people didn't know that. Every time I tried to go into a place they stopped me. So some boys had to write a bill to tell that white man, "He's a human being; don't stop him." That bill was for that white man, not for me. I knew it all the time. I knew it all the time.

I knew that I could vote and that that wasn't a privilege; it was my right. Every time I tried I was shot, killed or jailed, beaten or economically deprived. So somebody had to write a bill for white people to tell them, "When a black man comes to vote, don't bother him." That bill, again, was for white people, not for black people; so that when you talk about open occupancy, I know I can live anyplace I want to live. It is white people across this country who are incapable of allowing me to live where I want to live. You need a civil rights bill, not me. I know I can live where I want to live.

So that the failures to pass a civil rights bill isn't because of Black Power, isn't because of the Student Nonviolent Coordinating Committee; it's not because of the rebellions that are occurring in the major cities. It is incapability of whites to deal with their own problems inside their own communities. That is the problem of the failure of the civil rights bill.

And so in a larger sense we must then ask, How is it that black people move? And what do we do? But the question in a greater sense is, How can white people who are the majority and who are responsible for making democracy work make it work? They have miserably failed to this point. They have never made democracy work, be it inside the United States, Vietnam, South Africa, Philippines, South America, Puerto Rico. Wherever American has been, she has not been able to make democracy work; so that in a larger sense, we not only condemn the country for what it's done internally, but we must condemn it for what it does externally. We see this country trying to rule the world, and someone must stand up and start articulating that this country is not God, and cannot rule the world.

Now, then, before we move on we ought to develop the white supremacy attitudes that were either conscious or subconscious thought and how they run rampant through the society today. For example, the missionaries were sent to Africa. They went with the attitude that blacks were automatically inferior. As a matter of fact, the first act the missionaries did, you know, when they got to Africa was to make us cover up our bodies, because they said it got them excited. We couldn't go bare-breasted anymore because they got excited.

Now when the missionaries came to civilize us because we were uncivilized, educate us because we were uneducated, and give us some literate studies because we were illiterate, they charged a price. The missionaries came with the Bible, and we had the land. When they left, they had the land, and we still have the Bible. And that has been the rationalization for Western civilization as it moves across the world and stealing and plundering and raping everybody in its path. Their one rationalization is that the rest of the world is uncivilized and they are in fact civilized. And they are un-civil-ized.

And that runs on today, you see, because what we have today is we have what we call "modern-day Peace Corps missionaries," and they come into our ghettos and they Head Start, Upward Lift, Bootstrap, and Upward Bound us into white society, 'cause they don't want to face the real problem which is a man is poor for one reason and one reason only: 'cause he does not have money period. If you want to get rid of poverty, you give people money period.

And you ought not to tell me about people who don't work, and you can't give people money without working, 'cause if that were true, you'd have to start stopping Rockefeller, Bobby Kennedy, Lyndon Baines Johnson, Lady Bird Johnson, the whole of Standard Oil, the Gulf Corp, all of them, including probably a large number of the Board of Trustees of this university. So the question, then, clearly, is not whether or not one can work; it's Who has power? Who has power to make his or her acts legitimate? That is all. And that in this country, that power is invested in the hands of white people, and they make their acts legitimate. It is now, therefore, for black people to make our acts legitimate.

Now we are now engaged in a psychological struggle in this country, and that is whether or not black people will have the right to use the words they want to use without white people giving their sanction to it; and that we maintain, whether they like it or not, we gonna use the word "Black Power" and let them address themselves to that; but that we are not going to wait for white people to sanction Black Power. We're tired waiting; every time black people move in this country, they're forced to defend their position before they move. It's time that the people who are supposed to be defending their position do that.

That's white people. They ought to start defending themselves as to why they have oppressed and exploited us.

Now it is clear that when this country started to move in terms of slavery, the reason for a man being picked as a slave was one reason because of the color of his skin. If one was black one was automatically inferior, inhuman, and therefore fit for slavery; so that the question of whether or not we are individually suppressed is nonsensical, and it's a downright lie. We are oppressed as a group because we are black, not because we are lazy, not because we're apathetic, not because we're stupid, not because we smell, not because we eat watermelon and have good rhythm. We are oppressed because we are black.

And in order to get out of that oppression one must wield the group power that one has, not the individual power which this country then sets the criteria under which a man may come into it. That is what is called in this country as integration: "You do what I tell you to do and then we'll let you sit at the table with us." And that we are saying that we have to be opposed to that. We must now set up criteria and that if there's going to be any integration, it's going to be a two-way thing. If you believe in integration, you can come live in Watts. You can send your children to the ghetto schools. Let's talk about that. If you believe in integration, then we're going to start adopting us some white people to live in our neighborhood.

So it is clear that the question is not one of integration or segregation. Integration is a man's ability to want to move in there by himself. If someone wants to live in a white neighborhood and he is black, that is his choice. It should be his rights. It is not because white people will not allow him. So vice versa: If a black man wants to live in the slums, that should be his right. Black people will let him. That is the difference. And it's a difference on which this country makes a number of logical mistakes when they begin to try to criticize the program articulated by SNCC.

Now we maintain that we cannot afford to be concerned about 6 percent of the children in this country, black children, who you allow to come into white schools. We have 94 percent who still live in shacks. We are going to be concerned about those 94 percent. You ought to be concerned about them too. The question is, Are we willing to be concerned about those 94 percent? Are we willing to be concerned about the black people who will never get to Berkeley, who will never get to Harvard, and cannot get an education, so you'll never get a chance to rub shoulders with them and say, "Well, he's almost as good as we are; he's not like the others"? The question is, How can white society begin to move to see black people as human beings? I am black, therefore I am; not that I am black and I must go to college to prove myself. I am black, therefore I am. And don't deprive me of anything and say to me that you must go to college before you gain access to X, Y, and Z. It is only a rationalization for one's oppression.

The political parties in this country do not meet the needs of people on a day-to-day basis. The question is, How can we build new political institutions that will become the political expressions of people on a day-to-day basis? The question is, How can you build political institutions that will begin to meet the needs of Oakland, California? And the needs of Oakland, California, is not 1,000 policemen with submachine guns. They don't need that. They need that least of all. The question is, How can we build institutions where those people can begin to function on a day-to-day basis, where they can get decent jobs, where they can get decent houses, and where they can begin to participate in the policy and major decisions that affect their lives? That's what they need, not Gestapo troops, because this is not 1942, and if you play like Nazis, we playing back with you this time around. Get hip to that.

The question then is, How can white people move to start making the major institutions that they have in this country function the way it is supposed to function? That is the real question. And can white people move inside their own community and start tearing down racism where in fact it does exist? Where it exists. It is you who live in Cicero and stop us from living there. It is white people who stop us from moving into Grenada. It is white people who make sure that we live in the ghettos of this country. it is white institutions that do that. They must change. In order for America to really live on a basic principle of human relationships, a new society must be born. Racism must die, and the economic exploitation of this country of non-white peoples around the world must also die must also die.

Now there are several programs that we have in the South, most in poor white communities. We're trying to organize poor whites on a basis where they can begin to move around the question of economic exploitation and political disfranchisement. We know we've heard the theory several times but few people are willing to go into there. The question is, Can the white activist not try to be a Pepsi generation who comes alive in the black community, but can he

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be a man who's willing to move into the white community and start organizing where the organization is needed? Can he do that? The question is, Can the white society or the white activist disassociate himself with two clowns who waste time parrying with each other rather than talking about the problems that are facing people in this state? Can you dissociate yourself with those clowns and start to build new institutions that will eliminate all idiots like them.

And the question is, If we are going to do that when and where do we start, and how do we start? We maintain that we must start doing that inside the white community. Our own personal position politically is that we don't think the Democratic Party represents the needs of black people. We know it don't. And that if, in fact, white people really believe that, the question is, if they're going to move inside that structure, how are they going to organize around a concept of whiteness based on true brotherhood and based on stopping exploitation, economic exploitation, so that there will be a coalition base for black people to hook up with? You cannot form a coalition based on national sentiment. That is not a coalition. If you need a coalition to redress itself to real changes in this country, white people must start building those institutions inside the white community. And that is the real question, I think, facing the white activists today. Can they, in fact, begin to move into and tear down the institutions which have put us all in a trick bag that we've been into for the last hundred years?

I don't think that we should follow what many people say that we should fight to be leaders of tomorrow. Frederick Douglass said that the youth should fight to be leaders today. And God knows we need to be leaders today, 'cause the men who run this country are sick, are sick. So that can we on a larger sense begin now, today, to start building those institutions and to fight to articulate our position, to fight to be able to control our universities we need to be able to do that and to fight to control the basic institutions which perpetuate racism by destroying them and building new ones? That's the real question that faces us today, and it is a dilemma because most of us do not know how to work, and that the excuse that most white activists find is to run into the black community.

Now we maintain that we cannot have white people working in the black community, and we mean it on a psychological ground. The fact is that all black people often question whether or not they are equal to whites, because every time they start to do something, white people are around showing them how to do it. If we are going to eliminate that for the generation that comes after us, then black people must be seen in positions of power, doing and articulating for themselves, for themselves.

That is not to say that one is a reverse racist; it is to say that one is moving in a healthy ground; it is to say what the philosopher Sartre says: One is becoming an "antiracist racist." And this country can't understand that. Maybe it's because it's all caught up in racism. But I think what you have in SNCC is an anti-racist racism. We are against racists. Now if everybody who is white see themself *[sic]* as a racist and then see us against him, they're speaking from their own guilt position, not ours, not ours.

Now then, the question is, How can we move to begin to change what's going on in this country. I maintain, as we have in SNCC, that the war in Vietnam is an illegal and immoral war. And the question is, What can we do to stop that war? What can we do to stop the people who, in the name of our country, are killing babies, women, and children? What can we do to stop that? And I maintain that we do not have the power in our hands to change that institution, to begin to recreate it, so that they learn to leave the Vietnamese people alone, and that the only power we have is the power to say, "Hell no!" to the draft.

We have to say to ourselves that there is a higher law than the law of a racist named McNamara. There is a higher law than the law of a fool named Rusk. And there's a higher law than the law of a buffoon named Johnson. It's the law of each of us. It's the law of each of us. It is the law of each of us saying that we will not allow them to make us hired killers. We will stand pat. We will not kill anybody that they say kill. And if we decide to kill, we're going to decide who we going to kill. And this country will only be able to stop the war in Vietnam when the young men who are made to fight it begin to say, "Hell, no, we ain't going."

Now then, there's a failure because the Peace Movement has been unable to get off the college campuses where everybody has a 2S and not going to get drafted anyway. And the question is, How can you move out of that into the white ghettos of this country and begin to articulate a position for those white students who do not want to go. We cannot do that. It is something, sometimes ironic that many of the peace groups [are] beginning to call us violent and say they can no longer support us, and we are in fact the most militant organization [for] peace or civil rights or human rights against the war in Vietnam in this country today. There isn't one organization that

has begun to meet our stance on the war in Vietnam, 'cause we not only say we are against the war in Vietnam; we are against the draft. We are against the draft. No man has the right to take a man for two years and train him to be a killer. A man should decide what he wants to do with his life.

So the question then is it becomes crystal clear for black people because we can easily say that anyone fighting in the war in Vietnam is nothing but a black mercenary, and that's all he is. Any time a black man leaves the country where he can't vote to supposedly deliver the vote for somebody else, he's a black mercenary. Any time a black man leaves this country, gets shot in Vietnam on foreign ground, and returns home and you won't give him a burial in his own homeland, he's a black mercenary, a black mercenary.

And that even if I were to believe the lies of Johnson, if I were to believe his lies that we're fighting to give democracy to the people in Vietnam, as a black man living in this country I wouldn't fight to give this to anybody. I wouldn't give it to anybody. So that we have to use our bodies and our minds in the only way that we see fit. We must begin like the philosopher Camus to come alive by saying "No!" That is the only act in which we begin to come alive, and we have to say "No!" to many, many things in this country.

This country is a nation of thieves. It has stole everything it has, beginning with black people, beginning with black people. And that the question is, How can we move to start changing this country from what it is a nation of thieves. This country cannot justify any longer its existence. We have become the policeman of the world. The marines are at our disposal to always bring democracy, and if the Vietnamese don't want democracy, well dammit, "We'll just wipe them the hell out, 'cause they don't deserve to live if they won't have our way of life."

There is then in a larger sense, What do you do on your university campus? Do you raise questions about the hundred black students who were kicked off campus a couple of weeks ago? Eight hundred? Eight hundred? And how does that question begin to move? Do you begin to relate to people outside of the ivory tower and university wall? Do you think you're capable of building those human relationships, as the country now stands? You're fooling yourself. It is impossible for white and black people to talk about building a relationship based on humanity when the country is the way it is, when the institutions are clearly against us.

We have taken all the myths of this country and we've found them to be nothing but downright lies. This country told us that if we worked hard we would succeed, and if that were true we would own this country lock, stock, and barrel lock, stock, and barrel lock, stock, and barrel. It is we who have picked the cotton for nothing. It is we who are the maids in the kitchens of liberal white people. It is we who are the janitors, the porters, the elevator men; we who sweep up your college floors. Yes, it is we who are the hardest workers and the lowest paid, and the lowest paid.

And that it is nonsensical for people to start talking about human relationships until they're willing to build new institutions. Black people are economically insecure. White liberals are economically secure. Can you begin to build an economic coalition? Are the liberals willing to share their salaries with the economically insecure black people they so much love? Then if you're not, are you willing to start building new institutions that will provide economic security for black people? That's the question we want to deal with. That's the question we want to deal with.

We have to seriously examine the histories that we have been told. But we have something more to do than that. American students are perhaps the most politically unsophisticated students in the world. Across every country in this world, while we were growing up, students were leading the major revolutions of their countries. We have not been able to do that. They have been politically aware of their existence. In South America our neighbors down below the border have one every 24 hours just to remind us that they're politically aware.

And we have been unable to grasp it because we've always moved in the field of morality and love while people have been politically jiving with our lives. And the question is, How do we now move politically and stop trying to move morally? You can't move morally against a man like Brown and Reagan. You've got to move politically to put them out of business. You've got to move politically.

You can't move morally against Lyndon Baines Johnson because he is an immoral man. He doesn't know what it's all about. So you've got to move politically. You've got to move politically. And that we have to begin to develop a political sophistication which is not to be a parrot: "The two-party system is the best party in the world." There is a difference between being a parrot and being politically sophisticated.

We have to raise questions about whether or not we do need new types of political institutions in this country, and we in SNCC maintain that we need them now. We need new political institutions in this

Document Text

country. Any time Lyndon Baines Johnson can head a Party which has in it Bobby Kennedy, Wayne Morse, Eastland, Wallace, and all those other supposed-to-be-liberal cats, there's something wrong with that Party. They're moving politically, not morally. And that if that party refuses to seat black people from Mississippi and goes ahead and seats racists like Eastland and his clique, it is clear to me that they're moving politically, and that one cannot begin to talk morality to people like that.

We must begin to think politically and see if we can have the power to impose and keep the moral values that we hold high. We must question the values of this society, and I maintain that black people are the best people to do that because we have been excluded from that society. And the question is, we ought to think whether or not we want to become a part of that society. That's what we want to do.

And that that is precisely what it seems to me that the Student Nonviolent Coordinating Committee is doing. We are raising questions about this country. I do not want to be a part of the American pie. The American pie means raping South Africa, beating Vietnam, beating South America, raping the Philippines, raping every country you've been in. I don't want any of your blood money. I don't want it don't want to be part of that system. And the question is, How do we raise those questions? How do we begin to raise them?

We have grown up and we are the generation that has found this country to be a world power, that has found this country to be the wealthiest country in the world. We must question how she got her wealth? That's what we're questioning, and whether or not we want this country to continue being the wealthiest country in the world at the price of raping everybody else across the world. That's what we must begin to question. And that because black people are saying we do not now want to become a part of you, we are called reverse racists. Ain't that a gas?

Now, then, we want to touch on nonviolence because we see that again as the failure of white society to make nonviolence work. I was always surprised at Quakers who came to Alabama and counseled me to be nonviolent, but didn't have the guts to start talking to James Clark to be nonviolent. That is where nonviolence needs to be preached to Jim Clark, not to black people. They have already been nonviolent too many years. The question is, Can white people conduct their nonviolent schools in Cicero where they belong to be conducted, not among black people in Mississippi. Can they conduct it among the white people in Grenada?

Six-foot-two men who kick little black children can you conduct nonviolent schools there? That is the question that we must raise, not that you conduct nonviolence among black people. Can you name me one black man today who's killed anybody white and is still alive? Even after rebellion, when some black brothers throw some bricks and bottles, ten thousand of them has to pay the crime, 'cause when the white policeman comes in, anybody who's black is arrested, "'cause we all look alike."

So that we have to raise those questions. We, the youth of this country, must begin to raise those questions. And we must begin to move to build new institutions that's going to speak to the needs of people who need it. We are going to have to speak to change the foreign policy of this country. One of the problems with the peace movement is that it's just too caught up in Vietnam, and that if we pulled out the troops from Vietnam this week, next week you'd have to get another peace movement for Santo Domingo. And the question is, How do you begin to articulate the need to change the foreign policy of this country a policy that is decided upon race, a policy on which decisions are made upon getting economic wealth at any price, at any price.

Now we articulate that we therefore have to hook up with black people around the world; and that that hookup is not only psychological, but becomes very real. If South America today were to rebel, and black people were to shoot the hell out of all the white people there as they should, as they should then Standard Oil would crumble tomorrow. If South Africa were to go today, Chase Manhattan Bank would crumble tomorrow. If Zimbabwe, which is called Rhodesia by white people, were to go tomorrow, General Electric would cave in on the East Coast. The question is, How do we stop those institutions that are so willing to fight against "Communist aggression" but closes their eyes to racist oppression? That is the question that you raise. Can this country do that?

Now, many people talk about pulling out of Vietnam. What will happen? If we pull out of Vietnam, there will be one less aggressor in there we won't be there, we won't be there. And so the question is, How do we articulate those positions? And we cannot begin to articulate them from the same assumptions that the people in the country speak, 'cause they speak from different assumptions than I assume what the youth in this country are talking about.

That we're not talking about a policy or aid or sending Peace Corps people in to teach people how

to read and write and build houses while we steal their raw materials from them. Is that what we're talking about? 'Cause that's all we do. What underdeveloped countries need information on how to become industrialized, so they can keep their raw materials where they have it, produce them and sell it to this country for the price it's supposed to pay; not that we produce it and sell it back to them for a profit and keep sending our modern day missionaries in, calling them the sons of Kennedy. And that if the youth are going to participate in that program, how do you raise those questions where you begin to control that Peace Corps program? How do you begin to raise them?

How do we raise the questions of poverty? The assumptions of this country is that if someone is poor, they are poor because of their own individual blight, or they weren't born on the right side of town; they had too many children; they went in the army too early; or their father was a drunk, or they didn't care about school, or they made a mistake. That's a lot of nonsense. Poverty is well calculated in this country. It is well calculated, and the reason why the poverty program won't work is because the calculators of poverty are administering it. That's why it won't work.

So how can we, as the youth in the country, move to start tearing those things down? We must move into the white community. We are in the black community. We have developed a movement in the black community. The challenge is that the white activist has failed miserably to develop the movement inside of his community. And the question is, Can we find white people who are going to have the courage to go into white communities and start organizing them? Can we find them? Are they here and are they willing to do that? Those are the questions that we must raise for the white activist.

And we're never going to get caught up in questions about power. This country knows what power is. It knows it very well. And it knows what Black Power is 'cause it deprived black people of it for 400 years. So it knows what Black Power is. That the question of, Why do black people Why do white people in this country associate Black Power with violence? And the question is because of their own inability to deal with "blackness." If we had said "Negro power" nobody would get scared. Everybody would support it. Or if we said power for colored people, everybody'd be for that, but it is the word "black" it is the word "black" that bothers people in this country, and that's their problem, not mine their problem, their problem.

Now there's one modern day lie that we want to attack and then move on very quickly and that is the lie that says anything all black is bad. Now, you're all a college university crowd. You've taken your basic logic course. You know about a major premise and minor premise. So people have been telling me anything all black is bad. Let's make that our major premise.

Major premise: Anything all black is bad.

Minor premise or particular premise: I am all black.

Therefore …

I'm never going to be put in that trick bag; I am all black and I'm all good, dig it. Anything all black is not necessarily bad. Anything all black is only bad when you use force to keep whites out. Now that's what white people have done in this country, and they're projecting their same fears and guilt on us, and we won't have it, we won't have it. Let them handle their own fears and their own guilt. Let them find their own psychologists. We refuse to be the therapy for white society any longer. We have gone mad trying to do it. We have gone stark raving mad trying to do it.

I look at Dr. King on television every single day, and I say to myself: "Now there is a man who's desperately needed in this country. There is a man full of love. There is a man full of mercy. There is a man full of compassion." But every time I see Lyndon on television, I said, "Martin, baby, you got a long way to go."

So that the question stands as to what we are willing to do, how we are willing to say "No" to withdraw from that system and begin within our community to start to function and to build new institutions that will speak to our needs. In Lowndes County, we developed something called the Lowndes County Freedom Organization. It is a political party. The Alabama law says that if you have a Party you must have an emblem. We chose for the emblem a black panther, a beautiful black animal which symbolizes the strength and dignity of black people, an animal that never strikes back until he's back so far into the wall, he's got nothing to do but spring out. Yeah. And when he springs he does not stop.

Now there is a Party in Alabama called the Alabama Democratic Party. It is all white. It has as its emblem a white rooster and the words "white supremacy for the right." Now the gentlemen of the Press, because they're advertisers, and because most of them are white, and because they're produced by that white institution, never called the Lowndes County Freedom Organization by its name, but rather they call it the Black Panther Party. Our question is, Why don't they call the Alabama Democratic

Document Text

Party the "White Cock Party"? (It's fair to us.) It is clear to me that that just points out America's problem with sex and color, not our problem, not our problem. And it is now white America that is going to deal with those problems of sex and color.

If we were to be real and to be honest, we would have to admit that most people in this country see things black and white. We have to do that. All of us do. We live in a country that's geared that way. White people would have to admit that they are afraid to go into a black ghetto at night. They are afraid. That's a fact. They're afraid because they'd be "beat up," "lynched," "looted," "cut up," et cetera, et cetera. It happens to black people inside the ghetto every day, incidentally, and white people are afraid of that. So you get a man to do it for you a policeman. And now you figure his mentality, when he's afraid of black people. The first time a black man jumps, that white man going to shoot him. He's going to shoot him. So police brutality is going to exist on that level because of the incapability of that white man to see black people come together and to live in the conditions. This country is too hypocritical and that we cannot adjust ourselves to its hypocrisy.

The only time I hear people talk about nonviolence is when black people move to defend themselves against white people. Black people cut themselves every night in the ghetto. Don't anybody talk about nonviolence. Lyndon Baines Johnson is busy bombing the hell of out Vietnam. Don't nobody talk about nonviolence. White people beat up black people every day. Don't nobody talk about nonviolence. But as soon as black people start to move, the double standard comes into being.

You can't defend yourself. That's what you're saying, 'cause you show me a man who would advocate aggressive violence that would be able to live in this country. Show him to me. The double standards again

Glossary

Berkeley	the University of California at Berkeley, the flagship campus of the University of California system
Bernard Shaw	George Bernard Shaw, an Irish playwright of the late nineteenth and early twentieth centuries and a Socialist
Bobby Kennedy	Robert Kennedy, the U.S. attorney general and brother of President John F. Kennedy
Brown	Governor Edmund G. "Pat" Brown of California
Camus	Albert Camus, a French intellectual whose name is connected with the absurdist movement
Dr. King	Martin Luther King, Jr.
Eastland	James Eastland, a conservative U.S. senator from Mississippi
Frantz Fanon	a writer, philosopher, and revolutionary who was born in Martinique and whose books were key documents in the anticolonial movement
Frederick Douglass	the preeminent abolitionist during the nineteenth century
Gestapo	the official secret police of Nazi Germany
Head Start, Upward Lift, Bootstrap, and Upward Bound	all programs designed to provide educational and economic opportunities for the poor
Ho Chi Minh	the leader of Communist North Vietnam
Jim Clark	the sheriff of Dallas County, Alabama, who authorized the violent assaults and arrests of activists during the Selma-to-Montgomery march of 1965
Lady Bird Johnson	the wife of President Lyndon Johnson

Document Text

come into itself. Isn't it ludicrous and hypocritical for the political chameleon who calls himself a Vice President in this country to stand up before this country and say, "Looting never got anybody anywhere"? Isn't it hypocritical for Lyndon to talk about looting, that you can't accomplish anything by looting and you must accomplish it by the legal ways? What does he know about legality? Ask Ho Chi Minh, he'll tell you.

So that in conclusion we want to say that number one, it is clear to me that we have to wage a psychological battle on the right for black people to define their own terms, define themselves as they see fit, and organize themselves as they see it. Now the question is, How is the white community going to begin to allow for that organizing, because once they start to do that, they will also allow for the organizing that they want to do inside their community. It doesn't make a difference, 'cause we're going to organize our way anyway. We're going to do it. The question is, How are we going to facilitate those matters, whether it's going to be done with a thousand policemen with submachine guns, or whether or not it's going to be done in a context where it is allowed to be done by white people warding off those policemen. That is the question.

And the question is, How are white people who call themselves activists ready to start move into the white communities on two counts: on building new political institutions to destroy the old ones that we have? And to move around the concept of white youth refusing to go into the army? So that we can start, then, to build a new world. It is ironic to talk about civilization in this country. This country is uncivilized. It needs to be civilized. It needs to be civilized.

And that we must begin to raise those questions of civilization: What it is? And who do it? And so we must

Glossary

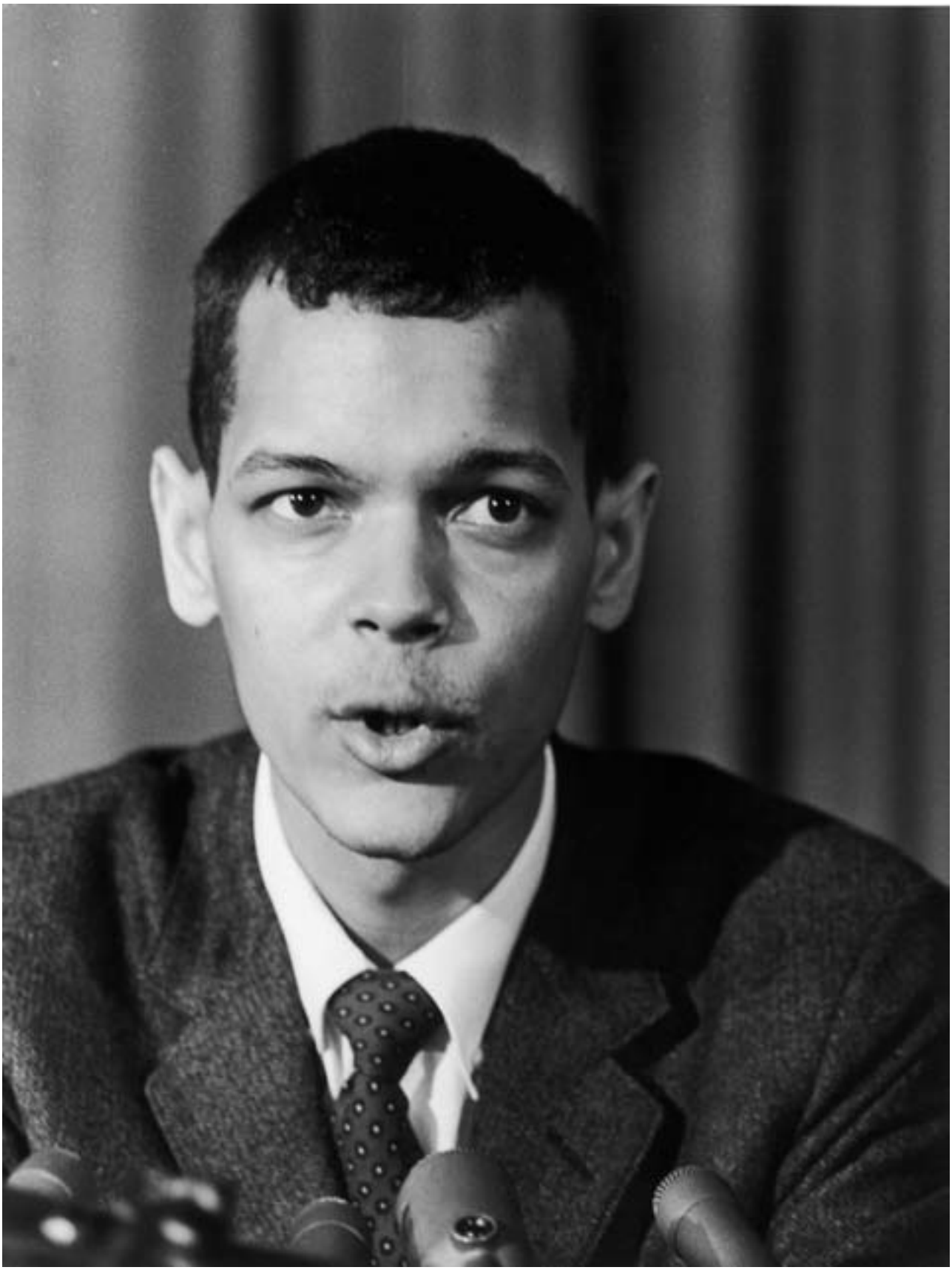
Lyndon Baines Johnson	the U.S. president from 1963 to 1969
McNamara	Robert McNamara, U.S. secretary of defense
Peace Corps	an international volunteer program run by the U.S. government
Reagan	Ronald Reagan, who would become governor of California in 1967 and, later, president of the United States
Rockefeller	Nelson Rockefeller, the governor of New York and heir to the Standard Oil fortune
Ross Barnett	an earlier segregationist governor of Mississippi
Rusk	Dean Rusk, the U.S. secretary of state under Presidents John Kennedy and Lyndon Johnson
Santo Domingo	the capital of the Dominican Republic
Sartre	Jean-Paul Sartre, a French existentialist and Communist who opposed French rule in Algeria
Sheriff Rainey	Lawrence Rainey, sheriff of Neshoba County, Mississippi, referring to the murder in 1964 of three civil rights workers through the collusion of local law enforcement agencies and the Ku Klux Klan
SNCC	the Student Nonviolent Coordinating Committee, a civil rights organization
thalidomide	a drug given to pregnant women that turned out to cause severe birth defects
2S	II-S, a draft classification that deferred military service for students
Wallace	George Wallace, the segregationist governor of Alabama
Wayne Morse	a U.S. senator from Oregon who was one of only two U.S. senators to vote against the Gulf of Tonkin Resolution, deepening U.S. involvement in Vietnam

Document Text

urge you to fight now to be the leaders of today, not tomorrow. We've got to be the leaders of today. This country is a nation of thieves. It stands on the brink of becoming a nation of murderers. We must stop it. We must stop it. We must stop it. We must stop it.

And then, therefore, in a larger sense there's the question of black people. We are on the move for our liberation. We have been tired of trying to prove things to white people. We are tired of trying to explain to white people that we're not going to hurt them. We are concerned with getting the things we want, the things that we have to have to be able to function. The question is, Can white people allow for that in this country? The question is, Will white people overcome their racism and allow for that to happen in this country? If that does not happen, brothers and sisters, we have no choice but to say very clearly, "Move over, or we're going to move on over you."

Thank you.



Julian Bond (AP/Wide World Photos)

Bond v. Floyd

1966

"The manifest function of the First Amendment ... requires that legislators be given the widest latitude to express their views."

Overview

Argued on November 10, 1966, and decided on December 5, 1966, the case of *Bond v. Floyd* is probably best known for its result: stopping the Georgia House of Representatives from refusing to seat Julian Bond, an elected representative, based on his opposition to the Vietnam War. However, its import far outstrips its result. The opinion holds that legislators enjoy all of the First Amendment protections that citizens enjoy, including the right to dissent, and that their exercise of those rights allows constituents to know whether they are properly representing the constituents' interests. The U.S Supreme Court's conception of the role of the First Amendment in fostering a healthy relationship between legislator and constituent led to its judgment that legislatures are not allowed to refuse to seat a dissenter merely because the other members of the legislature do not like what the dissenting legislator says. This opinion guaranteed that candidates for office and elected legislators, including African Americans, who were just beginning to be elected in reasonable numbers at the time, could openly dissent on issues of foreign and domestic policy without worrying about whether they could be blocked from taking their seats because of their political views.

Context

The broad context of *Bond v. Floyd* involves the way in which dissent on American foreign policy by legislators is tolerated and how legislators may treat fellow legislators who dissent from the prevailing views. Legislators may be treated poorly by fellow legislators and by their constituents as a result of their dissenting views. However, it was unclear at the time whether a legislature could use its power to judge the qualifications of its members in order to refuse to seat a duly elected member merely for his or her opposition to war and dissent on foreign policy.

The narrow context of *Bond v. Floyd* involved the convergence of three powerful forces in 1960s America: the civil rights movement, anti Vietnam War sentiment, and the push toward equally populous districts that would lead to the election of African American candidates in significant numbers for the first time since Reconstruction. Julian Bond, a leader in the Student Nonviolent Coordinating Committee (SNCC) a major civil rights organization in the 1960s endorsed SNCC's anti Vietnam War statements and was consequently denied a seat in the Georgia legislature after being elected to a district that was created as a result.

War and civil rights had been linked for many generations prior to *Bond v. Floyd*. Whether the war at issue was the Civil War, World War I, or World War II, some discussion of the need for adequate civil rights for African American soldiers and African Americans in general had taken place. In these earlier wars, the demand for equal civil rights accompanied support for the war. The Vietnam War was different. Many who fought for civil rights at home questioned whether it made sense for African Americans to fight in the war when they did not have equal rights at home, particularly given that the Vietnam War was ostensibly being fought to keep or make Vietnam free. The linkage between support of civil rights and dissent on American war policy allowed some to renew their contempt for civil rights and for those who supported equality. Others thought that civil rights supporters should stick to advocating for civil rights and should not comment on war or foreign policy.

The struggle for Vietnam had been ongoing for years before the United States committed substantial emotional and physical resources in 1964. The escalation of America's role occurred in the wake of the Gulf of Tonkin resolution, which authorized President Lyndon Johnson to use force in Vietnam. Over the next year, President Johnson ordered significant aerial bombing of Vietnam, sent tens of thousands of troops to Vietnam, and authorized many tens of thousands more.

This escalation came at a momentous time for the civil rights movement. The Civil Rights Act of 1964, the most sweeping civil rights bill since Reconstruction, had been passed in no small measure because of President Johnson's support. Through a series of cases, the Supreme Court had declared that one-man, one-vote was required under the Constitution, leading to the redrawing of district lines to guarantee that districts would consist of equal populations. This redistricting promised that if African Americans were allowed to vote areas with high concentrations of

Time Line

1960

- **February 1**
  Sit-ins begin in Greensboro, North Carolina, to protest segregation.
- **April 17**
  The Student Nonviolent Coordinating Committee is founded by hundreds of students, including Julian Bond.

1961

- **May**
  Integrated Freedom Rides throughout the South seek to demonstrate the possibility of integrated interstate bus travel.

1962

- **October 1**
  James Meredith is the first African American to attend the University of Mississippi.

1963

- **August 28**
  Martin Luther King, Jr., delivers his "I Have a Dream" speech during the March on Washington.
- **November 22**
  President John F. Kennedy is assassinated in Dallas, Texas; Lyndon B. Johnson becomes president.

1964

- **June 15**
  Reynolds v. Sims is decided, leading to the requirement that state legislative districts have equal populations.
- **July 2**
  President Johnson signs the Civil Rights Act of 1964.
- **August 7**
  The Gulf of Tonkin resolution is passed, giving President Johnson the explicit authority to use force in Vietnam.

1965

- The Selma voting rights campaign, led by SNCC since 1963, intensifies when the Southern Christian Leadership Conference becomes involved in the campaign.

African American citizens would be able to elect representatives to their liking for the first time in many years, if ever. The eventual passage of the Voting Rights Act of 1965 helped ensure that African Americans would be allowed to vote in areas of the country where their electoral voices had been stifled for years. American life was becoming relatively more equal and democratic. However, civil rights organizations, their leaders, and many others recognized that the United States had far to go before its citizens would become truly equal. This is why the U.S. claim that the war was being fought to guarantee freedom to the people of Vietnam struck a discordant note to some in civil rights organizations and triggered dissent. Some dissenters were philosophically opposed to war. Others were opposed to this particular war. In sum, the dissent was significant.

In August 1965 Martin Luther King, Jr., spoke out against U.S. involvement in the Vietnam War. Although some might have thought that the 1964 Nobel Peace Prize winner would understandably speak out against war, others argued that he should stick to civil rights rather than opine on American foreign policy. Nonetheless, King specifically linked civil rights and the war in Vietnam. His outspokenness was not appreciated by President Johnson or by some of his own supporters. Undaunted, King continued to oppose the war. Other civil rights leaders and organizations would speak out against the war when they deemed the time was right. In early 1966 SNCC did just that. It was their statement opposing the war that led directly to *Bond v. Floyd*.

When private citizens dissented with respect to the Vietnam War in particular and American foreign policy in general, legislators could do little to stop them. The First Amendment clearly protected the right to dissent. Indeed, legislators arguably had little reason to pay attention to the dissenters as long as the dissent did not involve violence. However, legislators could take additional interest if those dissenters were going to become colleagues. Julian Bond's criticism of American foreign policy and the Vietnam War as he was about to take office put him in the category of potential legislator-dissenter.

Julian Bond was elected to the Georgia legislature in 1965 in a special election that was required when Georgia had to redraw its electoral districts as a result of the Supreme Court's one-man, one-vote jurisprudence. Before he was sworn in, he noted his support for an official statement made by SNCC in January 1966 regarding opposition to the Vietnam War. Bond was the communications director of SNCC and a supporter from the organization's early days, but he had not drafted the statement. The statement was issued in response to the murder of Samuel Younge, Jr. (misspelled "Young" in the document), a member of SNCC and a Tuskegee Institute student who was killed in January 1966 for using the segregated bathroom at a Tuskegee gas station. The statement indicated SNCC's disapproval of American foreign policy as expressed in the country's involvement in the Vietnam War. The statement linked freedom at home with freedom abroad, suggesting that the U.S. government's claims to fight for freedom overseas appeared to be at odds with its refusal to fight for freedom

at home. The statement also linked Younge's struggle for freedom and his ultimate death with the Vietnamese peasants' fight for freedom and potential death. SNCC's statement ultimately suggested that Americans ought to be allowed to avoid the military draft by working with organizations in the United States that sought to build democracy here.

A number of members of the Georgia legislature wanted to refuse to seat Bond because of his support for the statement and his opposition to the Vietnam War. It could be argued that the legislators merely claimed that Bond could not honestly take the oath of office and therefore could not be seated. However, whether Bond could profess support for the U.S. Constitution and the Georgia constitution, as required by the oath, was inextricably linked to the substance of the debate about the Vietnam War. The Court decided that whether a legislator could sincerely take an oath was to be decided by the legislator alone, not by the legislator's peers.

About the Author

Born on March 19, 1891, in Los Angeles, California, Earl Warren was chief justice of the United States from 1953 to 1969. Warren grew up in Bakersfield, California, the son of parents who were born in Scandinavia and raised in the United States. During his youth, Warren worked for the Southern Pacific Railroad as a call boy rounding up crews for the railroad. That experience exposed him to working men and labor issues in a way that some have suggested shaped his thoughts on the law, if not his entire outlook on life. After graduating from high school in 1908, he attended the University of California at Berkeley and its law school, Boalt Hall. Despite his discomfort with the narrowness of its curriculum, he graduated from Boalt Hall in 1914.

After practicing in the legal department of an oil company in San Francisco and with a small firm in Oakland, Warren joined the U.S. Army during World War I. He served stateside and left active duty at the end of the war. After clerking for the California legislature and working in Oakland's city attorney's office and as a deputy district attorney for Alameda County, California, Warren was appointed district attorney of the county. He was then elected to the post and served as district attorney for thirteen years before being elected attorney general of California in 1938. As attorney general, Warren played a significant role in the tragic and ill-conceived decision of the U.S. government to relocate Japanese and Japanese Americans during World War II. He later expressed regret for his role in the affair. After serving one term as attorney general of California, Warren was elected governor of California in 1942. He was reelected in 1946 and 1950, serving as governor until he was appointed to the Supreme Court in 1953.

Warren was also active in national politics. In 1948, during his second term as governor, Warren ran for the vice presidency as Republican Thomas Dewey's running mate. Warren sought the Republican Party's nomination for pres-

Time Line

1965

- **June 15**
  Julian Bond is elected to the Georgia legislature.
- **August 6**
  The Voting Rights Act of 1965 is signed.
- **August 12**
  King begins to speak out against the Vietnam War, specifically linking the war and civil rights in his speech at the Southern Christian Leadership Conference annual meeting.

1966

- **January 6**
  SNCC issues a statement in opposition to the Vietnam War, tying opposition to war with support for democracy and human rights in the United States. Julian Bond endorses this statement.
- **December 5**
  The U.S. Supreme Court decides *Bond v. Floyd*, ruling unanimously that legislators and private citizens enjoy the same free speech right to dissent and that legislators may need to exercise that right to represent their constituents properly.

1967

- Congress refuses to seat Representative Adam Clayton Powell in the U.S. House, citing financial improprieties.

1969

- **June 16**
  The U.S. Supreme Court decides *Powell v. McCormack*, noting that in excluding members Congress is limited to basing such action on the qualifications listed in the U.S. Constitution.

1975

- **April**
  The Vietnam War ends.

ident in 1952, losing to Dwight Eisenhower. In early 1953, Warren accepted the post of solicitor general. However, following the death of Chief Justice Fred Vinson, Warren was appointed chief justice of the United States. After serving for several months, Warren was confirmed by the Senate on March 1, 1954. Although the Warren Court has been cheered by many and derided by others, the decisions issued during Warren's tenure as chief justice changed fundamental aspects of American law. Many of those seminal decisions were authored by Chief Justice Warren himself, including *Brown v. Board of Education* (1954) and its sequel, commonly called *Brown II* (1955); *Reynolds v. Sims* (1964); *Miranda v. Arizona* (1966); *Loving v. Virginia* (1967); and *Terry v. Ohio* (1968).

In the wake of the assassination of President John F. Kennedy, Warren served as the chair of the President's Commission on the Assassination of President Kennedy, commonly known as the Warren Commission. That commission's most famous conclusion that Lee Harvey Oswald acted alone in assassinating President Kennedy has been debated and challenged since the commission's report was issued in 1964. Earl Warren retired in 1969 at the close of the Court's term and died on July 9, 1974.

Explanation and Analysis of the Document

Chief Justice Warren begins the opinion by stating the question that the Court must answer: whether the Georgia House of Representatives could exclude Julian Bond based on statements Bond had made criticizing the war in Vietnam and the operation of the draft. In stating the question as such, Warren arguably asks simply whether elected officials enjoy the constitutional protection of freedom of speech. Warren suggests that the question might not be as straightforward as it seemed, but he ultimately would determine that the First Amendment fairly clearly protects Bond's right to free speech.

Before analyzing the issue, Warren sets the case in context. However, he omits some facts that might appear important to understanding the significance of the moment and precisely why Bond acted as he did. For example, Warren notes that Bond was elected from a district where more than 90 percent of the voters were African American, but he does not comment that the district and the election were direct results of the Court's one-man, one-vote jurisprudence.

◆ SNCC's Statement in Opposition to Vietnam War and Bond's Statement of Support

Warren then provides the immediate circumstances that triggered the litigation: a statement issued by SNCC on January 6, 1966, opposing the war in Vietnam and remarks made by Bond, SNCC's communications director, in support of the statement. SNCC's statement noted that the organization opposed U.S. involvement in the Vietnam War and indicated the basis for its opposition: The U.S. government had neither sought nor supported freedom for people of color. The statement said that SNCC found a rough equivalence in the U.S. treatment of people of color in the southern United States and of people of color in Vietnam, with rights guaranteed by law ignored if enforcing those rights ran counter to U.S. interests. The killing of Samuel Younge, in Tuskegee, Alabama, was cited as proof that the United States was not willing to protect its citizens' rights any more than it was willing to protect the rights of the Vietnamese. In addition, the statement suggested that the right to free elections ensured by the Civil Rights Act of 1964 and the Voting Rights Act of 1965 was illusory, because those laws were not being fully implemented. Additionally, the U.S. government's commitment to free elections in other countries was questioned. The statement reasoned that, for many, it would not be sensible to fight for freedom abroad when freedom at home was impossible to achieve. Consequently, SNCC stated that "work[ing] in the civil rights movement and with other human rights organizations is a valid alternative to the draft" and urged those who agreed to embrace the alternative even though that embrace could cost them their lives.

SNCC's statement was issued the day after Samuel Younge, Jr., a member of the organization, a navy veteran, and a student at Tuskegee Institute, was murdered when he attempted to use a segregated restroom at a gas station in Tuskegee. After quoting portions of the SNCC statement (but passing over the context in which it was made), the Court's opinion notes and quotes Bond's remarks. In an interview about the statement on the day it was released, Bond endorsed it, though he had not written it. Bond commented that as a pacifist he opposed all wars and felt it to be his duty to encourage others to oppose war in general, the Vietnam War in particular, and the draft. He also observed that the statement correctly noted the hypocrisy of the U.S. government in encouraging freedom in foreign countries but not within its own borders. Consequently, Bond indicated that "as a second-class citizen" he did not feel compelled to support the war and that he did feel obliged to challenge situations he thought wrong. Bond's views on the war led to his belief "that people ought [not] to participate in it" and to his opposition to the draft. Nonetheless, Bond stated that he felt that his views on the war and American foreign policy did not conflict with his taking the oath of office under the Georgia constitution.

◆ Bond's Exclusion from the Georgia Legislature

The opinion then details the firestorm that led to Bond's exclusion from the Georgia House of Representatives. In the wake of Bond's comments supporting SNCC's statement, many members of the Georgia legislature filed protests against Bond's taking his seat. The petitions claimed that "Bond's statements gave aid and comfort to the enemies of the United States and Georgia, violated the Selective Service laws, and tended to bring discredit and disrespect on the House." In addition, the petitions argued that Bond could not take the oath necessary to be seated, which required that the taker swear to support the Constitution of the United States. The clerk of the legislature

refused to give Bond the oath until the challenge petitions were resolved.

Bond responded by arguing that the petitions were racially motivated and had been filed to restrict his First Amendment rights. Given how the Court resolved the case, it never reached the question of whether the petitions were racially motivated. A special committee of the Georgia legislature was convened to resolve the dispute, with the only testimony being Bond's, during which he defended his support for SNCC's statement. Bond explained that he had voiced support for those who had the courage to do what they believed to be right even when they faced serious harm for doing so. He denied that he ever had suggested that laws should be broken or draft cards should be burned, noting that he carried his own draft card in his pocket. The special committee also considered Bond's statements made after the clerk of the legislature refused to administer the oath. Bond indicated that he was being forced to defend his statements about a matter of public concern when others had not been asked to do so as a prerequisite to being seated. He spoke directly to his constituents, reiterating that he did not advocate violating the law but that he favored extending the recognized justifications for avoiding the draft to "building democracy at home." He explained that he had no plans to stop speaking out on matters of public concern as a legislator, even when his views were at odds with the views of others, and he reiterated that he planned to take the customary oath required of Georgia legislators.

The special legislative committee considered Bond's statements as proof that he could not honestly swear to support the constitutions of Georgia and the United States. In addition, it found that Bond's statements proved that he gave aid and comfort to the enemies of Georgia and the United States, violated the selective service laws, and would likely "bring discredit to and disrespect of" the legislature. Consequently, the committee determined that Bond would not be allowed to take the oath and would not be seated as a representative.

◆ Procedural Background of the Case

The opinion next describes the legal proceedings that brought the case to the Supreme Court. In the wake of being excluded from the Georgia legislature, Bond filed suit seeking judgment that Georgia was not authorized to deny him a seat and that his First Amendment rights had been violated. The three-judge panel that heard the suit determined that Georgia law allowed the legislature to require qualifications of its members in addition to those specified in the Georgia constitution. The panel then determined that Bond's constitutional rights had not been violated. The legislature had satisfied procedural due process by providing a proper hearing in front of the special legislative committee. Similarly, according to the panel, substantive due process was satisfied because Bond's statements gave the legislature a reasonable basis for determining that Bond could not take the oath of office required of him. Two judges agreed that Bond's call to action to challenge the draft, rather than his dissent regarding policy, provided a basis for the legislature to believe that Bond "could not in good faith take an oath to support the State and Federal Constitutions." One judge dissented, arguing that barring Bond based on qualifications not in the Georgia constitution was beyond the legislature's authority under Georgia law.

The opinion notes that in the wake of the panel's decision and while Bond's appeal to the Supreme Court was pending, the governor of Georgia had ordered a special election to fill Bond's vacant seat. Bond won that election, and the legislature again refused to seat him. Bond also won the 1966 regular election to fill the seat.

◆ Legal Analysis of Case

The opinion next analyzes the substance of the case, noting the specific qualifications listed in the Georgia constitution that could be required of its legislators without constitutional concern. Thus, the various eligibility requirements for Georgia's legislators, such as age and residency qualifications, were legitimate. In addition, the exclusion of those who have been convicted of various crimes or suffer from certain mental infirmities was acceptable. Indeed, even the requirement that legislators take an oath affirming support for the Georgia and U.S. constitutions and act in the best interests of Georgia was acceptable. However, the opinion then analyzes whether the Georgia legislature is limited to requiring that the oath be taken or whether it can opine on the sincerity of the legislator who takes the oath.

The opinion addresses the Georgia legislature's claim that the formal requirement of an oath allowed the House of Representatives to determine whether the legislator planned to take the oath "with sincerity" and that the sincerity requirement would merely qualify as an additional acceptable qualification for office. The legislature argued that it had the ability to establish the qualifications of its members under the Georgia constitution. Although it conceded that it could not exclude a member based on race or other unconstitutional bases, it argued that ascertaining the sincerity of a legislator in taking the required oath was at the core of determining a member's qualification and should not be subject to judicial review. The opinion rejects the suggestion that the Court did not have jurisdiction, noting that the issue was whether the decision violated Bond's First Amendment rights. That question, the opinion notes, was a matter for the Supreme Court to decide.

After noting its jurisdiction over the matter, the opinion reaches the key question: Did the Georgia legislature's action violate Bond's First Amendment rights? The Georgia House of Representatives claimed that Bond's statements called for violations of the law and that even if a private citizen could have uttered those statements without repercussions, the state could hold its legislators to higher standards of loyalty than it held the public. The opinion agrees that Georgia could require that its legislators take an oath swearing fidelity to the U.S. Constitution and the Georgia constitution consistent with First Amendment principles, but it rejects the implications that the Georgia legislature

Essential Quotes

"The question presented in this case is whether the Georgia House of Representatives may constitutionally exclude appellant Bond, a duly elected Representative, from membership because of his statements, and statements to which he subscribed, criticizing the policy of the Federal Government in Vietnam and the operation of the Selective Service laws."

(SNCC's Statement in Opposition to Vietnam War and Bond's Statement of Support)

"The manifest function of the First Amendment in a representative government requires that legislators be given the widest latitude to express their views on issues of policy."

(The Representative's Obligation of Open and Free Expression)

"Legislators have an obligation to take positions on controversial political questions so that their constituents can be fully informed by them, and be better able to assess their qualifications for office; also so they may be represented in governmental debates by the person they have elected to represent them."

(The Representative's Obligation of Open and Free Expression)

suggested came with the oath requirement. The oath requirement did not limit the legislator's First Amendment rights. First, contrary to the Georgia legislature's claim, the Court found Bond's statements to be lawful expressions of dissent to American policy, rather than a call for lawless action. Any citizen would have been allowed to say what Bond said without repercussions. Second, the Court notes that the Constitution does not allow the state to restrict a legislator's rights to free expression any more than it can restrict an ordinary citizen's rights.

- **The Representative's Obligation of Open and Free Expression**

The opinion takes the issue one step further in discussing the role of the First Amendment in public discourse. The Georgia legislature had sought to limit Bond's rights to free expression because he was to become a legislator. The Court suggested that Bond's rights needed to be protected precisely because he was about to become a legislator. Rather than being limited by their elected positions, legislators are supposed to be free to speak at least as broadly and forcefully about national policy as ordinary citizens are. Indeed, their role in deciding issues of public policy makes it necessary for legislators to communicate their positions to their constituents through expressions of opinions on matters of public interest. If that opinion is dissent regarding state or national policy, it ought to be known to those who elected a legislator, so they could take it into account when deciding whether that legislator is a proper representative. Consequently, the Court held "that the disqualification of Bond from membership in the Georgia House because of his statements violated Bond's right of free expression under the First Amendment."

Audience

When the Supreme Court speaks on the breadth of constitutional rights and the fostering of democracy through representative-constituent dialogue, the entire country is its broad audience. *Bond v. Floyd* is no different with respect to its general views on the subjects. The public was told to expect candor from their representatives because candor was necessary for representatives to communicate with and adequately represent constituents. However, the narrower, more legalistic portions of the opinion were

arguably addressed to a narrower segment of the populace: those legislators and legislatures that would seek to make orthodoxy king and would root out dissent wherever it could be found. Federal and state legislators were encouraged to take notice that their prerogatives regarding when they could decline to seat members were to be limited and that they had no right to stifle dissent regarding policy through the exercise of their power to judge the qualifications of other members.

Impact

Bond v. Floyd guaranteed that a legislator's admission to a legislature was to be validated by qualifications and election by the citizenry, not by that person's ability to convince other legislators that his or her views were sufficiently orthodox. Consequently, candidates for office were free to explain their views and encouraged to present those views to their constituents to ensure that those candidates would make appropriate representatives for their constituents. In addition, the decision freed candidates who might have come out of civil rights protest organizations and antiwar organizations to express themselves fully and run for office without fear that they might not be able to take the seats they had won. The list of legislators in state legislatures and the halls of Congress who fit this description is much longer than it would have been without *Bond v. Floyd*.

See also Martin Luther King, Jr.: "I Have a Dream" (1963); Civil Rights Act of 1964; Martin Luther King, Jr.: "Beyond Vietnam: A Time to Break Silence" (1967).

Further Reading

Books

Bond, Julian. *A Time to Speak, a Time to Act*. New York: Simon & Schuster, 1972.

Davidson, Chandler, and Bernard Grofman, eds. *Quiet Revolution in the South*. Princeton, N.J.: Princeton University Press, 1994.

Forman, James. *The Making of Black Revolutionaries*. Seattle: University of Washington Press, 1997.

Lawson, Steven F. *Running for Freedom: Civil Rights and Black Politics in America since 1941*. 3rd ed. Chichester, U.K.: Wiley-Blackwell, 2008.

Web Sites

African-American Involvement in the Vietnam War Web site. http://www.aavw.org.

SNCC 1960 1966 Web site. http://www.ibiblio.org/sncc/index.html.

Henry J. Chambers, Jr.

Questions for Further Study

1. How would you describe the relationship between the civil rights movement and the antiwar movement in the 1960s? How did the two movements overlap?

2. Why was opposition to the war in Vietnam so intense in the 1960s and early 1970s? What was different about this war and, say, World War I or World War II?

3. Compare this document with Martin Luther King, Jr.'s "Beyond Vietnam: A Time to Break Silence." Taken together, how do the two documents paint a picture of opposition to the Vietnam War and the intersection of race and national policy during this time period?

4. On what basis did the Warren Court conclude that the Georgia legislature had to seat Bond?

5. Very often, the outcome of a legal case affects only the parties involved and, by extension, others who could be involved in similar circumstances. What argument could be made that the Court's decision in *Bond v. Floyd* had very much a national audience and that the outcome of the case affected all Americans?

Bond v. Floyd

Mr. Chief Justice Warren delivered the opinion of the Court.

The question presented in this case is whether the Georgia House of Representatives may constitutionally exclude appellant Bond, a duly elected Representative, from membership because of his statements, and statements to which he subscribed, criticizing the policy of the Federal Government in Vietnam and the operation of the Selective Service laws. An understanding of the circumstances of the litigation requires a complete presentation of the events and statements which led to this appeal.

Bond, a Negro, was elected on June 15, 1965, as the Representative to the Georgia House of Representatives from the 136th House District. Of the District's 6,500 voters, approximately 6,000 are Negroes. Bond defeated his opponent, Malcolm Dean, Dean of Men at Atlanta University, also a Negro, by a vote of 2,320 to 487.

On January 6, 1966, the Student Nonviolent Coordinating Committee, a civil rights organization of which Bond was then the Communications Director, issued the following statement on American policy in Vietnam and its relation to the work of civil rights organizations in this country:

> The Student Nonviolent Coordinating Committee has a right and a responsibility to dissent with United States foreign policy on an issue when it sees fit. The Student Nonviolent Coordinating Committee now states its opposition to United States' involvement in Viet Nam on these grounds: [385 U.S. 119]
>
> We believe the United States government has been deceptive in its claims of concern for freedom of the Vietnamese people, just as the government has been deceptive in claiming concern for the freedom of colored people in such other countries as the Dominican Republic, the Congo, South Africa, Rhodesia and in the United States itself.
>
> We, the Student Nonviolent Coordinating Committee, have been involved in the black people's struggle for liberation and self-determination in this country for the past five years. Our work, particularly in the South, has taught us that the United States government has never guaranteed the freedom of oppressed citizens, and is not yet truly determined to end the rule of terror and oppression within its own borders.
>
> We ourselves have often been victims of violence and confinement executed by United States government officials. We recall the numerous persons who have been murdered in the South because of their efforts to secure their civil and human rights, and whose murderers have been allowed to escape penalty for their crimes.
>
> The murder of Samuel Young in Tuskegee, Ala., is no different than the murder of peasants in Viet Nam, for both Young and the Vietnamese sought, and are seeking, to secure the rights guaranteed them by law. In each case, the United States government bears a great part of the responsibility for these deaths.
>
> Samuel Young was murdered because United States law is not being enforced. Vietnamese are murdered because the United States is pursuing an aggressive policy in violation of international law. The United States is no respecter of persons or law [385 U.S. 120] when such persons or laws run counter to its needs and desires.
>
> We recall the indifference, suspicion and outright hostility with which our reports of violence have been met in the past by government officials.
>
> We know that, for the most part, elections in this country, in the North as well as the South, are not free. We have seen that the 1965 Voting Rights Act and the 1964 Civil Rights Act have not yet been implemented with full federal power and sincerity.

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> We question, then, the ability and even the desire of the United States government to guarantee free elections abroad. We maintain that our country's cry of "preserve freedom in the world" is a hypocritical mask behind which it squashes liberation movements which are not bound, and refuse to be bound, by the expediencies of United States cold war policies.
>
> We are in sympathy with, and support, the men in this country who are unwilling to respond to a military draft which would compel them to contribute their lives to United States aggression in Viet Nam in the name of the "freedom" we find so false in this country.
>
> We recoil with horror at the inconsistency of a supposedly "free" society where responsibility to freedom is equated with the responsibility to lend oneself to military aggression. We take note of the fact that 16 percent of the draftees from this country are Negroes called on to stifle the liberation of Viet Nam, to preserve a "democracy" which does not exist for them at home.
>
> We ask, where is the draft for the freedom fight in the United States? [385 U.S. 121]
>
> We therefore encourage those Americans who prefer to use their energy in building democratic forms within this country. We believe that work in the civil rights movement and with other human relations organizations is a valid alternative to the draft. We urge all Americans to seek this alternative, knowing full well that it may cost their lives as painfully as in Viet Nam.

On the same day that this statement was issued, Bond was interviewed by telephone by a reporter from a local radio station, and, although Bond had not participated in drafting the statement, he endorsed the statement in these words:

> Why, I endorse it, first, because I like to think of myself as a pacifist, and one who opposes that war and any other war, and eager and anxious to encourage people not to participate in it for any reason that they choose, and secondly, I agree with this statement because of the reason set forth in it because I think it is sorta hypocritical for us to maintain that we are fighting for liberty in other places and we are not guaranteeing liberty to citizens inside the continental United States.
>
> Well, I think that the fact that the United States Government fights a war in Viet Nam, I don't think that I, as a second class citizen of the United States, have a requirement to support that war. I think my responsibility is to oppose things that I think are wrong if they are in Viet Nam or New York, or Chicago, or Atlanta, or wherever.

When the interviewer suggested that our involvement in Vietnam was because "if we do not stop Communism [385 U.S. 122] there, that it is just a question of where will we stop it next," Bond replied:

> Oh, no, I'm not taking a stand against stopping World Communism, and I'm not taking a stand in favor of the Viet Cong. What I'm saying that is, first, that I don't believe in that war. That particular war. I'm against all war. I'm against that war in particular, and I don't think people ought to participate in it. Because I'm against war, I'm against the draft. I think that other countries in the World get along without a draft England is one and I don't see why we couldn't, too.
>
> … I'm not about to justify that war, because it's stopping International Communism, or whatever you know, I just happen to have a basic disagreement with wars for whatever reason they are fought … fought to stop International Communism, to promote International Communism, or for whatever reason. I oppose the Viet Cong fighting in Viet Nam as much as I oppose the United States fighting in Viet Nam. I happen to live in the United States. If I lived in North Viet Nam, I might not have the same sort of freedom of expression, but it happens that I live here not there.

The interviewer also asked Bond if he felt he could take the oath of office required by the Georgia Constitution, and Bond responded that he saw nothing inconsistent between his statements and the oath. Bond was also asked whether he would adhere to his statements if war were declared on North Vietnam and if his statements might become treasonous. He replied that he did not know "if I'm strong

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enough to place myself in a position where I'd be guilty of treason." [385 U.S. 123]

Before January 10, 1966, when the Georgia House of Representatives was scheduled to convene, petitions challenging Bond's right to be seated were filed by 75 House members. These petitions charged that Bond's statements gave aid and comfort to the enemies of the United States and Georgia, violated the Selective Service laws, and tended to bring discredit and disrespect on the House. The petitions further contended that Bond's endorsement of the SNCC statement

> is totally and completely repugnant to and inconsistent with the mandatory oath prescribed by the Constitution of Georgia for a Member of the House of Representatives to take before taking his seat.

For the same reasons, the petitions asserted that Bond could not take an oath to support the Constitution of the United States. When Bond appeared at the House on January 10 to be sworn in, the clerk refused to administer the oath to him until the issues raised in the challenge petitions had been decided.

Bond filed a response to the challenge petitions in which he stated his willingness to take the oath and argued that he was not unable to do so in good faith. He further argued that the challenge against his seating had been filed to deprive him of his First Amendment rights, and that the challenge was racially motivated. A special committee was appointed to report on the challenge, and a hearing was held to determine exactly what Bond had said and the intentions with which he had said it.

At this hearing, the only testimony given against Bond was that which he himself gave the committee. Both the opponents Bond had defeated in becoming the Representative of the 136th District testified to his good character and to his loyalty to the United States. A recording of the interview which Bond had given to the reporter after the SNCC statement was played, and Bond was called to the stand for cross-examination. He there admitted his statements and elaborated his views. He [385 U.S. 124] stated that he concurred in the SNCC statement "without reservation," and, when asked if he admired the courage of persons who burn their draft cards, responded:

> I admire people who take an action, and I admire people who feel strongly enough about their convictions to take an action like that knowing the consequences that they will face, and that was my original statement when asked that question.
>
> I have never suggested or counseled or advocated that any one other person burn their draft card. In fact, I have mine in my pocket, and will produce it if you wish. I do not advocate that people should break laws. What I simply tried to say was that I admired the courage of someone who could act on his convictions knowing that he faces pretty stiff consequences.

Tapes of an interview Bond had given the press after the clerk had refused to give him the oath were also heard by the special committee. In this interview, Bond stated:

> I stand before you today charged with entering into public discussion on matters of National interest. I hesitate to offer explanations for my actions or deeds where no charge has been levied against me other than the charge that I have chosen to speak my mind and no explanation is called for, for no member of this House, has ever, to my knowledge, been called upon to explain his public statements for public postures as a prerequisite to admission to that Body. I therefore, offer to my constituents a statement of my views. I have not counseled burning draft cards, nor have I burned mine. I have suggested that congressionally outlined alternatives to military service be extended to [385 U.S. 125] building democracy at home. The posture of my life for the past five years has been calculated to give Negroes the ability to participate in formulation of public policies. The fact of my election to public office does not lessen my duty or desire to express my opinions even when they differ from those held by others. As to the current controversy, because of convictions that I have arrived at through examination of my conscience, I have decided I personally cannot participate in war.
>
> I stand here with intentions to take an oath that oath they just took in there that will dispel any doubts about my convictions or loyalty.

The special committee gave general approval in its report to the specific charges in the challenge peti-

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tions that Bond's endorsement of the SNCC statement and his supplementary remarks showed that he " does not and will not" support the Constitutions of the United States and of Georgia, that he "adheres to the enemies of the … State of Georgia" contrary to the State Constitution, that he gives aid and comfort to the enemies of the United States, that his statements violated the Universal Military Training and Service Act, ß12, 62 Stat. 622, 50 U.S.C. App. ß462, and that his statements "are reprehensible, and are such as tend to bring discredit to and disrespect of the House." On the same day, the House adopted the committee report without findings and without further elaborating Bond's lack of qualifications, and resolved by a vote of 184 to 12 that

> Bond shall not be allowed to take the oath of office as a member of the House of Representatives and that Representative-Elect Julian Bond shall not be seated as a member of the House of Representatives.

Bond then instituted an action in the District Court for the Northern District of Georgia for injunctive relief [385 U.S. 126] and a declaratory judgment that the House action was unauthorized by the Georgia Constitution and violated Bond's rights under the First Amendment. A three-judge District Court was convened under 28 U.S.C. ß2281. All three members of the District Court held that the court had jurisdiction to decide the constitutionality of the House action because Bond had asserted substantial First Amendment rights. On the merits, however, the court was divided.

Judges Bell and Morgan, writing for the majority of the court, addressed themselves first to the question of whether the Georgia House had power under state law to disqualify Bond based on its conclusion that he could not sincerely take the oath of office. They reasoned that separation of powers principles gave the Legislature power to insist on qualifications in addition to those specified in the State Constitution. The majority pointed out that nothing in the Georgia Constitution limits the qualifications of the legislators to those expressed in the constitution.

Having concluded that the action of the Georgia House was authorized by state law, the court considered whether Bond's disqualification violated his constitutional right of freedom of speech. It reasoned that the decisions of this Court involving particular state political offices supported an attitude of restraint in which the principles of separation of powers and federalism should be balanced against the alleged deprivation of individual constitutional rights. On this basis, the majority below fashioned the test to be applied in this case as being whether the refusal to seat Bond violated procedural or what it termed substantive due process. The court held that the hearing which had been given Bond by the House satisfied procedural due process. As for [385 U.S. 127] what it termed the question of substantive due process, the majority concluded that there was a rational evidentiary basis for the ruling of the House. It reasoned that Bond's right to dissent as a private citizen was limited by his decision to seek membership in the Georgia House. Moreover, the majority concluded, the SNCC statement and Bond's related remarks went beyond criticism of national policy and provided a rational basis for a conclusion that the speaker could not in good faith take an oath to support the State and Federal Constitutions:

> A citizen would not violate his oath by objecting to or criticizing this policy or even by calling it deceptive and false, as the statement did.
>
> But the statement does not stop with this. It is a call to action based on race; a call alien to the concept of the pluralistic society which makes this nation. It aligns the organization with "… colored people in such other countries as the Dominican Republic, the Congo, South Africa, Rhodesia.…" It refers to its involvement in the black people's "struggle for liberation and self-determination.…" It states that "Vietnamese are murdered because the United States is pursuing an aggressive policy in violation of international law." It alleges that Negroes, referring to American servicemen, are called on to stifle the liberation of Viet Nam.
>
> The call to action, and this is what we find to be a rational basis for the decision which denied Mr. Bond his seat, is that language which states that SNCC supports those men in this country who are unwilling to respond to a military draft.

Chief Judge Tuttle dissented. He reasoned that the question of the power of the Georgia House under the [385 U.S. 128] State Constitution to disqualify a Representative under these circumstances had never been decided by the state courts, and that federal courts should construe state law, if possible, so as to avoid

unnecessary federal constitutional issues. Since Bond satisfied all the stated qualifications in the State Constitution, Chief Judge Tuttle concluded that his disqualification was beyond the power of the House as a matter of state constitutional law.

Bond appealed directly to this Court from the decision of the District Court under 28 U.S.C. ß1253. While this appeal was pending, the Governor of Georgia called a special election to fill the vacancy caused by Bond's exclusion. Bond entered this election and won overwhelmingly. The House was in recess, but the Rules Committee held a hearing in which Bond declined to recant his earlier statements. Consequently, he was again prevented from taking the oath of office, and the seat has remained vacant. Bond again sought the seat from the 136th District in the regular 1966 election, and he won the Democratic primary in September, 1966, and won an overwhelming majority in the election of November 8, 1966.

The Georgia Constitution sets out a number of specific provisions dealing with the qualifications and eligibility of state legislators. These provide that Representatives shall be citizens of the United States, at least 21 years of age, citizens of Georgia for two years, and residents for one year of the counties from which elected. The [385 U.S. 129] Georgia Constitution further provides that no one convicted of treason against the State, or of any crime of moral turpitude, or of a number of other enumerated crimes, may hold any office in the State. Idiots and insane persons are barred from office, and no one holding any state or federal office is eligible for a seat in either house. The State Constitution also provides:

> Election, returns, etc.; disorderly conduct. Each House shall be the judge of the election, returns and qualifications of its members and shall have power to punish them for disorderly behavior, or misconduct, by censure, fine, imprisonment, or expulsion; but no member shall be expelled, except by a vote of two-thirds of the House to which he belongs.

These constitute the only stated qualifications for membership in the Georgia Legislature, and the State concedes that Bond meets all of them. The Georgia Constitution also requires Representatives to take an oath stated in the Constitution:

> Oath of members. Each senator and Representative, before taking his seat, shall take the following oath, or affirmation, to-wit: "I will support the Constitution of this State and of the United States, and on all questions and measures which may come before me, I will so conduct myself, as will, in my judgment, be most conducive to the interests and prosperity of this State." [385 U.S. 130]

The State points out in its brief that the latter part of this oath, involving the admonition to act in the best interests of the State, was not the standard by which Bond was judged.

The State does not claim that Bond refused to take the oath to support the Federal Constitution, a requirement imposed on state legislators by Art. VI, cl. 3, of the United States Constitution:

> The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Tests shall ever be required as a Qualification to any Office or public Trust under the United States.

Instead, it argues that the oath provisions of the State and Federal Constitutions constitute an additional qualification. Because, under state law, the legislature has exclusive jurisdiction to determine whether an elected Representative meets the enumerated qualifications, it is argued that the legislature has power to look beyond the plain meaning of the oath provisions, which merely require that the oaths be taken. This additional power is said to extend to determining whether a given Representative may take the oath with sincerity. The State does not claim that it should be completely free of judicial review whenever it disqualifies an elected Representative; it admits that, if a State Legislature excluded a legislator on racial or other clearly unconstitutional grounds, the federal (or state) judiciary would be justified in testing the exclusion by federal constitutional standards. But the State argues that there can be no [385 U.S. 131] doubt as to the constitutionality of the qualification involved in this case, because it is one imposed on the State Legislatures by Article VI of the United States Constitution. Moreover, the State contends that no decision of this Court suggests that a State may not ensure the loyalty of its public servants by making the taking of an oath a qualification of office. Thus, the State argues that there should be no judicial review of

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the legislature's power to judge whether a prospective member may conscientiously take the oath required by the State and Federal Constitutions.

We are not persuaded by the State's attempt to distinguish, for purposes of our jurisdiction, between an exclusion alleged to be on racial grounds and one alleged to violate the First Amendment. The basis for the argued distinction is that, in this case, Bond's disqualification was grounded on a constitutional standard the requirement of taking an oath to support the Constitution. But Bond's contention is that this standard was utilized to infringe his First Amendment rights, and we cannot distinguish, for purposes of our assumption of jurisdiction, between a disqualification under an unconstitutional standard and a disqualification which, although under color of a proper standard, is alleged to violate the First Amendment.

We conclude, as did the entire court below, that this Court has jurisdiction to review the question of whether the action of the Georgia House of Representatives deprived Bond of federal constitutional rights, and we now move to the central question posed in the case whether Bond's disqualification because of his statements violated the free speech provisions of the First Amendment as applied to the States through the Fourteenth Amendment.

The State argues that the exclusion does not violate the First Amendment because the State has a right, under Article VI of the United States Constitution, to insist on loyalty to the Constitution as a condition of office. A legislator, of course, can be required to swear to support the Constitution of the United States as a condition of holding office, but that is not the issue in this case, as the record is uncontradicted that Bond has repeatedly expressed his willingness to swear to the oaths provided for in the State and Federal Constitutions. Nor is this a case where a legislator swears to an oath *pro forma* while declaring or manifesting his disagreement with or indifference to the oath. Thus, we do not quarrel with the State's contention that the oath provisions of the United States and Georgia Constitutions do not violate the First Amendment. But this requirement does not authorize a majority of state legislators to test the sincerity with which another duly elected legislator can swear to uphold the Constitution. Such a power could be utilized to restrict the right of legislators to dissent from national or state policy or that of a majority of their colleagues under the guise of judging their loyalty to the Constitution. Certainly there can be no question but that the First Amendment protects expressions in opposition to national foreign policy in Vietnam and to the Selective Service system. The State does not contend otherwise. But it argues that Bond went beyond expressions of opposition, and counseled violations of the Selective Service laws, and that advocating violation of federal law demonstrates a lack of support for the Constitution. The State declines to argue that Bond's statements would violate any law if made by a private citizen, but it does argue that, even though such [385 U.S. 133] a citizen might be protected by his First Amendment rights, the State may nonetheless apply a stricter standard to its legislators. We do not agree.

Bond could not have been constitutionally convicted under 50 U.S.C. App. ß462(a), which punishes any person who "counsels, aids, or abets another to refuse or evade registration." Bond's statements were, at worst, unclear on the question of the means to be adopted to avoid the draft. While the SNCC statement said "We are in sympathy with, and support, the men in this country who are unwilling to respond to a military draft," this statement alone cannot be interpreted as a call to unlawful refusal to be drafted. Moreover, Bond's supplementary statements tend to resolve the opaqueness in favor of legal alternatives to the draft, and there is no evidence to the contrary. On the day the statement was issued, Bond explained that he endorsed it

> because I like to think of myself as a pacifist and one who opposes that war and any other war and eager and anxious to [385 U.S. 134] encourage people not to participate in it for any reason that they choose.

In the same interview, Bond stated categorically that he did not oppose the Vietnam policy because he favored the Communists; that he was a loyal American citizen, and supported the Constitution of the United States. He further stated "I oppose the Viet Cong fighting in Viet Nam as much as I oppose the United States fighting in Viet Nam." At the hearing before the Special Committee of the Georgia House, when asked his position on persons who burned their draft cards, Bond replied that he admired the courage of persons who "feel strongly enough about their convictions to take an action like that knowing the consequences that they will face." When pressed as to whether his admiration was based on the violation of federal law, Bond stated:

> I have never suggested or counseled or advocated that any one other person burn their draft

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> card. In fact, I have mine in my pocket, and will produce it if you wish. I do not advocate that people should break laws. What I simply try to say was that I admired the courage of someone who could act on his convictions knowing that he faces pretty stiff consequences.

Certainly this clarification does not demonstrate any incitement to violation of law. No useful purpose would be served by discussing the many decisions of this Court which establish that Bond could not have been convicted for these statements consistently with the First Amendment. *See, e.g., Wood v. Georgia*, 370 U.S. 375 (1962); *Yates v. United States*, 354 U.S. 298 (1957); *Terminiello v. Chicago*, 337 U.S. 1 (1949). Nor does the fact that the District Court found the SNCC statement to have racial overtones constitute a reason for holding it outside [385 U.S. 135] the protection of the First Amendment. In fact, the State concedes that there is no issue of race in the case.

The State attempts to circumvent the protection the First Amendment would afford to these statements if made by a private citizen by arguing that a State is constitutionally justified in exacting a higher standard of loyalty from its legislators than from its citizens. Of course, a State may constitutionally require an oath to support the Constitution from its legislators which it does not require of its private citizens. But this difference in treatment does not support the exclusion of Bond, for while the State has an interest in requiring its legislators to swear to a belief in constitutional processes of government, surely the oath gives it no interest in limiting its legislators' capacity to discuss their views of local or national

Glossary

amici	a reference to *amici curiae* briefs, or "friends of the court" briefs filed by people who are not directly involved in the case but have an interest in supporting one side or the other
burning draft cards	a common, public way of opposing the Vietnam War in the 1960s
cold war	the state of tension between the United States and its allies and the Soviet Union and its satellite states in the decades following World War II
declaratory judgment	a judge's statement about someone's rights
Idiots	a clinical term used at the time to refer to a particular class of mentally disabled persons
injunctive relief	a court order requiring someone to do something or refrain from doing something
pro forma	from the Latin for "as a matter of form," used to describe something done in a perfunctory or purely formal way
procedural due process	the legal doctrine that ensures fairness in the application of rules, laws, and regulations
Samuel Young	Samuel Younge, Jr., a member of the Student Nonviolent Coordinating Committee and a Tuskegee Institute student killed in January 1966 for using the segregated bathroom at a Tuskegee gas station
Selective Service laws	the military draft, including the obligation to register for the draft
SNCC	an acronym for the Student Nonviolent Coordinating Committee, pronounced "snick"
substantive due process	the legal doctrine that ensures that the fundamental rights of people are protected in the outcome of a case
Viet Cong	a name derived from Vietnamese for "Vietnamese Communist" and referring to the National Liberation Front, which fought the United States and the South Vietnamese government in the Vietnam War

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policy. The manifest function of [385 U.S. 136] the First Amendment in a representative government requires that legislators be given the widest latitude to express their views on issues of policy. The central commitment of the First Amendment, as summarized in the opinion of the Court in *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964), is that "debate on public issues should be uninhibited, robust, and wide-open." We think the rationale of the New York Times case disposes of the claim that Bond's statements fell outside the range of constitutional protection. Just as erroneous statements must be protected to give freedom of expression the breathing space it needs to survive, so statements criticizing public policy and the implementation of it must be similarly protected. The State argues that the *New York Times* principle should not be extended to statements by a legislator because the policy of encouraging free debate about governmental operations only applies to the citizen-critic of his government. We find no support for this distinction in the *New York Times* case or in any other decision of this Court. The interest of the public in hearing all sides of a public issue is hardly advanced by extending more protection to citizen critics than to legislators. Legislators have an obligation to take positions on controversial political questions so that their constituents can be fully informed by them, and be better able to assess their qualifications for office; also so they may be represented in governmental debates [385 U.S. 137] by the person they have elected to represent them. We therefore hold that the disqualification of Bond from membership in the Georgia House because of his statements violated Bond's right of free expression under the First Amendment. Because of our disposition of the case on First Amendment grounds, we need not decide the other issues advanced by Bond and the *amici*.

The judgment of the District Court is *Reversed*.

In New York's Central Park, demonstrators burn their draft cards in protest of the Vietnam War. (AP/Wide World Photos)

Martin Luther King, Jr.: "Beyond Vietnam: A Time to Break Silence"

1967

"If America's soul becomes totally poisoned, part of the autopsy must read Vietnam."

Overview

On April 4, 1967, one of America's greatest orators gave a speech on a subject he had previously been reluctant to address. Martin Luther King, Jr., was the preeminent civil rights leader of the 1960s, but as he stood in the pulpit of Riverside Church in New York City his topic was the Vietnam War. King had been an eloquent advocate of African American civil rights and a fearless opponent of racial bigotry. His words and deeds helped secure passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. King, however, had said little in public about the Vietnam War, where large numbers of Americans troops were fighting and dying during 1965 and 1966. When he raised questions about the war or called for peace talks, critics replied that he was not qualified to speak about foreign policy. Friends counseled him to keep his distance from the controversies over the war lest he jeopardize support for the civil rights movement. By 1967, however, King felt compelled to speak out. In "Beyond Vietnam: A Time to Break Silence," King denounced the war for deepening the problems of African Americans and poor people. His critique went farther, as he condemned the "madness" of Vietnam as a "symptom of a far deeper malady" that put the United States at odds with the aspirations for social justice of people in the developing world. King endured hostile rebukes for his sweeping and radical criticisms of America's role in Vietnam and in other emerging nations. He insisted, however, that the civil rights movement was part of a global struggle against "racism, materialism, and militarism."

Context

When King delivered his "Beyond Vietnam" speech, the Vietnam War was a growing source of global controversy. More than four hundred thousand Americans in uniform were fighting in South Vietnam. President Lyndon B. Johnson had sent the first U.S. combat troops to that nation little more than two years earlier, in March 1965, transforming a conflict that the South Vietnamese had previously fought with U.S. advice and armaments into an American war. Johnson at first enjoyed widespread public support for what he said was a war of necessity to halt Communist aggression and preserve South Vietnam's right to self-determination. As more U.S. troops poured into South Vietnam, however, public discontent with the war increased. Administration officials maintained that U.S. forces were making progress in the war, but they also cautioned that years of hard fighting lay ahead and more troops would be necessary. By January 1967, polls showed that more Americans disapproved of the president's war policies than supported them. Some of these critics advocated a negotiated settlement, and a few favored a unilateral American withdrawal. Many Americans, however, thought the president had not used sufficient military force to secure victory. They became impatient with the gradual buildup of U.S. strength and called for more bombing and more troops to win the war on the battlefield. By the spring of 1967, Johnson was feeling considerable pressure from this public discontent over a war that was growing larger but had no end in sight.

The president also worried about the war's effects on his domestic reform program, the Great Society. Johnson had proclaimed his desire to build the Great Society in May 1964. During the next eighteen months, Congress approved his proposals for a War on Poverty, federal aid to education, Medicare and Medicaid, the Civil Rights Act of 1964, and the Voting Rights Act of 1965. Johnson envisioned the Great Society as his legacy. After he began sending combat troops to war in Southeast Asia, he insisted that the country was sufficiently powerful and wealthy to fight a war in Vietnam and build the Great Society. By early 1967, however, such optimism had faded. The war had become so large and costly that many members of Congress concluded that the country could not increase spending and indeed might have to reduce appropriations for programs like the War on Poverty.

King objected to sending U.S. forces to war in Southeast Asia, but, as he later wrote, he had not taken part in any of the marches or demonstrations against the war. During 1965, he did occasionally speak out, calling on the Johnson administration to seek a negotiated settlement. The president resented even such mild criticism. The White House tried to silence King; administration officials and members of Congress told King he had no competence in foreign policy and his public statements could harm sensitive negotia-

Time Line

1929

- **January 15**
  King is born in Atlanta, Georgia.

1955

- **December**
  King leads the campaign in Montgomery, Alabama, against racial segregation on bus lines, a boycott that ends in November 1956 with a U.S. Supreme Court decision declaring the bus segregation laws unconstitutional.

1963

- **April & May**
  King leads demonstrations against racial discrimination in Birmingham, Alabama.
- **August 28**
  At the Lincoln Memorial in Washington, D.C., King gives his "I Have a Dream" Speech.

1964

- **January 8**
  In his State of the Union Address, President Lyndon Johnson declares "unconditional war on poverty in America."
- **July 2**
  President Johnson signs the Civil Rights Act of 1964, which outlaws racial discrimination in public accommodations and employment.
- **December 10**
  King accepts the Nobel Peace Prize in Oslo, Norway.

1965

- **March 8**
  The first U.S. combat troops arrive in South Vietnam.
- **August 6**
  The Voting Rights Act takes effect.

1966

- **December 31**
  Over the next six months, the number of U.S. military personnel serving in South Vietnam increases from 385,300 to 448,800.

tions to end the war. King complained about administration efforts to muzzle dissenters, but he made only infrequent public complaints about the widening war. Some of King's closest associates also encouraged him to refrain from antiwar activities. They worried that unpopular statements about the war could weaken public support for civil rights. King heeded their views, often confining his criticism of the war to its harmful effects on the War on Poverty.

Vietnam, however, became an urgent issue for King in early 1967 after he read a magazine article with horrifying pictures of children injured in the war. King declared that he could not ignore his conscience and felt obligated to campaign for an end to a war that was devastating Vietnamese and destroying hopes of Americans for a Great Society. He had heated arguments with other African American leaders, who warned that his antiwar activities would alienate many supporters who had contributed to his campaigns for civil rights, but King was adamantly unconcerned about the loss of financial backing. On February 25, 1967, he spoke to an antiwar conference in Los Angeles, California. In late March, in Chicago, Illinois, he participated in his first march against the war. Ten days later, he came to New York's Riverside Church to deliver a major address on the reasons he had decided to break his silence on Vietnam.

About the Author

Born Michael King, Jr., in Atlanta, Georgia, on January 15, 1929, King became Martin Luther King, Jr., in 1934 when his father changed his own and his son's name to honor the famous German theologian. King's grandfather and father were pastors of Atlanta's Ebenezer Baptist Church and leaders of the local branch of the National Association for the Advancement of Colored People. King, too, decided to study for the ministry after graduating from Morehouse College in 1948. He earned a divinity degree in 1951 at Crozier Theological Seminary, where he finished first in his class. Three years later, he graduated from Boston University with a PhD in theology. Long after King's death, a panel of experts appointed by the university concluded that King had plagiarized portions of his dissertation.

King gained national recognition as a civil rights activist during the Montgomery bus boycott that began in December 1955. African Americans had organized a boycott of the segregated local bus lines in Montgomery, Alabama, after the arrest of a black woman who had refused to give up her seat to a white patron and move to the back of the bus. King, who was pastor of a local Baptist church, became the most eloquent voice of the boycott movement, urging supporters to protest in a Christian fashion that is, with courage but also dignity and love. Although King faced intimidation and violence, including the bombing of his house, he insisted on nonviolent protest. In November 1956, the U.S. Supreme Court declared the southern bus segregation laws unconstitutional. In 1957, King founded the Southern Christian Leadership Conference to promote civil rights. In 1960 he returned to Atlanta, where, along

with his father, he became copastor of the Ebenezer Baptist Church.

During the mid-1960s, King led the civil rights movement to two of its greatest victories. In spring 1963, he organized demonstrations in Birmingham, Alabama, to challenge racial segregation at lunch counters and secure job opportunities for African Americans. When television cameras showed local authorities using fire hoses and police dogs against the nonviolent demonstrators, many of them youths, national outrage led not only to desegregation in Birmingham but also to a decision on the part of President John F. Kennedy to ask Congress for civil rights legislation that would bar discrimination on account of race in employment and in public accommodations, such as restaurants, hotels, and theaters. On August 28, 1963, King spoke at a huge rally in Washington, D.C., to mobilize support for the legislation. Standing before the Lincoln Memorial, he famously proclaimed, "I have a dream," and his moving vision of a society where blacks and whites enjoyed equal rights helped build a broad coalition in favor of the legislation. On July 2, 1964, King attended the ceremony at which President Johnson signed into law the Civil Rights Act of 1964. In March 1965, demonstrations against discriminatory voting practices that King helped organize in Selma, Alabama, produced another ugly incident of police violence. The resulting national outcry led to the passage of the Voting Rights Act of 1965, which gave the federal government new powers to ensure that all citizens could exercise their constitutional right to vote.

King earned honors and acclaim for his nonviolent struggle for civil rights. He was *Time* magazine's Man of the Year for 1964, and he received the Nobel Peace Prize in December 1964. Yet despite his achievements, he endured a campaign of harassment carried on by the director of the Federal Bureau of Investigation, J. Edgar Hoover. A fierce opponent of the civil rights movement, Hoover used information from wiretaps on King's telephones to try to discredit his leadership and prove that he was a Communist. King also faced criticism from younger African American leaders, who began calling for "Black Power" in the mid-1960s and advocating armed resistance to white oppression. King remained faithful to his nonviolent principles, and he maintained that "Black Power" was "a slogan without a program." Instead, he called for "a new turn toward greater economic justice" that would close the gap between rich and poor and eliminate the squalor in predominantly black inner-city neighborhoods. In November 1967, he announced the beginning of a Poor People's Campaign aimed at boosting federal efforts to reduce poverty. In March 1968, he led a march of striking sanitation workers in Memphis, Tennessee. King delivered his final speech in that city on the evening of April 3, when he told supporters, "I may not get there with you. But I want you to know tonight, that we, as a people, will get to the promised land." The next evening, he was shot dead by James Earl Ray as he stood on a Memphis motel balcony. In 1986, Americans began observing an annual federal holiday on the third Monday of January to honor his life and achievements.

Time Line

1967
- **April 4** King gives the speech "Beyond Vietnam: A Time to Break Silence" at Riverside Church in New York City.

1968
- **April 4** King is murdered in Memphis, Tennessee.

1973
- **January 27** The Paris Peace Accords take effect, leading to the withdrawal of the last U.S. troops from the Vietnam War and the return of American prisoners of war.

1986
- **January 20** The federal holiday honoring King is first observed.

Explanation and Analysis of the Document

Anticipating criticism, King begins by declaring that his position on the Vietnam War is a matter of "conscience." To remain silent would be "a betrayal" of principle. He acknowledges that it would be much easier to express "conformist thought" rather than "inner truth," especially when conviction leads to denunciation of government policies during wartime. Aware of this difficulty, he praises the organization to which he is speaking Clergy and Laymen Concerned about Vietnam for choosing "firm dissent" over "smooth patriotism." He then lists some of the objections that he has repeatedly encountered that he is imperiling the civil rights movement by taking an unpopular stand on the Vietnam War or that he is speaking about an issue of foreign policy that is beyond his expertise. King tries to neutralize these criticisms by insisting that they rest on "tragic misunderstandings" of public affairs and of his own career. Indeed, he asserts that his dissent from U.S. policies in Vietnam conforms to the principles that have guided him since he became a civil rights leader during the Montgomery bus boycott. King also maintains that while there is no simple way to stop the war, the United States has "the greatest responsibility" for "ending a conflict that has exacted a heavy price on both continents."

◆ "The Importance of Vietnam"

In the next section of his address, King enumerates specific reasons for opposing the Vietnam War, while emphasizing that the basis of his criticism is his "moral vision." Especially important to King are the detrimental effects of

the war on America's poor. He condemns the war for draining funds from the Johnson administration's War on Poverty. His language suggests that the war has become so large and destructive that it has grown beyond human control as it claims resources "like some demonic destructive suction tube." Also troubling to King are the disproportionate numbers of poor and black soldiers who are fighting and dying in Vietnam. He emphasizes the irony of Americans in uniform fighting for liberties abroad that they did not enjoy at home. With sorrow and pain, he declares that Americans have become all too familiar with "Negro and white boys on TV screens as they kill and die together for a nation that has been unable to seat them in the same schools." This "cruel manipulation of the poor" compels him to speak out.

King then explains that his belief in nonviolence also accounts for his opposition to the war. He recounts his efforts to persuade angry young African Americans in neglected inner-city neighborhoods that violent protest would not solve their problems. How, then, he reasons, can he not similarly condemn the Vietnam policies of "the greatest purveyor of violence in the world today my own government." King's criticism is strong and sweeping, associating him with some of the most radical opponents of the war. He believes, however, that he cannot invoke his commitment to nonviolence selectively, lest he forfeit his credibility as an advocate for racial justice and his moral obligation to speak for American and Vietnamese victims of the war's violence.

King's responsibilities as a civil rights leader, a Nobel Peace Prize recipient, and a Christian also lead him to question the war. King deftly rebuts the charge that his work in the civil rights movement disqualifies him from speaking on issues of war and peace by reminding his audience that the goal of the Southern Christian Leadership Conference is "to save the soul of America." The poisonous effects of the war, he declares, are corrupting American values and preventing the achievement of racial justice. King also explains that his obligations as a recipient of an international prize for peace and as a Christian minister compel him to think beyond "national allegiances." He states that he cannot view the war only as an American. Instead, he is "called to speak for the voiceless, the victims of our nation and for those it calls enemy, for no document from human hands can make these humans any less our brothers."

◆ "Strange Liberators"

This lengthy section reviews the history of the Vietnam War in order to challenge the Johnson administration's position that the United States was fighting to halt aggression and advance democracy. King adopts the perspective of the Vietnamese who "have been living under the curse of the war for almost three continuous decades." His use of the term *madness* at the beginning of this section indicates how strongly he disagrees with President Johnson that the war is serving either U.S. or Vietnamese interests.

King argues that the United States has supported reaction and repression in Vietnam. Between 1945 and 1954, the United States aided French efforts to reestablish colonial control of Vietnam. After the French withdrew, U.S. leaders backed President Ngo Dinh Diem, the anti-Communist ruler of South Vietnam, whom King describes as a vicious dictator who suppressed political opposition and prevented reforms that would have given land to peasants. U.S. military assistance to Diem, according to King, belied promises of "peace and democracy." After Diem's overthrow in a coup on November 1, 1963, a succession of "military dictatorships" offered "no real change." Once American troops began fighting in South Vietnam in 1965, they caused horrible suffering, using heavy firepower that inflicted many civilian casualties and devastated villages and farmlands. King even goes so far as to compare American use of the "latest weapons" in Vietnam to Nazi Germany's tests of "new tortures in the concentration camps of Europe." Only the most extreme critics of U.S. policies made such assertions. King concludes that by looking at the war from the perspective of the Vietnamese caught in the brutality of conflict, Americans must seem to be "strange liberators." Indeed, he asserts, Vietnamese peasants probably see the United States as "their real enemy."

King then tries to explain the views of America's enemies, the National Liberation Front and North Vietnam. He maintains that the National Liberation Front, an opposition group that used guerrilla tactics to gain control of the South Vietnamese government, was the only party "in real touch with the peasants." He paints a highly sympathetic picture of the National Liberation Front, which he believes had good reason to take up arms against a corrupt government that jailed political opponents. King also maintains that it is not hard to understand why Ho Chi Minh, the leader of North Vietnam, distrusts the United States. Ho had led the Vietnamese fight for independence against the French, and he expected to become the leader of Vietnam according to the terms of the Geneva peace settlement of 1954. The United States, however, cooperated with Diem to divide Vietnam between North and South and to prevent the elections that would have brought Ho "to power over a united Vietnam." From Ho's perspective, the United States has been the aggressor by sending troops to Southeast Asia in violation of the Geneva agreements and dropping "thousands of bombs on a poor weak nation more than eight thousand miles away from its shores."

After these efforts to "give a voice to the voiceless of Vietnam," King concludes this section of his address by expressing his concern about the corrupting effects of the war on U.S. troops. In Vietnam, according to King, Americans in uniform experience a very different war than the one that government officials led them to expect. U.S. troops, King asserts, have intervened in a Vietnamese struggle "on the side of the wealthy and the secure while we create hell for the poor." The disparity between U.S. soldiers' expectations and the reality of the war produces a cynicism that compounds the brutalizing effects of combat.

◆ "This Madness Must Cease"

King next offers suggestions to halt the "madness" of Vietnam. His five proposals require drastic changes in U.S. policy as well as an admission "that we have been wrong from the beginning of our adventure in Vietnam." His views are not

A soldier of the First Cavalry Division runs under sniper fire across a helicopter landing zone in Vietnam as others drag a wounded soldier toward a rescue helicopter on November 16, 1965. (AP/Wide World Photos)

those of a mediator who is encouraging all major parties to make concessions for peace but of a moral critic who believes that Americans should "atone for our sins and errors in Vietnam." His harsh judgments about the U.S. war effort reflect what he described earlier in his address as "allegiances and loyalties which are broader and deeper than nationalism." He speaks as a brother to the suffering poor in Vietnam and the United States, a citizen of the world who is "aghast" at U.S. actions, and an American citizen who holds his nation accountable for expanding the war and for stopping it.

◆ "Protesting the War"

King next advocates protest against the war, including counseling young men to become conscientious objectors as an alternative to military service. Opposition to the current war, however, is insufficient, because, according to King, Vietnam is only a symptom of "a far deeper malady within the American spirit." In several other nations, U.S. military advisers or weapons were helping to suppress revolution. King charges that the United States has become an imperialist nation, exploiting overseas investments while stifling the ambitions of people in developing nations for peaceful change. King concedes that this allegation is "disturbing," but he insists that American values are skewed. Property rights and profits have become more important than people, thereby undermining efforts to eradicate "racism, materialism, and militarism."

King calls for "a true revolution of values" that will transform America's world role. Although he provides no specifics, he favors economic restructuring that will end "the glaring contrast" between poverty and wealth. His prescriptions for international reform mirror his vision for domestic change. In his writings, King insisted that "justice for black people cannot be achieved without radical changes in the structure of society." He demanded that America "face all its interrelated flaws racism, poverty, militarism, and materialism." King is optimistic that Americans can change their priorities "so that the pursuit of peace will take precedence over the pursuit of war." He also believes that a revolution in values will provide enormous benefits in America's cold war contest with Communism. Although his speech is full of scathing criticism of the foreign policies of the Johnson administration, King agrees with government officials that Communism appeals to people who lack basic necessities of life and hope for the future. Too often, however, U.S. policy makers' fears of Communist takeovers in other countries led them to pursue "negative anti-communism," including a resort to war. King instead favors "positive action" to "remove those conditions of poverty, insecurity and injustice" that lead to the spread of Communism.

Essential Quotes

"We are taking the black young men who had been crippled by our society and sending them eight thousand miles away to guarantee liberties in Southeast Asia which they had not found in southwest Georgia and East Harlem."

("The Importance of Vietnam")

"If America's soul becomes totally poisoned, part of the autopsy must read Vietnam."

("The Importance of Vietnam")

"Increasingly, by choice or by accident, this is the role our nation has taken—the role of those who make peaceful revolution impossible by refusing to give up the privileges and the pleasures that come from the immense profits of overseas investment."

("Protesting the War")

"A nation that continues year after year to spend more money on military defense than on programs of social uplift is approaching spiritual death."

("Protesting the War")

"We must find new ways to speak for peace in Vietnam and justice throughout the developing world—a world that borders on our doors. If we do not act we shall surely be dragged down the long dark and shameful corridors of time reserved for those who possess power without compassion, might without morality, and strength without sight."

("The People Are Important")

◆ "The People Are Important"

In this closing section, King tells his fellow Americans that they face revolutionary times and that they must find new ways to cooperate with people in developing nations. King mentions the Vietnam War only briefly as an example of a failed effort that puts the United States on the wrong side of history. Instead, he concentrates on the worldwide challenges to "old systems of exploitation and oppression" and the necessity of aligning the United States with "the shirtless and barefoot people" who "are rising up as never before." He believes that Western nations made essential contributions to this revolutionary spirit but that they have become rich, complacent, and reactionary. "Our only hope today," he declares, "lies in our ability to recapture the revolutionary spirit and go out into a sometimes hostile world declaring eternal hostility to poverty, racism, and militarism." Success requires thinking beyond one's community, race, or nation. Instead, he calls for "an overriding loyalty to mankind as a whole" based on the idea which "all of the great religions have seen as the supreme unifying principle of life" of love.

Although the term was not part of his vocabulary in 1967, King is speaking about a globalizing world that

requires new ideas and new policies. The pace of change, he explains, has quickened. He uses a phrase from his famous "I Have a Dream" speech, as he asserts, "We are confronted with the fierce urgency of now." Nations and peoples that previously seemed distant now require attention. The developing world of Asia, Africa, and Latin America "borders on our doors." King acknowledges that the challenges of creating a new world are enormous. But just as he urged his fellow Americans to pursue the dream of freedom and justice at home, he calls on them to begin "the long and bitter but beautiful struggle for a new world."

Audience

King's audience for "Beyond Vietnam: A Time to Break Silence" was more than three thousand people who packed Riverside Church in New York, where he spoke. King, though, knew that his speech would receive wide coverage in newspapers and magazines, and he hoped that it would help to strengthen opposition to the Vietnam War. He realized, however, that some of his ideas about U.S. aggression and imperialism would be unpopular, even offensive. Yet he was willing to risk such criticism because he felt a moral compulsion to speak out. "At times you do things to satisfy your conscience," he explained.

Impact

The speech provoked a torrent of criticism. Many editorial writers and political commentators chided King for connecting two issues civil rights and Vietnam that they thought should be separate and distinct. The *New York Times*, for example, rebuked King for damaging both the civil rights and the peace movement. Other observers denounced King for adopting the views of America's enemies in Vietnam. *Life* magazine dismissed the speech as "demagogic slander that sounded like a script for Radio Hanoi." Even some African American publications, such as the *Pittsburgh Courier*, criticized King for "tragically misleading" blacks.

The most extreme reaction occurred at the White House. "What is that goddamned nigger preacher doing to me?" Johnson asked angrily. "We gave him the Civil Rights Act of 1964, we gave him the Voting Rights Act of 1965, we gave him the War on Poverty. What more does he want?" The federal intelligence director J. Edgar Hoover informed Johnson that King was cooperating with "subversive forces seeking to undermine our nation." Johnson's greatest fear, however, was that King's radical rhetoric was playing into the hands of opponents of civil rights and the War on Poverty. These critics of the Great Society could use King's supposedly dangerous and even disloyal dissent to block additional funding for antipoverty programs or prevent new civil rights reforms.

King made no concessions to his critics. On April 15, 1967, he led a march in New York City of one hundred twenty-five thousand antiwar protesters and then made a speech in which he repeated many of the criticisms of the war he had made at Riverside Church eleven days earlier. He called for more demonstrations against the war, and he formed a group called Negotiations Now to get one million Americans to sign a petition calling for peace talks. He told staff members of the Southern Christian Leadership Conference that he would continue his antiwar activities because it was the right thing to do. "I will not be intimidated," he insisted. "I will not be harassed. I will not be silent. And I will be heard."

Questions for Further Study

1. What did King see as the connection between the Vietnam War and the issue of racial justice in the United States?

2. Compare this document with other critiques of the Vietnam War, in particular those contained in Malcolm X's "After the Bombing" (1965) and Stokely Carmichael's "Black Power" (1966). What similar arguments do the documents present? How did King's attitude toward Vietnam differ from that of the others, if at all?

3. Why did some of King's advisers urge him to sidestep the issue of the Vietnam War? Why do you think the war was such a divisive issue at the time?

4. What did President Lyndon Johnson and others see as the potential political consequences of the speech?

5. Many of King's arguments against the war in Vietnam could be applied to other conflicts, such as the U.S.-led wars in Iraq and Afghanistan. How persuasive do you find King's arguments? Would they be applicable to other conflicts?

See also Martin Luther King: "I Have a Dream" (1963); Civil Rights Act of 1964.

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Chester Pach

Document Text

Martin Luther King, Jr.: "Beyond Vietnam: A Time to Break Silence"

I come to this magnificent house of worship tonight because my conscience leaves me no other choice. I join with you in this meeting because I am in deepest agreement with the aims and work of the organization which has brought us together: Clergy and Laymen Concerned about Vietnam. The recent statements of your executive committee are the sentiments of my own heart and I found myself in full accord when I read its opening lines: "A time comes when silence is betrayal." That time has come for us in relation to Vietnam.

The truth of these words is beyond doubt but the mission to which they call us is a most difficult one. Even when pressed by the demands of inner truth, men do not easily assume the task of opposing their government's policy, especially in time of war. Nor does the human spirit move without great difficulty against all the apathy of conformist thought within one's own bosom and in the surrounding world. Moreover when the issues at hand seem as perplexed as they often do in the case of this dreadful conflict we are always on the verge of being mesmerized by uncertainty; but we must move on.

Some of us who have already begun to break the silence of the night have found that the calling to speak is often a vocation of agony, but we must speak. We must speak with all the humility that is appropriate to our limited vision, but we must speak. And we must rejoice as well, for surely this is the first time in our nation's history that a significant number of its religious leaders have chosen to move beyond the prophesying of smooth patriotism to the high grounds of a firm dissent based upon the mandates of conscience and the reading of history. Perhaps a new spirit is rising among us. If it is, let us trace its movement well and pray that our own inner being may be sensitive to its guidance, for we are deeply in need of a new way beyond the darkness that seems so close around us.

Over the past two years, as I have moved to break the betrayal of my own silences and to speak from the burnings of my own heart, as I have called for radical departures from the destruction of Vietnam, many persons have questioned me about the wisdom of my path. At the heart of their concerns this query has often loomed large and loud: Why are you speaking about war, Dr. King? Why are you joining the voices of dissent? Peace and civil rights don't mix, they say. Aren't you hurting the cause of your people, they ask? And when I hear them, though I often understand the source of their concern, I am nevertheless greatly saddened, for such questions mean that the inquirers have not really known me, my commitment or my calling. Indeed, their questions suggest that they do not know the world in which they live.

In the light of such tragic misunderstandings, I deem it of signal importance to try to state clearly, and I trust concisely, why I believe that the path from Dexter Avenue Baptist Church the church in Montgomery, Alabama, where I began my pastorate leads clearly to this sanctuary tonight.

I come to this platform tonight to make a passionate plea to my beloved nation. This speech is not addressed to Hanoi or to the National Liberation Front. It is not addressed to China or to Russia.

Nor is it an attempt to overlook the ambiguity of the total situation and the need for a collective solution to the tragedy of Vietnam. Neither is it an attempt to make North Vietnam or the National Liberation Front paragons of virtue, nor to overlook the role they can play in a successful resolution of the problem. While they both may have justifiable reason to be suspicious of the good faith of the United States, life and history give eloquent testimony to the fact that conflicts are never resolved without trustful give and take on both sides.

Tonight, however, I wish not to speak with Hanoi and the NLF, but rather to my fellow Americans, who, with me, bear the greatest responsibility in ending a conflict that has exacted a heavy price on both continents.

The Importance of Vietnam

Since I am a preacher by trade, I suppose it is not surprising that I have seven major reasons for bringing Vietnam into the field of my moral vision. There is at the outset a very obvious and almost facile connection between the war in Vietnam and the struggle I, and others, have been waging in America. A few

years ago there was a shining moment in that struggle. It seemed as if there was a real promise of hope for the poor both black and white through the poverty program. There were experiments, hopes, new beginnings. Then came the buildup in Vietnam and I watched the program broken and eviscerated as if it were some idle political plaything of a society gone mad on war, and I knew that America would never invest the necessary funds or energies in rehabilitation of its poor so long as adventures like Vietnam continued to draw men and skills and money like some demonic destructive suction tube. So I was increasingly compelled to see the war as an enemy of the poor and to attack it as such.

Perhaps the more tragic recognition of reality took place when it became clear to me that the war was doing far more than devastating the hopes of the poor at home. It was sending their sons and their brothers and their husbands to fight and to die in extraordinarily high proportions relative to the rest of the population. We were taking the black young men who had been crippled by our society and sending them eight thousand miles away to guarantee liberties in Southeast Asia which they had not found in southwest Georgia and East Harlem. So we have been repeatedly faced with the cruel irony of watching Negro and white boys on TV screens as they kill and die together for a nation that has been unable to seat them together in the same schools. So we watch them in brutal solidarity burning the huts of a poor village, but we realize that they would never live on the same block in Detroit. I could not be silent in the face of such cruel manipulation of the poor.

My third reason moves to an even deeper level of awareness, for it grows out of my experience in the ghettoes of the North over the last three years especially the last three summers. As I have walked among the desperate, rejected and angry young men I have told them that Molotov cocktails and rifles would not solve their problems. I have tried to offer them my deepest compassion while maintaining my conviction that social change comes most meaningfully through nonviolent action. But they asked and rightly so what about Vietnam? They asked if our own nation wasn't using massive doses of violence to solve its problems, to bring about the changes it wanted. Their questions hit home, and I knew that I could never again raise my voice against the violence of the oppressed in the ghettos without having first spoken clearly to the greatest purveyor of violence in the world today my own government. For the sake of those boys, for the sake of this government, for the sake of hundreds of thousands trembling under our violence, I cannot be silent.

For those who ask the question, "Aren't you a civil rights leader?" and thereby mean to exclude me from the movement for peace, I have this further answer. In 1957 when a group of us formed the Southern Christian Leadership Conference, we chose as our motto: "To save the soul of America." We were convinced that we could not limit our vision to certain rights for black people, but instead affirmed the conviction that America would never be free or saved from itself unless the descendants of its slaves were loosed completely from the shackles they still wear. In a way we were agreeing with Langston Hughes, that black bard of Harlem, who had written earlier:

> O, yes,
> I say it plain,
> America never was America to me,
> And yet I swear this oath
> America will be!

Now, it should be incandescently clear that no one who has any concern for the integrity and life of America today can ignore the present war. If America's soul becomes totally poisoned, part of the autopsy must read Vietnam. It can never be saved so long as it destroys the deepest hopes of men the world over. So it is that those of us who are yet determined that America will be are led down the path of protest and dissent, working for the health of our land.

As if the weight of such a commitment to the life and health of America were not enough, another burden of responsibility was placed upon me in 1964; and I cannot forget that the Nobel Prize for Peace was also a commission a commission to work harder than I had ever worked before for "the brotherhood of man." This is a calling that takes me beyond national allegiances, but even if it were not present I would yet have to live with the meaning of my commitment to the ministry of Jesus Christ. To me the relationship of this ministry to the making of peace is so obvious that I sometimes marvel at those who ask me why I am speaking against the war. Could it be that they do not know that the good news was meant for all men for Communist and capitalist, for their children and ours, for black and for white, for revolutionary and conservative? Have they forgotten that my ministry is in obedience to the one who loved his enemies so fully that he died for them? What then can I say to the "Vietcong" or to Castro or to Mao as a faithful minister of this one? Can I

threaten them with death or must I not share with them my life?

Finally, as I try to delineate for you and for myself the road that leads from Montgomery to this place I would have offered all that was most valid if I simply said that I must be true to my conviction that I share with all men the calling to be a son of the living God. Beyond the calling of race or nation or creed is this vocation of sonship and brotherhood, and because I believe that the Father is deeply concerned especially for his suffering and helpless and outcast children, I come tonight to speak for them.

This I believe to be the privilege and the burden of all of us who deem ourselves bound by allegiances and loyalties which are broader and deeper than nationalism and which go beyond our nation's self-defined goals and positions. We are called to speak for the weak, for the voiceless, for victims of our nation and for those it calls enemy, for no document from human hands can make these humans any less our brothers.

Strange Liberators

And as I ponder the madness of Vietnam and search within myself for ways to understand and respond to compassion my mind goes constantly to the people of that peninsula. I speak now not of the soldiers of each side, not of the junta in Saigon, but simply of the people who have been living under the curse of war for almost three continuous decades now. I think of them too because it is clear to me that there will be no meaningful solution there until some attempt is made to know them and hear their broken cries.

They must see Americans as strange liberators. The Vietnamese people proclaimed their own independence in 1945 after a combined French and Japanese occupation, and before the Communist revolution in China. They were led by Ho Chi Minh. Even though they quoted the American Declaration of Independence in their own document of freedom, we refused to recognize them. Instead, we decided to support France in its reconquest of her former colony.

Our government felt then that the Vietnamese people were not "ready" for independence, and we again fell victim to the deadly Western arrogance that has poisoned the international atmosphere for so long. With that tragic decision we rejected a revolutionary government seeking self-determination, and a government that had been established not by China (for whom the Vietnamese have no great love) but by clearly indigenous forces that included some Communists. For the peasants this new government meant real land reform, one of the most important needs in their lives.

For nine years following 1945 we denied the people of Vietnam the right of independence. For nine years we vigorously supported the French in their abortive effort to recolonize Vietnam.

Before the end of the war we were meeting eighty percent of the French war costs. Even before the French were defeated at Dien Bien Phu, they began to despair of the reckless action, but we did not. We encouraged them with our huge financial and military supplies to continue the war even after they had lost the will. Soon we would be paying almost the full costs of this tragic attempt at recolonization.

After the French were defeated it looked as if independence and land reform would come again through the Geneva agreements. But instead there came the United States, determined that Ho should not unify the temporarily divided nation, and the peasants watched again as we supported one of the most vicious modern dictators our chosen man, Premier Diem. The peasants watched and cringed as Diem ruthlessly routed out all opposition, supported their extortionist landlords and refused even to discuss reunification with the north. The peasants watched as all this was presided over by U.S. influence and then by increasing numbers of U.S. troops who came to help quell the insurgency that Diem's methods had aroused. When Diem was overthrown they may have been happy, but the long line of military dictatorships seemed to offer no real change especially in terms of their need for land and peace.

The only change came from America as we increased our troop commitments in support of governments which were singularly corrupt, inept and without popular support. All the while the people read our leaflets and received regular promises of peace and democracy and land reform. Now they languish under our bombs and consider us not their fellow Vietnamese the real enemy. They move sadly and apathetically as we herd them off the land of their fathers into concentration camps where minimal social needs are rarely met. They know they must move or be destroyed by our bombs. So they go primarily women and children and the aged.

They watch as we poison their water, as we kill a million acres of their crops. They must weep as the bulldozers roar through their areas preparing to destroy the precious trees. They wander into the hospitals, with at least twenty casualties from American

firepower for one "Vietcong"-inflicted injury. So far we may have killed a million of them mostly children. They wander into the towns and see thousands of the children, homeless, without clothes, running in packs on the streets like animals. They see the children, degraded by our soldiers as they beg for food. They see the children selling their sisters to our soldiers, soliciting for their mothers.

What do the peasants think as we ally ourselves with the landlords and as we refuse to put any action into our many words concerning land reform? What do they think as we test our latest weapons on them, just as the Germans tested out new medicine and new tortures in the concentration camps of Europe? Where are the roots of the independent Vietnam we claim to be building? Is it among these voiceless ones?

We have destroyed their two most cherished institutions: the family and the village. We have destroyed their land and their crops. We have cooperated in the crushing of the nation's only non-Communist revolutionary political force the unified Buddhist church. We have supported the enemies of the peasants of Saigon. We have corrupted their women and children and killed their men. What liberators?

Now there is little left to build on save bitterness. Soon the only solid physical foundations remaining will be found at our military bases and in the concrete of the concentration camps we call fortified hamlets. The peasants may well wonder if we plan to build our new Vietnam on such grounds as these? Could we blame them for such thoughts? We must speak for them and raise the questions they cannot raise. These too are our brothers.

Perhaps the more difficult but no less necessary task is to speak for those who have been designated as our enemies. What of the National Liberation Front that strangely anonymous group we call VC or Communists? What must they think of us in America when they realize that we permitted the repression and cruelty of Diem which helped to bring them into being as a resistance group in the south? What do they think of our condoning the violence which led to their own taking up of arms? How can they believe in our integrity when now we speak of "aggression from the north" as if there were nothing more essential to the war? How can they trust us when now we charge them with violence after the murderous reign of Diem and charge them with violence while we pour every new weapon of death into their land? Surely we must understand their feelings even if we do not condone their actions. Surely we must see that the men we supported pressed them to their violence. Surely we must see that our own computerized plans of destruction simply dwarf their greatest acts.

How do they judge us when our officials know that their membership is less than twenty-five percent Communist and yet insist on giving them the blanket name? What must they be thinking when they know that we are aware of their control of major sections of Vietnam and yet we appear ready to allow national elections in which this highly organized political parallel government will have no part? They ask how we can speak of free elections when the Saigon press is censored and controlled by the military junta. And they are surely right to wonder what kind of new government we plan to help form without them the only party in real touch with the peasants. They question our political goals and they deny the reality of a peace settlement from which they will be excluded. Their questions are frighteningly relevant. Is our nation planning to build on political myth again and then shore it up with the power of new violence?

Here is the true meaning and value of compassion and nonviolence when it helps us to see the enemy's point of view, to hear his questions, to know his assessment of ourselves. For from his view we may indeed see the basic weaknesses of our own condition, and if we are mature, we may learn and grow and profit from the wisdom of the brothers who are called the opposition.

So, too, with Hanoi. In the north, where our bombs now pummel the land, and our mines endanger the waterways, we are met by a deep but understandable mistrust. To speak for them is to explain this lack of confidence in Western words, and especially their distrust of American intentions now. In Hanoi are the men who led the nation to independence against the Japanese and the French, the men who sought membership in the French commonwealth and were betrayed by the weakness of Paris and the willfulness of the colonial armies. It was they who led a second struggle against French domination at tremendous costs, and then were persuaded to give up the land they controlled between the thirteenth and seventeenth parallel as a temporary measure at Geneva. After 1954 they watched us conspire with Diem to prevent elections which would have surely brought Ho Chi Minh to power over a united Vietnam, and they realized they had been betrayed again.

When we ask why they do not leap to negotiate, these things must be remembered. Also it must be clear that the leaders of Hanoi considered the presence of American troops in support of the Diem

Document Text

regime to have been the initial military breach of the Geneva agreements concerning foreign troops, and they remind us that they did not begin to send in any large number of supplies or men until American forces had moved into the tens of thousands.

Hanoi remembers how our leaders refused to tell us the truth about the earlier North Vietnamese overtures for peace, how the president claimed that none existed when they had clearly been made. Ho Chi Minh has watched as America has spoken of peace and built up its forces, and now he has surely heard of the increasing international rumors of American plans for an invasion of the north. He knows the bombing and shelling and mining we are doing are part of traditional pre-invasion strategy. Perhaps only his sense of humor and of irony can save him when he hears the most powerful nation of the world speaking of aggression as it drops thousands of bombs on a poor weak nation more than eight thousand miles away from its shores.

At this point I should make it clear that while I have tried in these last few minutes to give a voice to the voiceless on Vietnam and to understand the arguments of those who are called enemy, I am as deeply concerned about our troops there as anything else. For it occurs to me that what we are submitting them to in Vietnam is not simply the brutalizing process that goes on in any war where armies face each other and seek to destroy. We are adding cynicism to the process of death, for they must know after a short period there that none of the things we claim to be fighting for are really involved. Before long they must know that their government has sent them into a struggle among Vietnamese, and the more sophisticated surely realize that we are on the side of the wealthy and the secure while we create hell for the poor.

This Madness Must Cease

Somehow this madness must cease. We must stop now. I speak as a child of God and brother to the suffering poor of Vietnam. I speak for those whose land is being laid waste, whose homes are being destroyed, whose culture is being subverted. I speak for the poor of America who are paying the double price of smashed hopes at home and death and corruption in Vietnam. I speak as a citizen of the world, for the world as it stands aghast at the path we have taken. I speak as an American to the leaders of my own nation. The great initiative in this war is ours. The initiative to stop it must be ours.

This is the message of the great Buddhist leaders of Vietnam. Recently one of them wrote these words:

"Each day the war goes on the hatred increases in the heart of the Vietnamese and in the hearts of those of humanitarian instinct. The Americans are forcing even their friends into becoming their enemies. It is curious that the Americans, who calculate so carefully on the possibilities of military victory, do not realize that in the process they are incurring deep psychological and political defeat. The image of America will never again be the image of revolution, freedom and democracy, but the image of violence and militarism."

If we continue, there will be no doubt in my mind and in the mind of the world that we have no honorable intentions in Vietnam. It will become clear that our minimal expectation is to occupy it as an American colony and men will not refrain from thinking that our maximum hope is to goad China into a war so that we may bomb her nuclear installations. If we do not stop our war against the people of Vietnam immediately the world will be left with no other alternative than to see this as some horribly clumsy and deadly game we have decided to play.

The world now demands a maturity of America that we may not be able to achieve. It demands that we admit that we have been wrong from the beginning of our adventure in Vietnam, that we have been detrimental to the life of the Vietnamese people. The situation is one in which we must be ready to turn sharply from our present ways.

In order to atone for our sins and errors in Vietnam, we should take the initiative in bringing a halt to this tragic war. I would like to suggest five concrete things that our government should do immediately to begin the long and difficult process of extricating ourselves from this nightmarish conflict:

1. End all bombing in North and South Vietnam.
2. Declare a unilateral cease-fire in the hope that such action will create the atmosphere for negotiation.
3. Take immediate steps to prevent other battlegrounds in Southeast Asia by curtailing our military buildup in Thailand and our interference in Laos.
4. Realistically accept the fact that the National Liberation Front has substantial support in South Vietnam and must thereby play a role in any meaningful negotiations and in any future Vietnam government.
5. Set a date that we will remove all foreign troops from Vietnam in accordance with the 1954 Geneva agreement.

Part of our ongoing commitment might well express itself in an offer to grant asylum to any Vietnamese

who fears for his life under a new regime which included the Liberation Front. Then we must make what reparations we can for the damage we have done. We must provide the medical aid that is badly needed, making it available in this country if necessary.

Protesting the War

Meanwhile we in the churches and synagogues have a continuing task while we urge our government to disengage itself from a disgraceful commitment. We must continue to raise our voices if our nation persists in its perverse ways in Vietnam. We must be prepared to match actions with words by seeking out every creative means of protest possible.

As we counsel young men concerning military service we must clarify for them our nation's role in Vietnam and challenge them with the alternative of conscientious objection. I am pleased to say that this is the path now being chosen by more than seventy students at my own alma mater, Morehouse College, and I recommend it to all who find the American course in Vietnam a dishonorable and unjust one. Moreover I would encourage all ministers of draft age to give up their ministerial exemptions and seek status as conscientious objectors. These are the times for real choices and not false ones. We are at the moment when our lives must be placed on the line if our nation is to survive its own folly. Every man of humane convictions must decide on the protest that best suits his convictions, but we must all protest.

There is something seductively tempting about stopping there and sending us all off on what in some circles has become a popular crusade against the war in Vietnam. I say we must enter the struggle, but I wish to go on now to say something even more disturbing. The war in Vietnam is but a symptom of a far deeper malady within the American spirit, and if we ignore this sobering reality we will find ourselves organizing clergy- and laymen-concerned committees for the next generation. They will be concerned about Guatemala and Peru. They will be concerned about Thailand and Cambodia. They will be concerned about Mozambique and South Africa. We will be marching for these and a dozen other names and attending rallies without end unless there is a significant and profound change in American life and policy. Such thoughts take us beyond Vietnam, but not beyond our calling as sons of the living God.

In 1957 a sensitive American official overseas said that it seemed to him that our nation was on the wrong side of a world revolution. During the past ten years we have seen emerge a pattern of suppression which now has justified the presence of U.S. military "advisors" in Venezuela. This need to maintain social stability for our investments accounts for the counter-revolutionary action of American forces in Guatemala. It tells why American helicopters are being used against guerrillas in Colombia and why American napalm and green beret forces have already been active against rebels in Peru. It is with such activity in mind that the words of the late John F. Kennedy come back to haunt us. Five years ago he said, "Those who make peaceful revolution impossible will make violent revolution inevitable."

Increasingly, by choice or by accident, this is the role our nation has taken the role of those who make peaceful revolution impossible by refusing to give up the privileges and the pleasures that come from the immense profits of overseas investment.

I am convinced that if we are to get on the right side of the world revolution, we as a nation must undergo a radical revolution of values. We must rapidly begin the shift from a "thing-oriented" society to a "person-oriented" society. When machines and computers, profit motives and property rights are considered more important than people, the giant triplets of racism, materialism, and militarism are incapable of being conquered.

A true revolution of values will soon cause us to question the fairness and justice of many of our past and present policies. On the one hand we are called to play the good Samaritan on life's roadside; but that will be only an initial act. One day we must come to see that the whole Jericho road must be transformed so that men and women will not be constantly beaten and robbed as they make their journey on life's highway. True compassion is more than flinging a coin to a beggar; it is not haphazard and superficial. It comes to see that an edifice which produces beggars needs restructuring. A true revolution of values will soon look uneasily on the glaring contrast of poverty and wealth. With righteous indignation, it will look across the seas and see individual capitalists of the West investing huge sums of money in Asia, Africa and South America, only to take the profits out with no concern for the social betterment of the countries, and say: "This is not just." It will look at our alliance with the landed gentry of Latin America and say: "This is not just." The Western arrogance of feeling that it has everything to teach others and nothing to learn from them is not just. A true revolution of values will lay hands on the world order and say of war: "This way

Document Text

of settling differences is not just." This business of burning human beings with napalm, of filling our nation's homes with orphans and widows, of injecting poisonous drugs of hate into veins of people normally humane, of sending men home from dark and bloody battlefields physically handicapped and psychologically deranged, cannot be reconciled with wisdom, justice and love. A nation that continues year after year to spend more money on military defense than on programs of social uplift is approaching spiritual death.

America, the richest and most powerful nation in the world, can well lead the way in this revolution of values. There is nothing, except a tragic death wish, to prevent us from reordering our priorities, so that the pursuit of peace will take precedence over the pursuit of war. There is nothing to keep us from molding a recalcitrant status quo with bruised hands until we have fashioned it into a brotherhood.

This kind of positive revolution of values is our best defense against communism. War is not the answer. Communism will never be defeated by the use of atomic bombs or nuclear weapons. Let us not join those who shout war and through their misguided passions urge the United States to relinquish its participation in the United Nations. These are days which demand wise restraint and calm reasonableness. We must not call everyone a Communist or an appeaser who advocates the seating of Red China in the United Nations and who recognizes that hate and hysteria are not the final answers to the problem of these turbulent days. We must not engage in a negative anti-communism, but rather in a positive thrust for democracy, realizing that our greatest defense against communism is to take offensive action in behalf of justice. We must with positive action seek to remove those conditions of poverty,

Glossary

Arnold Toynbee	a twentieth-century British historian who examined the rise and fall of civilizations
Castro	Fidel Castro, who was then the Communist dictator of Cuba
Dien Bien Phu	a town in North Vietnam, the site of a decisive battle between the Communists and the French in 1954
good Samaritan	reference to a parable told by Jesus, as recorded in the Gospel of Luke, chapter 10, in which a Samaritan (member of an ethnoreligious group) helps a Jew on his way to Jericho who has been beaten and robbed; symbolic of a kind person who helps a stranger
Hanoi	the capital of North Vietnam
Ho Chi Minh	the leader of the Communist forces during the Vietnam War
James Russell Lowell	nineteenth-century American poet; the quotation is from his 1845 poem "Once to Every Man and Nation."
junta	a dictatorship run by a group of military officers
Langston Hughes	a prominent African American poet of the Harlem Renaissance; the quote is from his 1939 poem "Let America Be America Again."
"Let us love one another …"	from the First Epistle of John, chapter 4
Mao	Mao Zedong, the Communist dictator of China
Marxism	the philosophy of Karl Marx, the nineteenth-century German writer whose name is often used synonymously with Communism
Molotov cocktails	improvised bombs, usually made with gasoline and a bottle; named after Vyacheslav Molotov, Soviet foreign minister during World War II, by the Finns, who used them to resist the Soviet Union

Document Text

insecurity and injustice which are the fertile soil in which the seed of communism grows and develops.

The People Are Important

These are revolutionary times. All over the globe men are revolting against old systems of exploitation and oppression and out of the wombs of a frail world new systems of justice and equality are being born. The shirtless and barefoot people of the land are rising up as never before. "The people who sat in darkness have seen a great light." We in the West must support these revolutions. It is a sad fact that, because of comfort, complacency, a morbid fear of communism, and our proneness to adjust to injustice, the Western nations that initiated so much of the revolutionary spirit of the modern world have now become the arch anti-revolutionaries. This has driven many to feel that only Marxism has the revolutionary spirit. Therefore, communism is a judgment against our failure to make democracy real and follow through on the revolutions we initiated. Our only hope today lies in our ability to recapture the revolutionary spirit and go out into a sometimes hostile world declaring eternal hostility to poverty, racism, and militarism. With this powerful commitment we shall boldly challenge the status quo and unjust mores and thereby speed the day when "every valley shall be exalted, and every mountain and hill shall be made low, and the crooked shall be made straight and the rough places plain."

A genuine revolution of values means in the final analysis that our loyalties must become ecumenical rather than sectional. Every nation must now develop an overriding loyalty to mankind as a whole in order to preserve the best in their individual societies.

This call for a world-wide fellowship that lifts neighborly concern beyond one's tribe, race, class and nation is in reality a call for an all-embracing and unconditional love for all men. This oft misunderstood and misinterpreted concept so readily dismissed by the Nietzsches of the world as a weak and cowardly force has now become an absolute necessity for the survival of man. When I speak of love I am not speaking of some sentimental and weak response. I am speaking of that force which all of the great religions have seen as the supreme unifying principle of life. Love is somehow the key that unlocks the door which leads to ultimate reality. This Hindu-Moslem-Christian-Jewish-Buddhist belief about ultimate reality is beautifully summed up in the first epistle of Saint John:

Let us love one another; for love is God and everyone that loveth is born of God and knoweth God. He that loveth not knoweth not God; for God is love. If we love one another God dwelleth in us, and his love is perfected in us.

Glossary

"The moving finger writes …"	quotation from verse 51 of Edward FitzGerald's poem *Rubáiyát of Omar Khayyám*
napalm	a highly flammable explosive often used to burn forested areas thought to hold troops during the Vietnam War
National Liberation Front	Communists who led the insurgency in Vietnam
Nietzsches	a reference to Friedrich Nietzsche, a nineteenth-century German philosopher
"The people who sat in darkness …"	quotation from the Gospel of Matthew, chapter 4, verse 16
Premier Diem	Ngo Dinh Diem, the first president of South Vietnam, who was assassinated in 1963
"tide in the affairs of men"	quotation from Shakespeare's *Julius Caesar*, act 4, scene 3
VC	abbreviation for Vietcong
Vietcong	the Western name for the Communist insurgents in Vietnam

Document Text

Let us hope that this spirit will become the order of the day. We can no longer afford to worship the god of hate or bow before the altar of retaliation. The oceans of history are made turbulent by the ever-rising tides of hate. History is cluttered with the wreckage of nations and individuals that pursued this self-defeating path of hate. As Arnold Toynbee says: "Love is the ultimate force that makes for the saving choice of life and good against the damning choice of death and evil. Therefore the first hope in our inventory must be the hope that love is going to have the last word."

We are now faced with the fact that tomorrow is today. We are confronted with the fierce urgency of now. In this unfolding conundrum of life and history there is such a thing as being too late. Procrastination is still the thief of time. Life often leaves us standing bare, naked and dejected with a lost opportunity. The "tide in the affairs of men" does not remain at the flood; it ebbs. We may cry out desperately for time to pause in her passage, but time is deaf to every plea and rushes on. Over the bleached bones and jumbled residue of numerous civilizations are written the pathetic words: "Too late." There is an invisible book of life that faithfully records our vigilance or our neglect. "The moving finger writes, and having writ moves on.… " We still have a choice today; nonviolent coexistence or violent co-annihilation.

We must move past indecision to action. We must find new ways to speak for peace in Vietnam and justice throughout the developing world a world that borders on our doors. If we do not act we shall surely be dragged down the long dark and shameful corridors of time reserved for those who possess power without compassion, might without morality, and strength without sight.

Now let us begin. Now let us rededicate ourselves to the long and bitter but beautiful struggle for a new world. This is the calling of the sons of God, and our brothers wait eagerly for our response. Shall we say the odds are too great? Shall we tell them the struggle is too hard? Will our message be that the forces of American life militate against their arrival as full men, and we send our deepest regrets? Or will there be another message, of longing, of hope, of solidarity with their yearnings, of commitment to their cause, whatever the cost? The choice is ours, and though we might prefer it otherwise we must choose in this crucial moment of human history.

As that noble bard of yesterday, James Russell Lowell, eloquently stated:

Once to every man and nation
Comes the moment to decide,
In the strife of truth and falsehood,
For the good or evil side;
Some great cause, God's new Messiah,
Off'ring each the bloom or blight,
And the choice goes by forever
Twixt that darkness and that light.
Though the cause of evil prosper,
Yet 'tis truth alone is strong;
Though her portion be the scaffold,
And upon the throne be wrong:
Yet that scaffold sways the future,
And behind the dim unknown,
Standeth God within the shadow
Keeping watch above his own.

Georgia congressman Seaborn Roddenbery (Library of Congress)

Loving v. Virginia

1967

"Restricting the freedom to marry solely because of racial classifications violates the central meaning of the Equal Protection Clause."

Overview

In 1967 in *Loving v. Virginia*, Chief Justice Earl Warren wrote on behalf of a unanimous Supreme Court to declare antimiscegenation laws in violation of the Fourteenth Amendment to the U.S. Constitution. Laws against interracial marriage were widespread in the United States into the 1960s. An interracial couple from Virginia, wanting to be "Mr. and Mrs. Richard Loving," found themselves taken to jail in 1958 and then to court because he was white and she was not. They were convicted of the crime of marrying each other, but eventually they appealed their convictions, and the case went to the U.S. Supreme Court. There, the Fourteenth Amendment, which had been in the Constitution for almost exactly a century, was for the first time interpreted to declare unconstitutional all state laws against interracial marriage. As a result, more than three hundred years after the first of such laws was passed, none could any longer be enforced. States retained their authority over the law of marriage in other respects but no longer as regarded racial classifications.

Thus, thirteen years after the Warren Court overturned segregated public schooling, all laws against interracial marriage — the last refuge for state-mandated segregation — were overturned as well. As with the Montgomery bus boycott, some citizens had protested the segregation laws, and their resistance led to the Supreme Court's ruling against those laws. The Lovings, then, can be seen as important actors in the civil rights movement. At the same time, Chief Justice Warren's decision to throw out the case against them can be seen as a crucial document, akin to President Harry S. Truman's Executive Order 9981 in 1948 against segregation in the U.S. armed forces, the Supreme Court's ruling in *Brown v. Board of Education of Topeka* in 1954, and the congressional passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. *Loving v. Virginia* brought down the last of the Jim Crow laws that had segregated so much of American life for so long.

Context

Laws against interracial marriage were on the books of most of the American colonies before the Revolution. The term *miscegenation*, referring to sex or marriage between people of two different races, was coined in the course of President Abraham Lincoln's bid for reelection in 1864, when David Goodman Croly and George Wakeman, two Democratic newspapermen, produced a hoax pamphlet with that term as the title designed to give the impression that Lincoln favored interracial marriage. A majority of states retained their antimiscegenation laws through the nineteenth century and even beyond World War II. Those laws varied widely, however, in how they chose to define *interracial*, in whether they made interracial marriage a crime, and in whether they would recognize an interracial marriage that took place outside their borders. Some states repealed their laws and never restored them, while seven southern states, including Louisiana and Arkansas, dropped such laws in the 1870s but then restored them by the 1890s. As of 1895, interracial marriage was banned throughout the South. In 1912 the Georgia congressman Seaborn Roddenbery proposed an amendment to the U.S. Constitution to ban black-white marriages everywhere in the nation, but it did not pass. Nonetheless, between 1913 and 1948, thirty of the forty-eight states maintained laws against interracial marriage. Then, beginning with a four-to-three decision in *Perez v. Sharp* by the Supreme Court of California in 1948, followed by a series of legislative repeals, all the states outside the South shed those laws; after 1965 only the seventeen states of the South retained them. A newly reapportioned Maryland legislature passed a repeal measure in early 1967, to be effective on June 1, leaving sixteen states with antimiscegenation laws.

Over the years, the Supreme Court had addressed various matters related to marriage. The majority opinion in the 1857 *Dred Scott* case cited northern laws against interracial marriage as evidence that whites outside the South shared a common disinclination to recognize their African American neighbors as full citizens. In a major precedent, the Court ruled unanimously in *Pace v. Alabama* (1883) that, where a black man and a white woman had been convicted of living together outside marriage — and under Alabama law at the time, they could not have legally married — it was no violation of their rights that the punishment for their crime was greater than it would have been had they shared a racial identity, white or black. In the 1888 case

Time Line

1691

- **April**
  The Virginia General Assembly enacts a bill "for prevention of that abominable mixture," referring to marriages between whites and nonwhites, "and spurious issue," meaning mixed-race free children of white women.

1857

- In *Dred Scott v. Sandford*, Chief Justice Roger B. Taney cites the many laws against interracial marriage in effect at the time of the American Revolution to bolster his position about African Americans' disqualification for citizenship.

1866

- **April 9**
  The Civil Rights Act of 1866 declares all native-born Americans to be citizens with certain rights, thus including blacks and thereby overturning the Court's ruling in *Dred Scott*.

1868

- **July 28**
  The Fourteenth Amendment, featuring the equal protection and due process clauses, is ratified.

1878

- Virginia updates its antimiscegenation law to impose two- to five-year prison sentences on both parties regardless of whether they marry within Virginia or go elsewhere to marry and then return.

1883

- **January 29**
  In *Pace v. Alabama*, the Supreme Court upholds an Alabama law that imposes greater sentences on cohabiting (but unmarried) couples who are of different races than on those who are both white or both black.

1896

- **May 18**
  Plessy v. Ferguson endorses "separate but equal" public transportation facilities, noting that public education and marriage have long been widely segregated.

Maynard v. Hill, the Court stated that marriage has "always been subject to the control of the legislature." In *Plessy v. Ferguson* (1896), the Court made passing note of segregation statutes governing marriage on its way to upholding a segregation statute governing railway travel. Between 1954 and 1956 the Supreme Court refused to hear two cases, *Jackson v. State of Alabama* and the Virginia case *Naim v. Naim*, regarding antimiscegenation statutes, leaving the statutes intact. And in 1964 the Court expressly chose not to address interracial marriage in a case, *McLaughlin v. Florida*, that resembled *Pace v. Alabama* except that here the Court did throw out as unconstitutional Florida's statute against interracial cohabitation.

Virginia's first law against interracial marriage dated from 1691, when a white person who married a nonwhite was subject to exile from the colony though back in 1614, the marriage between the Native American Pocahontas and the Englishman John Rolfe had brought a peaceful respite to the awful warfare that had been going on between the two peoples. In 1878, following the Civil War and the end of slavery, the legislature overhauled the rules to now subject both parties in a black-white marriage to two to five years in the penitentiary as well as to provide that if a Virginia couple, seeking to evade the statute, went out of state to get married and then returned, the penalties would be the same. Throughout the nineteenth century, a person in Virginia was legally white if less than one-quarter black; that is, a person with three white grandparents and one black grandparent was black, but a person with seven white great-grandparents was white. That law was changed in 1910, so that a person as much as one-sixteenth black was "colored," and again in 1924, with the Racial Integrity Act, so that any traceable African ancestry resulted in classification as a colored person. Thus the "one-drop" rule of black racial identity came to Virginia's law of marriage in 1924. The one material change to the law thereafter reduced the minimum prison term to a single year for each party to a marriage between a "white" person and a "colored" person.

In Caroline County, a rural portion of eastern Virginia, Richard Perry Loving was born a white man in 1933, and Mildred Delores Jeter, of African and Native American descent, was born a "colored" woman in 1939. They drove to Washington, D.C., in June 1958 to get married, returned to Caroline County, and were living with her parents about a month later when three law enforcement officers walked into the unlocked house late one night, awoke them, and arrested them for their unlawful marriage. At trial the following January, they pled guilty in accordance with the terms of a plea bargain. Instead of being sent to prison for a year, they were exiled from Virginia; reluctantly, they moved to Washington, D.C.

In 1963, however, Mrs. Loving wrote to Attorney General Robert F. Kennedy at the U.S. Department of Justice for help, and her plea made its way to Bernard S. Cohen, a young lawyer for the American Civil Liberties Union with an office in Alexandria, Virginia. Subsequently joined by another young lawyer, Philip J. Hirschkop, Cohen appealed the 1959 outcome at trial to the original judge, Leon M.

Bazile. At issue under the Constitution were the due process and equal protection clauses of the Fourteenth Amendment, according to which governments must not intervene arbitrarily in people's lives or treat one racial group differently from another. In January 1965, Bazile wrote out a long opinion explaining why the law was constitutional and its application to the Lovings just; he remarked (as Warren would cite in *Loving*),

> Almighty God created the races white, black, yellow, malay and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix.

The case went next to the Virginia Supreme Court, which in 1966 upheld the trial judge, and then to the U.S. Supreme Court.

Under Chief Justice Warren, the Court had been relying on the equal protection clause to chip away at the edifice of Jim Crow all the way back to the 1954 *Brown v. Board* case (with considerable preliminary work along those lines having been accomplished even before Warren came on the Court). Even aside from race, the Warren Court had been attacking impediments to human freedom that state authorities often imposed, whether state failure to provide defense lawyers to indigent defendants in criminal proceedings or state laws restricting access to birth control for married couples. The decision in *Loving v. Virginia* reflected both impulses, as the case was resolved with the Court's landmark 1967 ruling striking down laws against interracial marriage.

About the Author

As chief justice, Earl Warren assigned to himself the task of writing the Court's opinion in *Loving v. Virginia*. In the way that law clerks often do much of the actual drafting, however, Warren's clerk Benno Schmidt did the heavy lifting in the *Loving* case, following his boss's directions as to the reasoning and also some of the content. For example, Warren directed Schmidt to center the opinion on racial discrimination and the right to marry and to definitely cite Judge Bazile's language about how God had created the separate races and wanted to keep them separate.

Earl Warren was born in Los Angeles, California, in 1891. The son of a railroad-car repairman, the young Warren also worked for a time on railroads. He went to college and law school at the University of California, Berkeley; served briefly in World War I; and then went to work in the office of the district attorney for Alameda County, California. He would work there for eighteen years, thirteen as district attorney himself, gaining extensive experience as a prosecutor; in a 1931 survey he was voted the best district attorney in the nation. Beyond prosecuting defendants, on their behalf he urged that they each, if necessary, have a public defender so as to be fairly represented in criminal

Time Line

1910

- Virginia changes the definition of a "colored" person from someone of at least one-quarter African ancestry (with one black grandparent) to someone at least one-sixteenth African (with one black great-great-grandparent).

1924

- The Racial Integrity Act becomes law in Virginia such that anyone having any black ancestry is black; other nonwhites are defined as "colored" too and therefore cannot marry people still defined as white.

1948

- **October 1**
  Where thirty of the forty-eight states retained laws against interracial marriage since 1913, that figure begins to decline when the Supreme Court of California overturns the state's antimiscegenation law in *Perez v. Sharp*.

1953

- **October 5**
  Earl Warren takes the oath of office as chief justice of the United States.

1954

- **May 17**
  In *Brown v. Board of Education of Topeka*, the Supreme Court, overturning *Plessy v. Ferguson*, bans state-mandated segregation in public schools.

1958

- The Virginians Mildred Jeter and Richard Loving go to Washington, D.C., in June to marry and then return to Caroline County; they are arrested in July for violating Virginia's law against interracial marriage.

1959

- **January 6**
  The Lovings are convicted and exiled from Virginia (in lieu of one year each in jail); they move to Washington, D.C.

Time Line

1964

- **December 7**
  The Supreme Court, in *McLaughlin v. Florida*, overturns *Pace v. Alabama* as regards laws prohibiting interracial cohabitation, but it expressly declines to go so far as to overturn the Florida law against interracial marriage.

1966

- **March 7**
  The Virginia Supreme Court upholds the state's laws against interracial marriage, and thus the Lovings' convictions under them, but takes exception to their banishment.

1967

- **June 12**
  In *Loving v. Virginia*, the U.S. Supreme Court unanimously overturns the Lovings' convictions—and, in fact, overturns all state laws against interracial marriage.

1984

- **April 25**
  In *Palmore v. Sidoti*, about a divorced white woman who lost custody of her white daughter after marrying a black man, the Supreme Court rules against race as a criterion for reassigning child custody when a parent remarries across racial lines.

1999

- **December 20**
  In *Baker v. State of Vermont*, which directs the state legislature to "extend to same-sex couples the common benefits and protections that flow from marriage under Vermont law," the Vermont Supreme Court quotes *Loving v. Virginia* about the "freedom to marry."

court proceedings. In 1938 he was elected attorney general of California, to serve a four-year term. In 1942 he ran as a Republican for the governorship of California and was elected to the first of three four-year terms. He was nominated for the vice presidency in 1948 as Thomas Dewey's running mate, but the presidency instead went to Harry Truman. Warren helped Dwight Eisenhower win their party's nomination for the presidency in 1952 and was offered the position of solicitor general in the new administration, but he was then nominated as chief justice of the United States when Chief Justice Fred Vinson died in September 1953. Warren was quickly confirmed and took the helm of the Supreme Court the following month.

In joining the Court, Warren was not new to issues related to the laws of race and marriage. As California's attorney general back in 1939, he was obligated to interpret the state's racial restrictions on marriage. And in 1948 he was serving as governor when the Supreme Court of California struck down that state's law against interracial marriages. Within three years of his appointment as chief justice, two cases regarding the constitutionality of laws against interracial marriage came to the Court, and in each one from Virginia, one from Alabama he was in the minority as to whether the Court would hear the case and potentially overturn the law that had given rise to it. As late as 1964, in *McLaughlin v. Florida*, though ruling in favor of an unmarried interracial couple, the Court had not been prepared to overturn laws against interracial marriage. In *Loving* in 1967, Warren had the perfect case and the perfect occasion for ruling against such laws everywhere.

While serving as chief justice, Warren reluctantly accepted the chairmanship of a special commission set up by Congress to investigate the 1963 assassination of President John F. Kennedy. The Warren Commission, as it became known, found that Lee Harvey Oswald acted alone in his assassination, a controversial conclusion. In June 1968, one year after the ruling in *Loving v. Virginia*, Warren informed President Lyndon B. Johnson that he wished to retire as soon as his successor could be confirmed. Johnson chose the associate Supreme Court justice Abe Fortas, whose nomination ran into such trouble toward the end of Johnson's presidency that he eventually withdrew his name; Warren's successor, Warren E. Burger, was an appointee of the new president, Richard M. Nixon. Earl Warren was working on his memoirs when he died in 1974.

Explanation and Analysis of the Document

Chief Justice Warren declares in the opening sentence of his opinion, "This case presents a constitutional question never addressed by this Court." While he is pointing out the novelty of the question, and certainly of the position the Court took that day, at the same time the chief justice may be apologizing for the Court's failure to address the question of interracial marriage at any of several earlier opportunities, including three on his watch. He specifies the question of whether state laws against interracial marriage violate the equal protection and due process clauses of the Fourteenth Amendment. He does not reserve the punch line: indeed, those laws do conflict with the Fourteenth Amendment; so they must fall. He then recounts the long journey the Lovings had taken, from their wedding nine years earlier up until their triumph achieved as he then read the Court's unanimous ruling that their convictions could not stand.

And he quotes the trial judge's language about how God had "created the races" five are listed and wanted them not "to mix," though Warren misdates the trial judge's comments as coming from the original trial in 1959 rather than the actual occasion, the rehearing in 1965.

The chief justice quotes in full the statutory provisions that made it a crime for an interracial couple in Virginia to marry, not only inside the state but also outside of it if they planned to return to Virginia and live as a married couple there, as the Lovings had. He also supplies (in a lengthy footnote not reproduced here) the exact language that defined "white persons" and "colored persons" in Virginia. He notes that the Lovings had never contested their being classified, one as white and the other as colored, under those legal provisions (an approach sometimes taken by other interracial couples, who claimed to be both white or both nonwhite and therefore not subject to prosecution under the law). Warren mentions the extraordinary antiquity of Virginia's law, where "penalties for miscegenation arose as an incident to slavery and have been common in Virginia since the colonial period." But, as he observes, "the present statutory scheme dates from the adoption of the Racial Integrity Act of 1924," whose key provisions he recounts. A footnote (not provided here) lists the statutory provisions of the fifteen other states, all in the South, that still had such laws as Virginia's, and it also lists the fourteen states that, in the previous two decades, had repealed their antimiscegenation laws.

◆ Part I

In part I of the opinion, the chief justice reviews the charges against the Lovings and the leading arguments that the state of Virginia offered in its defense of its laws, and he rebuts each in turn. The Supreme Court of Appeals of Virginia, whose ruling was under appeal in this case, had, as one of its arguments in support of the constitutionality of the state's antimiscegenation laws, reached for a ruling by that same court a decade earlier, *Naim v. Naim* (1955), regarding a Chinese man and a white woman. As Warren forthrightly assesses, the Virginia court had declared that the state's "legitimate purposes" in enacting, enforcing, and upholding such laws "were 'to preserve the racial integrity of its citizens,' and to prevent 'the corruption of blood,' 'a mongrel breed of citizens,' and 'the obliteration of racial pride,' obviously an endorsement of the doctrine of White Supremacy." As the chief justice notes a little later, Virginia had banned not all interracial marriages but "only interracial marriages involving white persons." He goes on, in a footnote (not reproduced here), to condemn racial classifications in criminal statutes regardless of whether the "integrity" of all races or only that of whites is to be protected. So from the Court's perspective, neither white supremacy nor concern for racial integrity passed muster as a defense of the Virginia laws.

In the opening sentence of the second paragraph, Chief Justice Warren seriously undercuts the state's reliance on the Tenth Amendment's declaration regarding the legitimate powers of the states, and thus the rightful limits on federal authority, to deflect arguments based upon the Fourteenth Amendment and the limits on state powers. But such arguments still had to be addressed. In presenting its case to the Supreme Court, the state of Virginia drew upon a ruling from 1888, *Maynard v. Hill*, in which the Court baldly stated that marriage, "having more to do with the morals and civilization of a people than any other institution, has always been subject to the control of the legislature." Warren chides the state of Virginia for mounting such an argument in support of its laws of race and marriage: "While the state court is no doubt correct in asserting that marriage is a social relation subject to the State's police power,… the State does not contend in its argument before this Court that its powers to regulate marriage are unlimited notwithstanding the commands of the Fourteenth Amendment. Nor could it do so," the chief justice goes on, in view of some important cases from long before the 1960s but long after the 1880s, including *Meyer v. Nebraska* (1923), in which the Court had spoken expressly of "the right … to marry."

The state also argued that the equal protection clause should be understood as reflecting an intent by the Framers that, so long as punishments visited upon people, both black and white, were the same for violating a given law, such as Virginia's against interracial marriage, then the requirements of equal protection were satisfied. Indeed, the Supreme Court had accepted that very argument in 1883 in *Pace v. Alabama*, a case that arose when a man classified as black and a woman classified as white had, upon conviction for living together without being married, suffered a more severe sentence than they would have had they both been white or both black. Judge Bazile, in writing his opinion in 1965 in support of the original outcome for the Lovings at trial six years before, called upon a wide range of precedents that supported him, but he ignored a 1964 ruling by the Supreme Court to the contrary viewing it as no more legitimate than he had perceived *Brown v. Board of Education* to be a decade earlier. That 1964 ruling, *McLaughlin v. Florida*, Chief Justice Warren now invokes, quoting the remark that "*Pace* represents a limited view of the Equal Protection Clause which has not withstood analysis in the subsequent decisions of this Court." Thus, *Pace v. Alabama* helped the state's case no more than did *Maynard v. Hill*. As to whether the Fourteenth Amendment protects against "classifications drawn by any statute" that "constitute an arbitrary and invidious discrimination," the Court had so held in *McLaughlin v. Florida*, and it is ruling so again in *Loving v. Virginia*. Warren has established that the equal protection clause sufficed to strike the Virginia laws and therefore the Lovings' convictions under those laws.

◆ Part II

The Lovings' attorneys had also argued on the basis of the due process clause, and this portion of the Fourteenth Amendment the Court also considers. To do so, the Court cites the 1942 case *Skinner v. State of Oklahoma* (which was primarily concerned with sterilization as legal punishment) as well as *Maynard v. Hill*, one of the key props in the state's case. That long-ago case from 1888, which on its

Anti-Republican poitical cartoon showing a "Miscegenation Ball" (Library of Congress)

face had nothing to do with race, spoke in very strong terms not only of legislative prerogative in the law of marriage but also of the supreme importance of marriage as an institution. So in the short final section on the due process clause, the chief justice speaks of "this fundamental freedom" and notes with reproof how antimiscegenation laws serve to "deprive all the State's citizens of liberty without due process of law." In short, though the Court does not use this precise language, Richard Loving had been denied not despite his being a white man but indeed because he was a white man the right to marry Mildred Jeter, and she had been similarly deprived of the right to marry him. In sum, this dual deprivation, and the Lovings' punishment for the crime of trying to be a married couple, constituted a denial of both equal protection and due process of law. So, the Court concludes, "These convictions must be reversed."

Audience

The Supreme Court could be said to have had three audiences for its ruling against laws that prevented couples defined as interracial from getting married. First was the Lovings themselves, who sought an end to their liability for prosecution for their marriage as well as an end to the enforcement of the terms of their plea bargain preventing their publicly living together back in Virginia. At the same time, the Court's audience consisted of public authorities in all sixteen states in which antimiscegenation laws had persisted as late as the time of the ruling. In light of *Loving*, those officials no longer had the authority to enforce such laws, whether in denying marriage licenses to interracial couples, prosecuting married couples under a criminal statute against interracial marriage, or denying inheritance benefits on the basis that a marriage, because interracial, had always been invalid in that state.

The third audience was all of America, and indeed the world, with the opinion announcing that new rules of race and marriage were now in place whereby African Americans might in every state be suitable marriage partners for Caucasians as the last wall in the edifice of American apartheid had been taken down. Looking further ahead, the ruling's sweeping language about "the freedom to marry" resonates up to the present time, as in state after state, same-sex couples seek to have the language and logic of *Loving v. Virginia* about "equal protection" and "the freedom to marry" applied to them.

Essential Quotes

"The clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States."

(Part I)

"There can be no doubt that restricting the freedom to marry solely because of racial classifications violates the central meaning of the Equal Protection Clause."

(Part I)

"The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men."

(Part II)

"Under our Constitution, the freedom to marry, or not marry, a person of another race resides with the individual and cannot be infringed by the State."

(Part II)

Impact

The ruling's impact was immediate for the Lovings, who found themselves free to live openly together with their children in Virginia. There the children would grow to adulthood, and their parents would live out the rest of their lives. Richard Loving, among whose many occupations was that of bricklayer, symbolically heralded the family's new-found freedom by building a permanent new home of brick for them all.

Elsewhere, throughout the nation, public authorities could no longer enforce miscegenation laws. Interracial couples in Delaware, Arkansas, Louisiana, and many other states thus suddenly found that the key obstacle to their marrying had been taken down. *Loving*'s impact also extended to different dimensions of the law of marriage. The outcome of litigation in Oklahoma, for example, took a new turn after *Loving v. Virginia*, since a 1939 marriage between a white man and an African American woman, under which the widow's daughter and granddaughter had sought to inherit property in the 1960s, was suddenly valid; thus it could not be successfully contested by a son from his father's earlier marriage who did not wish to share his father's estate. Some years later, in 1984, the Supreme Court had occasion to revisit the *Loving* case and expand its reach after a local court in Florida removed a white child from the custody of her divorced mother, Linda Sidoti, on the grounds that she had married a black man, Clarence Palmore, Jr. The Court decided that race could not be grounds for reassigning child custody when a parent remarries across racial lines.

Within four years of *Loving v. Virginia*, same-sex couples were going to court seeking to obtain marriage licenses, arguing on the basis of the language and logic of *Loving* that they should not be denied the right to marry. In state after state, beginning with Minnesota in 1971 in *Baker v. Nelson*, such arguments were rebuffed. State legislatures thus yet retained the authority to define marriage and to continue, on grounds other than race, to restrict people's freedom to marry. In the 1990s, however, state judges began to prove receptive to such arguments if couched in terms of the provisions of state constitutions rather than those of the Fourteenth Amendment. In Hawaii and Alaska, voters subsequently approved a change in the language of their respective state constitutions to undo rulings based upon judicial interpretation of the former language. But in

Vermont, "civil unions" resulted from a state supreme court ruling in favor of same-sex litigants, *Baker v. State of Vermont*. And in Massachusetts even that degree of change was deemed too small, an unconstitutional infringement of a constitutional right to marry. In *Goodrich v. Department of Public Health* (2003), the Supreme Judicial Court of Massachusetts, relying in part on *Loving v. Virginia*, interpreted the Massachusetts state constitution to require that same-sex couples enjoy the full right to marry that heterosexual couples do.

See also *Dred Scott v. Sandford* (1857); *Plessy v. Ferguson* (1896); Fourteenth Amendment to the U.S. Constitution (1868); Executive Order 9981 (1948); *Brown v. Board of Education* (1954); Civil Rights Act of 1964.

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Peter Wallenstein

Questions for Further Study

1. The Commonwealth of Virginia had a long legal history pertaining to African Americans. Compare this document with Virginia's Act III: Baptism Does Not Exempt Slaves from Bondage (1667) and the Virginia Slave Code (1860). How were the antimiscegenation laws in effect in Virginia as late as the 1960s an outgrowth of the commonwealth's history?

2. What was the "one drop rule"? Why was this "rule" important in the nation's racial history?

3. On what fundamental constitutional basis did the Warren Court negate Virginia's laws against interracial marriage? Did the Court use the same principle in its decision in *Brown v. Board of Education* (1954)? Explain.

4. What impact did the Court's decision in *Loving v. Virginia* have on the debate involving same-sex couples? According to some people, how does the logic of the decision extend to such couples?

5. According to the entry, the "last wall in the edifice of American apartheid had been taken down" through the Court's decision in this case. Do you agree with this conclusion?

Document Text

LOVING V. VIRGINIA

Mr. Chief Justice Warren delivered the opinion of the Court

This case presents a constitutional question never addressed by this Court: whether a statutory scheme adopted by the State of Virginia to prevent marriages between persons solely on the basis of racial classifications violates the Equal Protection and Due Process Clauses of the Fourteenth Amendment. For reasons which seem to us to reflect the central meaning of those constitutional commands, we conclude that these statutes cannot stand consistently with the Fourteenth Amendment.

In June 1958, two residents of Virginia, Mildred Jeter, a Negro woman, and Richard Loving, a white man, were married in the District of Columbia pursuant to its laws. Shortly after their marriage, the Lovings returned to Virginia and established their marital abode in Caroline County. At the October Term, 1958, of the Circuit Court of Caroline County, a grand jury issued an indictment charging the Lovings with violating Virginia's ban on interracial marriages. On January 6, 1959, the Lovings pleaded guilty to the charge and were sentenced to one year in jail; however, the trial judge suspended the sentence for a period of 25 years on the condition that the Lovings leave the State and not return to Virginia together for 25 years. He stated in an opinion that:

> "Almighty God created the races white, black, yellow, malay and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix."

After their convictions, the Lovings took up residence in the District of Columbia. On November 6, 1963, they filed a motion in the state trial court to vacate the judgment and set aside the sentence on the ground that the statutes which they had violated were repugnant to the Fourteenth Amendment. The motion not having been decided by October 28, 1964, the Lovings instituted a class action in the United States District Court for the Eastern District of Virginia requesting that a three-judge court be convened to declare the Virginia antimiscegenation statutes unconstitutional and to enjoin state officials from enforcing their convictions. On January 22, 1965, the state trial judge denied the motion to vacate the sentences, and the Lovings perfected an appeal to the Supreme Court of Appeals of Virginia. On February 11, 1965, the three-judge District Court continued the case to allow the Lovings to present their constitutional claims to the highest state court.

The Supreme Court of Appeals upheld the constitutionality of the antimiscegenation statutes and, after modifying the sentence, affirmed the convictions. The Lovings appealed this decision, and we noted probable jurisdiction on December 12, 1966, 385 U.S. 986.

The two statutes under which appellants were convicted and sentenced are part of a comprehensive statutory scheme aimed at prohibiting and punishing interracial marriages. The Lovings were convicted of violating ß 20 58 of the Virginia Code:

> "*Leaving State to evade law.* If any white person and colored person shall go out of this State, for the purpose of being married, and with the intention of returning, and be married out of it, and afterwards return to and reside in it, cohabiting as man and wife, they shall be punished as provided in ß 20 59, and the marriage shall be governed by the same law as if it had been solemnized in this State. The fact of their cohabitation here as man and wife shall be evidence of their marriage."

Section 20 59, which defines the penalty for miscegenation, provides:

> "*Punishment for marriage.* If any white person intermarry with a colored person, or any colored person intermarry with a white person, he shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one nor more than five years."

Other central provisions in the Virginia statutory scheme are ß20 57, which automatically voids all

marriages between "a white person and a colored person" without any judicial proceeding, and ßß20 54 and 1 14 which, respectively, define "white persons" and "colored persons and Indians" for purposes of the statutory prohibitions. The Lovings have never disputed in the course of this litigation that Mrs. Loving is a "colored person" or that Mr. Loving is a "white person" within the meanings given those terms by the Virginia statutes.

Virginia is now one of 16 States which prohibit and punish marriages on the basis of racial classifications. Penalties for miscegenation arose as an incident to slavery and have been common in Virginia since the colonial period. The present statutory scheme dates from the adoption of the Racial Integrity Act of 1924, passed during the period of extreme nativism which followed the end of the First World War. The central features of this Act, and current Virginia law, are the absolute prohibition of a "white person" marrying other than another "white person," a prohibition against issuing marriage licenses until the issuing official is satisfied that the applicants' statements as to their race are correct, certificates of "racial composition" to be kept by both local and state registrars, and the carrying forward of earlier prohibitions against racial intermarriage.

◆ I

In upholding the constitutionality of these provisions in the decision below, the Supreme Court of Appeals of Virginia referred to its 1955 decision in *Naim v. Naim*, 197 Va. 80, 87 S.E. 2d 749, as stating the reasons supporting the validity of these laws. In *Naim*, the state court concluded that the State's legitimate purposes were "to preserve the racial integrity of its citizens," and to prevent "the corruption of blood," "a mongrel breed of citizens," and "the obliteration of racial pride," obviously an endorsement of the doctrine of White Supremacy. *Id*., at 90, 87 S.E. 2d, at 756. The court also reasoned that marriage has traditionally been subject to state regulation without federal intervention, and, consequently, the regulation of marriage should be left to exclusive state control by the Tenth Amendment.

While the state court is no doubt correct in asserting that marriage is a social relation subject to the State's police power, *Maynard v. Hill*, 125 U.S. 190 (1888), the State does not contend in its argument before this Court that its powers to regulate marriage are unlimited notwithstanding the commands of the Fourteenth Amendment. Nor could it do so in light of *Meyer v. Nebraska*, 262 U.S. 390 (1923), and *Skinner v. Oklahoma*, 316 U.S. 535 (1942). Instead, the State argues that the meaning of the Equal Protection Clause, as illuminated by the statements of the Framers, is only that state penal laws containing an interracial element as part of the definition of the offense must apply equally to whites and Negroes in the sense that members of each race are punished to the same degree. Thus, the State contends that, because its miscegenation statutes punish equally both the white and the Negro participants in an interracial marriage, these statutes, despite their reliance on racial classifications, do not constitute an invidious discrimination based upon race. The second argument advanced by the State assumes the validity of its equal application theory. The argument is that, if the Equal Protection Clause does not outlaw miscegenation statutes because of their reliance on racial classifications, the question of constitutionality would thus become whether there was any rational basis for a State to treat interracial marriages differently from other marriages. On this question, the State argues, the scientific evidence is substantially in doubt and, consequently, this Court should defer to the wisdom of the state legislature in adopting its policy of discouraging interracial marriages.

Because we reject the notion that the mere "equal application" of a statute containing racial classifications is enough to remove the classifications from the Fourteenth Amendment's proscription of all invidious racial discriminations, we do not accept the State's contention that these statutes should be upheld if there is any possible basis for concluding that they serve a rational purpose. The mere fact of equal application does not mean that our analysis of these statutes should follow the approach we have taken in cases involving no racial discrimination where the Equal Protection Clause has been arrayed against a statute discriminating between the kinds of advertising which may be displayed on trucks in New York City, *Railway Express Agency, Inc. v. New York*, 336 U.S. 106 (1949), or an exemption in Ohio's ad valorem tax for merchandise owned by a nonresident in a storage warehouse, *Allied Stores of Ohio, Inc. v. Bowers*, 358 U.S. 522 (1959). In these cases, involving distinctions not drawn according to race, the Court has merely asked whether there is any rational foundation for the discriminations, and has deferred to the wisdom of the state legislatures. In the case at bar, however, we deal with statutes containing racial classifications, and the fact of equal application does not immunize the statute from the

Document Text

very heavy burden of justification which the Fourteenth Amendment has traditionally required of state statutes drawn according to race.

The State argues that statements in the Thirty-ninth Congress about the time of the passage of the Fourteenth Amendment indicate that the Framers did not intend the Amendment to make unconstitutional state miscegenation laws. Many of the statements alluded to by the State concern the debates over the Freedmen's Bureau Bill, which President Johnson vetoed, and the Civil Rights Act of 1866, 14 Stat. 27, enacted over his veto. While these statements have some relevance to the intention of Congress in submitting the Fourteenth Amendment, it must be understood that they pertained to the passage of specific statutes and not to the broader, organic purpose of a constitutional amendment. As for the various statements directly concerning the Fourteenth Amendment, we have said in connection with a related problem, that although these historical sources "cast some light" they are not sufficient to resolve the problem; "[a]t best, they are inconclusive. The most avid proponents of the post-War Amendments undoubtedly intended them to remove all legal distinctions among 'all persons born or naturalized in the United States.' Their opponents, just as certainly, were antagonistic to both the letter and the spirit of the Amendments and wished them to have the most limited effect." *Brown v. Board of Education*, 347 U.S. 483, 489 (1954). See also *Strauder v. West Virginia*, 100 U.S. 303, 310 (1880). We have rejected the proposition that the debates in the Thirty-ninth Congress or in the state legislatures which ratified the Fourteenth Amendment supported the theory advanced by the State, that the requirement of equal protection of the laws is satisfied by penal laws defining offenses based on racial classifications so long as white and Negro participants in the offense were similarly punished. *McLaughlin v. Florida*, 379 U.S. 184 (1964).

The State finds support for its "equal application" theory in the decision of the Court in *Pace v. Alabama*, 106 U.S. 583 (1883). In that case, the Court upheld a conviction under an Alabama statute forbidding adultery or fornication between a white person and a Negro which imposed a greater penalty than that of a statute proscribing similar conduct by members of the same race. The Court reasoned that the statute could not be said to discriminate against Negroes because the punishment for each participant in the offense was the same. However, as recently as the 1964 Term, in rejecting the reasoning of that case, we stated "*Pace* represents a limited view of the Equal Protection Clause which has not withstood analysis in the subsequent decisions of this Court." *McLaughlin v. Florida, supra*, at 188. As we there demonstrated, the Equal Protection Clause requires the consideration of whether the classifications drawn by any statute constitute an arbitrary and invidious discrimination. The clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States. *Slaughter-House Cases*, 16 Wall. 36, 71 (1873); *Strauder v. West Virginia*, 100 U.S. 303, 307 308 (1880); *Ex parte Virginia*, 100 U.S. 339, 344 345 (1880); *Shelley v. Kraemer*, 334 U.S. 1 (1948); *Burton v. Wilmington Parking Authority*, 365 U.S. 715 (1961).

There can be no question but that Virginia's miscegenation statutes rest solely upon distinctions drawn according to race. The statutes proscribe generally accepted conduct if engaged in by members of different races. Over the years, this Court has consistently repudiated "[d]istinctions between citizens solely because of their ancestry" as being "odious to a free people whose institutions are founded upon the doctrine of equality." *Hirabayashi v. United States*, 320 U.S. 81, 100 (1943). At the very least, the Equal Protection Clause demands that racial classifications, especially suspect in criminal statutes, be subjected to the "most rigid scrutiny," *Korematsu v. United States*, 323 U.S. 214, 216 (1944), and, if they are ever to be upheld, they must be shown to be necessary to the accomplishment of some permissible state objective, independent of the racial discrimination which it was the object of the Fourteenth Amendment to eliminate. Indeed, two members of this Court have already stated that they "cannot conceive of a valid legislative purpose … which makes the color of a person's skin the test of whether his conduct is a criminal offense." *McLaughlin v. Florida, supra*, at 198 (Stewart, J., joined by Douglas, J., concurring).

There is patently no legitimate overriding purpose independent of invidious racial discrimination which justifies this classification. The fact that Virginia prohibits only interracial marriages involving white persons demonstrates that the racial classifications must stand on their own justification, as measures designed to maintain White Supremacy. We have consistently denied the constitutionality of measures which restrict the rights of citizens on account of race. There can be no doubt that restricting the freedom to marry solely because of racial classifications violates the central meaning of the Equal Protection Clause.

Document Text

◆ **II**

These statutes also deprive the Lovings of liberty without due process of law in violation of the Due Process Clause of the Fourteenth Amendment. The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men.

Marriage is one of the "basic civil rights of man," fundamental to our very existence and survival. *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942). See also *Maynard v. Hill*, 125 U.S. 190 (1888). To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes, classifications so directly subversive of the principle of equality at the heart of the Fourteenth Amendment, is surely to deprive all the State's citizens of liberty without due process of law. The Fourteenth Amendment requires that the freedom of choice to marry not be restricted by invidious racial discriminations. Under our Constitution, the freedom to marry, or not marry, a person of another race resides with the individual and cannot be infringed by the State.

These convictions must be reversed.

It is so ordered.

Glossary

ad valorem tax	a tax on goods computed on the basis of their value
case at bar	the case that the Court is presently hearing (used in preference to "this case," which can be misinterpreted to have a more general meaning)
class action	a lawsuit brought by one or more persons on behalf of a large group
Framers	the writers of the Constitution
Freedmen's Bureau Bill	the bill that established the Bureau of Refugees, Freedmen, and Abandoned Lands in 1865 to aid newly emancipated African Americans
nativism	any policy or viewpoint that favors the interests of the present inhabitants of a country over those of newcomers; opposition to immigration
post-War Amendments	the Thirteenth, Fourteenth, and Fifteenth Amendments to the U.S. Constitution, passed in the immediate aftermath of the Civil War to abolish slavery and protect the rights of African Americans
President Johnson	Andrew Johnson, Abraham Lincoln's successor as president in the years immediately following the Civil War
Tenth Amendment	the amendment to the U.S. Constitution, contained in the Bill of Rights, that says that powers not expressly conferred on the federal government are reserved to the states

Illinois governor Otto Kerner, foreground, and New York mayor John Lindsay meet with reporters in October 1967.
(AP/Wide World Photos)

Kerner Commission Report Summary

1968

"Our nation is moving toward two societies, one black, one white separate and unequal."

Overview

There have been many presidential commissions, but few have been more famous or more controversial than the National Advisory Commission on Civil Disorders, popularly known as the Kerner Commission. Appointed by President Lyndon B. Johnson in July 1967, as a series of deadly riots convulsed African American neighborhoods in many U.S. cities, the commission had the task of explaining why the violence was occurring and what to do about it. Johnson was a strong supporter of black rights and a champion of social reform to help the poor and minorities. The Kerner Commission proposed many reforms to augment the Johnson administration's efforts, but the president was cool to the recommendations because the Vietnam War had become so expensive that the country could no longer afford costly new social programs. In addition, the president worried that the commission's report, which asserted that white racism was the primary cause of inner-city problems, would alienate white, middle-class support for the programs it proposed. As a result, even though the Kerner Commission stated that racial problems were about to fracture American society, many of its recommendations went unheeded.

Context

During the Johnson presidency (1963 1969), Americans experienced several summers of racial strife. Most people called these civil disturbances "riots" frightening eruptions of violence that ended only when the police, the National Guard, or even U.S. Army troops restored order. Some people considered them rebellions uprisings against discriminatory institutions and practices that were forcing millions of African Americans in inner cities to endure poverty and second-class citizenship. Whatever one termed these disturbances, they were destructive, deadly, and common. During the summer of 1967 alone, 136 civil disturbances took place in all parts of the country.

These disturbances surprised, puzzled, and even outraged Johnson because of the notable advances in civil rights that had preceded them. The civil rights movement had achieved its greatest victories just as violence was beginning to plague America's cities. Tens of thousands of courageous citizens took enormous risks to protest against the racial segregation that prevented African Americans from voting, securing decent employment, buying or renting housing in many communities, and attending all-white schools. This grassroots movement for racial justice had many leaders, but the most prominent was Martin Luther King, Jr., who inspired blacks and whites alike with his commitment to using nonviolent action to achieve his dream of a harmonious, color-blind society. Johnson supported racial integration, and in July 1964 he signed the Civil Rights Act, which outlawed racial discrimination in public accommodations, such as restaurants and movie theaters, and in employment. A year later, he signed the Voting Rights Act, which gave the federal government new power to prevent states and localities from denying people of color the right to register to vote.

Eliminating racial injustice was an important step toward the creation of the Great Society, an ambitious effort, as Johnson explained, "to enrich and elevate our national life." A thriving national economy, popular confidence in federal efforts to improve American society, and large Democratic majorities in Congress gave Johnson, a Democrat, an unusual opportunity to secure the passage of one of the most remarkable programs of social reform in U.S. history. In 1964 and 1965 Congress approved many new Great Society initiatives that Johnson thought would benefit all Americans, including a War on Poverty, aid for elementary and secondary schools as well as colleges and universities, Medicare for senior citizens, and a Model Cities program to revitalize inner cities and improve housing.

Only five days after the president signed the 1965 Voting Rights Act, one of the worst racial disturbances in U.S. history began in Los Angeles in the predominantly African American neighborhood of Watts. On August 11, 1965, a small event a white police officer's arrest of an African American driver for a traffic violation triggered a huge explosion of violence. Over the course of six days, thirty-four people died, and $45 million worth of property was damaged. The arson, looting, and killing in Watts stunned President Johnson and millions of other Americans. "How is it possible after all we've accomplished?" he wondered. "How could it be?"

Time Line

1964

- **July 2**
  Johnson signs the Civil Rights Act of 1964.

1965

- **March 8**
  The first U.S. combat troops arrive in South Vietnam.
- **August 6**
  Johnson signs the Voting Rights Act.
- **August 11**
  A civil disturbance begins in the Watts section of Los Angeles.

1967

- **July 12**
  Rioting starts in Newark, New Jersey.
- **July 23**
  Riots begin in Detroit and last for five days; forty-three people die.
- **July 27**
  President Johnson speaks to the nation about the civil disorders and announces the appointment of a special commission to study the disorders.
- **December 31**
  Some 485,600 Americans are engaged in fighting in the Vietnam War.

1968

- **February 29**
  The Kerner Commission issues its report.
- **April 4**
  Martin Luther King, Jr., is murdered in Memphis, Tennessee.

Part of the answer, according to a new group of black leaders, was that the Great Society programs provided too little too late. Stokely Carmichael (later known as Kwame Ture) gained prominence in 1966 by calling for Black Power, a slogan with many possible meanings, including racial pride, self-reliance, and unity. Yet Black Power also suggested a new militancy; as Carmichael declared, "I'm not going to beg the white man for anything I deserve; I'm going to take it." For Huey Newton and Bobby Seale, who established the Black Panther Party for Self-Defense in 1966, Black Power meant revolutionary action. Newton and Seale even carried guns in public to show that they rejected nonviolent protest in favor of self-defense. These new, aggressive leaders said that civil rights and voting rights legislation and Great Society reforms had not changed the basic conditions of life for the millions of African Americans who lived in segregated inner-city neighborhoods where poverty was pervasive, job opportunities were limited, and municipal services were ineffective and unreliable. They also had grown tired of waiting for change. Some even advocated separatism; they said that African Americans should not make integration their goal but should instead establish separate communities and institutions.

The rising racial tensions divided the American people. Many whites, alarmed by what they considered the disintegration of law and order, blamed Black Power advocates for violence in the streets. Great Society programs became increasingly controversial, as conservatives charged that they were wasteful and ineffective or provided benefits to militants who defied the law. Liberals also attacked Johnson because they thought that the president's commitment to the expanding and costly war in Vietnam was draining funds from the War on Poverty and other Great Society programs. King declared regretfully, "The promises of the Great Society have been shot down on the battlefield of Vietnam." Radical black leaders offered even more scathing criticism, as they alleged that the Great Society was just another example of tokenism rather than a genuine effort to eliminate poverty and racism.

America's inner cities erupted once more during the summer of 1967. In June violence flared in Tampa, Florida; Cincinnati, Ohio; and Atlanta, Georgia. On July 12, after six days of gunfire, arson, and street violence, a major disorder left twenty-three dead in Newark, New Jersey. The worst disturbance occurred in Detroit, Michigan, beginning on July 23. Once again a small incident a raid on an illegal drinking establishment known as a "blind pig" started a wave of violence that resulted in forty-three deaths. To quell this disturbance, Johnson ordered U.S. Army troops, some of whom had served in Vietnam, to Detroit.

On July 27, as the violence in Detroit ended, President Johnson delivered an address to the American people. He condemned the lawlessness that had devastated Detroit and other cities and stated bluntly that "looting, arson, plunder, and pillage" had nothing to do with the quest for civil rights. Yet while he called for those who had committed these crimes to be brought to justice, he asserted that "the only genuine, long-range solution" to the problem of civil disorders was "an attack … upon the conditions that breed despair and violence …: ignorance, discrimination, slums, poverty, disease, not enough jobs." He also announced the appointment of a special National Advisory Commission on Civil Disorders, made up of eleven members led by the Democratic Illinois governor Otto Kerner and the Republican New York City mayor John Lindsay, to determine the causes of the riots and what to do to prevent new ones. People commonly called this group the Kerner Commission.

About the Author

No single individual wrote the Kerner Commission Report. The document was the product of a collective effort

that included dozens of staff assistants as well as the eleven members of the committee. The chair of the commission was Otto Kerner, and the vice chair was John Lindsay.

Otto Kerner, Jr., was born in Chicago on August 15, 1908; graduated from Brown University in 1930; and earned a law degree from Northwestern University in 1934. His father was a prominent lawyer who had served as attorney general of Illinois. Kerner started working for his father's law firm in 1934, the same year he married Helena Cermak Kenlay, the daughter of the late Democratic mayor of Chicago, Anton Cermak. Political connections helped Kerner secure an appointment in 1947 as U.S. attorney for the Northern District of Illinois. After twice being elected as a circuit court judge in Cook County (which includes Chicago) during the 1950s, Kerner won the governorship of Illinois as a Democrat in 1960. He proved popular with voters, gaining reelection in 1964. Illinois experienced strong economic growth while Kerner was in the statehouse, and he championed many reforms, including increased state aid to education and an improved mental health program. Kerner resigned as governor in May 1968 after President Johnson nominated him to serve on the U.S. Court of Appeals for the Seventh Circuit. In 1973, he was convicted on corruption charges for providing political favors when he was governor in return for financial benefits. He served eight months in jail and died not long after, on May 9, 1976.

John Vliet Lindsay was born on November 24, 1921, in New York City into a prosperous family. He graduated from Yale University in 1944, served in the U.S. Navy during World War II, and earned a degree from Yale Law School in 1948. Running as a Republican in 1958, he won the first of four terms in the House of Representatives from a district in Manhattan. In Congress, he earned a reputation as a liberal reformer. In 1965 he was elected mayor of New York City, and he won a second term four years later. He was sensitive to the concerns of African Americans and Hispanics but lost the support of many white, middle-class voters because of rising welfare costs and the increasing crime rate. In 1971 he became a Democrat, and he made an unsuccessful bid for that party's presidential nomination in 1972. After he left the mayor's office in 1973, he practiced law. He died on December 19, 2000.

The Kerner Commission had nine other members. I. W. Abel was the president of the United Steelworkers of America and a strong supporter of civil rights. Edward Brooke, a Republican senator from Massachusetts, was the first African American to be elected to the Senate since Reconstruction. James C. Corman was a Democratic member of the House from California who helped secure the passage of the Civil Rights Act of 1964. Fred R. Harris, a Democratic senator from Oklahoma, was known for his support of civil rights and Indian rights. Herbert Jenkins was the police chief of Atlanta, serving longer than any previous occupant of the position. William M. McCulloch was a Republican member of the House who was conservative on most issues but a supporter of the Civil Rights Act and the Voting Rights Act. Katherine Graham Peden was Kentucky's commissioner of commerce and had also served on the President's Commission on the Status of Women from 1961 to 1963. Charles B. Thornton was one of the founders of Litton Industries and its chief executive officer. Roy Wilkins was the executive director of the National Association for the Advancement of Colored People and a critic of the Black Power movement who believed that the best way to advance African American interests was through legal and political action.

Explanation and Analysis of the Document

◆ "Introduction"

The introduction quickly sets the tone for the summary of the Kerner Commission Report: It is blunt, direct, and unsettling. After a few preliminary sentences, the commissioners state their basic conclusion in stark and alarming language: "Our nation is moving toward two societies, one black, one white separate and unequal." By placing this finding so early in the report, the commissioners call attention to the gravity and urgency of America's racial problems. They later emphasize that they completed the report four months before the deadline. The speed with which they performed the work underlined their belief that there was "no higher priority for national action and no higher claim on the nation's conscience" than addressing the issues causing the violent disturbances in America's cities. The commissioners also wanted to finish the study as quickly as possible so that it might help in formulating policies that could head off another "long, hot summer" in 1968.

Dealing with the problem of civil disorders, however, would require confronting some unpleasant truths, the commissioners believed. For many whites in comfortable suburbs, small towns, and rural communities, the problems of predominantly black inner cities seemed remote, the product of circumstances for which they bore no responsibility and in which they may have had little interest. The Kerner Commission challenged that outlook, asserting in the report, "What white Americans have never fully understood but what the Negro can never forget is that white society is deeply implicated in the ghetto." Preventing new explosions of violence would require more than effective law enforcement or new programs to alleviate poverty or teach job skills. What would also be necessary on the part of "every American" were "new attitudes, new understanding, and, above all, new will." The report establishes at the outset that the riots of the 1960s were not an urban problem or a black problem but a national problem of the greatest magnitude and urgency.

◆ "Part I—What Happened?"

This section of the report summary provides brief accounts of the disturbances in several cities during the summer of 1967. The Kerner Commission Report moves beyond the details of each disorder, however, to find patterns in the violence. While there was no "'typical' riot," the instances of disorder shared some important common char-

acteristics. The central conclusion of this section of the report is that the civil disorders involved "Negroes acting against local symbols of white American society, authority, and property in Negro neighborhoods rather than against white persons." Especially powerful were grievances about police practices, lack of employment, and poor housing.

The Kerner Commission found no evidence to support the widespread belief that inner-city disturbances were the result of a domestic or foreign plot. J. Edgar Hoover, the director of the Federal Bureau of Investigation, thought that Communists were somehow involved in the violence. Hoover was extremely suspicious of black leaders, including mainstream advocates of civil rights like Martin Luther King, Jr. Hoover insisted that King took advice from Communists and was so convinced that King was a dangerous radical that he even carried on a secret campaign to destroy King's reputation. Hoover also thought that Black Power advocates were treacherous enemies of law and order. Some did espouse Socialist principles or urge African Americans to rise up against white oppression. Nonetheless, the Kerner Commission looked carefully at many sources of information, including Federal Bureau of Investigation documents, and found no proof that any group or individuals had planned the inner-city violence. Conspiracy did not explain the turbulent summer of 1967. Rather, a combination of national problems and local conditions produced an inflammatory mixture that ignited in dozens of American cities.

◆ "Part II—Why Did It Happen?"

Explaining the historical roots of the racial problems of the 1960s is the goal of the next part of the report. The commissioners assert that white racism was the most fundamental reason for the "explosive mixture" in American cities. In this section of the report, as in the introduction, the most important finding appears near the beginning. Once more, the conclusion is alarming and unsettling, especially for white readers.

The report uses history to explain that the development of large, segregated communities in urban areas commonly called "ghettos" in the 1960s was a fairly recent phenomenon. In 1910, 91 percent of the nation's black population lived in the South. Black migration out of the South accelerated during World War I and increased even more during World War II, as the growth of defense industries created job opportunities in northern factories. The movement to northern cities continued when peace came in 1945, in part because the mechanization of southern agriculture reduced the demand for farm labor. By the time the Kerner Commission was established, about 45 percent of African Americans lived outside the South, mainly in central cities. During the 1950s and 1960s, cities like Detroit, Chicago, Cleveland, and Philadelphia became increasingly black, since most of the growth in white population during those decades was in suburbs. "White exodus" increased the proportion of African Americans in these cities and in certain neighborhoods within them. Discriminatory practices, including unwillingness among owners to rent or sell housing to blacks in some areas and among banks to make home loans to qualified black buyers who wished to move into predominantly white neighborhoods, confined the bulk of the black population to segregated inner city districts or ghettos.

Deprivation combined with segregation to create bitterness and resentment that could eventually lead to explosive violence. Conditions of life in many inner cities were horrendous. The report provides statistical measures of the pervasiveness of poverty and the severity of unemployment and underemployment. Blacks were almost four times more likely than whites to live in poverty and more than twice as likely to be unemployed. A nonwhite baby had a 58 percent greater chance than a white baby of dying during the first month of life. Far more frequently than other Americans, inner city residents became victims of crime or unfair commercial or financial practices, such as high food prices and credit scams.

African Americans endured these deplorable conditions of life while the economy was thriving and while more and more people were achieving the American dream of success and prosperity. Inner city residents heard government officials praise the achievements of the civil rights movement, the advances in desegregation, and the progress in making equality of opportunity a reality for all Americans. The report explains how this combination of rising expectations and frustrated hopes produced intense, widespread bitterness.

Disillusionment and alienation, according to the Kerner Commission, led some African Americans to embrace Black Power in the hope of advancing racial unity and achieving independent economic and political power. The report provides a scathing critique of those who thought Black Power should lead to separatism. Their ideas were not really new, the commissioners maintain, but echoed those of the late-nineteenth-century African American leader Booker T. Washington. The comparison to Washington was devastating. Washington had urged blacks not to challenge segregation but instead to concentrate on economic self-improvement. In a similar manner, black separatists of the 1960s, according to the report, backed away from confronting white racism by not demanding further integration.

At the end of this section, the commissioners address a common question: Why was it more difficult for African Americans than for European immigrants "to escape from the ghetto and from poverty?" The report offers several reasons, but especially important is the assertion that Europeans never faced as intense and widespread discrimination as did blacks.

◆ "Part III—What Can Be Done?"

The Kerner Commission studied a severe national problem, but their recommendations for dealing with it begin with local action. Many suggestions concern improving communication so that inner city problems would not go neglected until they led to violence. The commissioners deem especially important the bettering of police-community relations so as to strengthen law enforcement, avoid the "indiscriminate and excessive use of force," and prevent incidents like those that had occurred in Detroit from trigger-

ing civil disturbance. They also consider necessary changes in local court systems, which suffered from "long-standing structural deficiencies," and the preparation of emergency plans, formulated with "broad community participation," to deal with civil disturbances.

The report warns that the future of many large cities with growing African American populations is "grim" and that a continuation of current policies would have "ominous consequences for our society." To do nothing different would "make permanent the division" between a predominantly black and poor society in inner cities and a white and affluent society concentrated in suburbs. The report asserts that integration is essential; that new programs must help blacks move out of inner cities; and that the most important goal "must be a single society, in which every citizen will be free to live and work according to his capabilities and desires, not his color."

Specific proposals for federal action concentrate on employment, education, the welfare system, and housing. The commissioners urge "immediate action" to create two million new jobs over the coming three years and to eliminate racial barriers in hiring and promotion. Also considered essential are dramatic efforts to improve education, including federal action to eliminate segregation in schools and increased aid for new and better programs serving disadvantaged students. The commissioners recommend substantial reforms in the welfare system, including increased federal funds to raise benefits in the short term and the creation of a new system of income supplementation over the long term. Changes in housing programs are also held to be crucial because existing federal efforts had done "comparatively little" to help the disadvantaged. Especially important would be the passage of a federal open housing law, to ban discrimination in the sale or rental of housing on account of race, and new efforts to build more low-income housing outside predominantly black inner cities.

The Kerner Commission concludes its report by reiterating that Americans could not continue to delay in confronting these pressing problems. The commissioners admit that they have "uncovered no startling truths, no unique insights"; as the distinguished and perceptive scholar Kenneth Clark pointed out, investigations after earlier riots had produced similar analyses and similar recommendations. Those previous studies had produced few, if any changes, however, and the Kerner Commission warns of the dangers of inaction yet again. Improving conditions in inner cities would be expensive and require "national action on an unprecedented scale." Just as important as money would be the need "to generate new will." Only such a widespread and wholehearted commitment, the commission concludes, could "end the destruction and the violence, not only in the streets … but in the lives of people."

Audience

In the body of their report, the commissioners explain that they address their study to the institutions of government. They hoped that their analysis and recommendations would help the president and Congress take action to deal with the problems contributing to civil disturbances. They were also writing for local and state officials those who made policies and provided funding for schools, police, welfare programs, and other social services that had such profound effects on the lives of inner city residents.

The audience, however, was far larger than government officials. The Kerner Commission hoped to touch "the conscience of the nation" and "the minds and hearts of each citizen." The increasing racial polarization of the 1960s affected all Americans; only a national commitment to alleviate the underlying causes could reverse the trend. The commissioners declare in their report, "The responsibility for decisive action, never more clearly demanded in the history of our country, rests on all of us."

Impact

The report of the Kerner Commission produced strong but divided reactions. The *New York Times* (March 2, 1968) praised it for making a powerful case for "escalation of the war against poverty and discrimination at home." The *Washington Star* (as quoted in the *New York Times*, March 10, 1968), however, complained that the report "does not put as much emphasis on forthrightly condemning riots and rioters as it does on offering excuses for them." Seven mayors whose cities had experienced civil disturbances endorsed the commission's recommendations. Richard Nixon, who was campaigning for the Republican nomination for president, reached the opposite conclusion and declared that the commission's report "blames everybody for the riots except the rioters."

President Johnson at first made no public comment. In private, he was angry because he thought that the report gave insufficient credit to his administration for its many efforts to end discrimination and alleviate poverty. Nonetheless, the president agreed that social and economic deprivation created the conditions for urban violence, and he knew that the Great Society, however ambitious, had by no means done enough to prevent another riot-filled summer. He also worried that the emphasis on white racism would undermine the support of middle-class and working-class white Americans for essential social reforms. An even bigger obstacle to new social programs was the rising cost of the Vietnam War, in which more than five hundred thousand Americans were engaged in battle by early 1968. The Kerner Commission Report did not state the costs of the programs it proposed. The White House estimated that $75 $100 billion would be needed over several years to implement the commission's recommendations, at a time when the entire federal budget was about $180 billion. Even with a tax increase, which the president approved in June 1968, Congress was determined to reduce new expenditures to cut the federal deficit.

Johnson did persuade Congress to approve two important new reforms. On April 11, the president signed the new

Essential Quotes

"This is our basic conclusion: our nation is moving toward two societies, one black, one white—separate and unequal."

(Introduction)

"What white Americans have never fully understood but what the Negro can never forget—is that white society is deeply implicated in the ghetto. White institutions created it, white institutions maintain it, and white society condones it."

(Introduction)

"White racism is essentially responsible for the explosive mixture which has been accumulating in our cities since the end of World War II."

(Part II, Chapter 4)

"No American—white or black—can escape the consequences of the continuing social and economic decay of our major cities. Only a commitment to national action on an unprecedented scale can shape a future compatible with the historic ideals of American society."

(Part III, Chapter 17)

Civil Rights Act of 1968, which banned racial discrimination in the sale and rental of most of the nation's housing. Johnson had proposed the legislation even before the Kerner Commission endorsed that reform in its report. Still, only after another national tragedy the assassination of Martin Luther King, Jr., on April 4, 1968, and rioting in more than one hundred cities did the House of Representatives pass the measure. On August 1, a new housing program became law, one that authorized funds to build or renovate 1.7 million housing units and also provided mortgage assistance to low-income families who wanted to buy their own homes.

On several occasions over the next thirty years, study groups reviewed the nation's progress in dealing with the problems of inner cities and reached pessimistic conclusions. The first assessment occurred only a year after the Kerner Commission Report and concluded that "the nation has not reversed the movement apart. Blacks and whites remain deeply divided." Twenty years afterward, the 1988 Commission on the Cities, a nongovernmental group of experts that included the Kerner Commission member Fred Harris, warned that America "is *again* becoming two separate societies," one white, one black and Hispanic. Ten years later, the Milton S. Eisenhower Foundation sponsored another look back at the Kerner Commission. This study concluded that a greater percentage of Americans lived in poverty in 1998 than in 1968 and that "inner cities have become America's poorhouses from which many, now, have little hope of escape." These different assessments seemed to confirm what Kenneth Clark had told the Kerner Commission about efforts to improve the conditions of life in inner cities: "the same analysis, the same recommendations, and the same inaction."

See also Civil Rights Act of 1964; Stokely Carmichael's "Black Power" (1966); Martin Luther King, Jr.: "Beyond Vietnam: A Time to Break Silence" (1967).

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Chester Pach

Questions for Further Study

1. The Kerner Commission issued a controversial report about a difficult and divisive subject. Explain how each of the following persons probably would have reacted to the report's analysis and conclusions: an African American female living below the poverty line in the inner city, a white male working-class laborer living in the same city as the African American female, a white liberal Democrat female in a northern city who supported the civil rights movement and had voted for Lyndon Johnson in 1964, and a male Black Power advocate living in the inner city. Be sure to explain which of the report's main conclusions or recommendations each would have approved and which ones each would have criticized and why.

2. Although the Kerner Commission proposed many new government programs and policies, it also maintained that "new attitudes" were necessary on the part of every American. What new attitudes do you think were required? How important were changes in outlook, thinking, or attitude in resolving the problems of poverty and racism?

3. Many years have passed since the Kerner Commission issued its report and warned that America was moving toward two separate societies divided by race. Do you think that America today still faces that danger? How would you compare fundamental conditions of life in inner cities now and in the 1960s? What improvements have occurred? What problems remain? Have conditions in inner cities deteriorated?

4. Americans continue to differ over how to deal with poverty, racism, discrimination, and inequality. Discuss your views about the role of each of the following in dealing with these issues: individual responsibility; family; community organizations; local government; the news media; the federal government; social activists.

Kerner Commission Report Summary

Introduction

The summer of 1967 again brought racial disorders to American cities, and with them shock, fear and bewilderment to the nation.

The worst came during a two-week period in July, first in Newark and then in Detroit. Each set off a chain reaction in neighboring communities.

On July 28, 1967, the President of the United States established this Commission and directed us to answer three basic questions:

What happened?

Why did it happen?

What can be done to prevent it from happening again?

To respond to these questions, we have undertaken a broad range of studies and investigations. We have visited the riot cities; we have heard many witnesses; we have sought the counsel of experts across the country.

This is our basic conclusion: Our nation is moving toward two societies, one black, one white separate and unequal.

Reaction to last summer's disorders has quickened the movement and deepened the division. Discrimination and segregation have long permeated much of American life; they now threaten the future of every American.

This deepening racial division is not inevitable. The movement apart can be reversed. Choice is still possible. Our principal task is to define that choice and to press for a national resolution.

To pursue our present course will involve the continuing polarization of the American community and, ultimately, the destruction of basic democratic values.

The alternative is not blind repression or capitulation to lawlessness. It is the realization of common opportunities for all within a single society.

This alternative will require a commitment to national action compassionate, massive and sustained, backed by the resources of the most powerful and the richest nation on this earth. From every American it will require new attitudes, new understanding, and, above all, new will.

The vital needs of the nation must be met; hard choices must be made, and, if necessary, new taxes enacted.

Violence cannot build a better society. Disruption and disorder nourish repression, not justice. They strike at the freedom of every citizen. The community cannot it will not tolerate coercion and mob rule.

Violence and destruction must be ended in the streets of the ghetto and in the lives of people.

Segregation and poverty have created in the racial ghetto a destructive environment totally unknown to most white Americans.

What white Americans have never fully understood but what the Negro can never forget is that white society is deeply implicated in the ghetto. White institutions created it, white institutions maintain it, and white society condones it.

It is time now to turn with all the purpose at our command to the major unfinished business of this nation. It is time to adopt strategies for action that will produce quick and visible progress. It is time to make good the promises of American democracy to all citizens urban and rural, white and black, Spanish-surname, American Indian, and every minority group.

Our recommendations embrace three basic principles:

To mount programs on a scale equal to the dimension of the problems:

To aim these programs for high impact in the immediate future in order to close the gap between promise and performance;

To undertake new initiatives and experiments that can change the system of failure and frustration that now dominates the ghetto and weakens our society.

These programs will require unprecedented levels of funding and performance, but they neither probe deeper nor demand more than the problems which called them forth. There can be no higher priority for national action and no higher claim on the nation's conscience.

We issue this Report now, four months before the date called for by the President. Much remains that can be learned. Continued study is essential.

As Commissioners we have worked together with a sense of the greatest urgency and have sought to compose whatever differences exist among us. Some differences remain. But the gravity of the problem and the pressing need for action are too clear to allow further delay in the issuance of this Report.

Document Text

Part I—What Happened?

Chapter I Profiles of Disorder

The report contains profiles of a selection of the disorders that took place during the summer of 1967. These profiles are designed to indicate how the disorders happened, who participated in them, and how local officials, police forces, and the National Guard responded. Illustrative excerpts follow:

Newark

… It was decided to attempt to channel the energies of the people into a nonviolent protest. While Lofton promised the crowd that a full investigation would be made of the Smith incident, the other Negro leaders began urging those on the scene to form a line of march toward the city hall.

Some persons joined the line of march. Others milled about in the narrow street. From the dark grounds of the housing project came a barrage of rocks. Some of them fell among the crowd. Others hit persons in the line of march. Many smashed the windows of the police station. The rock throwing, it was believed, was the work of youngsters; approximately 2,500 children lived in the housing project.

Almost at the same time, an old car was set afire in a parking lot. The line of march began to disintegrate. The police, their heads protected by World War I-type helmets, sallied forth to disperse the crowd. A fire engine, arriving on the scene, was pelted with rocks. As police drove people away from the station, they scattered in all directions.

A few minutes later a nearby liquor store was broken into. Some persons, seeing a caravan of cabs appear at city hall to protest Smith's arrest, interpreted this as evidence that the disturbance had been organized, and generated rumors to that effect. However, only a few stores were looted. Within a short period of time, the disorder appeared to have run its course.

* * *

… On Saturday, July 15, [Director of Police Dominick] Spina received a report of snipers in a housing project. When he arrived he saw approximately 100 National Guardsmen and police officers crouching behind vehicles, hiding in corners and lying on the ground around the edge of the courtyard.

Since everything appeared quiet and it was broad daylight, Spina walked directly down the middle of the street. Nothing happened. As he came to the last building of the complex, he heard a shot. All around him the troopers jumped, believing themselves to be under sniper fire. A moment later a young Guardsman ran from behind a building.

The Director of Police went over and asked him if he had fired the shot. The soldier said yes, he had fired to scare a man away from a window; that his orders were to keep everyone away from windows.

Spina said he told the soldier: "Do you know what you just did? You have now created a state of hysteria. Every Guardsman up and down this street and every state policeman and every city policeman that is present thinks that somebody just fired a shot and that it is probably a sniper."

A short time later more "gunshots" were heard. Investigating, Spina came upon a Puerto Rican sitting on a wall. In reply to a question as to whether he knew "where the firing is coming from?" the man said:

"That's no firing. That's fireworks. If you look up to the fourth floor, you will see the people who are throwing down these cherry bombs."

By this time four truckloads of National Guardsmen had arrived and troopers and policemen were again crouched everywhere looking for a sniper. The Director of Police remained at the scene for three hours, and the only shot fired was the one by the Guardsman.

Nevertheless, at six o'clock that evening two columns of National Guardsmen and state troopers were directing mass fire at the Hayes Housing Project in response to what they believed were snipers….

Detroit

… A spirit of carefree nihilism was taking hold. To riot and destroy appeared more and more to become ends in themselves. Late Sunday afternoon it appeared to one observer that the young people were "dancing amidst the flames."

A Negro plainclothes officer was standing at an intersection when a man threw a Molotov cocktail into a business establishment at the corner.… In the heat of the afternoon, fanned by the 20 to 25 m.p.h. winds of both Sunday and Monday, the fire reached the home next door within minutes. As residents uselessly sprayed the flames with garden hoses, the fire jumped from roof to roof of adjacent two- and three-story buildings. Within the hour the entire block was in flames. The ninth house in the burning row belonged to the arsonist who had thrown the Molotov cocktail….

* * *

… Employed as a private guard, 55-year-old Julius L. Dorsey, a Negro, was standing in front of a market when accosted by two Negro men and a woman.

Document Text

They demanded he permit them to loot the market. He ignored their demands. They began to berate him. He asked a neighbor to call the police. As the argument grew more heated, Dorsey fired three shots from his pistol into the air.

The police radio reported: "Looters, they have rifles." A patrol car driven by a police officer and carrying three National Guardsmen arrived. As the looters fled, the law enforcement personnel opened fire. When the firing ceased, one person lay dead.

He was Julius L. Dorsey…

* * *

… As the riot alternately waxed and waned, one area of the ghetto remained insulated. On the northeast side the residents of some 150 square blocks inhabited by 21,000 persons had, in 1966, banded together in the Positive Neighborhood Action Committee (PNAC). With professional help from the Institute of Urban Dynamics, they had organized block clubs and made plans for the improvement of the neighborhood….

When the riot broke out, the residents, through the block clubs, were able to organize quickly. Youngsters, agreeing to stay in the neighborhood, participated in detouring traffic. While many persons reportedly sympathized with the idea of a rebellion against the "system," only two small fires were set one in an empty building.

* * *

… According to Lt. Gen. Throckmorton and Col. Bolling, the city, at this time, was saturated with fear. The National Guardsmen were afraid, the residents were afraid, and the police were afraid. Numerous persons, the majority of them Negroes, were being injured by gunshots of undetermined origin. The general and his staff felt that the major task of the troops was to reduce the fear and restore an air of normalcy.

In order to accomplish this, every effort was made to establish contact and rapport between the troops and the residents. The soldiers 20 percent of whom were Negro began helping to clean up the streets, collect garbage, and trace persons who had disappeared in the confusion. Residents in the neighborhoods responded with soup and sandwiches for the troops. In areas where the National Guard tried to establish rapport with the citizens, there was a smaller response.

New Brunswick

… A short time later, elements of the crowd an older and rougher one than the night before appeared in front of the police station. The participants wanted to see the mayor.

Mayor [Patricia] Sheehan went out onto the steps of the station. Using a bullhorn, she talked to the people and asked that she be given an opportunity to correct conditions. The crowd was boisterous. Some persons challenged the mayor. But, finally, the opinion, "She's new! Give her a chance!" prevailed.

A demand was issued by people in the crowd that all persons arrested the previous night be released. Told that this already had been done, the people were suspicious. They asked to be allowed to inspect the jail cells.

It was agreed to permit representatives of the people to look in the cells to satisfy themselves that everyone had been released.

The crowd dispersed. The New Brunswick riot had failed to materialize….

Chapter 2 Patterns of Disorder

The "typical" riot did not take place. The disorders of 1967 were unusual, irregular, complex and unpredictable social processes. Like most human events, they did not unfold in an orderly sequence. However, an analysis of our survey information leads to some conclusions about the riot process. In general:

- The civil disorders of 1967 involved Negroes acting against local symbols of white American society, authority and property in Negro neighborhoods rather than against white persons.
- Of 164 disorders reported during the first nine months of 1967, eight (5 percent) were major in terms of violence and damage; 33 (20 percent) were serious but not major; 123 (75 percent) were minor and undoubtedly would not have received national attention as "riots" had the nation not been sensitized by the more serious outbreaks.
- In the 75 disorders studied by a Senate subcommittee, 83 deaths were reported. Eighty-two percent of the deaths and more than half the injuries occurred in Newark and Detroit. About 10 percent of the dead and 38 percent of the injured were public employees, primarily law officers and firemen. The overwhelming majority of the persons killed or injured in all the disorders were Negro civilians.
- Initial damage estimates were greatly exaggerated. In Detroit, newspaper damage estimates at first ranged from $200 million to $500 million; the highest recent estimate is $45 million. In Newark, early estimates ranged from $15 to $25 million. A month later damage was estimated at $10.2 million, over 80 percent in inventory losses.

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In the 24 disorders in 23 cities which we surveyed:

• The final incident before the outbreak of disorder, and the initial violence itself, generally took place in the evening or at night at a place in which it was normal for many people to be on the streets.

• Violence usually occurred almost immediately following the occurrence of the final precipitating incident, and then escalated rapidly. With but few exceptions, violence subsided during the day, and flared rapidly again at night. The night-day cycles continued through the early period of the major disorders.

• Disorder generally began with rock and bottle throwing and window breaking. Once store windows were broken, looting usually followed.

• Disorder did not erupt as a result of a single "triggering" or "precipitating" incident. Instead, it was generated out of an increasingly disturbed social atmosphere, in which typically a series of tension-heightening incidents over a period of weeks or months became linked in the minds of many in the Negro community with a reservoir of underlying grievances. At some point in the mounting tension, a further incident in itself often routine or trivial- became the breaking point and the tension spilled over into violence.

• "Prior" incidents, which increased tensions and ultimately led to violence, were police actions in almost half the cases; police actions were "final" incidents before the outbreak of violence in 12 of the 24 surveyed disorders.

• No particular control tactic was successful in every situation. The varied effectiveness of control techniques emphasizes the need for advance training, planning, adequate intelligence systems, and knowledge of the ghetto community.

• Negotiations between Negroes including your militants as well as older Negro leaders and white officials concerning "terms of peace" occurred during virtually all the disorders surveyed. In many cases, these negotiations involved discussion of underlying grievances as well as the handling of the disorder by control authorities.

• The typical rioter was a teenager or young adult, a lifelong resident of the city in which he rioted, a high school dropout; he was, nevertheless, somewhat better educated than his nonrioting Negro neighbor, and was usually underemployed or employed in a menial job. He was proud of his race, extremely hostile to both whites and middle-class Negroes and, although informed about politics, highly distrustful of the political system.

• A Detroit survey revealed that approximately 11 percent of the total residents of two riot areas admitted participation in the rioting, 20 to 25 percent identified themselves as "bystanders," over 16 percent identified themselves as "counter-rioters" who urged rioters to "cool it," and the remaining 48 to 53 percent said they were at home or elsewhere and did not participate. In a survey of Negro males between the ages of 15 and 35 residing in the disturbance area in Newark, about 45 percent identified themselves as rioters, and about 55 percent as "noninvolved."

• Most rioters were young Negro males. Nearly 53 percent of arrestees were between 15 and 24 years of age; nearly 81 percent between 15 and 35.

• In Detroit and Newark about 74 percent of the rioters were brought up in the North. In contrast, of the noninvolved, 36 percent in Detroit and 52 percent in Newark were brought up in the North.

• What the rioters appeared to be seeking was fuller participation in the social order and the material benefits enjoyed by the majority of American citizens. Rather than rejecting the American system, they were anxious to obtain a place for themselves in it.

• Numerous Negro counter-rioters walked the streets urging rioters to "cool it." The typical counter-rioter was better educated and had higher income than either the rioter or the noninvolved.

• The proportion of Negroes in local government was substantially smaller than the Negro proportion of population. Only three of the 20 cities studied had more than one Negro legislator; none had ever had a Negro mayor or city manager. In only four cities did Negroes hold other important policy-making positions or serve as heads of municipal departments.

• Although almost all cities had some sort of formal grievance mechanism for handling citizen complaints, this typically was regarded by Negroes as ineffective and was generally ignored.

• Although specific grievances varied from city to city, at least 12 deeply held grievances can be identified and ranked into three levels of relative intensity: '

First Level of Intensity

1. Police practices
2. Unemployment and underemployment
3. Inadequate housing

Second Level of Intensity

4. Inadequate education
5. Poor recreation facilities and programs
6. Ineffectiveness of the political structure and grievance mechanisms

Third Level of Intensity

7. Disrespectful white attitudes

8. Discriminatory administration of justice
9. Inadequacy of federal programs
10. Inadequacy of municipal services
11. Discriminatory consumer and credit practices
12. Inadequate welfare programs

• The results of a three-city survey of various federal programs manpower, education, housing, welfare and community action indicate that, despite substantial expenditures, the number of persons assisted constituted only a fraction of those in need.

The background of disorder is often as complex and difficult to analyze as the disorder itself. But we find that certain general conclusions can be drawn:

• Social and economic conditions in the riot cities constituted a clear pattern of severe disadvantage for Negroes compared with whites, whether the Negroes lived in the area where the riot took place or outside it. Negroes had completed fewer years of education and fewer had attended high school. Negroes were twice as likely to be unemployed and three times as likely to be in unskilled and service jobs. Negroes averaged 70 percent of the income earned by whites and were more than twice as likely to be living in poverty. Although housing cost Negroes relatively more, they had worse housing three times as likely to be overcrowded and substandard. When compared to white suburbs, the relative disadvantage is even more pronounced.

A study of the aftermath of disorder leads to disturbing conclusions. We find that, despite the institution of some postriot programs:

• Little basic change in the conditions underlying the outbreak of disorder has taken place. Actions to ameliorate Negro grievances have been limited and sporadic; with but few exceptions, they have not significantly reduced tensions.

• In several cities, the principal official response has been to train and equip the police with more sophisticated weapons. In several cities, increasing polarization is evident, with continuing breakdown of inter-racial communication, and growth of white segregationist or black separatist groups.

Chapter 3 Organized Activity

The President directed the Commission to investigate "to, what extent, if any, there has been planning or organization in any of the riots."

To carry out this part of the President's charge, the Commission established a special investigative staff supplementing the field teams that made the general examination of the riots in 23 cities. The unit examined data collected by federal agencies and congressional committees, including thousands of documents supplied by the Federal Bureau of Investigation, gathered and evaluated information from local and state law enforcement agencies and officials, and conducted its own field investigation in selected cities.

On the basis of all the information collected, the Commission concludes that:

The urban disorders of the summer of 1967 were not caused by, nor were they the consequence of, any organized plan or "conspiracy."

Specifically, the Commission has found no evidence that all or any of the disorders or the incidents that led to them were planned or directed by any organization or group, international, national or local.

Militant organizations, local and national, and individual agitators, who repeatedly forecast and called for violence, were active in the spring and summer of 1967. We believe that they sought to encourage violence, and that they helped to create an atmosphere that contributed to the outbreak of disorder.

We recognize that the continuation of disorders and the polarization of the races would provide fertile ground for organized exploitation in the future.

Investigations of organized activity are continuing at all levels of government, including committees of Congress. These investigations relate not only to the disorders of 1967 but also to the actions of groups and individuals, particularly in schools and colleges, during this last fall and winter. The Commission has cooperated in these investigations. They should continue.

Part II—Why Did It Happen?

Chapter 4 The Basic Causes

In addressing the question "Why did it happen?" we shift our focus from the local to the national scene, from the particular events of the summer of 1967 to the factors within the society at large that created a mood of violence among many urban Negroes.

These factors are complex and interacting; they vary significantly in their effect from city to city and from year to year; and the consequences of one disorder, generating new grievances and new demands, become the causes of the next. Thus was created the "thicket of tension, conflicting evidence and extreme opinions" cited by the President.

Despite these complexities, certain fundamental matters are clear. Of these, the most fundamental is

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the racial attitude and behavior of white Americans toward black Americans.

Race prejudice has shaped our history decisively; it now threatens to affect our future.

White racism is essentially responsible for the explosive mixture which has been accumulating in our cities since the end of World War II. Among the ingredients of this mixture are:

• Pervasive discrimination and segregation in employment, education and housing, which have resulted in the continuing exclusion of great numbers of Negroes from the benefits of economic progress.

• Black in-migration and white exodus, which have produced the massive and growing concentrations of impoverished Negroes in our major cities, creating a growing crisis of deteriorating facilities and services and unmet human needs.

• The black ghettos where segregation and poverty converge on the young to destroy opportunity and enforce failure. Crime, drug addiction, dependency on welfare, and bitterness and resentment against society in general and white society in particular are the result.

At the same time, most whites and some Negroes outside the ghetto have prospered to a degree unparalleled in the history of civilization. Through television and other media, this affluence has been flaunted before the eyes of the Negro poor and the jobless ghetto youth.

Yet these facts alone cannot be said to have caused the disorders. Recently, other powerful ingredients have begun to catalyze the mixture:

• Frustrated hopes are the residue of the unfulfilled expectations aroused by the great judicial and legislative victories of the Civil Rights Movement and the dramatic struggle for equal rights in the South.

• A climate that tends toward approval and encouragement of violence as a form of protest has been created by white terrorism directed against nonviolent protest; by the open defiance of law and federal authority by state and local officials resisting desegregation; and by some protest groups engaging in civil disobedience who turn their backs on nonviolence, go beyond the constitutionally protected rights of petition and free assembly, and resort to violence to attempt to compel alteration of laws and policies with which they disagree.

• The frustrations of powerlessness have led some Negroes to the conviction that there is no effective alternative to violence as a means of achieving redress of grievances, and of "moving the system." These frustrations are reflected in alienation and hostility toward the institutions of law and government and the white society which controls them, and in the reach toward racial consciousness and solidarity reflected in the slogan "Black Power."

• A new mood has sprung up among Negroes, particularly among the young, in which self-esteem and enhanced racial pride are replacing apathy and submission to "the system."

• The police are not merely a "spark" factor. To some Negroes police have come to symbolize white power, white racism and white repression. And the fact is that many police do reflect and express these white attitudes. The atmosphere of hostility and cynicism is reinforced by a widespread belief among Negroes in the existence of police brutality and in a "double standard" of justice and protection one for Negroes and one for whites.

To this point, we have attempted to identify the prime components of the "explosive mixture." In the chapters that follow we seek to analyze them in the perspective of history. Their meaning, however, is clear:

In the summer of 1967, we have seen in our cities a chain reaction of racial violence. If we are heedless, none of us shall escape the consequences.

Chapter 5 Rejection and Protest: An Historical Sketch

The causes of recent racial disorders are embedded in a tangle of issues and circumstances social, economic, political and psychological which arise out of the historic pattern of Negro-white relations in America.

In this chapter we trace the pattern, identify the recurrent themes of Negro protest and, most importantly, provide a perspective on the protest activities of the present era.

We describe the Negro's experience in America and the development of slavery as an institution. We show his persistent striving for equality in the face of rigidly maintained social, economic and educational barriers, and repeated mob violence. We portray the ebb and flow of the doctrinal tides accommodation, separatism, and self-help and their relationship to the current theme of Black Power. We conclude:

The Black Power advocates of today consciously feel that they are the most militant group in the Negro protest movement. Yet they have retreated from a direct confrontation with American society on the issue of integration and, by preaching separatism, unconsciously function as an accommodation to white racism. Much of their economic pro-

gram, as well as their interest in Negro history, self-help, racial solidarity and separation, is reminiscent of Booker T. Washington. The rhetoric is different, but the ideas are remarkably similar.

Chapter 6 The Formation of the Racial Ghettos

Throughout the 20th century the Negro population of the United States has been moving steadily from rural areas to urban and from South to North and West. In 1910, 91 percent of the nation's 9.8 million Negroes lived in the South and only 27 percent of American Negroes lived in cities of 2,500 persons or more. Between 1910 and 1966 the total Negro population more than doubled, reaching 21.5 million, and the number living in metropolitan areas rose more than fivefold (from 2.6 million to 14.8 million). The number outside the South rose eleven-fold (from 880,000 to 9.7 million).

Negro migration from the South has resulted from the expectation of thousands of new and highly paid jobs for unskilled workers in the North and the shift to mechanized farming in the South. However, the Negro migration is small when compared to earlier waves of European immigrants. Even between 1960 and 1966, there were 1.8 million immigrants from abroad compared to the 613,000 Negroes who arrived in the North and West from the South.

As a result of the growing number of Negroes in urban areas, natural increase has replaced migration as the primary source of Negro population increase in the cities. Nevertheless, Negro migration from the South will continue unless economic conditions there change dramatically.

Basic data concerning Negro urbanization trends indicate that:

- Almost all Negro population growth (98 percent from 1950 to 1966) is occurring within metropolitan areas, primarily within central cities.
- The vast majority of white population growth (78 percent from 1960 to 1966) is occurring in suburban portions of metropolitan areas. Since 1960, white central-city population has declined by 1.3 million.
- As a result, central cities are becoming more heavily Negro while the suburban fringes around them remain almost entirely white.
- The twelve largest central cities now contain over two-thirds of the Negro population outside the South, and one-third of the Negro total in the United States.

Within the cities, Negroes have been excluded from white residential areas through discriminatory practices. Just as significant is the withdrawal of white families from, or their refusal to enter, neighborhoods where Negroes are moving or already residing. About 20 percent of the urban population of the United States changes residence every year. The refusal of whites to move into "changing" areas when vacancies occur means that most vacancies eventually are occupied by Negroes.

The result, according to a recent study, is that in 1960 the average segregation index for 207 of the largest United States cities was 86.2. In other words, to create an unsegregated population distribution, an average of over 86 percent of all Negroes would have to change their place of residence within the city.

Chapter 7 Unemployment, Family Structure, and Social Disorganization

Although there have been gains in Negro income nationally, and a decline in the number of Negroes below the "poverty level," the condition of Negroes in the central city remains in a state of crisis. Between 2 and 2.5 million Negroes 16 to 20 percent of the total Negro population of all central cities live in squalor and deprivation in ghetto neighborhoods.

Employment is a key problem. It not only controls the present for the Negro American but, in a most profound way, it is creating the future as well. Yet, despite continuing economic growth and declining national unemployment rates, the unemployment rate for Negroes in 1967 was more than double that for whites….

Equally important is the undesirable nature of many jobs open to Negroes and other minorities. Negro men are more than three times as likely as white men to be in low paying, unskilled or service jobs. This concentration of male Negro employment at the lowest end of the occupational scale is the single most important cause of poverty among Negroes.

In one study of low-income neighborhoods, the "subemployment rate," including both unemployment and underemployment, was about 33 percent, or 8.8 times greater than the overall unemployment rate for all United States workers.

Employment problems, aggravated by the constant arrival of new unemployed migrants, many of them from depressed rural areas, create persistent poverty in the ghetto. In 1966, about 11.9 percent of the nation's whites and 40.6 percent of its nonwhites were below the "poverty level" defined by the Social Security Administration (currently $3,335 per year for an urban family of four). Over 40 percent of the nonwhites below the poverty level live in the central cities.

Employment problems have drastic social impact in the ghetto. Men who are chronically unemployed or employed in the lowest status jobs are often

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unable or unwilling to remain with their families. The handicap imposed on children growing up without fathers in an atmosphere of poverty and deprivation is increased as mothers are forced to work to provide support.

The culture of poverty that results from unemployment and family breakup generates a system of ruthless, exploitative relationships within the ghetto. Prostitution, dope addiction, and crime create an environmental "jungle" characterized by personal insecurity and tension. Children growing up under such conditions are likely participants in civil disorder.

Chapter 8 Conditions of Life in the Racial Ghetto

A striking difference in environment from that of white, middle-class Americans profoundly influences the lives of residents of the ghetto.

Crime rates, consistently higher than in other areas, create a pronounced sense of insecurity. For example, in one city one low-income Negro district had 35 times as many serious crimes against persons as a high-income white district. Unless drastic steps are taken, the crime problems in poverty areas are likely to continue to multiply as the growing youth and rapid urbanization of the population outstrip police resources.

Poor health and sanitation conditions in the ghetto result in higher mortality rates, a higher incidence of major diseases, and lower availability and utilization of medical services. The infant mortality rate for nonwhite babies under the age of one month is 58 percent higher than for whites; for one to 12 months it is almost three times as high. The level of sanitation in the ghetto is far below that in high income areas. Garbage collection is often inadequate. Of an estimated 14,000 cases of rat bite in the United States in 1965, most were in ghetto neighborhoods.

Ghetto residents believe they are "exploited" by local merchants; and evidence substantiates some of these beliefs. A study conducted in one city by the Federal Trade Commission showed that distinctly higher prices were charged for goods sold in ghetto stores than in other areas.

Lack of knowledge regarding credit purchasing creates special pitfalls for the disadvantaged. In many states garnishment practices compound these difficulties by allowing creditors to deprive individuals of their wages without hearing or trial.

Chapter 9 Comparing the Immigrant and Negro Experience

In this chapter, we address ourselves to a fundamental question that many white Americans are asking: why have so many Negroes, unlike the European immigrants, been unable to escape from the ghetto and from poverty. We believe the following factors play a part:

- The Maturing Economy: When the European immigrants arrived, they gained an economic foothold by providing the unskilled labor needed by industry. Unlike the immigrant, the Negro migrant found little opportunity in the city. The economy, by then matured, had little use for the unskilled labor he had to offer.
- The Disability of Race: The structure of discrimination has stringently narrowed opportunities for the Negro and restricted his prospects. European immigrants suffered from discrimination, but never so pervasively.
- Entry into the Political System: The immigrants usually settled in rapidly growing cities with powerful and expanding political machines, which traded economic advantages for political support. Ward-level grievance machinery, as well as personal representation, enabled the immigrant to make his voice heard and his power felt. By the time the Negro arrived, these political machines were no longer so powerful or so well equipped to provide jobs or other favors, and in many cases were unwilling to share their influence with Negroes.
- Cultural Factors: Coming from societies with a low standard of living and at a time when job aspirations were low, the immigrants sensed little deprivation in being forced to take the less desirable and poorer-paying jobs. Their large and cohesive families contributed to total income. Their vision of the future one that led to a life outside of the ghetto provided the incentive necessary to endure the present.

Although Negro men worked as hard as the immigrants, they were unable to support their families. The entrepreneurial opportunities had vanished. As a result of slavery and long periods of unemployment, the Negro family structure had become matriarchal; the males played a secondary and marginal family role one which offered little compensation for their hard and unrewarding labor. Above all, segregation denied Negroes access to good jobs and the opportunity to leave the ghetto. For them, the future seemed to lead only to a dead end.

Today, whites tend to exaggerate how well and quickly they escaped from poverty. The fact is that immigrants who came from rural backgrounds, as many Negroes do, are only now, after three generations, finally beginning to move into the middle class.

By contrast, Negroes began concentrating in the city less than two generations ago, and under much

less favorable conditions. Although some Negroes have escaped poverty, few have been able to escape the urban ghetto.

Part III—What Can Be Done?

Chapter 10 The Community Response

Our investigation of the 1967 riot cities establishes that virtually every major episode of violence was foreshadowed by an accumulation of unresolved grievances and by widespread dissatisfaction among Negroes with the unwillingness or inability of local government to respond.

Overcoming these conditions is essential for community support of law enforcement and civil order. City governments need new and more vital channels of communication to the residents of the ghetto; they need to improve their capacity to respond effectively to community needs before they become community grievances; and they need to provide opportunity for meaningful involvement of ghetto residents in shaping policies and programs which affect the community.

The Commission recommends that local governments:

• Develop Neighborhood Action Task Forces as joint community government efforts through which more effective communication can be achieved, and the delivery of city services to ghetto residents improved.

• Establish comprehensive grievance-response mechanisms in order to bring all public agencies under public scrutiny.

• Bring the institutions of local government closer to the people they serve by establishing neighborhood outlets for local, state and federal administrative and public service agencies.

• Expand opportunities for ghetto residents to participate in the formulation of public policy and the implementation of programs affecting them through improved political representation, creation of institutional channels for community action, expansion of legal services, and legislative hearings on ghetto problems.

In this effort, city governments will require state and federal support.

The Commission recommends:

• State and federal financial assistance for mayors and city councils to support the research, consultants, staff and other resources needed to respond effectively to federal program initiatives.

• State cooperation in providing municipalities with the jurisdictional tools needed to deal with their problems; a fuller measure of financial aid to urban areas; and the focusing of the interests of suburban communities on the physical, social and cultural environment of the central city.

Chapter 11 Police and the Community

The abrasive relationship between the police and the minority communities has been a major and explosive source of grievance, tension and disorder. The blame must be shared by the total society.

The police are faced with demands for increased protection and service in the ghetto. Yet the aggressive patrol practices thought necessary to meet these demands themselves create tension and hostility. The resulting grievances have been further aggravated by the lack of effective mechanisms for handling complaints against the police. Special programs for bettering police-community relations have been instituted, but these alone are not enough. Police administrators, with the guidance of public officials, and the support of the entire community, must take vigorous action to improve law enforcement arid to decrease the potential for disorder.

The Commission recommends that city government and police authorities:

• Review police operations in the ghetto to ensure proper conduct by police officers, and eliminate abrasive practices.

• Provide more adequate police protection to ghetto residents to eliminate their high sense of insecurity, and the belief of many Negro citizens in the existence of a dual standard of law enforcement.

• Establish fair and effective mechanisms for the redress of grievances against the police, and other municipal employees.

• Develop and adopt policy guidelines to assist officers in making critical decisions in areas where police conduct can create tension.

• Develop and use innovative programs to ensure widespread community support for law enforcement.

• Recruit more Negroes into the regular police force, and review promotion policies to ensure fair promotion for Negro officers.

• Establish a "Community Service Officer" program to attract ghetto youths between the ages of 17 and 21 to police work. These junior officers would perform duties in ghetto neighborhoods, but would not have full police authority. The federal government should provide support equal to 90 percent of the costs of employing CSOs on the basis of one for every ten regular officers.

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Chapter 12 Control of Disorder

Preserving civil peace is the first responsibility of government. Unless the rule of law prevails, our society will lack not only order but also the environment essential to social and economic progress.

The maintenance of civil order cannot be left to the police alone. The police need guidance, as well as support, from mayors and other public officials. It is the responsibility of public officials to determine proper police policies, support adequate police standards for personnel and performance, and participate in planning for the control of disorders.

To maintain control of incidents which could lead to disorders, the Commission recommends that local officials:

- Assign seasoned, well-trained policemen and supervisory officers to patrol ghetto areas, and to respond to disturbances.
- Develop plans which will quickly muster maximum police man power and highly qualified senior commanders at the outbreak of disorders.
- Provide special training in the prevention of disorders, and prepare police for riot control and for operation in units, with adequate command and control and field communication for proper discipline and effectiveness.
- Develop guidelines governing the use of control equipment and provide alternatives to the use of lethal weapons. Federal support for research in this area is needed.
- Establish an intelligence system to provide police and other public officials with reliable information that may help to prevent the outbreak of a disorder and to institute effective control measures in the event a riot erupts.
- Develop continuing contacts with ghetto residents to make use of the forces for order which exist within the community.
- Establish machinery for neutralizing rumors, and enabling Negro leaders and residents to obtain the facts. Create special rumor details to collect, evaluate, and dispel rumors that may lead to a civil disorder.

The Commission believes there is a grave danger that some communities may resort to the indiscriminate and excessive use of force. The harmful effects of overreaction are incalculable. The Commission condemns moves to equip police departments with mass destruction weapons, such as automatic rifles, machine guns and tanks. Weapons which are designed to destroy, not to control, have no place in densely populated urban communities.

The Commission recognizes the sound principle of local authority and responsibility in law enforcement, but recommends that the federal government share, in the financing of programs for improvement of police forces, both in their normal law enforcement activities as well as in their response to civil disorders.

To assist government authorities in planning their response to civil disorder, this report contains a Supplement on Control of Disorder. It deals with specific problems encountered during riot-control operations, and includes:

- Assessment of the present capabilities of police, National Guard and Army forces to control major riots, and recommendations for improvement;
- Recommended means by which the control operations of those forces may be coordinated with the response of other agencies, such as fire departments, and with the community at large;
- Recommendations for review and revision of federal, state and local laws needed to provide the framework for control efforts and for the call-up and interrelated action of public safety forces.

Chapter 13 The Administration of Justice Under Emergency Conditions

In many of the cities which experienced disorders last summer, there were recurring breakdowns in the mechanisms for processing, prosecuting and protecting arrested persons. These resulted mainly from long-standing structural deficiencies in criminal court systems, and from the failure of communities to anticipate and plan for the emergency demands of civil disorders.

In part, because of this, there were few successful prosecutions for serious crimes committed during the riots. In those cities where mass arrests occurred many arrestees were deprived of basic legal rights.

The Commission recommends that the cities and states:

- Undertake reform of the lower courts so as to improve the quality of justice rendered under normal conditions.
- Plan comprehensive measures by which the criminal justice system may be supplemented during civil disorders so that its deliberative functions are protected, and the quality of justice is maintained.

Such emergency plans require broad community participation and dedicated leadership by the bench and bar. They should include:

- Laws sufficient to deter and punish riot conduct.
- Additional judges, bail and probation officers, and clerical staff.

• Arrangements for volunteer lawyers to help prosecutors and to represent riot defendants at every stage of proceedings.

• Policies to ensure proper and individual bail, arraignment, pre-trial, trial and sentencing proceedings.

• Procedures for processing arrested persons, such as summons and release, and release on personal recognizance, which permit separation of minor offenders from those dangerous to the community, in order that serious offenders may be detained and prosecuted effectively.

• Adequate emergency processing and detention facilities.

Chapter 14 Damages: Repair and Compensation

The Commission recommends that the federal government:

• Amend the Federal Disaster Act which now applies only to natural disasters to permit federal emergency food and medical assistance to cities during major civil disorders, and provide long-term economic assistance afterwards.

• With the cooperation of the states, create incentives for the private insurance industry to provide more adequate property-insurance coverage in inner-city areas.

The Commission endorses the report of the National Advisory Panel on Insurance in Riot-Affected Areas: "Meeting the Insurance Crisis of our Cities."

Chapter 15 The News Media and the Disorders

In his charge to the Commission, the President asked: "What effect do the mass media have on the riots?"

The Commission determined that the answer to the President's question did not lie solely in the performance of the press and broadcasters in reporting the riots. Our analysis had to consider also the overall treatment by the media of the Negro ghettos, community relations, racial attitudes, and poverty-day by day and month by month, year in and year out. A wide range of interviews with government officials, law enforcement authorities, media personnel and other citizens, including ghetto residents, as well as a quantitative analysis of riot coverage and a special conference with industry representatives, leads us to conclude that:

• Despite instances of sensationalism, inaccuracy and distortion, newspapers, radio and television tried on the whole to give a balanced, factual account of the 1967 disorders.

• Elements of the news media failed to portray accurately the scale and character of the violence that occurred last summer. The overall effect was, we believe, an exaggeration of both mood and event.

• Important segments of the media failed to report adequately on the causes and consequences of civil disorders and on the underlying problems of race relations. They have not communicated to the majority of their audience which is white a sense of the degradation, misery and hopelessness of life in the ghetto.

These failings must be corrected, and the improvement must come from within the industry. Freedom of the press is not the issue. Any effort to impose governmental restrictions would be inconsistent with fundamental constitutional precepts.

We have seen evidence that the news media are becoming aware of and concerned about their performance in this field. As that concern grows, coverage will improve. But much more must be done, and it must be done soon.

The Commission recommends that the media:

• Expand coverage of the Negro community and of race problems through permanent assignment of reporters familiar with urban and racial affairs, and through establishment of more and better links with the Negro community.

• Integrate Negroes and Negro activities into all aspects of coverage and content, including newspaper articles and television programming. The news media must publish newspapers and produce programs that recognize the existence and activities of Negroes as a group within the community and as a part of the larger community.

• Recruit more Negroes into journalism and broadcasting and promote those who are qualified to positions of significant responsibility. Recruitment should begin in high schools and continue through college; where necessary, aid for training should be provided.

• Improve coordination with police in reporting riot news through advance planning, and cooperate with the police in the designation of police information officers, establishment of information centers, and development of mutually acceptable guidelines for riot reporting and the conduct of media personnel.

• Accelerate efforts to ensure accurate and responsible reporting of riot and racial news, through adoption by all news gathering organizations of stringent internal staff guidelines.

• Cooperate in the establishment of a privately organized and funded Institute of Urban Communications to train and educate journalists in urban affairs, recruit and train more Negro journalists, develop methods for improving police-press rela-

tions, review coverage of riots and racial issues, and support continuing research in the urban field.

Chapter 16 The Future of the Cities

By 1985, the Negro population in central cities is expected to increase by 72 percent to approximately 20.8 million. Coupled with the continued exodus of white families to the suburbs, this growth will produce majority Negro populations in many of the nation's largest cities.

The future of these cities, and of their burgeoning Negro populations, is grim. Most new employment opportunities are being created in suburbs and outlying areas. This trend will continue unless important changes in public policy are made.

In prospect, therefore, is further deterioration of already inadequate municipal tax bases in the face of increasing demands for public services, and continuing unemployment and poverty among the urban Negro population:

Three choices are open to the nation:

• We can maintain present policies, continuing both the proportion of the nation's resources now allocated to programs for the unemployed and the disadvantaged, and the inadequate and failing effort to achieve an integrated society.

• We can adopt a policy of "enrichment" aimed at improving dramatically the quality of ghetto life while abandoning integration as a goal.

• We can pursue integration by combining ghetto "enrichment" with policies which will encourage Negro movement out of central city areas.

The first choice, continuance of present policies, has ominous consequences for our society. The share of the nation's resources now allocated to programs for the disadvantaged is insufficient to arrest the deterioration of life in central city ghettos. Under such conditions, a rising proportion of Negroes may come to see in the deprivation and segregation they experience, a justification for violent protest, or for extending support to now isolated extremists who advocate civil disruption. Large-scale and continuing violence could result, followed by white retaliation, and, ultimately, the separation of the two communities in a garrison state.

Even if violence does not occur, the consequences are unacceptable. Development of a racially integrated society, extraordinarily difficult today, will be virtually impossible when the present black ghetto population of 12.5 million has grown to almost 21 million.

To continue present policies is to make permanent the division of our country into two societies; one, largely Negro and poor, located in the central cities; the other, predominantly white and affluent, located in the suburbs and in outlying areas.

The second choice, ghetto enrichment coupled with abandonment of integration, is also unacceptable. It is another way of choosing a permanently divided country. Moreover, equality cannot be achieved under conditions of nearly complete separation. In a country where the economy, and particularly the resources of employment, are predominantly white, a policy of separation can only relegate Negroes to a permanently inferior economic status.

We believe that the only possible choice for America is the third a policy which combines ghetto enrichment with programs designed to encourage integration of substantial numbers of Negroes into the society outside the ghetto.

Enrichment must be an important adjunct to integration, for no matter how ambitious or energetic the program, few Negroes now living in central cities can be quickly integrated. In the meantime, large-scale improvement in the quality of ghetto life is essential.

In the meantime, large-scale improvement in the quality of ghetto life is essential.

But this can be no more than an interim strategy. Programs must be developed which will permit substantial Negro movement out of the ghettos. The primary goal must be a single society, in which every citizen will be free to live and work according to his capabilities and desires, not his color.

Chapter 17 Recommendations for National Action

Introduction

No American white or black can escape the consequences of the continuing social and economic decay of our major cities.

Only a commitment to national action on an unprecedented scale can shape a future compatible with the historic ideals of American society.

The great productivity of our economy, and a federal revenue system which is highly responsive to economic growth, can provide the resources.

The major need is to generate new will the will to tax ourselves to the extent necessary, to meet the vital needs of the nation.

We have set forth goals and proposed strategies to reach those goals. We discuss and recommend programs not to commit each of us to specific parts of such programs but to illustrate the type and dimension of action needed.

The major goal is the creation of a true union a single society and a single American identity. Toward

that goal, we propose the following objectives for national action:

• Opening up opportunities to those who are restricted by racial segregation and discrimination, and eliminating all barriers to their choice of jobs, education and housing.

• Removing the frustration of powerlessness among the disadvantaged by providing the means for them to deal with the problems that affect their own lives and by increasing the capacity of our public and private institutions to respond to these problems.

• Increasing communication across racial lines to destroy stereotypes, to halt polarization, end distrust and hostility, and create common ground for efforts toward public order and social justice.

We propose these aims to fulfill our pledge of equality and to meet the fundamental needs of a democratic and civilized society domestic peace and social justice.

Employment

Pervasive unemployment and underemployment are the most persistent and serious grievances in minority areas. They are inextricably linked to the problem of civil disorder.

Despite growing federal expenditures for manpower development and training programs, and sustained general economic prosperity and increasing demands for skilled workers, about two million white and nonwhite are permanently unemployed. About ten million are underemployed, of whom 6.5 million work full time for wages below the poverty line.

The 500,000 "hard-core" unemployed in the central cities who lack a basic education and are unable to hold a steady job are made up in large part of Negro males between the ages of 18 and 25. In the riot cities which we surveyed, Negroes were three times as likely as whites to hold unskilled jobs, which are often part time, seasonal, low-paying and "dead end."

Negro males between the ages of 15 and 25 predominated among the rioters. More than 20 percent of the rioters were unemployed, and many who were employed held intermittent, low status, unskilled jobs which they regarded as below their education and ability.

The Commission recommends that the federal government:

• Undertake joint efforts with cities and states to consolidate existing manpower programs to avoid fragmentation and duplication.

• Take immediate action to create 2,000,000 new jobs over the next three years one million in the public sector and one million in the private sector to absorb the hard-core unemployed and materially reduce the level of underemployment for all workers, black and white. We propose 250,000 public sector and 300,000 private sector jobs in the first year.

• Provide on-the-job training by both public and private employers with reimbursement to private employers for the extra costs of training the hard-core unemployed, by contract or by tax credits.

• Provide tax and other incentives to investment in rural as well as urban poverty areas in order to offer to the rural poor an alternative to migration to urban centers.

• Take new and vigorous action to remove artificial barriers to employment and promotion, including not only racial discrimination but, in certain cases, arrest records or lack of a high school diploma. Strengthen those agencies such as the Equal Employment Opportunity Commission, charged with eliminating discriminatory practices, and provide full support for Title VI of the 1964 Civil Rights Act allowing federal grant-in-aid funds to be withheld from activities which discriminate on grounds of color or race.

The Commission commends the recent public commitment of the National Council of the Building and Construction Trades Unions, AFL-CIO, to encourage and recruit Negro membership in apprenticeship programs. This commitment should be intensified and implemented.

Education

Education in a democratic society must equip children to develop their potential and to participate fully in American life. For the community at large, the schools have discharged this responsibility well. But for many minorities, and particularly for the children of the ghetto, the schools have failed to provide the educational experience which could overcome the effects of discrimination and deprivation.

This failure is one of the persistent sources of grievance and resentment within the Negro community. The hostility of Negro parents and students toward the school system is generating increasing conflict and causing disruption within many city school districts. But the most dramatic evidence of the relationship between educational practices and civil disorders lies in the high incidence of riot participation by ghetto youth who have not completed high school.

The bleak record of public education for ghetto children is growing worse. In the critical skills verbal and reading ability Negro students are falling

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further behind whites with each year of school completed. The high unemployment and underemployment rate for Negro youth is evidence, in part, of the growing educational crisis.

We support integration as the priority education strategy; it is essential to the future of American society. In this last summer's disorders we have seen the consequences of racial isolation at all levels, and of attitudes toward race, on both sides, produced by three centuries of myth, ignorance and bias. It is indispensable that opportunities for interaction between the races be expanded.

We recognize that the growing dominance of pupils from disadvantaged minorities in city school populations will not soon be reversed. No matter how great the effort toward desegregation, many children of the ghetto will not, within their school careers, attend integrated schools.

If existing disadvantages are not to be perpetuated, we must drastically improve the quality of ghetto education. Equality of results with all-white schools must be the goal.

To implement these strategies, the Commission recommends:

- Sharply increased efforts to eliminate de facto segregation in our schools through substantial federal aid to school systems seeking to desegregate either within the system or in cooperation with neighboring school systems.
- Elimination of racial discrimination in Northern as well as Southern schools by vigorous application of Title VI of the Civil Rights Act of 1964.
- Extension of quality early childhood education to every disadvantaged child in the country.
- Efforts to improve dramatically schools serving disadvantaged children through substantial federal funding of year-round compensatory education programs, improved teaching, and expanded experimentation and research.
- Elimination of illiteracy through greater federal support for adult basic education.
- Enlarged opportunities for parent and community participation in the public schools.
- Reoriented vocational education emphasizing work-experience training and the involvement of business and industry.
- Expanded opportunities for higher education through increased federal assistance to disadvantaged students.
- Revision of state aid formulas to assure more per student aid to districts having a high proportion of disadvantaged school-age children.

The Welfare System

Our present system of public welfare is designed to save money instead of people, and tragically ends up doing neither. This system has two critical deficiencies:

First, it excludes large numbers of persons who are in great need, and who, if provided a decent level of support, might be able to become more productive and self-sufficient. No federal funds are available for millions of men and women who are needy but neither aged, handicapped nor the parents of minor children.

Second, for those included, the system provides assistance well below the minimum necessary for a decent level of existence, and imposes restrictions that encourage continued dependency on welfare and undermine self-respect.

A welter of statutory requirements and administrative practices and regulations operate to remind recipients that they are considered untrustworthy, promiscuous and lazy. Residence requirements prevent assistance to people in need who are newly arrived in the state. Regular searches of recipients' homes violate privacy. Inadequate social services compound the problems.

The Commission recommends that the federal government, acting with state and local governments where necessary, reform the existing welfare system to:

- Establish uniform national standards of assistance at least as high as the annual "poverty level" of income, now set by the Social Security Administration at $3,335 per year for an urban family of four.
- Require that all states receiving federal welfare contributions participate in the Aid to Families with Dependent Children Unemployed Parents program (AFDC-UP) that permits assistance to families with both father and mother in the home, thus aiding the family while it is still intact.
- Bear a substantially greater portion of all welfare costs at least 90 percent of total payments.
- Increase incentives for seeking employment and job training, but remove restrictions recently enacted by the Congress that would compel mothers of young children to work.
- Provide more adequate social services through neighborhood centers and family-planning programs.
- Remove the freeze placed by the 1967 welfare amendments on the percentage of children in a state that can be covered by federal assistance.
- Eliminate residence requirements.

As a long-range goal, the Commission recommends that the federal government seek to develop a

national system of income supplementation based strictly on need with two broad and basic purposes:

• To provide, for those who can work or who do work, any necessary supplements in such a way as to develop incentives for fuller employment;

• To provide, for those who cannot work and for mothers who decide to remain with their children, a minimum standard of decent living, and to aid in the saving of children from the prison of poverty that has held their parents.

A broad system of implementation would involve substantially greater federal expenditures than anything now contemplated. The cost will range widely depending on the standard of need accepted as the "basic allowance" to individuals and families, and on the rate at which additional income above this level is taxed. Yet if the deepening cycle of poverty and dependence on welfare can be broken, if the children of the poor can be given the opportunity to scale the wall that now separates them from the rest of society, the return on this investment will be great indeed.

Housing

After more than three decades of fragmented and grossly underfunded federal housing programs, nearly six million substandard housing units remain occupied in the United States.

The housing problem is particularly acute in the minority ghettos. Nearly two-thirds of all non-white families living in the central cities today live in neighborhoods marked with substandard housing and general urban blight. Two major factors are responsible.

First: Many ghetto residents simply cannot pay the rent necessary to support decent housing. In Detroit, for example, over 40 percent of the non-white occupied units in 1960 required rent of over 35 percent of the tenants' income.

Second: Discrimination prevents access to many non-slum areas, particularly the suburbs, where good housing exists. In addition, by creating a "back pressure" in the racial ghettos, it makes it possible for landlords to break up apartments for denser occupancy, and keeps prices and rents of deteriorated ghetto housing higher than they would be in a truly free market.

To date, federal programs have been able to do comparatively little to provide housing for the disadvantaged. In the 31-year history of subsidized federal housing, only about 800,000 units have been constructed, with recent production averaging about 50,000 units a year. By comparison, over a period only three years longer, FHA insurance guarantees have made possible the construction of over ten million middle and upper-income units.

Two points are fundamental to the Commission's recommendations:

First: Federal housing programs must be given a new thrust aimed at overcoming the prevailing patterns of racial segregation. If this is not done, those programs will continue to concentrate the most impoverished and dependent segments of the population into the central-city ghettos where there is already a critical gap between the needs of the population and the public resources to deal with them.

Second: The private sector must be brought into the production and financing of low and moderate rental housing to supply the capabilities and capital necessary to meet the housing needs of the nation.

The Commission recommends that the federal government:

• Enact a comprehensive and enforceable federal open housing law to cover the sale or rental of all housing, including single family homes.

• Reorient federal housing programs to place more low and moderate income housing outside of ghetto areas.

• Bring within the reach of low and moderate income families within the next five years six million new and existing units of decent housing, beginning with 600,000 units in the next year.

To reach this goal we recommend:

• Expansion and modification of the rent supplement program to permit use of supplements for existing housing, thus greatly increasing the reach of the program.

• Expansion and modification of the below-market interest rate program to enlarge the interest subsidy to all sponsors and provide interest-free loans to nonprofit sponsors to cover pre-construction costs, and permit sale of projects to nonprofit corporations, cooperatives, or condominiums.

• Creation of an ownership supplement program similar to present rent supplements, to make home ownership possible for low-income families.

• Federal writedown of interest rates on loans to private builders constructing moderate-rent housing.

• Expansion of the public housing program, with emphasis on small units on scattered sites, and leasing and "turnkey" programs.

• Expansion of the Model Cities program.

• Expansion and reorientation of the urban renewal program to give priority to projects directly assisting low-income households to obtain adequate housing.

Document Text

Conclusion

One of the first witnesses to be invited to appear before this Commission was Dr. Kenneth B. Clark, a distinguished and perceptive scholar. Referring to the reports of earlier riot commissions, he said:

> I read that report … of the 1919 riot in Chicago, and it is as if I were reading the report of the investigating committee on the Harlem riot of '35, the report of the investigating committee on the Harlem riot of '43, the report of the McCone Commission on the Watts riot.

I must again in candor say to you members of this Commission it is a kind of Alice in Wonderland with the same moving picture re-shown over and over again, the same analysis, the same recommendations, and the same inaction.

These words come to our minds as we conclude this report.

We have provided an honest beginning. We have learned much. But we have uncovered no startling truths, no unique insights, no simple solutions. The destruction and the bitterness of racial disorder, the harsh polemics of black revolt and white repression have been seen and heard before in this country.

It is time now to end the destruction and the violence, not only in the streets of the ghetto but in the lives of people.

Glossary

de facto segregation	segregation that exists not because of law or government requirement but because of residential patterns or other social practices
exodus	the emigration, departure, or movement of a large group of people
Molotov cocktail	an improvised firebomb thrown by hand and usually consisting of a bottle filled with a liquid that will burn and a rag for a wick
Negro	common term for an African American in the 1960s
nihilism	the view that destroying existing society is necessary to bring about social improvement
polemics	controversial arguments
underemployment	inadequate employment in a part-time instead of full-time job, labor in a low-paying position, or work that requires skills that are less than the worker possesses

Eldridge Cleaver (Library of Congress)

Eldridge Cleaver's "Education and Revolution"

1969

"In order to transform the American social order, ... we have to overthrow the government."

Overview

In November 1969, Eldridge Cleaver's essay "Education and Revolution" was published in *The Black Scholar*, a progressive journal that takes a black perspective on such issues as education, culture, and politics. Cleaver at the time was a member of the Black Panther Party, a militant revolutionary organization founded earlier in the decade. The initial goal of the Black Panthers was to promote self-defense in the black community at a time when many urban blacks saw police forces as oppressive and racist. In time, the Black Panthers broadened their goals to include charitable work, principally by providing schoolchildren with breakfasts, and efforts to promote black self-awareness in the schools. The Black Panthers were also strong advocates of Socialism as a mode of social organization. In his essay, Cleaver articulates the Socialist goals of the Black Panthers and explains why, from his perspective, the black community has to take charge of its children's education as a means of overthrowing an oppressive capitalist system.

Context

The Black Panther Party was a principal offshoot of the Black Power movement of the 1960s. Black Power had its origins in the Student Nonviolent Coordinating Committee (SNCC). Formed in 1960, the SNCC organized voter-registration drives throughout the South and events such as the 1963 March on Washington, where Martin Luther King, Jr., made his famous "I Have a Dream" speech. Leaders of the organization included such notable civil rights activists as Stokely Carmichael, Julian Bond, John Lewis, Marion Barry, and H. Rap Brown. A key event in the civil rights movement occurred in March 1965, when King led a nonviolent march of some twenty-five thousand people from Selma to Montgomery, Alabama, to protest racial injustice. But in August of that year, riots in the Watts section of Los Angeles erupted. During the five days of disturbance, thirty-five thousand African Americans squared off against sixteen thousand National Guardsmen. By the riot's end, thirty-four people had died (most of them black), a thousand had been injured, and property damage had amounted to an estimated $40 million. This event, along with other instances of violence in black neighborhoods, prompted the SNCC to begin an evolution away from the principles of nonviolence.

It was in this climate that Bobby Seale and Huey Newton formed the Black Panther Party for Self-Defense in the racially troubled city of Oakland, California, on October 15, 1966. Soon, chapters of the party could be found in many major cities. The founders drew inspiration from the Lowndes County Freedom Organization in Alabama, which Carmichael had formed and which had adopted a black panther as its emblem. Black Panthers were instantly recognizable for their uniforms: blue shirts, black pants, black leather jackets, black berets, and openly displayed loaded shotguns, which, Newton had discovered, could be carried in public under California law as long as they were pointed at no one. The initial goal of the organization was to protect black neighborhoods from police brutality. Originally the group espoused the principles of black nationalism, drawing inspiration from the writings and speeches of civil rights firebrands such as Malcolm X, but in time it came to reject that position in favor of a more Socialist agenda.

In addition to Seale and Newton, the best known of the Panthers was Eldridge Cleaver, who edited the party's newspaper, *The Black Panther*, and raised its circulation to two hundred and fifty thousand. At its founding, the party promulgated a Ten-Point Program. Among the ten points were "power to determine the destiny of our black and oppressed communities," full employment, "an end to the robbery by the capitalists," decent housing, exemption from military service (at a time when opposition to the Vietnam War was growing), an end to police brutality (with a call for blacks to arm themselves in self-defense), freedom for black prisoners in jails and prisons, trial of accused black people by black juries, and "land, bread, housing, education, clothing, justice, peace, and people's community control of modern technology."

Of particular relevance to "Education and Revolution" was the fifth of the ten points: "We want decent education for our people that exposes the true nature of this decadent American society. We want education that teaches us our true history and our role in the present-day society." This demand reflected the pedagogy espoused by numerous civil

Time Line

1935

- **August 31**
  Eldridge Cleaver is born in Wabbaseka, Arkansas.

1960

- The Student Nonviolent Coordinating Committee is founded.

1965

- The Lowndes County Freedom Organization, which adopted the black panther as its emblem, is formed in Alabama.
- **March 21**
  Martin Luther King, Jr., leads a five-day civil rights march of some twenty-five thousand people from Selma to Montgomery, Alabama.
- **August 11**
  The Watts riot erupts in Los Angeles, California, lasting until August 16.

1966

- **October 15**
  The Black Panther Party for Self-Defense is formed in Oakland, California.

1968

- Cleaver publishes his book *Soul on Ice*, runs for president on the Peace and Freedom Party ticket, is involved in a shootout and charged with attempted murder, and flees the country, remaining overseas until 1975.

1969

- **June 25**
  The first Black Panther Party "liberation school" is organized in Berkeley, California.
- **November**
  Cleaver's essay "Education and Revolution" is published in *The Black Scholar*.

1978

- Cleaver publishes *Soul on Fire*, a book about his years in exile and his conversion to evangelical Christianity.

1998

- **May 1**
  Cleaver dies in Pomona, California.

rights leaders at the time. In the vanguard of promoting this approach to education was the SNCC, which created a network of "freedom schools" in Mississippi as part of the Mississippi Freedom Summer in 1964. Based on the premise that segregated schools distorted black self-awareness, freedom schools organized with the help of white activists adopted a curriculum that emphasized the personal experiences of students and upheld the belief that integration was still possible and desirable.

In the years that followed, however, that viewpoint eroded. The SNCC began to retreat from its integrationist perspective in southern schools to focus instead on northern urban ghettos, where racism seemed entrenched despite civil rights legislation and the labors of civil rights groups. The SNCC began to rely less on the help of white activists in forming, for example, the Residential Freedom School for black youth in Chicago. Georgia's Atlanta Project was an effort to create black schools in that city, and proposals were made to start a "liberation school" in Washington, D.C. The premise underlying these initiatives was that African Americans could not achieve their goals through integration. Racism, it was argued, was too permanent, and the American experience that formed the core of traditional education could not meet the needs of black youth. These progressive schools, therefore, emphasized culture and politics from a black perspective.

The Black Panther Party played a leading role in these efforts by establishing liberation schools on the West Coast. At the first such school, founded in Berkeley, California, in 1969, elementary and middle school students marched to songs about "pigs" (a term commonly used in the 1960s to refer to the police) and revolutionary principles. The school's curriculum emphasized that the struggle was not about race as much as it was about class and the exploitation of the lower classes. A similar school was formed in San Francisco, where students played revolutionary games and sang revolutionary songs. Topics in the curriculum included racism, Fascism, capitalism, Socialism, and Black Panther ideology. Later, in 1971, an elementary school for Black Panther Party members was created in Oakland. Called the Intercommunal Youth Institute, the school emphasized community organizing and instruction in the party's ideology. It also included visits to prisons and attendance at court sessions with a view to showing students the criminal justice system in operation. The school's name was changed to the Oakland Community School in 1974, and it graduated its last students in 1982. In "Education and Revolution," published in November 1969, Cleaver articulated the goals of progressive education from the perspective of the Black Panther Party.

About the Author

Eldridge Cleaver was born on August 31, 1935, in Wabbaseka, Arkansas, though later his family moved to Phoenix, Arizona, and then to Los Angeles. As a teenager, Cleaver was arrested for such petty crimes as marijuana

possession and spent time in juvenile detention centers. In 1957 he was arrested and charged with rape and attempted murder; he was convicted of assault with intent to murder and sentenced to prison.

While he was in prison, Cleaver wrote the work for which he is best known, *Soul on Ice*, a book that became one of the intellectual foundations of the Black Power movement in the 1960s. The book began as a series of essays he published in *Ramparts*, a leftist publication that, at its height, reached over a quarter million subscribers. In the book, he acknowledged that he was a serial rapist, stating that he regarded his actions as insurrectionary, performed to shock the white community. After he was released from prison in 1966, he became a member of the Black Panther Party in Oakland, assuming the position of the party's minister of information and editor of its newspaper, *The Black Panther*. In 1967 he joined with a number of other prominent black radicals, including Malcolm X, to form the Black House political and cultural center in San Francisco (not to be confused with the infamous Black House Church of Satan formed in San Francisco at about the same time). In 1968 Cleaver was selected as the presidential candidate for the Peace and Freedom Party, a minor leftist party that advocated Socialism and an end to the Vietnam War, and he actually garnered about thirty-six thousand votes. That year Cleaver was part of a shootout in which Black Panther Bobby Hutton was killed and two police officers were injured; he later confessed that the Black Panthers had deliberately provoked the shootout by attempting to ambush the officers. Cleaver was charged with murder, but he fled the country, first to Cuba, then to Algeria and later France, where he lived underground.

At this point, Cleaver parted ways with Huey Newton, the party's minister of defense. Cleaver wanted the organization to engage in armed insurrection and urban guerrilla warfare, but Newton argued that violence would alienate most of the black community and was beginning to call for more pragmatic reform. In 1975 Cleaver returned to the United States, where he was placed on probation for assault as a result of the 1968 shootout, and he renounced the Black Panthers. In 1978 he published *Soul on Fire*, a book that detailed his years in exile, his fear for his life, his inability to control the revolutionaries who had followed him to Algeria, and his conversion to fundamentalist Christianity which led to his formation of a short-lived revivalist ministry called Eldridge Cleaver Crusades.

In the later years of his life, Cleaver adopted a benign posture at odds with his earlier radicalism. He was baptized as a member of the Church of Jesus Christ of Latter-day Saints the Mormon Church and attended the Peninsula Bible Church in Palo Alto, California. This church was known primarily as the church supported by Chuck Colson, the first member of the administration of President Richard Nixon to be imprisoned on charges that grew out of the Watergate scandal that led to Nixon's resignation. Around the time of his incarceration, Colson became a born-again Christian, and he remains a prominent leader of the Christian right. During the 1980s Cleaver became a conservative Republican, even endorsing Ronald Reagan for president. In 1986 he mounted an unsuccessful campaign for a U.S. Senate seat in California. (Reagan refused to return the favor and endorse him.) Cleaver died on May 1, 1998, in Pomona, California.

Explanation and Analysis of the Document

"Education and Revolution" would have found an appreciative audience during the turbulence of the late 1960s. It was a time when writers and speakers were espousing black nationalism, when student groups were engaging in protest some of it violent against the Vietnam War, and when the names of numerous revolutionaries and activists were routinely in the news. The tone of "Education and Revolution" is relatively sober and serious; it was not intended to be a fiery denunciation of capitalism and the current state of traditional education. Nevertheless, it contains a bare-knuckled attack on American institutions and articulates Cleaver's and the Black Panthers' vision of a very different kind of social order.

◆ "The Essence of Education"

Cleaver begins his essay in a measured way. His starting point is that the purpose of education is to pass "the heritage, learning, the wisdom and the technology of human history to the coming generations." He draws a distinction between the natural world and the social world. Education provides humans with the means to harness the natural world to ensure human survival. Just as people have an "antagonistic" relationship with the natural world, so too they have an antagonistic relationship with the social world. Most people are not directly involved in struggling against the natural environment; in contrast, most people *are* involved with struggling against the social environment, which historically emphasized agriculture, industry, and the economic system ways that humans coped with their natural environment.

◆ "The Struggle within the Social Environment"

In the next section of the essay, Cleaver goes into more detail about people's struggle with their social environment. In describing this environment, he adopts the terminology of Karl Marx, the nineteenth-century German philosopher and historian whose works have provided the intellectual foundations of Communism. Marx saw history as essentially the history of class struggle, in which the proletariat, or working people, rose up against the entrenched interests of the owners of the means of production. Cleaver argues, in paragraph 4, that the struggle in the natural realm takes place with the means of production, that is, the "economic base" that provides resources and tools for creating commodities and material wealth. The struggle in the social realm, though, takes place on a "superstructure" that has been built on this economic base and that the base sustains. This superstructure includes hospitals, the postal service, and any other organized aspect of society. It also includes the education system.

Cleaver then turns to an examination of the educational system. Education, he points out, was simple when the only enemy was the natural order. Fathers passed along to their sons the knowledge they needed to grow crops, for example, or to hunt. But as the social system became more complex, so did the educational system. As people became more specialized in their economic functions, education had to be institutionalized and centralized. The educational process became less individual and more community based, as schools, colleges, and universities existed for the community as a whole. Complicating matters, however, is that humans and human institutions often find themselves in conflict. Much of that disharmony is a result of class and ethnic divisions, which gave rise to institutions such as slavery. The upshot is that those who own the wealth and the means of production also control the social institutions. Even those who are not wealthy can gain positions of control because of their extensive education. Those who control social institutions are able to appoint judges, elect candidates for office, and select officials at universities. Thus, the struggle waged by African Americans, ethnic groups, and poor whites is a struggle against the social system that is imposed on them from above. Race and class are the characteristics used to divide Americans.

◆ "The Struggle of the Exploited People"

In this section, Cleaver's tone becomes edgier. He points out that the struggle against exploitation is centered on college and high school campuses. This, says Cleaver in paragraph 11, is understandable, for "those who are interested in keeping people in oppressed positions and then dominating their perspective and their outlook on life, know that it is necessary for them to control the learning process in order to brainwash people, in order to camouflage the true nature of the society." He suggests that those in control have to "sanctify" their position by teaching people who are exploited to love the system that exploits them. The "oligarchy" that is, the few in control controls the curriculum so that it "does not expose the true nature of the decadent and racist society that we live in." Oppressed people, on the other hand, want to expose the nature of the society they live in and their struggle against it. Cleaver goes on to say that the struggle is against the entire capitalist system, which functions by turning the word "revolution" against those who use it, giving it a "bad name." Revolution, according to Cleaver, is nothing more than the struggle against the system "that has historically enslaved our people, has continually exploited us, has discriminated against us and made our lives miserable and kept us underdeveloped and kept us blind and kept us in a form of slavery."

◆ "Revolution"

Cleaver defends the concept of revolution, saying in paragraph 16 that it "should be a beautiful word because it's a word that promises us hope, that promises us a better life." The alternative to revolution is to remain satisfied as slaves. He goes on to state that the "enemy" talks about revolution by using such phrases as "crime in the street." These phrases are meant to confuse and turn exploited groups against each other. Cleaver wishes that exploited peoples could form an alliance to overthrow the capitalist system and remove from positions of power those who denounce the struggle, for as long as capitalism exists, some people will have to be exploited. Revolution holds out hope that the means of production can be placed in the hands of those who are currently exploited in order to create a better life for everybody.

◆ "The Struggle in the Educational Arena"

Cleaver sees the effort to include black studies in curricula as part of a wider struggle to liberate both blacks and whites from an educational system that keeps "black people and so-called minorities ignorant" and that simultaneously "indoctrinates" white students to keep them "in harmony with this system." Cleaver calls the system "evil" and argues that a historical opportunity exists to bring it down. Efforts made by capitalists and their "watchdogs" to criminalize protest are simply part of an effort to perpetuate the system as it exists. In the past, the slave system denied blacks the ability even to read and write. Today, though, African Americans want to be in control of *what* they read and write. Opponents of this effort "are nothing but the descendants of the outright racist slavemasters who opposed us in our attempts to learn how to read and write on the plantations during the days of slavery."

◆ "Repression against the Movement"

Although Cleaver is ostensibly writing about education, in this brief section he argues against a single-minded focus on education, noting in paragraph 23, "The struggle that we wage is against the total social organism." Those who control education also control other social institutions, so the struggle against oppression has to be mounted on all fronts. Cleaver expresses a note of optimism by arguing that efforts to repress the movement are a sign not of the strength but of the weakness of the ruling class.

◆ "One Ruling Class"

In this section Cleaver de-emphasizes the issue of black and white by arguing that the division is one perpetrated by the ruling class. The difference between black and white revolutionary struggles, in Cleaver's view, is inconsequential, for the struggle is against the same ruling class. Cleaver notes that many people who are not connected to the college community often tend to think that what takes place on college campuses is none of their business, but Cleaver rejects this view, arguing that the campus is part of the larger human community. Further, the stratification of the college campus is an emblem of the stratification of the larger society. Campuses are administered by members of the ruling class to the exclusion of the poor and powerless people whose interests are supposedly being served. Cleaver concludes, in paragraph 32, that

> poor black people and poor white people and middle class people who are not themselves directly involved

in the college situation, need to be made to understand that something of their own precious liberty, which either they never had or they thought they had, is being decisively determined in the struggles that are going down on the campuses today.

◆ **"Universal Brainwashing"**

Cleaver argues that it is the duty of the state to provide people with medical care, housing, employment, and education. Any government that fails to do so is "not worthy of existing." In the educational arena, education is supposedly universal, but in Cleaver's view what is taking place is "universal brainwashing." This section of the essay essentially repeats the ideas that Cleaver has already expressed: that the educational system is under the control of the ruling class. Therefore, the system has to be not "reformed" but overthrown. The goal is not reform but revolution.

◆ **"Transforming the Social Order"**

In the essay's concluding section, Cleaver emphasizes revolutionary goals: "We have to destroy the present structure of power in the United States, we have to overthrow the government." He argues that the courts, the legislatures, and the executive branches at both the state and federal level are instruments of the ruling class and therefore have to be replaced that the "machinery" of government must be replaced by "new machinery." Cleaver indicates that the only way to do so is through violence. "We are involved in a war," says Cleaver, and a war is not a "game." Cleaver's startling conclusion is that overthrowing the ruling class can begin with the college president, who derives his power from corporations: This attack might "be through boycotts of the products of that corporation, or through the physical destruction of the property of the corporation, or the physical elimination of him as an individual."

Audience

Cleaver's essay was published in *The Black Scholar*, an education journal founded in 1969 that continues to focus on progressive education, culture, and politics from the perspective of the black community. Its list of contributors over the years reads like a who's who of black intellectuals and writers: Amiri Baraka, Angela Davis, Julian Bond, Shirley Chisholm, Stokely Carmichael, Maya Angelou, Alice Walker, and many others. Publication in a scholarly journal such as *The Black Scholar* would lend an essay such as Cleaver's credibility. Clearly, however, Cleaver was writing primarily for an audience that was already inclined to accept his point of view, though it should be noted that many African Americans at the time regarded the Black Panthers with suspicion because of their extreme militancy and allegations that they were involved in criminal activity. Thus, Cleaver was in the position of having to convince black readers, as well as white readers, of the legitimacy of the Panthers' position on the issue of education.

Black Panthers on the steps of the Lincoln Memorial at their convention in June 1970 (Library of Congress)

Impact

The Black Panthers were an unabashedly revolutionary organization, one that called for the overthrow of the capitalist system. During the late 1960s and early 1970s, the organization was the subject of extensive investigation by the Federal Bureau of Investigation. Writing in the *New York Times*, FBI director J. Edgar Hoover stated:

> The Black Panthers are the greatest threat to the internal security of the country. Schooled in the Marxist-Leninist ideology and the teaching of Chinese Communist leader Mao Tse-tung, its members have perpetrated numerous assaults on police officers and have engaged in violent confrontations with police throughout the country. Leaders and representatives of the Black Panther Party travel extensively all over the United States preaching their gospel of hate and violence not only to ghetto residents, but to students in colleges, universities and high schools as well.

The FBI took action, using wiretaps, searches, infiltration, and other techniques some of questionable legality to disrupt the activities of the Black Panthers and, particularly, to sow the seeds of discord in the organization. While some historians regard the Black Panthers as a sig-

Essential Quotes

"In human history, we see that society has been broken up into classes, into antagonistic ethnic and economic groups that struggle against each other for survival as each sees it. They enslave each other and make their living at the expense of other groups."

("The Struggle within the Social Environment")

"We are struggling against those who have organized society to their advantage, in order to continue their control and rule of the entire social unit. It is very important for us to understand that we are called upon to wage this struggle with the same desperation and the same 'do or die' necessity that a caveman in some forgotten time in human history had to struggle against the natural elements."

("The Struggle within the Social Environment")

"We are struggling against the capitalist system which organized itself in a way that purchases our lives, that exploits us and forces us into a position wherein we have to wage a struggle against the social organization in order to survive."

("The Struggle of the Exploited People")

"The process of breaking out of slavery, the process of breaking out of a set of social arrangements, out of a social organization that is killing us, this process is named revolution; we are revolting and rebelling and moving against a system that is our enemy."

("Revolution")

"Now we have realized the necessity of taking control of our education."

("The Struggle in the Educational Arena")

"A connection needs to be made between the college campus and the community so that the repression and the tactics of the ruling class can be defeated by the total community being involved."

("One Ruling Class")

nificant social movement, others have condemned the organization. Among the latter group is Sol Stern, who in 1967 had written a laudatory piece about the Panthers and Huey Newton for the *New York Times* but in 2003 wrote that "within a few years, I understood that I should have described Newton and his cadres as psychopathic criminals, not social reformers."

In many ways, the educational program Cleaver outlined proved to be ephemeral. Throughout the 1970s the schools formed by the Black Panthers shifted their curricula away from revolutionary principles to the political mission of integrating black youth in urban ghettos into mainstream American society. Handbooks for teachers no longer referred to the Black Panthers, as attention shifted to such traditional classroom topics as phonics, grammar, and the teaching of Standard English. That said, the type of progressive education that Cleaver espoused is by no means dead, though determining how much life remains in it depends on one's definition of "progressive education." Many scholars and schools continue to promote the belief that education is best founded on real-life experience, the type of lived experience that the Panthers stressed. Curricula from grade school to college in the United States include attention not only to the work of traditional canonical authors but also to that of oppressed minorities. History courses routinely give attention to African Americans and other minority groups, and the so-called bottom-up approach to history shifts the attention away from kings, treaties, and wars (the "top-down" approach) to the circumstances of ordinary people whose lives are affected by major events. Books such as Howard Zinn's *A People's History of the United States*, which won a National Book Award in 1980 and has been often adopted as a school textbook, examine history from the standpoint not of the cultural elites but of oppressed minorities, women, labor unions, working people, and victims of imperialism. While Cleaver's vision was doomed by its utopianism, parts of it survive, making "Education and Revolution" an important early document in the shift in attitudes that has led to a more open, diverse curriculum in American schools.

See also Malcolm X: "After the Bombing" (1965); Stokely Carmichael's "Black Power" (1966).

Further Reading

Articles

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Questions for Further Study

1. Later in his life, Cleaver adopted a posture that was remarkably more benign compared with the militancy of his younger years, even to the point of joining the more conservative Republican Party. What do you think may have accounted for this change?

2. What is your opinion of the type of "progressive" education Cleaver advocated? Do you see any manifestations of this type of education in your own school? Explain.

3. Cleaver's essay and the views he expressed in it were based not on race but on social class. Explain.

4. How—and why—did Cleaver draw a connection between education designed to help people survive in the physical environment and that designed to help them survive in the social environment? How persuasive do you find this connection?

5. Why do you think that the kind of educational system Cleaver advocated never really took off and in large part disappeared in the 1970s and beyond?

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Michael J. O'Neal

Document Text

Eldridge Cleaver's "Education and Revolution"

One way of understanding what's going on, on the college and the high school campuses in the United States today, is to examine the essence of education. Basically an education passes the heritage, learning, the wisdom and the technology of human history to the coming generations. We want this information to be passed on to enable and to help mankind continue to survive and cope with the environment. In terms of surviving and coping with our environment, basically, we have two worlds to deal with. We have the natural world the task of surviving against the given world, the task of eking a living from the earth itself, for which technology has been designed. On the other hand we have the social world, the social situation. We have an antagonistic orientation to both of these worlds. We speak about the natural enemies of man, including everything from animals to the weather, and these elements have been given the label of enemy because they can kill people. We have to be able to harness these forces, we have to be able to adapt to the natural situation so that our survival will be enhanced, and for this purpose, science and technology, agriculture and industry, all of these tools have been developed by mankind through practice in coping with this physical environment.

We are in the habit of speaking about certain things that happen in the social situation that are hostile and inimical to the prospect of survival for mankind, and we also label these with the same designation of enemy. The distinction between the struggle for survival against the physical environment, and the struggle against the antagonistic forces and situations in the social realm is a very important distinction to make, because often the struggle in the social realm is really the only struggle that many people are caught up in. They are not directly involved in struggling against the physical environment, but their survival does depend upon struggling within the social realm, in terms of how the economy is organized, how the political system is organized, and how the social system itself is organized, so that many lives are played out against this background of struggling against the way civilization is presently organized.

The struggle against the physical environment, of course, is primary. We have organized our social situation in order to cope with the physical environment. The way that we organize agriculture, the way that we organize industry, the way that we organize the economy as a whole, the way that we organize the political situation, all historically have been towards facilitating and better enabling us to cope with the physical environment.

At this point I think it would be useful to establish some terminology. The best terminology I know of, for discussing this distinction between the struggle within the physical environment and the struggle within the social environment, is the terminology developed by Karl Marx. He designates the struggle against or within the physical environment as taking place within the economic base of society. And, upon the economic base of society is erected the superstructure of society. Thus the struggle within the social realm takes place within the superstructure and the struggle in the physical realm takes places within the economic base. In the economic base we find the natural resources, the technology, the industry, all the machines and the tools and the means that mankind has developed for coping with the physical environment. They are designated as the means of production, the means of producing material wealth, goods and commodities from the natural resources themselves. But all of the institutions of society, everything from the educational facilities to the hospitals and the postal service, everything belonging to the organized aspect of society, exist within the social superstructure, which has been built and sustained by our means of producing material wealth.

Let's get to the essence of an education. In a very simple-structured social organization, where technology and learning have not become complex, it would be possible for one's Father or one's uncle to pass on the technology. Your father could teach you how to fish or your father could teach you how to farm at a rudimentary agricultural level. He could teach you how to hunt with a spear or a rock, or bow and arrow. But as the economic condition becomes more complex, and as the level of information and knowledge and understanding of the environment increases, to the extent that society requires people to specialize in passing on this information, then the problem of education really sets in. When it was necessary for people to be designated as teachers and to specialize in, or

devote all their time to, passing on this information, the learning situation itself had to be centralized as an institution. Schools, universities, etc., were developed so that the maximum productive use of a man's time and energy could be made. Now you can readily understand how in a very complex social situation it would be understood by the community, by everybody involved in the social unit, that these places or institutions of learning were there to serve and to benefit the community as a whole. It would be absurd For a teacher or one who is charged with administering the learning process as a whole, it would be absurd for him to alienate himself from the community as a whole or to claim that he owns the body of information that is a heritage to mankind; this would be absurd, it would not be tolerated by the community.

Of course I have been writing as though society was an organism in which people were in harmony with each other, in which they cooperated with each other and in which they were not waging wars of aggression against each other and were not in conflict with each other. But in actual fact and in terms of human history such harmony has not been the case.

In human history, we see that society has been broken up into classes, into antagonistic ethnic and economic groups that struggle against each other for survival as each sees it. They enslave each other and make their living at the expense of other groups, special interest groups are formed, etc. So that in reality we have to look at our own situation, have to look at the situation that exists in the economic base in terms of the class struggle, also in terms of the ethnic struggles that have gone on. When we look at our own situation today in the United States, we find that those who are very powerful in our society are powerful because of their relationship to the means of production, because they are rich, because they own the factories and because they own the natural resources. With this economic power they are able to gain control of all the institutions in society, they are able to appoint people who themselves may not be rich, or may not own stock, or have any control over the means of production of the natural resources, but because of their extensive education are able to be appointed to positions of managing society.

But at the top of the social organization in the United States, we have the ruling class mentioned; and because of the wealth of this ruling class, it is able to dominate American society and control American society, able to determine what judges are appointed to the judicial system, able to determine who is appointed to the Board of Regents to administer the colleges, and able even to determine who is elected to office, because it controls the wealth, and has vast amounts of money at its disposal to wage a political campaign.

Those who control the economy of the United States are able to control the rest of society. Those of us who are not in this advantaged position, black people, Mexican-Americans, Puerto Ricans, Indians, Eskimos, virtually every ethnic group including poor white people and also middle class college students, all find ourselves in the position wherein our lives are manipulated and controlled by those who have this advantaged social position.

We have to struggle in order to survive. But we're not struggling against the natural environment, our struggle is not in reality taking place against nature itself, but we are struggling against the way society has been organized. We are struggling against those who have organized society to their advantage, in order to continue their control and rule of the entire social unit. It is very important for us to understand that we are called upon to wage this struggle with the same desperation and the same "do or die" necessity that a caveman in some forgotten time in human history had to struggle against the natural elements. In reality, our adversaries are other men, other women and other social classes. In terms of the racial strife within the United States our class struggle is often hidden by our ethnic struggle. We are manipulated along the color line as well as along the class line. We are exploited economically, and we are discriminated against racially, also.

Today, as always, the struggle of the exploited people within the United States is taking place on all fronts, but the most sensational and explosive clashes are being centered and focussed more and more on the college campuses and on the high school campuses. We understand that those who control the mind can control the body, so that those who are interested in keeping people in oppressed positions and then dominating their perspective and their outlook on life, know that it is necessary for them to control the learning process in order to brainwash people, in order to camouflage the true nature of the society. In order to sanctify their system, they teach the exploited people and the oppressed people to virtually love the system that is exploiting and oppressing them. This oligarchy has an interest in seeing to it that the content of the curriculum is to its liking, and that it does not expose the true nature of the decadent and racist society that we live in.

On the other hand, the exploited and oppressed people have the opposite interest in exposing the true

Document Text

nature of the society and in educating ourselves and our children on the nature of the struggle and in transferring to them the means for waging the struggle so they can be aware of the level of the struggle, of the progress and the history of the struggle and the nature of the enemy and the true vulnerability of the enemy. In other words, we want to be able to teach ourselves and our children the necessity for struggling against this ruling class.

What we have to realize above all else is that our enemy and that which we in fact are struggling against is not an individual college president or high school principal or a board of regents or a board of education, but the entire social structure. We are struggling against the capitalist system which organized itself in a way that purchases our lives, that exploits us and forces us into a position wherein we have to wage a struggle against the social organization in order to survive.

One of the techniques or one of the weapons that the enemy uses against us in our struggle is to turn words against us, to define our struggle in terms that place our struggle in a bad light, so that the word "revolution" is given a bad name, is looked upon as a negative term.

But what revolution means and what it means to us is that we are trying to change a system that has historically enslaved our people, has continually exploited us, has discriminated against us and made our lives miserable and kept us underdeveloped and kept us blind and kept us in a form of slavery, one form of slavery or another. Of course, our struggle has continually forced the slavemaster to modify the terms of the slavery, but every modification that has been made has only been made because the slavemaster found it necessary to make a few minor adjustments in order to continue his exploitation of us on a new level.

The process of breaking out of slavery, the process of breaking out of a set of social arrangements, out of a social organization that is killing us, this process is named revolution; we are revolting and rebelling and moving against a system that is our enemy. For us the word "revolution" should be a beautiful word because it's a word that promises us hope, that promises us a better life and we should not be ashamed to call ourselves revolutionaries. We are a revolutionary people, our very social situation forces us to be a revolutionary people. If we are not going to be revolutionary people, we have to accept the designation of satisfied slaves; if we aren't satisfied, then that means we have a revolutionary consciousness. It is important for us to be consciously revolutionary, to understand that we are revolutionaries, and to understand that it is right for us to be revolutionaries and that in fact the enemies are the ones who are wrong.

The enemy uses words against us, talks about "crime in the streets," talks about "disorders," talks about "law and order," all of these words are smoke screens, are smoke screens to confuse us, to create conflicts between the various exploited groups and to turn them against each other. It is the old technique of divide and conquer. What we need and what if we had any sense at all what we would be working for is to create an alliance between all the exploited people within the society so that we could join together to create machinery, coordinate our struggle, and coordinate our attack against the capitalist system and destroy it. Because as along as the capitalist system exists, by its very nature some people will have to be exploited in order for others to be rich and powerful, so that the exploited are powerless and in an oppressed position. Therefore revolution is a glorious term, it is a term to be proud of and we should know that we are morally right, we are right in every sense of the term and that the oppressor is the one who is wrong and that the oppressor has no rights which the oppressed are bound to respect.

History is on our side and justice is on our side and it is only a question of removing from positions of power those who are able to judge our struggle and to pass out judgements that denounce us and that deny us the right to survive. If we had revolutionary members from the exploited classes sitting on the Supreme Court, in the halls of Congress and in the Executive Branch of the Government, then these revolutionaries in office would give out revolutionary decisions, the revolutionaries on the benches of the court would give out revolutionary decisions on the court cases and the capitalists and the racist police would be judged wrong.

They would be the ones who would be sent to prison. They would be the ones who would be penalized. They would be the ones who would be forced to raise a hundred thousand dollars in order to get out on bail. In other words, the oppressed people have to take control of the government, they have to take control of the state, so that in their hands these instruments of power would be turned against the exploiters. The exploitative system would be dismantled and we could build another system that would be based on cooperation, not on a "dog-eat-dog" epic of competition, of corrupt methods of exploiting peo-

ple. It would be based on how best to organize the industries, the means of production, in order to give everybody a good life.

Our struggle to gain black studies departments on college campuses, our struggle to have black studies added to the curriculum across the nation is a struggle that the enemy sees as a grave danger. The enemy also recognizes the struggle of young white people on the college campuses and high schools as a grave danger and he is right. It is a grave danger because what we realize is that the education that is given is designed to perpetuate a system of exploitation. On the one hand it is designed to keep black people and so-called minorities ignorant, and on the other hand it is designed to keep the masses of white students in harmony with this system, to keep them supporting the system, to indoctrinate them to fight the wars that protect the system, and that extend the influence and the power of the system. We are all becoming conscious of the evil of the system, conscious of the fact that this system can no longer survive, that we have a historic opportunity for attacking the system and destroying it at its root. Thus all of the manipulations that the capitalists and the watchdogs of the capitalists go through are designed to destroy the thrust of the movement, to designate as criminals those who are in the forefront of the struggle and those who are guiding the struggle.

Historically the struggle in the educational arena, in terms of black people, has been waged from, on the one hand the slavemaster not even wanting black people to learn how to read and write, to black people wanting to learn how to read and write on the other. The struggle then transposed itself over into what black people were allowed to read and write, until today black people have reached a point where they want to control totally what they read and write.

This has been a steady struggle against the opposition of the slavemaster, it has been defeat after defeat for the slavemaster, until now we have burst into consciousness, until now we have realized the necessity of taking control of our education. When we see this long line of progression from the struggle to become literate to the struggle today to control totally the education, we can see the true nature of the opposition that we face now and faced then. All of these racists and liberals who are opposing our moves today to gain control of our education, are nothing but the descendants of the outright racist slavemasters who opposed us in our attempts to learn how to read and write on the plantations during the days of slavery. Hence all of their rhetoric, all of their arguments, all of the changes that they go through, in the last analysis, are a continuation of the desire and the necessity of the slavemaster to keep us ignorant and unable to manipulate ideas; because in order to organize a revolutionary struggle, we must be able to manipulate ideas. We must have knowledge of ourselves and of our enemy, and of the situations that we find ourselves in, in order to organize a true revolution to move against the oppressor.

One of the great dangers that our revolutionary struggle faces, perhaps the greatest danger, is that we historically have tended to compartmentalize our struggle; that is, we get hung up on one aspect of the struggle, without having an overall revolutionary perspective and without realizing that the struggle that we wage is against the total social organism. We focus all of our attention and all of our energy on the educational system, and we don't realize or our tactics and our strategy would seem to indicate that we don't realize that this is only one aspect of our struggle and that the same people who control the educational facilities, control the rest of the social structure. Everything, the economy, the judiciary, the political parties, the political instruments, every aspect of society is in the same hands. We need a broader strategy, a revolutionary strategy that aims at overthrowing the rule of this class as a whole, so we will not just be going through changes on the college campuses.

The repression against the movement that the United States is now mobilizing is not a sign of strength on the part of the ruling class, but rather the sign of weakness of the ruling class, and a sign of the strength and effectiveness of the movement. All of the lies, the subterfuges, the hypocrisy of the ruling class has been exposed, for if can no longer hope to control or manipulate the movement by words alone. It has to resort to the brutal, repressive forces of the police department. The movement itself has drawn several lessons from this reaction of repression by the ruling class. The clear cut nature of power in the United States and the racist policies of the ruling class are revealed.

On the one hand the rebellion of black students and black people thoroughly exposes the racist policies of the administrations of the various colleges and high schools and on the other hand there is the repression that the blacks and the allies of blacks are receiving. It's really incorrect to speak of the white section of the movement as being the allies of blacks, because in reality there is no such thing as a black movement and a white movement in the United States. These are merely categories of thought, that only have reality in

Document Text

terms of the lines that the ruling class itself has drawn and is enforcing among the people.

Because the United States is controlled by one ruling class, one single structure, and the whole drama of the black liberation struggle, and the revolutionary struggle in the white community is being played on one stage. Because of the division that the ruling class has historically implanted amongst the people, because of the different experiences of black people from white people, the reality of the division is more apparent than real, because at the top opposed to both black people and white revolutionaries is a single ruling class, there's not a ruling class for blacks and a ruling class for whites, but there's one single ruling class that rules all, that controls all and that manipulates all, that has a different set of tactics for each group, depending upon the tactics used by the groups, in the struggle for liberation.

One of the great weaknesses in the movement at this particular time is in the campus aspect of the attack upon the ruling class and the power of the ruling class. In the compartmentalized thinking of the traditional American society, the college community and the college campus is viewed as something separate and distinct from the rest of the community. The college is not really looked upon as a part of the community. People who are not concerned with themselves going to college or who have no children in college feel that what's going on, on the campus is none of their business. But nothing could be farther from the truth, because in reality they are the people's colleges, institutions that have been set aside to perpetuate the human heritage, and to pass on human wisdom, the knowledge and technical skills for the further development of society and civilization. And every single individual living in a given society has a stake in what goes on in them; he has a stake in seeing to it that what happens on the campus is proper, and that the best interest of all the community is being served.

On the other hand, the attacks focused on the college campuses serve to expose the nature of power in the United States. When we look at the composition of the board of regents and administrations, and councils that control the colleges, we find them replete with military men, retired generals, foundation personnel, and big businessmen. We could say that the boards that administer the universities are a good barometer, or a clear diagram of the stratification of power in the society as a whole. We don't see poor people represented on the boards of administration of the institutions of learning, for in the society beyond the college campus, poor people do not exercise or possess any power. If they did have the power, they would be in a position to see to it that some of their members were appointed to these boards.

But those who control the economy, those who control the various sources and levels of power in the community and around it, are able to have their lackeys and their flunkies appointed to administer these institutions of learning. The composition of the boards of administration of the institutions of learning indicate clearly, the powerlessness of the various sectors of society and this fact needs to be brought out much more clearly and brought home to the community. A connection needs to be made between the college campus and the community so that the repression and the tactics of the ruling class can be defeated by the total community being involved. As long as the pigs are able to vamp on the college campuses and to commit mess arrests and brutality against the students and there is not solid and massive community support, then they will be able to get away with it, and slowly but surely they will be able to grind the movement to a halt by cutting off wave after wave of leadership, by expelling the leadership, and hounding the leadership out of existence.

It's a mistake to think that the ruling class cannot be successful if a proper response is not made from the movement, a mistake that has been made time and time again in the various revolutionary struggles around the world. There have been cases of the revolutionary movement being very highly advanced, very well organized, much more organized than we are in the United States, with a higher theoretical understanding, and with very good party machinery, etc. and they have been crushed because the power structure would resort to unlimited brutality it would kill, it would imprison. It had the mass media in its control, and it could use the mass media to justify this, and to brainwash other people who were not organized enough to do anything about their repressors.

So that it's a question of time. The movement is always behind, the movement has the initiative. The power structure, by over-reacting seeks to buy time for itself, and the pressure that the movement puts on the power structure determines the amount of time that is left. Because if the struggle progresses slowly enough to allow the ruling class to devise means of coping with the movement, then all is lost and the movement itself is doomed to failure. So that a broadening of those involved, or those concerned, and those whose support is now latent is what is required.

Document Text

Poor black people and poor white people and middle class people who are not themselves directly involved in the college situation, need to be made to understand that something of their own precious liberty, which either they never had or they thought they had, is being decisively determined in the struggles that are going down on the campuses today. Every black mother, every black father, every Mexican mother, every Mexican father, every father and every mother in every group, white, Puerto Rican, Indian, Eskimo, Arab, Jew, Chinese, Japanese, whatever ethnic group they happen to be in, in the United States, need to be made to understand, that if they have no child or teenager involved in the educational process today because they were not able to afford to send them to college or something of that nature, that this in itself is a criticism of the structure of education in the United States.

It is the duty of any society to see to it that every individual in that society is invested with the human heritage and provided with the technology, the skills, and the knowledge that will enable him to cope with his environment, to survive and to live a good life. It is the duty of the society to provide this education, just as it is the duty of the society to provide the highest level of medical assistance, housing and employment, of every benefit that exists in society, it's the duty of the government to provide that. As long as the state is not providing these benefits, it is not worthy of existing, and under our kind of state which is called a representative democracy, it is not possible for a capitalistic economy to provide a universal education for the people. What it has been providing is universal brainwashing that masquerades as universal education. The quality of the education is contemptible, it is inhumane, and it is only geared to provide a level of intelligence or a level of competence that will enable the product of the educational system to become war material, to be exploited by the capitalistic economic entities within the United States.

So what we're into today is not only sitting back and criticizing, but actively reaching out and challenging the authority of those who control the various institutions in society, not simply challenging this authority, but by actively moving to disrupt the functioning of these facilities in the best interests of the community as a whole. These facilities can no longer serve the interests of the crosswork monopolies that are being administered by racists and by pigs who only want to exploit people and sentence people to be cogs in a wheel. In the final analysis, the struggle that is now going on on the college campuses cannot be settled on the college campuses. It has to be settled in the community, because those that sit on the boards of administration of the colleges do not derive their power from the fact that they are sitting on the board, but rather, they sit on the board because they have power in the community.

Their power is based on the economic institutions of society and other institutions that form the power structure, and because of their relation to these sources of power, they're able to be appointed to these positions of administration.

We have to destroy their power in the community, and we're not reformists, we're not in the movement to reform the curriculum of a given university or a given college or to have a Black Students Union recognized at a given high school. We are revolutionaries, and as revolutionaries, our goal is the transformation of the American social order.

In order to transform the American social order, we have to destroy the present structure of power in the United States, we have to overthrow the government. For too long we've been intimidated into not speaking out clearly what our task is, our task is the overthrow of the government, which has to be understood as being nothing but the instrument of the ruling class. The court, the congress, the legislature and the executive branches of the state and federal government are nothing but instruments in the hands of the ruling class, to see after the affairs of the ruling class, and to conduct the life of society in the interest of the ruling class. So we're out to destroy this, to smash this machinery and to erect new machinery. But new machinery cannot be erected until the present machinery is destroyed. It is not the task of revolutionaries to keep their heads up in the sky, wondering about what they will do when they have power. What they have to do at the present time is to have their minds centered on destruction. We are out to destroy the present machinery of the ruling class, that is our task.

We must do this by the only means possible, because the only means possible is the means that's necessary, and the only means possible is the violent overthrow of the machinery of the oppressive ruling class. That means that we will not allow the ruling class to use brutality and force upon us, without using the same force and brutality upon them. We must destroy their institutions from which they derive their power. A given college president may have his power as a result of being involved in a corporation. We must attack him on the campus but we must also pursue him off the campus and attack him

Document Text

in his lair, the lair of his power, in his corporations! Such attack could be through boycotts of the products of that corporation, or through the physical destruction of the property of the corporation, or the physical elimination of him as an individual.

We must not get into a bag or thinking that we're involved in a game: a revolution is not a game, it is a war. We are involved in a war a people's war against those who oppress the people, and this is the war in the clearest sense of the word. It is only our resistance that is under developed and it is our resistance that is underdeveloped because the ruling class has formidable arsenals of the materials of war to unleash upon us, and they are only using timid materials at this particular time, because our resistance to their aggression has heretofore been timid.

Glossary

Karl Marx	the nineteenth-century German philosopher and historian whose works provided the intellectual foundations of Communism

Jesse Owns (Library of Congress)

Jesse Owens's *Blackthink: My Life as Black Man and White Man*

1970

"Blackthink pro Negro, antiwhite bigotry is what makes the new Negro and white extremists of today tick."

Overview

At the Olympic Games in Mexico City on October 16, 1968, Tommie Smith and John Carlos, two African American sprinters who had just won gold and bronze medals, respectively, appeared at their medal ceremony shoeless but wearing black socks (to symbolize black poverty) and a black glove on one hand. They bowed their heads when the "The Star-Spangled Banner" was played and, instead of saluting the American flag, pointedly looked away from it, raising their black-gloved clenched fists in a Black Power salute.

The immediate occasion for Carlos and Smith's protest was that earlier in 1968 the president of the International Olympic Committee, Avery Brundage, had announced that South Africa would be allowed to compete in the Olympic Games to be held in Mexico City. This was despite the fact that South Africa was an apartheid state in which political and economic power was monopolized by the minority white population and the majority black population were treated as second-class citizens, denied basic civil and political rights, and forced to endure daily socioeconomic deprivation. Other African countries, including Algeria and Ethiopia, responded by threatening to withdraw from the Olympics if South Africa competed.

A year earlier, in November 1967, Harry Edwards, a twenty-five-year-old assistant professor of sociology, had launched a boycott campaign in the United States, urging African American athletes not to take part in the Olympics. The boycott movement made a series of demands, including an end to sporting competition between the United States and South Africa and the expulsion of Avery Brundage as president of the International Olympic Committee. There were also calls for the appointment of an African American to the U.S. Olympic Committee and an additional black American coach for the games. On April 20, 1968, the committee reversed its earlier decision and expelled South Africa from the Olympics. The Olympic boycott campaign within the United States was subsequently abandoned, but individual African American athletes were encouraged to express their discontent at the Olympics as they saw fit. This is what Carlos and Smith did. The incident attracted worldwide media attention. Jesse Owens, who was present at the Olympics, condemned their action and unsuccessfully tried to persuade the two athletes to make a public apology. Condemned, in turn, by some Black Power radicals for his intervention, Owens subsequently wrote *Blackthink* to explain why he found the protests so objectionable.

Context

The mid- to late 1960s were eventful in the modern African American freedom struggle. Some of the most important advances and events of the postwar civil rights movement occurred between 1963 and 1965. Among them, Martin Luther King, Jr., delivered his memorable "I Have a Dream" speech to some two hundred thousand supporters at the March on Washington in August 1963, which was followed by the signing of the 1964 Civil Rights Act and the 1965 Voting Rights Act. These two pieces of federal legislation played a key role in ending legally enforced segregation and the denial of black voting rights.

Despite such achievements, by the mid-1960s the younger generations of African Americans were becoming frustrated by what they saw as the shortcomings of the civil rights movement. They questioned King's insistence on nonviolent protest, instead finding inspiration in the armed struggles of third world independence movements against white colonial rule. These feelings were reinforced by mounting concern at the rapidly escalating involvement of the United States in the Vietnam War between 1965 and 1968. Many Americans became increasingly convinced that the conflict not only was unnecessary but also was an unjust war of colonial oppression.

There was growing awareness within the United States that the emphasis on achieving desegregation and voting rights for blacks ignored the socioeconomic disadvantages experienced by many African American communities. In particular, the focus on challenging racial injustice in the South led to a neglect of the problems of African Americans in the cities of the North, including poverty, poor housing and education, and high unemployment levels. The failure of federal, state, and city authorities to address these issues, combined with the heightened expectations created by the civil rights movement, contributed to the

Time Line

1913

- **September 12**
  Jesse Owens is born in Oakville, Alabama.

1935

- **May 25**
  Owens sets three new world records and matches a fourth within the space of forty-five minutes at the Big Ten athletics championships in Ann Arbor, Michigan.

1936

- **August 1**
  The Olympic Games open in Berlin, where Adolf Hitler plans to use German victories as proof of Aryan superiority.
- **August 3**
  Owens wins the first of four Olympic gold medals, equaling the world record for running the 100 meters.
- **August 4**
  Owens wins a second gold medal, in the long jump, setting a new Olympic record.
- **August 5**
  Owens wins his third gold medal, in the 200 meters, and sets another Olympic record.
- **August 8**
  Owens wins his fourth and final gold medal in the 4 X 100 meters relay. The winning U.S. team sets a new world record.

1967

- **November**
  Harry Edwards launches a campaign to persuade black American athletes to boycott the 1968 Olympic Games in Mexico City unless a series of demands are met.

1968

- **April 4**
  Martin Luther King, Jr., is assassinated in Memphis, Tennessee.
- **April 20**
  The boycott campaign achieves partial success when the International Olympic Committee expels the apartheid state of South Africa from the Olympic Games.

outbreak of serious urban disorders across the United States. From 1964 to 1968 in what became known as the five "long, hot summers" more than two hundred U.S. cities experienced outbreaks of racial violence and rioting.

In June 1966, Stokely Carmichael, recently appointed chair of the Student Nonviolent Coordinating Committee, an important civil rights organization, captured these growing concerns when he issued a call for "Black Power" during a protest march in Mississippi. Although the phrase was not new, it took on fresh life and quickly became the slogan of a radical protest movement, expressing the pent-up feelings of those who were frustrated by, or excluded from, the civil rights struggle.

Carmichael and other newly emerging leaders, like H. Rap Brown, who succeeded him as chair of the Student Nonviolent Coordinating Committee in 1967, and Floyd McKissick and Roy Innis of the Congress of Racial Equality, rejected nonviolence in favor of armed self-defense. They also called for greater racial pride and consciousness. This was to be achieved by developing political and cultural links with African nations, the introduction of black studies programs in American colleges and universities, and African Americans' taking full leadership roles in their own civil rights organizations. These developments highlighted growing racial and generational divisions within the civil rights movement. In the next year or two, most white activists either had been forced out of or had voluntarily departed from the Student Nonviolent Coordinating Committee and the Congress of Racial Equality. Older civil rights leaders voiced concern at the changing agenda. Martin Luther King, Jr., expressed fears that Black Power had negative connotations of black-on-white violence. Roy Wilkins, executive secretary of the nation's oldest civil rights organization, the National Association for the Advancement of Colored People, argued that it amounted to a form of reverse racism.

In 1968 the Olympic Games in Mexico City became a focus for Black Power protest. By this time the movement was at its height. The question of South African participation in or exclusion from the Olympics made the event an arena of controversy. In April 1967, the black athlete Muhammad Ali had been stripped of his world heavyweight boxing title for refusing induction into the army for service in the Vietnam War. Black Power advocates saw the Olympics as an opportunity to protest this action and demand that it be reversed. Then, in April 1968, just six months before the Olympics, King was assassinated by a white supremacist in Memphis, Tennessee, heightening the sense of anger and frustration felt in African American communities throughout the United States. White hesitancy in condemning apartheid in South Africa, the assassination of King, and the stripping of a black athlete of his world title were major factors in radicalizing younger African Americans like Harry Edwards, John Carlos, and Tommie Smith. Owens, however, was a member of the generation that had fled the South to find economic opportunity in the North and that had joined the national effort to win World War II. Owens's winning of four gold medals at the 1936 Olympics, as the German chancellor Adolf Hitler watched, was no small part of that effort.

About the Author

Jesse Owens, born on September 12, 1913, was the last of ten surviving children of a sharecropper family in Oakville, Alabama. Like most African American sharecroppers in the South at this time, the family struggled to make a living and was exploited by their white landlord. An added concern for Owens's parents was that he was a sickly child who came close to death on a number of occasions. Seeking to escape from poverty and to find more healthy living conditions for Jesse, the family moved north to Cleveland in the early 1920s. In doing so they became part of what is called the Great Migration of some 1.25 million African Americans who left the South in the period from 1910 to 1930 looking for a better life in the cities of the North.

In Cleveland, Owens's health improved. Attending Fairmount Junior High School, he demonstrated promise on the athletics track, attracting the attention of the sports coach Charles Riley, who became a mentor and father figure to Owens. Encouraged by Riley, in 1933 Owens secured an athletic scholarship at Ohio State University. He excelled in sporting competition, setting three new world records and equaling a fourth within the space of forty-five minutes at the Big Ten athletic championships in Ann Arbor, Michigan, in 1935.

This success earned Owens a place on the U.S. track-and-field team for the 1936 Olympics. The venue for the Olympic Games that year was Berlin. Adolf Hitler, who had become German chancellor in 1933, sought to use the occasion as a propaganda event to promote the achievements of his Nazi regime and to prove his theories of Aryan racial superiority through victories won by German athletes. Although Germany indeed claimed more medals than any other nation, it was the achievements of Owens that captured the attention of the international media. Within the space of four days he won four gold medals, setting new world or Olympic records in each event. Sports journalists portrayed the Olympics as a personal contest between Owens and Hitler. It was reported that Hitler snubbed Owens by refusing to shake his hand after one event. On another occasion the German leader reputedly left the stadium abruptly, furious that victory by the African American made a mockery of Nazi beliefs in white racial supremacy. Although later historians have questioned the authenticity of such stories, the duel between Owens and Hitler has become the most enduring popular memory of the 1936 Olympics.

In America, Owens's achievements made him a national hero and arguably the best-known sporting personality in the world. Despite this fame, when he returned home the climate of race relations in the United States made it difficult for him to secure employment or translate his sporting success into material gains.

By the time of the 1968 Olympic Games in Mexico City, Owens had acquired the status of a respected elder statesman within the U.S. Olympic movement and was well known as a public speaker. Legendary for his achievement in surmounting racial bigotry at the 1936 Olympics, Owens inevitably became a focus of media attention in his opposition to the proposed boycott of the Mexico Olympics by Black Power activists. This stance, together with his condemnation of the Black Power salutes given by the two African American athletes, Tommie Smith and John Carlos, at their Olympic medal ceremony, highlighted generational divisions within the African American community. The controversy at the Mexico City Olympic Games notwithstanding, Owens continues to be best remembered for his feats in Berlin in 1936. He died at the age of sixty-six on March 31, 1980.

Time Line

1968

- **October 16**
  Two African American athletes, Tommie Smith and John Carlos, give clenched-fist Black Power salutes at their Mexico Olympics medal ceremony, attracting worldwide media attention and causing them to be expelled from the Olympic Games.

1970

- Owens publishes *Blackthink* with Paul Neimark and provokes controversy with his strident criticism of Black Power radicals.

1972

- Owens publishes *I Have Changed* with Neimark and moderates his former negative views of the Black Power movement.

1980

- **March 31**
  Owens dies of lung cancer in Tucson, Arizona.

Explanation and Analysis of the Document

Blackthink is made up of twelve chapters totaling 215 pages. In the earlier chapters, Owens reflects on his life and career before moving on to discuss the 1968 Olympic Games and to attack what he sees as the misguided thinking of Black Power radicals in the 1960s. The document extracts reflect this unfolding analytical narrative. They comprise sections from three individual chapters, Chapter 2: "Henry Owens' Tortures," Chapter 3: "But Equality Is Here," and Chapter 4: "Negroes Have Human Hangups."

◆ Chapter 2: "Henry Owens' Tortures"

Owens refers to the Emancipation Proclamation of January 1, 1863, issued by Abraham Lincoln during the American Civil War to free African Americans from slavery. He

U.S. athletes Tommie Smith (center) and John Carlos (right) raise their black-gloved clenched fists in a Black Power salute at their medal ceremony during the 1968 Olympic Games. (AP/Wide World Photos)

notes that growing up as "an Alabama sharecropper's child in the First World War," he had seen little improvement to the quality of life of his family and other African Americans in the region as a result of the proclamation. Under the sharecropping system, black farmers were still as good as owned by white landowners. They were free only "to work eighteen hours a day" and to see their "labor add up to a debt at the year's end."

Owens also identifies the central target of criticism in the book, "blackthinkers," or young Black Power radicals of the 1960s. In his view, they were the beneficiaries of the civil rights movement of the 1950s and 1960s who enjoyed access to "integrated high-rises, restaurants and universities." Owens believed that their complaints about continuing racial injustice were unwarranted, given the advantages they enjoyed compared with African Americans of his generation. In the remaining paragraphs Owens recalls his early life. This narrative serves a number of purposes. It highlights the major advances in race relations that had been achieved by the late 1960s and encourages readers to develop empathy for Owens as they are made aware of the deprivations he experienced in his childhood.

For the benefit of readers who might not be familiar with its operation, Owens explains why the system of sharecropping was unjust. Sharecroppers did not receive a regular wage. Instead, they were provided with land and the tools to farm it by the white landowner. To feed and clothe himself and his family during the year, Owens's father had to obtain supplies on credit from the local white-owned grocery store. The storekeeper and the white landowner negotiated an agreement for this purpose. In theory, when the crop almost invariably cotton was harvested at the end of the year, black farmers could use their share of the profits, typically 33 50 percent of the proceeds, to pay off this credit and keep the surplus.

In reality the system was subject to flagrant abuse. Storekeepers could charge virtually any price they saw fit, and at high rates of interest, for goods obtained on credit in this way. Without access to ready money, sharecroppers had no other way to buy the goods they needed. Moreover, many sharecroppers, like Owens's father, found it difficult to read and write and had little or no skill with numbers. This made it possible for dishonest storekeepers to add further, nonexistent, transactions to the credit records of sharecroppers to increase the amount they owed. When black farmers came to settle their accounts at the end of the year, they had no money left over from their share of the crop. Frequently, they still had outstanding debts, which they had to carry forward to the next year. Such abuse worked to the mutual interest of both the storekeeper and the white landowner. The storekeeper was able to enjoy inflated profits. The landowner benefited from a permanent supply of cheap labor by ensuring that farmworkers were trapped in a system of debt peonage. Sharecroppers were never able to save enough money to buy their own land or set up in business on their own.

Owens notes that faced with such depressing prospects "a few Negroes had left and gone North." This is something of an understatement. In the years 1910 1930 some 1.25 million African Americans in the South joined what became known as the Great Migration. They left the region to seek jobs in the factories of the North, taking advantage of increased employment opportunities created during World War I. The war years also put an end to large-scale immigration from Europe, prompting northern industrialists to look to African American migrants as an alternative source of labor.

Owens explains why, despite new opportunities, his father, like many African Americans, chose to remain in the South. In contrast to most migrants, who were typically young adults, Henry Owens was "over forty years old." For him, it initially seemed too late in life "to pull up roots." He was also the grandson of slaves and knew that, bad as life was, things had been even worse for his grandparents. Generational change is an important theme in the book. The deprivations suffered by Jesse Owens in the 1920s and 1930s meant that he had little time for the complaints of Black Power radicals in the late 1960s. By the same token, because the young radicals' formative years coincided with a time of improving race relations, they had higher expec-

tations of equality and fairness than older African Americans like Owens.

Owens goes on to describe how, in the early 1920s, Henry Owens overcame his fears about seeking a better life in the North. This change of heart was brought about by a variety of factors. There was concern over Jesse's recurring bad health. He was also influenced by the despair and suicide of a neighbor. Then, in February 1921, when Owens enjoyed a "particularly good crop" that would enable him to pay off all his debts, the landowner, John Clannon, retrospectively changed the terms of their sharecropper agreement to cheat him out of his just reward.

At the end of Chapter 2, Owens reflects that the Black Power leaders of the 1960s, "the Rap Browns and Stokely Carmichaels" at times "sound like the Clannons." He speculates that the Clannon family, of Irish descent, might have suffered anti-Irish bigotry on arriving in the United States. This could have prompted them to take out their bitterness on black sharecropper families like the Owenses. Similarly, prejudice against African Americans has led "blackthink" radicals to encourage "pro-Negro, antiwhite bigotry."

◆ Chapter 3: "But Equality Is Here"

Chapter 3 recounts Owens's return to the United States after the 1936 Berlin Olympics. Despite mass public acclaim, he was unable to secure a job good enough to provide for his wife and family and pay his way through Ohio State University. He was forced to take a job as "a Cleveland playground instructor for $30 a week." Later, in desperation, Owens accepted an offer from two white promoters to race against a horse. "I was no longer a proud man who had won four Olympic gold medals. I was a spectacle, a freak who made his living by competing dishonestly against dumb animals."

Owens concludes by comparing his experiences with the much-greater opportunities available to African Americans in the 1960s. This comparison provides him with a further opportunity to denounce young black radicals of the time. Despite their enhanced opportunities in life, "that isn't nearly enough today for a lot of black students." Indeed, "it isn't enough for them to attend the finest universities in the world. They want to run them, appoint the teachers, tell the president what courses to have taught. And when they don't get their way, many of them bomb the campuses or burn the libraries." This is a reference to the widespread protests by African American students that took place in 1968 at leading universities across the United States, including the University of California, Princeton University, Michigan State University, and the universities of Texas, Kansas, and Oklahoma. The protesters typically complained of the patronizing attitudes of white sports coaches and demanded the hiring of more African American teachers and the introduction of courses in black studies.

◆ Chapter 4: "Negroes Have Human Hangups"

Chapter 4 deals with Owens's experiences at the 1968 Olympics in Mexico City. He begins by highlighting the sporting achievements of African Americans like Bob Beamon and Randy Matson who, like Owens himself in 1936, won gold medals and set new world and Olympic records. For Owens the best way to make a personal statement at the Olympic Games was by winning in athletic competition, just as he had done at Berlin. However, in Mexico it was not the real achievements of the likes of Beamon and Matson that would be remembered but the Black Power salute of Tommie Smith and John Carlos.

After noting that their actions "supposedly had tremendous overtones for all the American athletes and for the race problem itself," Owens seeks to downplay the significance of the protest. He depicts it as an example of immature, childish behavior, "two grammar school kids trying to create a tidal wave by skipping stones in the Pacific Ocean." He notes the failure of the Olympic Games boycott campaign that preceded it. He claims that apart from "a couple of wild ones," no other American athletes at the Olympics had any time for the protest, preferring to concentrate on what mattered, winning a gold medal.

Owens is quick to point out that black African athletes, including Kip Keino, Nate Temu, and Mamo Wolde, took no part in protest meetings. This is significant because Black Power advocates in the United States often cited the ideas and achievements of third world leaders, such as the Martinique-born Algerian nationalist Frantz Fanon, as inspiration for their actions. Turning to those athletes who supported protest activity, Owens seeks to downplay their significance by suggesting that they behaved in this way only because they were unable to achieve sporting success on the track and field. Thus, there were "a few British instigators," but "England didn't do too well in the Games and wasn't in many of the finals." Hal Connolly, "the one white American militant" "had lost out in his own event."

Owens's claims are only partially accurate. Although some African American athletes decided not to take part in protests, others did show support for the campaign. Lee Evans, Larry James, and Ron Freeman gold, silver, and bronze medal winners, respectively, in the 400-meter dash wore black berets at their awards ceremony. Evans and Freeman, together with Larry James and Vince Matthews (other African American members of the gold medal winning U.S. 4 X 400 meters relay team), wore black berets and gave a clenched-fist salute. Similarly, Bob Beamon and Ralph Boston, who came in first and third, respectively, in the long jump, appeared shoeless and wearing black socks when presented with their medals. It is notable that Owens fails to mention any of this earlier, when he praises Beamon's victory.

Owens also questions the patriotism of the protesters. He contrasts "the idea of dipping our flag as a symbol of black protest" with one of the most enduring popular images of World War II that of American servicemen raising the Stars and Stripes on Iwo Jima after capturing the island from the Japanese in 1945. In contrast, he describes Smith and Carlos's clenched-fist Black Power protests as "Nazi salutes."

Because Smith won the gold medal in his event, Owens is unable to explain away his involvement in the protest as

Essential Quotes

"Blackthink—*pro-Negro, antiwhite bigotry—is what makes the new Negro and white extremists of today tick.*"

(Chapter 2)

"I was no longer a proud man who had won four Olympic gold medals. I was a spectacle, a freak who made his living by competing—dishonestly—against dumb animals."

(Chapter 3)

"Of course, that isn't nearly enough today for a lot of black students. It isn't enough for them to attend the finest universities in the world. They want to run them, appoint the teachers, tell the president what courses to have taught. And when they don't get their way, many of them bomb the campuses or burn the libraries."

(Chapter 3)

the result of sporting failure. He thus tries to dismiss Smith's actions in other ways. He notes the role of white doctors on the U.S. team in ensuring that Smith was physically fit enough to compete in the Olympics. He also suggests that Smith's protest could be attributed to the influence of John Carlos and of Smith's wife, "who is really extreme on the subject of black power," rather than being an act of genuine conviction. Owens concludes by noting that, whatever its motivation, the protests and expulsion of Smith and Carlos "caused hardly a brief murmur" among the other athletes. This is a contradiction of his earlier statement that their protest was the most memorable incident of the Olympic Games.

Audience

Owens believed that the militant leaders of the Black Power movement were a vocal minority who did not represent the views of the majority of African Americans. In laying out his philosophy in book form, he hoped to appeal to moderate, mainstream Americans, the people President Richard M. Nixon had called the "silent majority" a year earlier, in 1969. Owens, in providing a detailed explanation of his thinking and in recalling the segregation and discrimination that he had endured when he was young, hoped to win the empathy and understanding of his readers. He believed that most ordinary Americans shared his views on race relations rather than those of the young Black Power radicals who had been critical of Owens for his conservatism and deference to authority.

Impact

The book did not yield the results that Owens had hoped for. His stridently worded attacks on black radicals made him appear ill-tempered, out of touch with the concerns of the younger generation, and lacking in racial pride. Even the black shoeshine man at the Chicago barbershop frequented by Owens joked that the Olympic legend was selling his house because African Americans had moved into the neighborhood. Within two years Owens felt obliged to write a follow-up book, *I Have Changed*, which modified the views he had expressed in his earlier work. In it he acknowledged that many African Americans suffered from poverty and social deprivation and that protest against such inequalities was justified.

Despite such admissions, Owens in many respects remained conservative in outlook. The publication of *I Have Changed* coincided with the staging of the 1972 Olympics in Munich, the first time they had been held in Germany since 1936. Attending as an honored guest, Owens again became involved in controversy following another protest by two African American athletes, Vincent Matthews and Wayne Collett. The gold and silver medal-

ists, respectively, in the 400 meters, the two runners turned their backs on the American flag during the medal ceremony and refused to stand to attention during the playing of the American national anthem. Responding just as he had four years earlier, Owens subsequently became involved in a heated argument with the two men, unsuccessfully trying to persuade them to apologize for their actions. Although Matthews and Collett were expelled from the Olympics, their protest was overshadowed by the killing of eleven Israeli athletes in Munich by members of the militant Palestinian organization Black September. For present-day audiences, the Olympic Games of 1936, 1968, and 1972 provide good historical examples of the controversies that can, and do, arise as a result of the relationships between national sports and politics.

See also Emancipation Proclamation (1863); Civil Rights Act of 1964; Stokely Carmichael's "Black Power" (1966); Martin Luther King, Jr.: "Beyond Vietnam: A Time to Break Silence" (1967); *Clay v. United States* (1971).

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Kevern J. Verney

Questions for Further Study

1. What did Owens mean when he referred to "blackthinkers"? What was his attitude to the people he referred to by this word?

2. In narrating the experiences of his family, Owens seems to suggest that sharecropping in the South was as bad as—and perhaps even worse than—slavery. Why did he seem to think this? In what ways might he have been correct?

3. How would you describe Owens's attitude to the Carlos-Smith Black Power incident at the Olympic Games? Why might this attitude be somewhat surprising, given Owens's early life experiences?

4. The United States has had many black Olympians, and many of those Olympians have won several medals. Why, though, does the name Jesse Owens stand out among black Olympians?

5. What is your opinion of using the Olympic Games as a forum for making protest or political statements? Do you believe, for example, that a country should boycott the Games to protest human rights violations in another country that is participating?

Jesse Owens's *Blackthink: My Life as Black Man and White Man*

Chapter 2: Henry Owens' Tortures

No one called me nigger until I was seven.

That was because an Alabama sharecropper's child in the First World War years almost never saw the white man who owned his every breath.

Owned.

In theory, the Emancipation Proclamation had been a wonderful thing. But in 1915 in Alabama it was only a theory. The Negro had been set free free to work eighteen hours a day, free to see all his labor add up to a debt at the year's end, free to be chained to the land he tilled but could never own any more than if he were still a slave. The blackthinkers of today, often talking from their integrated high-rises, restaurants and universities, don't know what it is to really be shut out like we were then, shut out so tight you actually wondered sometimes if you really existed.

You won't find Oakville, Alabama, on the map today. Eight miles from Decatur, in the northern strip of the state, it was more an invention of the white landowners than a geographical place. Whatever had the smack of civilization to it was in Decatur.

The grocery store was in Oakville, though. Just across the creek. But that wasn't as nice as it sounds, The white man owned the grocery store and he made sure it was awfully convenient. My parents tried not to end up there any more than they had to. Sometimes my father and my older brother Prentis would get up an hour earlier than their usual 4A.M. to try and shoot a few rabbits for supper. And my mother would find time somehow to tend a little vegetable garden in the back.

But those few rabbits and vegetables didn't go very far with nine mouths to feed. So you always ended up at the owner's store for food, just as you had to go there for tools. My father never paid any money at the grocery. The owner's man just entered our debt on a sheet of paper with £1 at the top we were the first of eight families who worked his spread of two hundred and fifty acres and in December of every year, the white man totaled up what you owed against the worth of your crop to find out how much you were ahead.

Only you never came out ahead. It always happened that those "cheap" tools and supplies you bought cost more than the nearly quarter of a million square feet they helped you to plant, just as the weekly potatoes and beans and corn bread (you only bought meat two times a year, on the holidays) always came to more than the six thousand pounds of cotton you enabled the owner to send North,

Each year that it happened, my father went into an angry fit and swore that he was going to learn to read to make sure they were only writing down on that list what he was actually buying. And Mother vowed that she'd learn numbers to check that they weren't charging us too much for it. But there was no one in Oakville to teach those things to them and no time to learn anyway. Besides, my father wouldn't go near a book he was superstitious about them. That was another holdover from slave days. So one December became the next, and with each one we became a little deeper in debt even though we usually put out more cotton every year than the one before, unless the weevils or some fungus disease had come along.

Our debt was small, though, compared to the other sharecroppers'. We were the "luckiest" family for miles around. My father had been blessed with four sons who had lived. I was the only one who couldn't help, not because I was too young but because I was too sick. Every winter for as long as I could remember, I'd come down with pneumonia. A couple of those years, I was close to never seeing spring.

Yet somehow my mother always pulled me through. Afterward, she'd take my father aside and plead with him to think about leaving the South and sharecropping. He sensed that she was right every Negro we knew was on a never-ending treadmill of poverty and ignorance but his fear of the unknown was even greater.

A few Negroes had left and gone North. But Henry Owens was over forty years old, an age not made by half a dozen Negro sharecroppers in Morgan County. It was late to pull up roots. And like most other sharecroppers, he was the son of the son of a slave. His own grandfather had told him the stories of being *legally* shot out, stories of death that came in the night, sometimes at the hands of the white man and sometimes through simple starvation. So, deep down in that invisible place where a man decides what to do, my father felt that we could have it even worse than we

Document Text

did in Oakville. He wasn't going to dare take a chance on that. The whole world would have to jerk out of orbit for him to pack us up and leave.

And that's just what happened. The whole world, Henry Owens' world, went completely out of orbit.

The first jolt was when I got sick again. This time was different. This time blood came up every time I coughed, and for about a week I didn't know where I was. My mother worked her homemade magic once more, but we all knew it would be the last time. My lungs were too weak.

Our neighbor a mile down was dead. That was the second jolt. My father began sharecropping about the same time Joe had. Joe was a few years younger, and my father had always kind of treated him like a little brother, telling what he knew about better ways to work the land, even lending out one of my brothers to him when things were pretty good, though that wasn't often.

Joe had to work his land alone because his wife kept having stillborn babies. Each time she'd get pregnant they didn't pray for a son but just for something alive. A child would have made life bearable. Yet the years passed and all Joe and Betsy shared were new grave markers in back of their house each twelve months or so.

Then Joe got a "sign." Something told him that Betsy would become pregnant again soon and that this time the baby would not only live but would be a son. When her belly began to swell, Joe's skeleton of a body stopped feeling tired. He worked as never before and whistled every day until the baby came, It came, dead as always. Only this time it took Betsy with it.

So Joe Steppart killed himself.

My father changed after that. Not enough to leave, but enough to begin to think out loud about what that white man and his system were doing to all of us. The white man's name was John Clannon, by the way, and his home was on the top of the one large hill on the other side of the creek. It was too far, of course, for him to see down into our little house. But at night when all the lights were shining on the hill, I imagined I saw him at his big living room window, a window larger than our whole house, watching us.

John Clannon owned two hundred and fifty acres of land with eight men sharecropping it for him. We had the largest spread, fifty acres, because we had the most sons. All the eight houses of the Negroes were on the one side of the creek. John Clannon had never crossed over to that side since he bought the land and carved it up. None of the Negroes ever went on his side, either, unless they were sent for by one of his men.

On a cool night in February of 1921, he sent for my father. We all waited, busying ourselves but not really able to get anything done. "I wonder what the owner can want with Papa," someone would mutter every now and then. What we really meant was, "What was the owner going to do to Papa?" And to us.

For even though we didn't realize it then, we lived with constant fear. That is the crucial difference between 1920 and, say, 1960. Negroes of a decade or two ago began in poverty and degradation, but the massive machinery of our society was moving to sweep it away. In 1920 there was no machinery. The man on the hill was everything. He was worse in one way than the "benevolent" white despots on slave plantations, because the Negro then wasn't plagued every day by the agonizing choice of what to do with his freedom, whether or not to leave.

In theory, of course, my folks had a fifty-fifty deal with John Clannon, but fifty percent of nothing amounts to nothing. So we lived in fear of him and of his power, and the fear was justified. That February night proved it. My father trudged back into the house almost an hour later and took aside my mother and my older brothers Prentis and Quincy. In our little cardboard house, though, as soon as his voice got agitated it wasn't hard to overhear what he was telling them.

We'd had a particularly good crop that year. Even with exorbitant grocery bills every week, it had still gotten us out of debt. That threatened John Clannon's hold over us, I guess, and he wanted to do something about it right away. What he proposed to do was to revise his deal with my father. Sixty-forty instead of fifty-fifty. Retroactive.

My father had stood still for everything else, but he couldn't stand still for that. The years of resentment had risen up in him and finally become words. He was an uneducated man, but he was a fair man, and he said that this wasn't fair. He didn't get to say it to Clannon himself, though. An "assistant" talked to "the niggers."

"Fair?" the assistant had replied. "What does fair have to do with you?" My father was an example, he said. If he could "get the best" of Clannon, the others might think they could too.

"And what about my family?" my father bad shot back, finally beginning to lose forty-two years of control. "We work hard. I want my sons to amount to more than I have!"

"Your sons will never amount to anything just be grateful if they *survive!*" the man had shouted back.

That last statement had stuck in my father's craw. He struggled to spit it out for the next two days, but

it only lodged deeper. That Sunday after church he told us that we were leaving Oakville for Cleveland.

We still owed John Clannon some money, but we had our tools and our house and our animals. That would more than pay what we owed and keep us eating in Cleveland long enough, my father figured, for him to find steady work.

My father never found steady work in Cleveland, and we'd had barely enough money to get us North. Clannon offered us next to nothing for everything we owned, including the five mules from Canada my father had scraped and saved for one by one by one. It wasn't just greed that made Clannon do it. He didn't want to let us go. A healthy Negro with three sons who knew the ropes was hard to find.

But we got the hell out. As I said, for my father Cleveland wasn't much different from Oakville. Yet for me it was like another planet. It gave me a chance. And one chance is all you need, no matter what the blackthinkers say.

As I think back, though, I can see part of it was that the white man's words had stuck in my craw, too. *Your sons will never amount to anything.* I wanted to amount to something. I had to. So did a lot of other Negroes whose names you'll never hear, but who *have* amounted to something. That's why when I hear some black militant telling me and them that we've never made anything of ourselves and that our sons and daughters never will, I wonder if it isn't John Clannon's assistant talking again.

It's no accident that the Rap Browns and Stokely Carmichaels sometimes sound like the Clannons.

Because *blackthink* pro-Negro, antiwhite bigotry is what makes the new Negro and white extremists of today tick, and it's not much different from John Clannon's *whitethink.* Irrationality and violence, above all, are at blackthink's gut. It might sound shocking at first, what with all the brainwashing that goes on, but if you think about it you'll see that America's blackthinking extremists may be the new George Wallaces.

Bigotry always begins with a hurt. For the John Clannons it might have been when they got off the boat from Ireland and found signs that said NO IRISH ALLOWED or ran into employer after employer who thought that Irish was another word for *drunk.* Some of those John Clannons couldn't take it. And their way of copping out wasn't going on a binge or sailing back to Ireland. What they did was to work their knuckles to the bone, with bitterness their twenty-four-hour-a-day boss, and when they got power and money they took it out on my father and seven other men and their families. The grandsons of some of those families became the Raps and Harrys of today.…

Chapter 3: But Equality Is Here

I came back from Berlin and the 1936 Olympics to a welcome few people have ever experienced. The streets of New York were lined with tens of thousands of men and women and children wanting to see me to touch me as I moved through on the top of a new convertible. It was something else. But it didn't completely fool an Oakville sharecropper's son. Every newspaper had a picture of my face on its front page, and people I'd never met from society and business were buttonholing me to come to their plush suites for drinks and dinners and yachting trips; but one omission stood out more and more as the months passed.

No one had offered me a job.

My mother was taking care of our first daughter back in Cleveland, and now it seemed as though another were on the way. So soon Ruth wouldn't be able to work anymore. It was going to be impossible for me to support a family of four and still get my degree. My brother Sylvester volunteered to help put me through, but I couldn't let him. He was the one who should've gone to college in the first place. He was always the bright one. But like all the others in our family except for me, he didn't even have a chance to finish high school. I couldn't keep taking from them all my life, so I didn't go back to Ohio State University as a senior that fall of 1936. I went to work.

It wasn't as a star halfback for a professional football team, though I think I might have made a good one. Nor was it as a center fielder for a major league baseball team. Negroes hadn't broken into any of that yet. But you *could* say that I went into the general field of athletics and that I capitalized on the ten years of torturous training I'd put my body through.

I became a Cleveland playground instructor for $30 a week.

Fifteen hundred and sixty dollars a year was enough to support a small family, but it wasn't enough to put me back in college. Negroes hadn't offered me anything better because they didn't have anything better to offer, and the white men who wanted me to travel at their expense to their homes all over the country and drink with their sons and chat with their daughters didn't seem to have any openings in their firms except for delivery boys or bathroom attendants.

Document Text

"What does it pay?" I finally asked one of them.

"Oh, Jesse," he said, putting his plump, pale fingers on my shoulder, "*you* wouldn't want to do something like that after what *you've* had."

So I didn't do something like that. I worked at the playground and came home every night and thought of what I'd had and went off in a corner of our two-room apartment where I hoped Ruth couldn't hear me and put some week-old newspapers in front of my face to try to hide my sadness.

Ruth never said a word. But she knew. It was almost the same for her as it was for me. We'd been childhood sweethearts and had come the long road together. She'd watched me exercise before school every morning until I was slowly molded from a sick, skinny kid into a real athlete and finally into a champion, had walked with me after school to the different jobs I worked. When we did marry at sixteen we'd been able to save only six dollars, and the license, hotel and wedding dinner (a hot dog with all the relish the man would allow) took a lot of that.

But then the good times started to come, the running and jumping records, the headlines, the reporters, the Olympics. My family and I never said it to each other in those words, Ruth and I never even talked about it, but we were all thinking: *Can I have broken out? Can a Negro, a poorer-than-poor colored kid from Alabama, have really broken out? Was it possible that, even for one black boy, the American dream was more than a cruel fairy tale?*

My father never would believe it. He didn't want to spoil the fairy tale for me, but a couple of times he did take me aside. "J.C.," he confided (James Cleveland was my real name and he never got used to the new name given me by people up North), "it don't do a colored man no good to get himself too high. 'Cause it's a helluva drop back to the bottom."

And it was.

As the days passed after the Olympics and the best I could do was make $130 a month watching kids on the swings, Ruth and I began to feel as though we were being sucked back into that dark, endless tunnel where every Negro has to end up.

I couldn't let it happen. I *had* known too much, not only in the Olympics, but in my dreams. Yet what could I do about it? I had jumped farther and run faster than any man ever had before, and it left me with next to nothing.

College was the only answer. If I could just get back to Ohio State and finish my senior year, something would come of it. I didn't know how, but I felt that getting a B.A. would somehow make all the difference. Yet I couldn't return to college while supporting a family of four on my salary, I had begun to hate my job at the playground as I'd hated John Clannon. But like my father, I was afraid to leave.

Then two white promoters came to my apartment one night. They had an idea, Negro baseball, and they needed a "name" to publicize it. Naturally there were no well-known colored baseball players because none had been allowed in the major leagues, so they had to go outside of baseball. I was a natural choice.

The idea really grabbed me at first. I thought they wanted me to play or at least be manager of one of two teams they planned to have touring the country playing against each other. But that wasn't quite what they had in mind. I wasn't to be connected to the baseball end of it at all. Though, once again, you could say that my athletic prowess would be used.

They wanted me to run a hundred yards against a thoroughbred racehorse before the game each night.

When they said it, I wanted to throw up. They tried to tell me it would be a challenge. I'd beaten every man on earth, now I'd prove I could beat every animal. And I *would* beat the horse, they confided. Because the race would begin with a starter's gun held right near the animal's ear. Before the watching crowd knew it, I would be off to a big lead while the frightened horse was trying to get his bearings. He would cut that lead once he got started but, with my speed and only a hundred yards to run, I'd win by a few inches.

"Nothing doing," I told them in a temper.

"You think about it," one of them said shrewdly. "We'll be back on Sunday."

For five days I swore under my breath at those two white men. For five days I kept telling myself how I hated their idea. But when they returned on Sunday, all the pain of the playground and everything it represented suddenly seemed to well up in me, Before either one of them could get a word out I heard myself say, "I've decided to do it."

So I sold myself into a new kind of slavery. I was no longer a proud man who had won four Olympic gold medals. I was a spectacle, a freak who made his living by competing dishonestly against dumb animals. I hated it, hated it worse than working at the playground. But I ran against those horses three times a week, and five cents of every dollar the people paid to watch went into my pocket. It was degrading and humiliating. But it meant that next fall I could go back to college.

Today it's a little different. Like most whites, Negroes who want to go to college do go. And often

without having to hold jobs while there or even without a pair of middle-class parents to send them. If "ghetto" high schools haven't properly prepared them, there are hundreds of university-connected programs across the country where they can spend a year boning up before they enter. In fact, not only are Negroes going to college virtually whenever they really want to, but they're going *where* they want.

Of course, that isn't nearly enough today for a lot of black students. It isn't enough for them to attend the finest universities in the world. They want to run them, appoint the teachers, tell the president what courses to have taught, And when they don't get their way, many of them bomb the campuses or burn the libraries.…

Chapter 4: Negroes Have Human Hangups

The sad fact is that a hypersensitive and naive public, an often out-of-touch "moderate" leadership and a sometimes headline-hungry press have played perfectly into the hands of the blackthinkers. The last Olympics were an example. What will be remembered by the American public? Bob Beamon's incredible twenty-nine-foot leap in the broad jump? Randy Matson's breaking the Olympic record in his first shotput try? Al Oerter's fourth straight gold medal in the discus (when he worked in an aircraft factory and could practice only forty-five minutes a day)? Billy Toomey's decathlon record? Wyomia Tyus's great hundred-meter triumph? No, the 1968 Olympics will always be remembered here for the Smith-Carlos incident, where two black runners from the U.S. gave a black-power salute on the victory platform and were sent home by the Olympic Committee.

Big deal.

I've seen whole countries pull out of the Olympics. And there have been athletes sent home for misconduct every year since the Games were formed, and that goes back to ancient Greece. Whenever you get thousands of young men together, you're bound to have a few that will become too rowdy. But this wasn't merely a case of rowdyism. This supposedly had tremendous overtones for all the American athletes and for the race problem itself.

Believe me, the Smith-Carlos incident had as many overtones in Mexico City as two grammar school kids trying to create a tidal wave by skipping stones in the Pacific Ocean. I know what *Life* magazine said. I know what virtually every newspaper in the United States said. And I also know the truth because I was there, not only living with these athletes, but chairman of the Consultant's Committee that dealt with both their personal and political problems.

And I want you to know that the whole incident was another "black herring." It wasn't part of any big effort to make the case for black power at the Games. If you'll remember, the whole "black boycott" that Harry Edwards tried to pull off for that Olympiad fell flatter on its face than a one-legged hurdler, as Dave Albritton used to say.

Sure the newspapers in America kept guessing about it beforehand. But those of us who really were in the know didn't. Because we knew the competitors. We knew there were a couple of wild ones but that almost overwhelmingly the American athletes were most interested in doing what was *really* their thing at Mexico. Like Jimmy Hines, the record-breaking sprint man and new "world's fastest human." He wanted to win at Mexico City and break a record to boot, so that he could get himself a good professional football contract. Or Bob Beamon and Ralph Boston, the champion black broad jumpers. They're sympathetic to the Negro cause, as I am and as I hope everyone is, but they wouldn't have dreamed of copying the Smith-Carlos stuff. The same goes for virtually all the rest, Negro and white. The proof is that there weren't any other incidents.

And there weren't any among the athletes of the other thirty-eight nations there. Think of all those seven thousand plus performers from every nook and cranny of the world, then realize that not one went along with Smith and Carlos, and you'll see what a tempest in a teapot a broken teapot the whole thing was. The African athletes in particular showed no sympathy for what John and Tommy did. Kenya's Kip Keino, for example, didn't have time for black-power meetings. He already had the power. He proved it by heating our Jim Ryun in the 1,500 meters in less than three minutes and thirty-five seconds, an amazing speed for that staggering Mexico City altitude, which sent behemoths like Australia's record holder Ron Clarke to the hospital.

The same went for Keino's teammate, Nate Temu, who won the 10,000 meters, and for Mamo Wolde, the Ethiopian who was right behind him. No meetings for them. No warm hellos to Smith and Carlos, either. No hellos at all, as far as I could see. The Africans weren't even friendly with our black athletes. They usually stayed with their own countrymen, but when they didn't they were perfectly at ease with the athletes from other countries, eating or sleeping, talking or laughing, black or white.

Document Text

There were a few British instigators. England didn't do too well in the Games and wasn't in many of the finals. I don't like the idea of "team" totals in the Olympics, but it is interesting to note that England was in thirteenth place overall beneath countries like Rumania. And of course there *was* one American white militant, Hal Connolly. He had lost out in his own event, and was with Carlos constantly. Hal believed that there should be a demonstration at the Games to dramatize what seemed to him the Negro's plight in America. At one meeting, for instance, he brought up the idea of dipping our flag as a symbol of black protest.

I asked him if he knew about the tradition of never letting the flag dip.

He looked confused. Sometimes it's easy to forget that these are nineteen-, twenty-, twenty-five-year-old kids, most of whom weren't even born until World War II was over. But Hal is nearly forty.

I told him about the tradition. I didn't like the Vietnam War, either, I said, but explained that fighting the Nazis and the Japanese was something else. That flag he was talking about was planted on Iwo Jima by men like his father. Iwo Jima represented a principle the same principle Hal wanted to uphold by dipping the flag.

They didn't dip the flag.

Carlos and Smith *did* give the black-power salute, of course. But even their thoughts at the Olympics weren't consumed by the race situation. First, they had to worry about winning. If they didn't get up there on the medalists' pedestal, they weren't going to be giving any salutes at all. And Tommy Smith's feat in winning the two hundred meters took monolithic concentration on that event and nothing else. It was even more amazing because that afternoon he pulled a muscle in his groin, one of the more painful injuries a sprinter can have. In the beginning, it didn't seem as though he'd be running the finals at all a few hours later. But a white physician from Oklahoma named Cooper worked on him, and Tommy ran. And broke not only the Olympic record but the world mark.

Tommy is a high-class boy, and I think that much of what he did at the Games was influenced by John Carlos and by Tommy's wife, who is really extreme on the subject of black power. And speaking of wives, there wouldn't have been any demonstration at all if the Consultant's Committee hadn't found places for

Glossary

"black herring"	a play on the phrase "red herring," meaning a diversion or distraction (as a fish dragged across its path would distract a dog)
Emancipation Proclamation	two executive orders issued by President Abraham Lincoln; the order in September 1862 declared that any slave in a Confederate state would be free if the state did not return to Union control by the first day of 1863; the second, issued on January 1, 1863, specified the ten states in which the first order would apply.
George Wallaces	a reference to George Wallace, the segregationist governor of Alabama
Harrys	probably a reference to Harry Edwards, who launched a movement urging black athletes to boycott the 1968 Olympic Games
Iwo Jima	a Pacific island that was the site of a major battle against the Japanese in World War II in 1945, famous for an iconic photograph of five Marines and one Navy corpsman raising the U.S. flag on Mount Suribachi
Rap Browns	a reference to civil rights activist H. Rap Brown, chairman of the Student Nonviolent Coordinating Committee and later the "justice minister" of the Black Panther Party
sharecropper	a farmer who works another person's land in return for a share of the land's production
Smith-Carlos incident	a reference to Tommie Smith and John Carlos, two black U.S. Olympic athletes who caused controversy by raising their fists in a Black Power salute on the medal stand
Stokely Carmichaels	a reference to Stokely Carmichael, a leader of the Student Nonviolent Coordinating Committee and the Black Panther Party and popularizer of the phrase "Black Power"

the wives to live. Carlos had brought his wife Kim, and she was living unauthorized in a segment of the athletes' quarters. The Olympic Committee was about to remove her, and I think if she had been sent home, her husband would have gone with her. Without John, I wonder if Tommy Smith would have given any Nazi salutes. But I met with them and then with the Olympic Committee, and the next day Mrs. Carlos had a place of her own to stay in, with the Committee paying for it.

So Olympic committees picked up tabs and white doctors healed pulled muscles and as a result Tommy Smith and John Carlos were able to make sick headlines in every town in America. Actually, they double-crossed some of their own black teammates who wanted a more organized, meaningful demonstration, by doing what they did. After it happened, I met with them to try and stop their expulsion from the Games. I knew what the Olympic Committee was going to do, and I realized that unless we could come up with a pretty good argument, Tommy and John would be sent packing.

I had hopes they'd be reasonable, Tommy in particular. But they arrived at the meeting with Hal, who was fanning the fire. Negro militants always become more militant before white audiences. Carlos lost his cool right away, I kept asking him to tell it to me like it really was so that I could make the Olympic Committee understand. "It don't make no difference what I say or do," Carlos would keep repeating. "I'm lower than dirt, man. I'm black." And every time he said something like that, Hal Connolly just about cheered.

Finally, I got fed up. "You know, Carlos," I yelled, "you talk about Whitey this and Whitey that. Everything's 'get Whitey out of my hair!' But when it comes to the most private kind of meeting of all, here you are with good old Whitey! He goes everywhere you go. Man, *I* can get along without him. How come *you* can't?"

The meeting was over. I went to the Olympic Committee and did what I could. It wasn't enough.

But life went on. In the Olympic village, in fact, the Smith-Carlos dismissal caused hardly a brief murmur among the American athletes. And nothing at all among the rest.

Angela Davis (AP/Wide World Photos)

Angela Davis's "Political Prisoners, Prisons, and Black Liberation"

1971

"The prison is a key component of state's coercive apparatus."

Overview

In 1971 the civil rights activist Angela Davis was a prisoner in the Marin County, California, jail. There she wrote "Political Prisoners, Prisons, and Black Liberation," published that year in a collection she edited, *If They Come in the Morning: Voices of Resistance*. The essay marks Davis's early commitment to prison reform and the liberation of black prisoners. She was in jail at the time because of the death of California Superior Court Judge Harold Haley, who was shot with a gun registered in Davis's name during a botched effort to free a prisoner from a California courtroom. Davis's incarceration drew international attention, and she was eventually acquitted of all charges, but her life was forever marked by this incident. Not only did it influence her career as an activist, it also informed and directed her efforts for prison reform. Davis, a prolific writer and lecturer, focused throughout her life on issues of social inequality. Outlining the sociopolitical mechanisms underlying gender, race, sex, and class divisions and disparities, Davis's writings analyze a variety of cultural and artistic trends. "Political Prisoners, Prisons, and Black Liberation" typifies the kind of social analysis Davis pursued in her early activist days and in her long academic career.

Context

Davis's formative years saw the nonviolent actions of the 1950s civil rights protests yield to the more confrontational Black Power movement of the late 1960s. Although legislative changes were enacted in the mid-1960s, much work still needed to be done. The Civil Rights Act of 1964, the Voting Rights Act of 1965, the Immigration and Nationality Services Act of 1965, and the Civil Rights Act of 1968 all moderated institutionalized racial discrimination, but racial violence and white supremacist groups continued to flourish. By 1966 Stokely Carmichael had adopted the slogan "Black Power," and Huey Newton and Bobby Seale had created the Black Panther Party to combat the violence of the Ku Klux Klan, noting that the police did little to protect the rights and lives of black citizens. The Black Panther Party and the Black Power movement espoused the ideology of Malcolm X, the assassinated leader who believed that confrontation and even violence were necessary to alter the public's racial consciousness. Unlike the peace marches of Martin Luther King, Jr., the Black Panther Party advocated a policy of action, a theme that became immensely popular within the prison community.

The Black Panthers represented the revolutionary fervor of the American Left, much of it focused on the issues of civil rights and black liberation. Prominent members of the party included H. Rap Brown, Stokely Carmichael, Eldridge Cleaver, and Fred Hampton. The Panthers were an avowedly revolutionary organization that openly called for the overthrow of the capitalist system. During the late 1960s and early 1970s, the Federal Bureau of Investigation's Counter Intelligence Program conducted extensive surveillance mostly illegal of numerous individuals and organizations who espoused leftist and Communist principles, including the Black Panthers, the Student Nonviolent Coordinating Committee, the Congress of Racial Equality, the National Association for the Advancement of Colored People, the Weather Underground, and various militant black nationalist groups. It should be acknowledged that the FBI also investigated white supremacist groups such as the Ku Klux Klan and other right-wing organizations. After the assassination of Martin Luther King, Jr., in 1968, Davis joined the Communist Party USA, guaranteeing that she and her associates would come to the attention of the FBI. Bureau director J. Edgar Hoover deemed the Black Panther Party the most dangerous subversive organization in the country.

In August 1970, Davis was accused of complicity in the killing of Superior Court Judge Harold Haley. The incident involved the Soledad Brothers, three African American inmates in California's Soledad Prison, near San Francisco. The inmates, including the Black Panther activist George Jackson (who has been described variously as Davis's friend or lover), were charged with murdering a prison guard earlier that year in retaliation for the shooting of three black inmates in an alleged escape attempt. On August 7, a group of African American men led by Jonathan Jackson, George Jackson's younger brother, invaded the Marin County courtroom demanding the release of the Soledad Brothers. Judge Haley was taken hostage and killed in the escape from the botched assault. Guns purchased in Davis's name were

Time Line

1944

- **January 26**
  Angela Davis is born in Birmingham, Alabama.

1960

- The Student Nonviolent Coordinating Committee is formed.

1964

- **July 2**
  President Lyndon Johnson signs the Civil Rights Act of 1964 into law.

1966

- **October 15**
  The Black Panther Party for Self-Defense is formed in Oakland, California.

1968

- **April 4**
  Martin Luther King, Jr., is assassinated in Memphis, Tennessee.

1969

- **September**
  Davis is dismissed by the University of California, Los Angeles, when her Communist Party membership becomes known; she is then reinstated for the duration of her contract by court order.

1970

- **August 7**
  California Superior Court Judge Harold Haley is murdered in an attempt to free the Soledad Brothers.
- **October 13**
  Davis is arrested in New York and later returned to California.

1971

- **May**
  Davis writes "Political Prisoners, Prisons, and Black Liberation" while she is a prisoner in the Marin County jail.

1972

- **June 4**
  Davis is acquitted of murder, kidnapping, and criminal conspiracy.

linked to the shooting, and she openly admitted to having ties to the gunmen. Davis fled the state and was placed on the FBI's Ten Most Wanted list. She was captured in New York, where she spent months in solitary confinement, and was remanded to California, where she awaited trial. Davis's case became international news, polarizing the American population, already deeply troubled during a year of Vietnam War protests and the May campus shootings at Kent State University in Ohio and Jackson State College in Mississippi. Activists from around the globe moved into high gear, and through their action Davis was allowed to integrate with the rest of the prison population. Later, she was released on bail. Sixteen months after her arrest, she was acquitted, but the incident, predictably, was perceived differently in the opposing camps of a polarized society. Some believed that Davis was guilty but had escaped due punishment; others believed she was innocent and was freed only because of the watchful eyes of the world. It was during Davis's pretrial imprisonment that she wrote "Political Prisoners, Prisons, and Black Liberation."

About the Author

Angela Yvonne Davis was born in Birmingham, Alabama, on January 26, 1944. She grew up in an area known as "Dynamite Hill" because it was frequently bombed by white supremacist groups working to force black families like the Davises out of white communities. She won a scholarship to study at Elisabeth Irwin High School, a progressive institution in New York City, in 1959 and then went on to Brandeis University, with studies at the University of Paris in her junior year. She was deeply influenced by the 1963 bombing of the Sixteenth Street Baptist Church in Birmingham. The four girls who died in the bombing, carried out at the hands of the Ku Klux Klan, had been friends of the Davis family. This event as well as other racially charged incidents of the 1960s spurred her activism. While completing her doctoral dissertation in philosophy at the Humboldt University of East Berlin, Davis obtained a short-lived academic post at the University of California, Los Angeles, in 1969. The California Board of Regents pressured the university to remove Davis from her position because of her affiliation with the Communist Party. Although the university initially backed Davis, it released her when she became the Los Angeles chair of the Soledad Brothers Defense Committee.

Davis was eventually cleared of all charges in connection with the courtroom killings, and her life's work became increasingly focused upon the need to reform the prison system and the racially biased judicial system. Having become the focus of massive national and international attention, Davis became an icon of black radicalism, demonized by some and lionized by others. From 1975 to 1977, she was a lecturer in African American Studies at Claremont College. She then taught women's and ethnic studies at San Francisco State University. In 1979 she visited the Soviet Union to receive the Lenin Peace Prize and was

named an honorary professor at Moscow State University. In 1980 and 1984, she ran for vice president of the United States on the Communist Party ticket. In 1988 she was one of the cofounders of Critical Resistance, a grassroots organization formed to dismantle the U.S. prison system. In 1991 she ended her connection with the Communist Party, in part because of her refusal to support the hard-line coup against Mikhail Gorbachev in the Soviet Union, identifying herself instead as a Democratic Socialist. Davis has lectured at numerous universities and taught in the history of consciousness program at the University of California, Santa Cruz. She continues to lecture and write about the cultural system that, in her view, not only divides the population along racial and gender lines but also fosters class divisions that employ systemic violence as a means to maintain a gendered and racial hierarchical structure. Davis's body of work is extensive, spanning over forty years. She continues to develop her approach to teaching, and she inspires both intellectuals and activists as she illuminates inequality based upon race, gender, sexual orientation, and economic class.

Explanation and Analysis of the Document

Angela Davis is a prolific writer who pulls together the individual components of inequality to analyze systemic failures. Focusing on feminism and antiracism, Davis creates a political philosophy based upon liberation theory, which guides her analysis and activism. Weaving together the component parts of U.S. and, ultimately, global culture, Davis demonstrates how race and gender are used to control economic and societal power. Her work in the Black Panther Party and the Communist Party, under the banner of which she twice ran for U.S. vice president, cost her professionally. Her desire to correct what she saw as sexual and racial divisiveness in the Communist Party prevented her from running for reelection within the party and forced her to abandon the party entirely. In "Political Prisoners, Prisons, and Black Liberation" Davis notes the connections between the nation's slave history and the modern penal system, equating the disparity of racial representation within jails with a new form of slavery.

In the opening paragraphs, Davis announces her theme in her references to the "unjust immoral laws" of the American penal system and the "oppressive social order from which they emanate." "Bitter experience" has taught Americans that being "patient" is fruitless, for people have little control over their social and legal circumstances.

◆ Historical Perspective

Davis gives extensive attention to the circumstances of American history that have affected African Americans although it should always be remembered that while her focus is African Americans, much of what she says applies to other minorities and even to much of the white working-class community. Central to this discussion is slavery and its perpetuation through such laws as the fugitive slave laws.

Time Line

1998

- Davis cofounds Critical Resistance, an organization dedicated to eliminating the prison system.

These unjust "reflections of existing social inequalities" have required the oppressed to forge "effective channels of resistance," in effect forcing them to violate laws though even when they do not violate laws, their very resistance is branded as criminal. She cites as an example of this "extra-legal anti-slavery activity" the Underground Railroad, the informal system of guides, routes, and safe houses that allowed slaves to escape to the North and, in many instances, to Canada. She refers to the case of Anthony Burns, a Virginia slave whose supporters, among them the prominent abolitionist Thomas Wentworth Higginson, took up arms to free him. She also alludes to John Brown, a white abolitionist who led an abortive raid on the federal arsenal at Harpers Ferry, Virginia, in 1859. Brown was executed that year, but he was regarded as a heroic figure in many quarters.

Davis goes on to note that throughout the abolitionist era and beyond, blacks and progressive whites had to violate the law. She refers to the post Civil War Black Codes laws passed in the southern states to deny blacks their civil rights and keep them in subservient positions, usually by inhibiting their freedom of movement and freedom to contract for their labor. Typical of these codes was the code in Mississippi, which read, in part:

> All contracts for labor made with freedmen, free Negroes, and mulattoes for a longer period than one month shall be in writing and a duplicate, attested and read to said freedman, free Negro, or mulatto, by a beat, city or county officer, or two disinterested white persons of the county in which the labor is to be performed, of which each party shall have one; … and if the laborer shall quit the service of the employer, before the expiration of his term of service, without good cause, he shall forfeit his wages for that year, up to the time of quitting.

Davis points out that blacks took up arms to defend themselves from "codified racism and terror" during this era. In the twentieth century, figures such as Marcus Garvey, the founder of the Universal Negro Improvement Association, called on people to flout discriminatory laws to protect themselves from "legalized terror" and from such organizations as the Ku Klux Klan. During the civil rights movement of the 1950s and early 1960s, sit-ins (where, for example, blacks would sit at segregated lunch counters) were conducted in violation of the law.

◆ The Political Prisoner

These and other instances led Davis to conclude that the "common denominator" linking those who violated the


WANTED BY THE FBI

INTERSTATE FLIGHT - MURDER, KIDNAPING

ANGELA YVONNE DAVIS

DESCRIPTION

CAUTION

ANGELA DAVIS IS WANTED ON KIDNAPING AND MURDER CHARGES GROWING OUT OF AN ABDUCTION AND SHOOTING IN MARIN COUNTY, CALIFORNIA, ON AUGUST 7, 1970. SHE ALLEGEDLY HAS PURCHASED SEVERAL GUNS IN THE PAST. CONSIDER POSSIBLY ARMED AND DANGEROUS.

IF YOU HAVE ANY INFORMATION CONCERNING THIS PERSON, PLEASE NOTIFY ME OR CONTACT YOUR LOCAL FBI OFFICE. TELEPHONE NUMBERS AND ADDRESSES OF ALL FBI OFFICES LISTED ON BACK.

The FBI's 1970 wanted poster for Angela Davis (AP/Wide World Photos)

law and were then imprisoned was that they were political prisoners. She notes that there is a difference between someone who commits a crime for his or her own self-interest and one who violates a law because the law oppresses a class of people. The former are criminals; the latter are revolutionaries, and when they are captured, they are political prisoners. The political prisoner is one whose words or deeds have "brought him into acute conflict with the state." In this context, the alleged crime is of little importance. The accused may stand trial for a crime, but the crime does not exist or has only "nominal existence." She cites as an example the case of Joe Hill, an organizer for the Industrial Workers of the World (the "Wobblies"), a radical labor organization that espoused ideals that many regarded as Communist. Davis asserts that the murder charge against him was a "blatant fabrication" and that he was arrested solely because the authorities wanted to silence "a militant crusader against oppression."

Davis acknowledges that the authorities often feel a sense of ambivalence about political prisoners. As an example she cites the judge in the Sacco and Vanzetti case, a notorious episode in which two Italian immigrants, Ferdinando Nicola Sacco and Bartolomeo Vanzetti, were accused of murdering two men during an armed robbery in Massachusetts and, after a series of appeals, were executed in 1927. It was widely believed at the time, and still today, that the two may have been innocent of the crime, but their anarchist associations doomed them at a time when the nation was beset by fear of Communism. She cites the example of a Nazi jurist who advanced the theory that a person might be a thief, and thus liable to the penalties of the law, without having committed an overt act of theft. According to Davis, President Richard Nixon and his FBI director, J. Edgar Hoover, subscribed to a similarly Fascist doctrine. As a further example she cites the instances when Martin Luther King, Jr., was arrested for "nominal crimes" when his real "crime" was opposition to racism. Yet another example was Robert Williams, a North Carolina civil rights activist and the author of *Negroes with Guns*. In 1971 Williams was accused of kidnapping after offering refuge to a white couple who were passing through town during a time of racial disturbance. His real "crime," in Davis's estimation, was "advocacy of black people's incontestable right to bear arms in their own defense." After living in exile in Cuba and China, Williams returned voluntarily to the United States in 1969 and was eventually extradited to North Carolina, where, after the legal proceedings dragged on, charges were dropped in 1976.

Davis goes into more detail about the definition of a political prisoner, describing such a prisoner as one who boldly challenges "fundamental social wrongs fostered and reinforced by the state." She gives further historical examples, including that of Nat Turner, who led a slave rebellion in 1831 in Virginia and was caught, tried, and executed, in much the same way that John Brown was. Davis believes that the execution of these men was intended to "terrorize the anti-slavery movement in general" and to discourage abolitionist activity. In defending Turner against the charge of murder, she argues that his acts were little different from killings that resulted when colonial Americans took up arms against the British.

◆ Modern Civil Disobedience

Davis calls attention to modern civil disobedience, again stressing that the authorities work to subvert liberation movements. She discusses a 1970 incident in Los Angeles in which the Black Panthers took up arms to defend themselves from the police. A key point for her is that such people are demonized as pathological criminals, with little attention paid to their positive accomplishments. She states that self-defense is "twisted and distorted" by the authorities and "rendered synonymous with criminal aggression." The police, though, are exonerated as having committed "justifiable" acts of homicide. She calls these distortions "ideological acrobatics"; the purpose of criminalizing these acts is to discredit radical and revolutionary movements. The irony for her is that while the authorities do not acknowledge the political nature of their own actions, they nonetheless introduced Black Panther literature as evidence of criminal intent in a noted New York trial. Davis lays these distortions at the feet of President Nixon, Vice President Spiro Agnew, and California gover-

nor Ronald Reagan. In sum, Davis argues that the judicial and penal system is a tool used "in the state's fight to preserve the existing conditions of class domination, therefore racism, poverty and war."

Next, Davis alludes to an indictment that had been handed down in 1951 of W. E. B. Du Bois, a prominent black intellectual in the early part of the century. From 1949 to 1955, Du Bois was vice chairman of the Council on African Affairs, cited by the U.S. attorney general as a "subversive" organization. In 1950 he became the chairman of the Peace Information Center in New York City. During this period, fears of espionage and Communist influence abounded. The infamous hearings led by Wisconsin senator Joseph McCarthy were held to root out suspected Communists in the government and elsewhere. Du Bois's association with leftist groups made him suspect. In 1951 he was tried on the charge of failing to register as a foreign agent. Although he was acquitted, Du Bois remained in the eye of government agencies, and the State Department revoked his passport. Later, Du Bois officially joined the Communist Party and became a citizen of Ghana, where he died. The quotation is from his 1952 book, *In Battle for Peace*.

Davis sees Du Bois's realization as the beginning of a movement that has focused on political prisoners, particularly people of color. She sees a mass movement developing around political prisoners, who have become a "catalyst" for political action because they are able to expose the "oppressive structures of the penal system" and its ability to suppress social movements.

◆ The Prison System

Davis argues that the prison system is an "instrument of class domination" that focuses less on the alleged criminal act and more on the person who commits it. She argues that crime is a function of the unequal distribution of property and reflects social needs borne of poverty that is, that crime is a challenge to capitalism. In building her argument, she naturally refers to the nineteenth-century philosopher Karl Marx and to Marxism, the strand of historical-philosophical thought that provided the ideological underpinnings of Communism. *Lumpenproletariat* (literally "rag proletariat") is the German word Marx used for those working-class people who would never achieve class consciousness (awareness of their own predicament) and who were therefore of little use in the struggle to overthrow capitalism. The Paris Commune was a working-class government that briefly assumed power in France in 1871. Davis here argues, contra some contemporary Marxists, that the "lumpen" can indeed be aroused and educated, as they were in Paris, and that they are capable of heroic action. She endorses the same kind of action on the part of Americans especially blacks and other people of color who could easily be dismissed as too poor and too marginal to take part in the revolutionary struggle. With the unemployment rate among black youth so high, it is little wonder that some turned to crime in order to survive. Hence the need for groups like the Black Panthers to organize these members of the lumpenproletariat.

Davis goes into some detail about the inequities of the prison system, noting, first, that not all prisoners have committed crimes and second, that prison terms meted out to black and brown inmates are disproportionately long. Imprisonment brings the inmate face to face with racism as an institutional phenomenon, leading more and more prisoners to recognize that they are, in fact, political prisoners. This growing awareness was reflected in such documents as the *Folsom Prisoners' Manifesto of Demands and Anti-Oppression Platform*, issued in conjunction with a nineteen-day inmate strike at the Folsom State Prison in California in 1970.

◆ Prison and Revolutionary Movements

Davis's tone sharpens when she refers to the "ruling circles" of America and their "repressive measures" and "fascist tactics" designed to curtail revolutionary movements, including the movement to end the war in Indochina (the Vietnam War). Herbert Marcuse, a German social and political theorist who had mentored Davis at Brandeis, was an opponent of capitalism, and a favorite writer among leftist revolutionaries. Specific instances of brutality at Soledad Prison are cited here, especially the men who were killed by a prison guard, the incident that sparked the Soledad Brothers case. She calls the Soledad Brothers "frame-up victims."

Davis moves beyond literal imprisonment to address "racist oppression … on an infinite variety of levels." Blacks, she says, are imprisoned by an economic system that fails to provide jobs with decent pay. Unemployment in the ghettos is high. Unemployment among black youth is 30 percent. Schools are substandard, medical care is poor, and housing in dilapidated. Amid this poverty in places like Birmingham in Alabama, Harlem in New York City, and the Watts district of Los Angeles, the police are numerous and ever present in a "grotesque caricature" of the mission of serving and protecting. The police "encircle the community with a shield of violence." In this regard she refers to Franz Fanon, a mid-twentieth-century philosopher and revolutionary from Martinique whose work on colonial history, like that of Marcuse, was highly influential among leftists. Davis then goes into detail about how the judicial system abets the police as part of an "apparatus" that "summarily railroads black people into jails and prisons." All of this is part of black ghetto existence, causing deep hatred of the police.

◆ African American Resistance

In the final section Davis begins with the premise that "black people as a group have exhibited a greater potential for resistance than any other part of the population." She rails against the racism and exploitation perpetrated, in her view, by the Nixon administration an oppression that extends not only to blacks but also to Chicanos (that is, Hispanics), Puerto Ricans, and the antiwar movement. Despite the resistance of authorities, "black people are rushing full speed ahead" toward an understanding of repression and racism and are seeking liberation through armed revolution.

Essential Quotes

"But having been taught by bitter experience, we know that there is a glaring incongruity between democracy and the capitalist economy which is the source of our ills."

(Historical Perspective)

"Needless to say, the history of the Unites States has been marred from its inception by an enormous quantity of unjust laws, far too many expressly bolstering the oppression of black people."

(Historical Perspective)

"The offense of the political prisoner is political boldness, the persistent challenging—legally or extra-legally—of fundamental social wrongs fostered and reinforced by the state."

(The Political Prisoner)

"The ideological acrobatics characteristic of official attempts to explain away the existence of the political prisoner do not end with the equation of the individual political act with the individual criminal act. The political act is defined as criminal in order to discredit radical and revolutionary movements."

(Modern Civil Disobedience)

"The prison is a key component of state's coercive apparatus, the overriding function of which is to ensure social control."

(The Prison System)

"The ruling circles of America are expanding and intensifying repressive measures designed to nip revolutionary movements in the bud as well as to curtail radical-democratic tendencies, such as the movement to end the war in Indochina."

(Prison and Revolutionary Movements)

"Fascist," in the leftist rhetoric of the 1960s, refers not merely to the right-wing ideology of Adolf Hitler's Germany and Benito Mussolini's Italy but to any kind of repression directed against the poor, minorities, women, and other groups. In what Davis sees as a Fascist climate, thousands of people are political prisoners, including the Harrisburg Eight. The Harrisburg Eight, later Seven, were a group of religiously motivated antiwar activists led by Philip Berrigan, a Catholic priest, who were alleged to have plotted bombings and kidnappings in protest against the Vietnam War. For Davis, another symptom of this Fascism is the Nixon administration's 1970 "Crime Bill" that gave the government, among other provisions, greater latitude to conduct wiretaps. These and other examples are evidence for Davis that revolutionaries must nip Fascism in the bud; she argues, too, that the mass of ordinary citizens have an interest in doing so, and one way they can take action is to take part in the struggle to abolish the prison system. In support of this view she quotes Georgi Dimitrov, the Bulgarian Communist leader who had been prosecuted by the Nazis in 1933. Davis concludes by arguing that the white worker has a vested interest in issues of racism and political imprisonment, for "the merciless proliferation of the power of monopoly capital may ultimately push him inexorably down the very same path of desperation."

Audience

Angela Davis was writing chiefly to supporters and like-minded people. However, her intended audience was wider than that. Using Marxist theories to comment upon her own incarceration as well as her view of the biased nature of the U.S. penal code, Davis calls attention to the racial, class, and gender disparities in the American legal system. Particularly toward the end of her essay, she includes whites in her audience by arguing, in effect, that oppression of blacks can create a political system in which whites are equally vulnerable. At the time of the essay's publication, Davis was widely regarded by the American public as a dangerous radical yet another "revolutionary" from the turbulent 1960s. Passions have cooled with time, and Davis herself has slightly moderated her positions. Nevertheless, her early work, including "Political Prisoners, Prisons, and Black Liberation," has come to be regarded as an important window into a time of rapid social change in the United States.

Impact

The body of Angela Davis's writing has had a significant impact on both political and academic thought. Because her work spans over forty years and has evolved to incorporate a variety of issues, it has become increasingly important for those working on the sociopolitical analysis of class and race. Davis's work on critical race theory and the interconnections between race, gender, and class has influenced academics and activists since the 1960s. Since her earliest writings and her court case, which propelled her to the national spotlight, attitudes toward her work have shifted and softened. Although it was initially rejected by the mainstream as too radical, much of Davis's work is now recognized as foundational material by such prison abolition organizations as the Anarchist Black Cross, the Anarchist Prisoners' Legal Aid Network, Justice Now, Socialist Resistance, and the Prison Activist Resource Center.

See also Black Code of Mississippi (1865); Civil Rights Act of 1964; Stokely Carmichael's "Black Power" (1966).

Questions for Further Study

1. Compare this document with Eldridge Cleaver's "Education and Revolution." What similar views did the two authors express?

2. What is the fundamental basis for Davis's view that the prison system should be abolished?

3. Why do you think Angela Davis became an icon of black radicalism? What do you think was the attitude of mainstream Americans to Davis during the 1970s?

4. Summarize the influence of Marxist thought on Davis's views. Why did her Marxism render her a dangerous character in the 1970s in the view of many people?

5. Many revolutionaries of the 1960s and 1970s, including Davis and Eldridge Cleaver, later toned down their rhetoric and became somewhat more mainstream, or at least less radical, in their views. What do you think may have accounted for this change of heart?

Further Reading

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Veronica C. Hendrick and Michael J. O'Neal

Document Text

Angela Davis's "Political Prisoners, Prisons, and Black Liberation"

Despite a long history of exalted appeals to man's inherent right to resistance, there has seldom been agreement on how to relate in practice to unjust immoral laws and the oppressive social order from which they emanate. The conservative, who does not dispute the validity of revolutions deeply buried in history, invokes visions of impending anarchy in order to legitimize his demand for absolute obedience. Law and order, with the major emphasis on order, is his watchword. The liberal articulates his sensitivity to certain of society's intolerable details, but will almost never prescribe methods of resistance that exceed the limits of legality redress through electoral channels is the liberal's panacea.

In the heat of our pursuit of fundamental human rights, black people have been continually cautioned to be patient. We are advised that as long as we remain faithful to the existing democratic order, the glorious moment will eventually arrive when we will come into our own as full-fledged human beings.

But having been taught by bitter experience, we know that there is a glaring incongruity between democracy and the capitalist economy which is the source of our ills. Regardless of all rhetoric to the contrary, the people are not the ultimate matrix of the laws and the system which govern them certainly not black people and other nationally oppressed people, but not even the mass of whites. The people do not exercise decisive control over the determining factors of their lives.

Officials' assertions that meaningful dissent is always welcome, provided it falls within the boundaries of legality, are frequently a smokescreen obscuring the invitation to acquiesce in oppression. Slavery may have been unrighteous, the constitutional precision for the enslavement of blacks may have been unjust, but conditions were not to be considered so bearable (especially since they were profitable to a small circle) as to justify escape and other acts proscribed by law. This was the import of the fugitive slave laws.

Needless to say, the history of the Unites States has been marred from its inception by an enormous quantity of unjust laws, far too many expressly bolstering the oppression of black people. Particularized reflections of existing social inequities, these laws have repeatedly born witness to the exploitative and racist core of the society itself. For blacks, Chicanos, for all nationally oppressed people, the problem of opposing unjust laws and the social conditions which nourish their growth, has always had immediate practical implications. Our very survival has frequently been a direct function of our skill in forging effective channels of resistance. In resisting we have been compelled to openly violate those laws which directly or indirectly buttress our oppression. But even containing our resistance within the orbit of legality, we have been labeled criminals and have been methodically persecuted by a racist legal apparatus.

Under the ruthless conditions of slavery, the underground railroad provided the framework for extra-legal anti-slavery activity pursued by vast numbers of people, both black and white. Its functioning was in flagrant violation of the fugitive slave law; those who were apprehended were subjected to severe penalties. Of the innumerable recorded attempts to rescue fugitive slaves from the clutches of slave catchers, one of the most striking is the case of Anthony Burns, a slave from Virginia, captured in Boston in 1853. A team of his supporters, in attempting to rescue him by force during the course of his trial, engaged the police in a fierce courtroom battle. During the gun fight, a prominent Abolitionist, Thomas Wentworth Higginson, was wounded. Although the rescuers were unsuccessful in their efforts, the impact of this incident "did more to crystallize Northern sentiment against slavery than any other except the exploit of John Brown, 'and this was the last time a fugitive slave was taken from Boston. It took twenty-two companies of state militia, four platoons of marines, a battalion of United States artillerymen, and the city's police force … to ensure the performance of this shameful act, the cost of which, the Federal government alone, came to forty thousand dollars.'"

Throughout the era of slavery, blacks, as well as progressive whites, repeatedly discovered that their commitment to the anti-slavery cause frequently entailed the overt violation of the laws of the land. Even as slavery faded away into a more subtle yet equally pernicious apparatus to dominate black people, "illegal" resistance was still on the agenda. After

the Civil War, Black Codes, successors to the old Slave Codes, legalized convict labor, prohibited social intercourse between blacks and whites, gave white employers an excessive degree of control over the private lives of black workers, and generally codified racism and terror. Naturally, numerous individual as well as collective acts of resistance prevailed. On many occasions, blacks formed armed teams to protect themselves from white terrorists who were, in turn, protected by law enforcement agencies, if not actually identified with them.

By the second decade of the twentieth century, the mass movement, headed by Marcus Garvey, proclaimed in its Declaration of Rights that black people should not hesitate to disobey all discriminatory laws. Moreover, the Declaration announced, they should utilize all means available to them, legal or illegal, to defend themselves from legalized terror as well as Ku Klux Klan violence. During the era of intense activity around civil rights issues, systematic disobedience of oppressive laws was a primary tactic. The sit-ins were organized transgressions of racist legislation.

All these historical instances involving the overt violation of the laws of the land converge around an unmistakable common denominator. At stake has been the collective welfare and survival of a people. There is a distinct and qualitative difference between one breaking a law for one's own individual self-interest and violating it in the interests of a class of people whose oppression is expressed either directly or indirectly through that particular law. The former might be called criminal (though in many instances he is a victim), but the latter, as a reformist or revolutionary, is interested in universal social change. Captured, he or she is a political prisoner.

The political prisoner's words or deed have in one form or another embodied political protests against the established order and have consequently brought him into acute conflict with the state. In light of the political content of his act, the "crime" (which may or may not have been committed) assumes a minor importance. In this country, however, where the special category of political prisoners is not officially acknowledged, the political prisoner inevitably stands trial for a specific criminal offense, not for a political act. Often the so-called crime does not even have a nominal existence. As in the 1914 murder frame-up of the IWW organizer, Joe Hill, it is a blatant fabrication, a mere excuse for silencing a militant crusader against oppression. In all instances, however, the political prisoner has violated the unwritten law which prohibits disturbances and upheavals in the status quo of exploitation and racism. This unwritten law has been contested by actually and explicitly breaking a law or by utilizing constitutionally protected channels to educate, agitate, and organize masses to resist.

A deep-seated ambivalence has always characterized the official response to the political prisoner. Charged and tried for the criminal act, his guilt is always political in nature. This ambivalence is perhaps best captured by Judge Webster Thayer's comment upon sentencing Bartolomeo Vanzetti to fifteen years for an attempted payroll robbery: "This man, although he may not have actually committed the crime attributed to him, is nevertheless morally culpable, because he is an enemy of our existing institutions." (The very same judge incidentally, sentences Sacco and Vanzetti to death for a robbery and murder of which they were manifestly innocent). It is not surprising that Nazi Germany's foremost constitutional lawyer, Carl Schmitt, advanced the theory which generalized thus a priori culpability. A thief, for example, was not necessarily one who had committed an overt act of theft, but rather one whose character renders him a thief (*wer nach seinem wesen win Dieb ist*). [President Richard] Nixon's and [FBI Director] J. Edgar Hoover's pronouncements lead one to believe that they would readily accept Schmitt's fascist legal theory. Anyone who seeks to overthrow oppressive institutions, whether or not he has engaged in an overt act, is a priori a criminal who must be buried away in one of America's dungeons.

Even in all of Martin Luther King's numerous arrests, he was not so much charged with the nominal crimes of trespassing, and disturbance of the peace, as with being an enemy of the southern society, an inveterate foe of racism. When Robert Williams was accused of kidnapping, this charge never managed to conceal his real offense the advocacy of black people's incontestable right to bear arms in their own defense.

The offense of the political prisoner is political boldness, the persistent challenging legally or extralegally of fundamental social wrongs fostered and reinforced by the state. The political prisoner has opposed unjust laws and exploitative, racist social conditions in general, with the ultimate aim of transforming these laws and this society into an order harmonious with the material and spiritual needs and interests of the vast majority of its members.

Nat Turner and John Brown were political prisoners in their time. The acts for which they were charged and subsequently hanged were the practical extensions of their profound commitment to the abolition

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of slavery. They fearlessly bore the responsibility for their actions. The significance of their executions and the accompanying widespread repression did not lie so much in the fact that they were being punished for specific crimes, nor even in the effort to use their punishment as an implicit threat to deter others from similar armed acts of resistance. These executions, and the surrounding repression of slaves, were intended to terrorize the anti-slavery movement in general; to discourage and diminish both legal and illegal forms of abolitionist activity. As usual, the effect of repression was miscalculated and in both instances, anti-slavery activity was accelerated and intensified as a result.

Nat Turner and John Brown can be viewed as examples of the political prisoner who has actually committed an act which is defined by the state as "criminal". They killed and were consequently tried for murder. But did they commit murder? This raises the question of whether American revolutionaries had *murdered* the British in their struggle for liberation. Nat Turner and his followers killed some sixty-five white people, yet shortly before the revolt had begun, Nat is reputed to have said to the other rebelling slaves: "Remember that ours is not war for robbery nor to satisfy our passions, it is a *struggle for freedom*. Ours must be deeds and not words."

The very institutions which condemned Nat Turner and reduced his struggle for freedom to a simpler criminal case of murder, owed their existence to the decision, made a half-century earlier, to take up arms against the British oppressor.

The battle for the liquidation of slavery had no legitimate existence in the eyes of the government and therefore the special quality of deeds carried out in the interests of freedom was deliberately ignored. There were no political prisoners, there were only criminals; just as the movement out of which these deeds flowed was largely considered criminal.

Likewise, the significance of activities which are pursued in the interests of liberation today is minimized not so much because officials are unable to see the collective surge against oppression, but because they have consciously set out to subvert such movements. In the Spring of 1970, Los Angeles Panthers took up arms to defend themselves from an assault initiated by the local police force on their office and on their persons. They were charged with criminal assault. If one believed the official propaganda, they were bandits and rogues who pathologically found pleasure in attacking policemen. It was not mentioned that their community activities educational work, services such as free breakfast and free medical programs which had legitimized them in the black community, were the immediate reason for which the wrath of the police had fallen upon them. In defending themselves from the attack waged by some 600 policemen (there were only eleven Panthers in the office) they were defending not only their lives, but even more important their accomplishments in the black community surrounding them, and in the broader thrust for black liberation. Whenever blacks in struggle have recourse to self-defense, particular armed self-defense, it is twisted and distorted on official levels and ultimately rendered synonymous with criminal aggression. On the other hand, when policemen are clearly indulging in acts of criminal aggression, officially they are defending themselves through "justifiable assault" or "justifiable homicide".

The ideological acrobatics characteristic of official attempts to explain away the existence of the political prisoner do not end with the equation of the individual political act with the individual criminal act. The political act is defined as criminal in order to discredit radical and revolutionary movements. A political event is reduced to a criminal event in order to affirm the absolute invulnerability of the existing order. In a revealing contradiction, the court resisted the description of the New York Panther 21 trial as "political", yet the prosecutor entered as evidence of criminal intent, literature which represented, so he purported, the political ideology of the Black Panther Party.

The legal apparatus designates the black liberation fighter a criminal, prompting Nixon, [Vice President Spiro] Agnew, [California Governor Ronald] Reagan et al. to process to mystify with their demagogy millions of Americans whose senses have been dulled and whose critical powers have been eroded by the continual onslaught of racist ideology.

As the black liberation movement and other progressive struggles increase in magnitude and intensity, the judicial system and its extension, the penal system, consequently become key weapons in the state's fight to preserve the existing conditions of class domination, therefore racism, poverty and war.

In 1951, W.E.B. Du Bois, as Chairman of the Peace Information Center, was indicted by the federal government for "failure to register as an agent of a foreign principal." In assessing this ordeal, which occurred in the ninth decade of his life, he turned his attention to the inhabitants of the nation's jails and prisons:

> What turns me cold in all this experience is the certainty that thousands of innocent vic-

> tims are in jail today because they had neither money nor friends to help them. The eyes of the world were on our trial despite the desperate efforts of press and radio to suppress the facts and cloud the real issues; the courage and money of friends and of strangers who dared stand for a principle freed me; but God only knows how many who were as innocent as I and my colleagues are today in hell. They daily stagger out of prison doors embittered, vengeful, hopeless, ruined. And of this army of the wronged, the proportion of Negroes is frightful. We protect and defend sensational cases where Negroes are involved. But the great mass of arrested or accused black folk have no defense. There is desperate need of nationwide organizations to oppose this national racket of railroading to jails and chain gangs the poor, friendless and black.

Almost two decades passed before the realization attained by Du Bois on the occasion of his own encounter with the judicial system achieved extensive acceptance. A number of factors have combined to transform the penal system into a prominent terrain of struggle, both for the captives inside and the masses outside. The impact of large numbers of political prisoners both on prison populations and on the mass movement has been decisive. The vast majority of political prisoners have not allowed the fact of imprisonment to curtail their educational, agitational, and organizing activities, which they continue behind prison walls. And in the course of developing mass movements around political prisoners, a great deal of attention has inevitably been focused on the institutions in which they are imprisoned. Furthermore the political receptivity of prisoners especially black and brown captives has been increased and sharpened by the surge of aggressive political activity rising out of black, Chicano, and other oppressed communities. Finally, a major catalyst for intensified political action in and around prisons has emerged out of the transformation of convicts, originally found guilty of criminal offenses, into exemplary political militants. Their patient educational efforts in the realm of exposing the specific oppressive structures of the penal system in their relation to the larger oppression of the social system have had a profound effect on their fellow captives.

The prison is a key component of state's coercive apparatus, the overriding function of which is to ensure social control. The etymology of the term "penitentiary" furnishes a clue to the controlling idea behind the "prison system" at its inception. The penitentiary was projected as the locale for doing penitence for an offense against society, the physical and spiritual purging of proclivities to challenge rules and regulations which command total obedience. While cloaking itself with the bourgeois aura of universality imprisonment was supposed to cut across all class lines, as crimes were to be defined by the act, not the perpetrator the prison has actually operated as an instrument of class domination, a means of prohibiting the have-nots from encroaching upon the haves.

The occurrence of crime is inevitable in a society in which wealth is unequally distributed, as one of the constant reminders that society's productive forces are being channeled in the wrong direction. The majority of criminal offenses bear a direct relationship to property. Contained in the very concept of property, crimes are profound but suppressed social needs which express themselves in anti-social modes of action. Spontaneously produced by a capitalist organization of society, this type of crime is at once a protest against society and a desire to partake of its exploitative content. It challenges the symptoms of capitalism, but not its essence.

Some Marxists in recent years have tended to banish "criminals" and the lumpenproletariat as a whole from the arena of revolutionary struggle. Apart from the absence of any link binding the criminal to the means of production, underlying this exclusion has been the assumption that individuals who have recourse to anti-social acts are incapable of developing the discipline and collective orientation required by revolutionary struggle.

With the declassed character of lumpenproletarians in mind, Marx had stated that they are as capable of "the most heroic deeds and the most exalted sacrifices, as of the basest banditry and the dirtiest corruption." He emphasized the fact that the provisional government's mobile guards under the Paris Commune some 24,000 troops were largely formed out of young lumpenproletarians from fifteen to twenty years of age. Too many Marxists have been inclined to overvalue the second part of Marx's observation that the lumpenproletariat is capable of the basest banditry and the dirtiest corruption while minimizing or indeed totally disregarding his first remark, applauding the lumpen for their heroic deeds and exalted sacrifices.

Especially today when so many black, Chicano, and Puerto Rican men and women are jobless as a

consequence of the internal dynamic of the capitalist system, the role of the unemployed, which includes the lumpenproletariat in revolutionary struggle, must be given serious thought. Increased unemployment, particularly for the nationally oppressed, will continue to be an inevitable by-product of technological development. At least 30 percent of black youth are presently without jobs. In the context of class exploitation and national oppression it should be clear that numerous individuals are compelled to resort to criminal acts, not as a result of conscious choice implying other alternatives but because society has objectively reduced their possibilities of subsistence and survival to this level. This recognition should signal the urgent need to organize the unemployed and lumpenproletariat, as indeed the Black Panther Party as well as activists in prison have already begun to do.

In evaluating the susceptibility of the black and brown unemployed to organizing efforts, the peculiar historical features of the US, specifically racism and national oppression, must be taken into account. There already exists in the black and brown communities, the lumpenproletariat included, a long tradition of collective resistance to national oppression.

Moreover, in assessing the revolutionary potential of prisoners in America as a group, it should be borne in mind that not all prisoners have actually committed crimes. The built-in racism of the judicial system expresses itself, as Du Bois has suggested, in the railroading of countless innocent blacks and other national minorities into the country's coercive institutions.

One must also appreciate the effects of disproportionately long prison terms on black and brown inmates. The typical criminal mentality sees imprisonment as a calculated risk for a particular criminal act. One's prison term is more or less rationally predictable. The function of racism in the judicial-penal complex is to shatter that predictability. The black burglar, anticipating a two-to four-year term, may end up doing ten to fifteen years, while the white burglar leaves after two years.

Within the contained, coercive universe of the prison, the captive is confronted with the realities of racism, not simply as individual acts dictated by attitudinal bias; rather he is compelled to come to grips with racism as an institutional phenomenon collectively experienced by the victims. The disproportionate representation of the black and brown communities, the manifest racism of parole boards, the intense brutality inherent in the relationship between prison guards and black and brown inmates all this and more causes the prisoner to be confronted daily, hourly, with the concentrated systematic existence of racism.

For the innocent prisoner, the process of radicalization should come easy; for the "guilty" victim, the insight into the nature of racism as it manifests itself in the judicial-penal complex can lead to a questioning of his own past criminal activity and a re-evaluation of the methods he has used to survive in a racist and exploitative society. Needless to say, this process is not automatic, it does not occur spontaneously. The persistent educational work carried out by the prison's political activists plays a key role in developing the political potential of captive men and women.

Prisoners especially blacks, Chicanos and Puerto Ricans are increasingly advancing the proposition that they are *political* prisoners. They contend that they are political prisoners in the sense that they are largely the victims of an oppressive politico-economic order, swiftly becoming conscious of the causes underlying their victimization. The *Folsom Prisoners' Manifesto of Demands and Anti-Oppression Platform* attests to a lucid understanding of the structures of oppression within the prison structures which contradict even the avowed function of the penal institution: "The program we are submitted to, under the ridiculous title of rehabilitation, is relative to the ancient stupidity of pouring water on the drowning man, in as much as we are treated for our hostilities by our program administrators with their hostility for medication." The *Manifesto* also reflects an awareness that the severe social crisis taking place in this country, predicated in part on the ever-increasing mass consciousness of deepening social contradictions, is forcing the political function of the prisons to surface in all its brutality. Their contention that prisons are being transformed into the "fascist concentration camps of modern America," should not be taken lightly, although it would be erroneous as well as defeatist in a practical sense, to maintain that fascism has irremediably established itself.

The point is this, and this is the truth which is apparent in the Manifesto: the ruling circles of America are expanding and intensifying repressive measures designed to nip revolutionary movements in the bud as well as to curtail radical-democratic tendencies, such as the movement to end the war in Indochina. The government is not hesitating to utilize an entire network of fascist tactics, including the monitoring of congressman's telephone calls, a system of "preventive fascism", as Marcuse has termed it, in which the role of the judicial-penal systems

looms large. The sharp edge of political repression, cutting through the heightened militancy of the masses, and bringing growing numbers of activists behind prison walls, must necessarily pour over into the contained world of the prison where it understandably acquires far more ruthless forms.

It is a relatively easy matter to persecute the captive whose life is already dominated by a network of authoritarian mechanisms. This is especially facilitated by the indeterminate sentence policies of many states, for politically conscious prisoners will incur inordinately long sentences on the original conviction. According to Louis S. Nelson, warden of the San Quentin Prison, "if the prisons of California become known as schools for violent revolution, the Adult Authority would be remiss in their duty not to keep the inmates longer" (*San Francisco Chronicle*, May 2, 1971). Where this is deemed inadequate, authorities have recourse to the whole spectrum of brutal corporal punishment, including out and out murder. At San Quentin, Fred Billingslea was teargassed to death in February 1970. W. L. Nolen, Alvin Miller, and Cleveland Edwards were assassinated by a prison guard in January 1970, at Soledad Prison. Unusual and inexplicable "suicides" have occurred with incredible regularity in jails and prisons throughout the country.

It should be self-evident that the frame-up becomes a powerful weapon within the spectrum of prison repression, particularly because of the availability of informers, the broken prisoners who will do anything for a price. The Soledad Brothers and the Soledad Three are leading examples of frame-up victims. Both cases involve militant activists who have been charged with killing Soledad prison guards. In both cases, widespread support has been kindled within the California prison system. They have served as occasions to link the immediate needs of the black community with a forceful fight to break the fascist stronghold in the prisons and therefore to abolish the prison system in its present form.

Racist oppression invades the lives of black people on an infinite variety of levels. Blacks are imprisoned in a world where our labor and toil hardly allow us to eke out a decent existence, if we are able to find jobs at all. When the economy begins to falter, we are forever the first victims, always the most deeply wounded. When the economy is on its feet, we continue to live in a depressed state. Unemployment is generally twice as high in the ghettos as it is in the country as a whole and even higher among black women and youth. The unemployment rate among black youth has presently skyrocketed to 30 percent. If one-third of America's white youths were without a means of livelihood, we would either be in the thick of revolution or else under the iron rule of fascism. Substandard schools, medical care hardly fit for animals, over-priced, dilapidated housing, a welfare system based on a policy of skimpy concessions, designed to degrade and divide (and even this may soon be canceled) this is only the beginning of the list of props in the overall scenery of oppression which, for the mass of blacks, is the universe.

In black communities, wherever they are located, there exists an ever-present reminder that our universe must remain stable in its drabness, its poverty, its brutality. From Birmingham to Harlem to Watts, black ghettos are occupied, patrolled and often attacked by massive deployments of police. The police, domestic caretakers of violence, are the oppressor's emissaries, charged with the task of containing us within the boundaries of our oppression.

The announced function of the police, "to protect and serve the people," becomes the grotesque caricature of protecting and preserving the interests of our oppressors and serving us nothing but injustice. They are there to intimidate blacks, to persuade us with their violence that we are powerless to alter the conditions of our lives. Arrests are frequently based on whims. Bullets from their guns murder human beings with little or no pretext, aside from the universal intimidation they are charged with carrying out. Protection for drug-pushers, and Mafia-style exploiters, support for the most reactionary ideological elements of the black community (especially those who cry out for more police), are among the many functions of forces of law and order. They encircle the community with a shield of violence, too often forcing the natural aggression of the black community inwards. Fanon's analysis of the role of colonial police is an appropriate description of the function of the police in America's ghettos.

It goes without saying that the police would be unable to set into motion their racist machinery were they not sanctioned and supported by the judicial system. The courts not only consistently abstain from prosecuting criminal behavior on the part of the police, but they convict, on the basis of biased police testimony, countless black men and women. Court-appointed attorneys, acting in the twisted interests of overcrowded courts, convince 85 percent of the defendants to plead guilty. Even the manifestly innocent are advised to cop a plea so that the lengthy and expensive process of jury trials is avoided. This is the structure of the apparatus which summarily railroads

black people into jails and prisons. (During my imprisonment in the New York Women's House of Detention, I encountered numerous cases involving innocent black women who had been advised to plead guilty. One sister had entered her white landlord's apartment for the purpose of paying rent. He attempted to rape her and in the course of the ensuing struggle, a lit candle toppled over, burning a tablecloth. The landlord ordered her arrested for arson. Following the advice of her court-appointed attorney, she entered a guilty plea, having been deceived by the attorney's insistence that the court would be more lenient. The sister was sentenced to three years.)

The vicious circle linking poverty, police courts, and prison is an integral element of ghetto existence. Unlike the mass of whites, the path which leads to jails and prisons is deeply rooted in the imposed patterns of black existence. For this very reason, an almost instinctive affinity binds the mass of black people to the political prisoners. The vast majority of blacks harbor a deep hatred of the police and are not deluded by official proclamations of justice through the courts.

For the black individual, contact with the law-enforcement-judicial-penal network, directly or through relatives and friends, is inevitable because he or she is black. For the activist become political prisoner, the contact has occurred because he has lodged a protest, in one form or another, against the conditions which nail blacks to this orbit of oppression.

Historically, black people as a group have exhibited a greater potential for resistance than any other part of the population. The iron-clad rule over our communities, the institutional practice of genocide, the ideology of racism have performed a strictly political as well as an economic function. The capitalists have not only extracted super profits from the underpaid labor of over 15 percent of the American population with the aid of a superstructure of terror. This terror and more subtle forms of racism have further served to thwart the flowering of a resistance even a revolution that would spread to the working class as a whole.

In the interests of the capitalist class, the consent to racism and terror has been demagogically elicited from the white population, workers included, in order to more efficiently stave off resistance. Today, Nixon, [Attorney General John] Mitchell and J. Edgar Hoover are desperately attempting to persuade the population that dissidents, particularly blacks, Chicanos, Puerto Ricans, must be punished for being members of revolutionary organizations; for advocating the overthrow of the government; for agitating and educating in the streets and behind prison walls. The political function of racist domination is surfacing with accelerated intensity. Whites who have professed their solidarity with the black liberation movement and have moved in a distinctly revolutionary direction find themselves targets of the same repression. Even the anti-war movement, rapidly exhibiting an anti-imperialist consciousness, is falling victim to government repression.

Black people are rushing full speed ahead towards an understanding of the circumstances that give rise to exaggerated forms of political repression and thus an overabundance of political prisoners. This understanding is being forged out of the raw material of their own immediate experiences with racism. Hence, the black masses are growing conscious of their responsibility to defend those who are being persecuted for attempting to bring about the alleviation of the most injurious immediate problems facing black communities and ultimately to bring about total liberation through armed revolution, if it must come to this.

The black liberation movement is presently at a critical juncture. Fascist methods of repression threaten to physically decapitate and obliterate the movement. More subtle, yet no less dangerous ideological tendencies from within threaten to isolate the black movement and diminish its revolutionary impact. Both menaces must be counteracted in order to ensure our survival. Revolutionary blacks must spearhead and provide leadership for a broad anti-fascist movement.

Fascism is a process, its growth and development are cancerous in nature. While today, the threat of fascism may be primarily restricted to the use of the law-enforcement-judicial-penal apparatus to arrest the overt and latent revolutionary trends among nationally oppressed people, tomorrow it may attack the working class *en masse* and eventually even moderate democrats. Even in this period, however, the cancer has already commenced to spread. In addition to the prison army of thousands and thousands of nameless Third World victims of political revenge, there are increasing numbers of white political prisoners draft resisters, anti-war activists such as the Harrisburg Eight, men and women who have involved themselves on all levels of revolutionary activity.

Among the further symptoms of the fascist threat are official efforts to curtail the power of organized labor, such as the attack on the manifestly conservative construction workers and the trends towards reduced welfare aid. Moreover, court decisions and repressive

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legislation augmenting police powers such as the Washington no-knock law, permitting police to enter private dwellings without warning, and Nixon's "Crime Bill" in general can eventually be used against any citizen. Indeed congressmen are already protesting the use of police-state wire-tapping to survey their activities. The fascist content of the ruthless aggression in Indo-China should be self-evident.

One of the fundamental historical lessons to be learned from past failures to prevent the rise of fascism is the decisive and indispensable character of the fight against fascism in its incipient phases. Once allowed to conquer ground, its growth is facilitated in geometric proportion. Although the most unbridled expressions of the fascist menace are still tied to the racist domination of blacks, Chicanos, Puerto Ricans, Indians, it lurks under the surface wherever there is potential resistance to the power of monopoly capital, the parasitic interests which control this society. Potentially it can profoundly worsen the conditions of existence for the average American citizen. Consequently, the masses of people in this country have a real, direct, and material stake in the struggle to free political prisoners, the struggle to abolish the prison system in its present form, the struggle against all dimensions of racism.

No one should fail to take heed of Georgi Dimitrov's warning: "Whoever does not fight the growth of fascism at these preparatory stages is not in a position to prevent the victory of fascism, but, on the contrary, facilitates that victory" (Report to the VIIth Congress of the Communist International, 1935). The only effective guarantee against the victory of fascism is an indivisible mass movement which refuses to conduct business as usual as long as repression rages on. It is only natural that blacks and other Third World peoples must lead this movement, for we are the first and most deeply injured victims

Glossary

Bartolomeo Vanzetti	a reference to a notorious episode in which two Italian immigrants, Vanzetti and Ferdinando Nicola Sacco, were accused of murdering two men during an armed robbery in Massachusetts and executed in 1927
Birmingham	a city in Alabama
Chicanos	the term commonly used at the time for Hispanics
Fanon	Franz Fanon, a philosopher and revolutionary from Martinique whose work on colonial history was highly influential among Leftists
Folsom	Folsom State Prison in California
fugitive slave laws	laws passed in 1793 and 1850 dealing with the recapture of escaped slaves
Georgi Dimitrov	a Bulgarian Communist leader persecuted by the Nazis during World War II
Harlem	a largely black neighborhood in the New York City borough of Manhattan
Harrisburg Eight	later the Harrisburg Seven, a group of religiously motivated activists alleged to have plotted kidnappings and bombings to protest the Vietnam War
IWW	Industrial Workers of the World (the "Wobblies"), a radical labor organization that espoused ideals that many regarded as Communist
John Brown	the abolitionist leader of an abortive raid on the federal arsenal at Harpers Ferry, Virginia, in 1859
Ku Klux Klan	a white supremacist group that emerged after the Civil War
lumpenproletariat	literally "rag proletariat," the German word Marx used for working-class people who would never become aware of their own predicament
Marcus Garvey	a black nationalist and founder of the Universal Negro Improvement Association

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of fascism. But it must embrace all potential victims and most important, all working-class people, for the key to the triumph of fascism is its ideological victory over the entire working class. Given the eruption of a severe economic crisis, the door to such an ideological victory can be opened by the active approval or passive toleration of racism. It is essential that white workers become conscious that historically through their acquiescence in the capitalist-inspired oppression of blacks they have only rendered themselves more vulnerable to attack.

The pivotal struggle which must be waged in the ranks of the working class is consequently the open, unreserved battle against entrenched racism. The white worker must become conscious of the threads which bind him to a James Johnson, a black auto worker, member of UAW, and a political prisoner presently facing charges for the killings of two foremen and a job setter. The merciless proliferation of the power of monopoly capital may ultimately push him inexorably down the very same path of desperation. No potential victim [of the fascist terror] should be without the knowledge that the greatest menace to racism and fascism is unity!

MARIN COUNTY JAIL
May, 1971

Glossary

Marcuse	Herbert Marcuse, a German social and political theorist
Marxists	followers of Karl Marx, the nineteenth-century German historian and political theorist whose theories formed the basis of Communism
Nat Turner	the leader of a Virginia slave revolt in 1831
New York Panther 21 trial	a widely publicized 1971 trial in which twenty-one Black Panthers were acquitted on conspiracy charges
Panthers	the Black Panther Party, a militant black civil rights group
Paris Commune	a working-class government that briefly assumed power in France in 1871
Robert Williams	a North Carolina civil rights activist accused of kidnapping after offering refuge to a white couple passing through town during a racial disturbance
Soledad Brothers	three African American inmates in California's Soledad Prison charged with murdering a prison guard
UAW	the United Auto Workers labor union
underground railroad	the system of routes, guides, and safe houses that enabled escaped slaves to flee to the North in the years before the Civil War
W. E. B. Du Bois	a prominent black intellectual and author; the quote is from his 1952 book, *In Battle for Peace*.
war in Indochina	the Vietnam War
Watts	a largely black neighborhood of Los Angeles

Muhammad Ali arrives at the U.S. Veterans Administration to appeal his I-A draft classification. (AP/Wide World Photos)

Clay v. United States

1971

"The record shows that the petitioner's beliefs are founded on tenets of the Muslim religion as he understands them."

Overview

The U.S. Supreme Court's June 1971 decision in *Cassius Marsellus Clay, Jr. also known as Muhammad Ali v. United States*, commonly known as *Clay v. United States*, unanimously overturned professional boxing champion Muhammad Ali's 1967 conviction for refusing induction into the armed services. Specifically, the Court concluded that the Kentucky Selective Service Appeal Board had received erroneous advice from the Department of Justice in rejecting Ali's application for conscientious objector status. Having converted to Islam in 1964, Ali born Cassius Clay, Jr. claimed that serving as a member of the U.S. Army in Vietnam violated his religious principles. In a now-famous quote on his reasons for refusing military service, Ali stated: "I ain't got no quarrel with them Vietcong."

Americans were baffled by Ali: Always flamboyant, undeniably brash, and some might say downright smug, he referred to himself as both "the prettiest" and "the Greatest," belittled his boxing opponents with disparaging rhymes, and was alternately viewed as a scoundrel and a hero by a nation embroiled in social and political turmoil. Ali's rejection of the draft sparked considerable controversy, prompting some observers to label him a draft dodger. However, his case gradually took on more significance culturally than it did legally, as it foreshadowed a growing anti-war movement in the United States. As the heavyweight champion of the world, Ali risked all claims to his title and his future in professional sports by not complying with the military's induction orders. During the ordeal, he was banned from fighting and lost an estimated $4 million in potential earnings. He also gambled with his popularity: The Vietnam War era was a tension-filled time in the United States, and the Nation of Islam was viewed by many as a divisive force that was motivated more by political than religious principles.

Following a three-and-a-half-year suspension from boxing, Ali's conviction of "willful refusal to submit to induction" was reversed by the 1971 Supreme Court decision in *Clay v. United States*. Even before that final decision was made, however, various boxing commissions were mulling over the possibility of allowing Ali to fight again. Because the state of Georgia had no boxing commission, Ali was able to resume his boxing career in the fall of 1970 in a match held in Atlanta. He beat his opponent, Jerry Quarry, in just three rounds, setting the stage for a dramatic comeback.

The invalidation of Ali's conviction cleared away any remaining obstacles to his relicensing by state boxing commissions and to his reclaiming the titles that had been stripped from him nearly four years earlier. But because the Court failed to address the controversial merits of Ali's claim to "selective" conscientious objector status, the decision holds little value as legal precedent.

Context

The Supreme Court decided Ali's conscientious objector case against the backdrop of a country increasingly divided over the civil war in Vietnam and the use of the draft to select the American soldiers needed to continue the conflict. By 1970, the year before the Court's decision in *Clay v. United States*, the debate had become almost ubiquitous within American public institutions except the Supreme Court. Indeed, the Court repeatedly resisted attempts by legislators, draftees, and even states to have it pronounce on the underlying legality of the war in Vietnam, resting on strained notions of judicial restraint to avoid taking sides. However, there was one class of Vietnam-related cases the Court did try routinely: those based on claims to exemptions and deferments from conscription, particularly claims of conscientious objector status. Under section 6(j) of the Military Selective Service Act, individuals could not be subjected to "combatant training and service in the armed forces" if, "by reason of religious training and belief," they were "conscientiously opposed to participation in war in any form."

One of the questions that invariably arose in such cases was whether conscientious objection to a *particular* war, rather than objection to war *as such*, qualified the objector for such an exemption. Thus the question became, Does the statute support the idea of "selective" conscientious objection? Three months before it decided Ali's case, the Supreme Court answered that question in the negative in *Gillette v. United States*, with Justice Thurgood Marshall best known for arguing the landmark school desegregation case of *Brown v. Board of Education of Topeka* writing for

Time Line

1942

- **January 17**
  Muhammad Ali is born Cassius Marcellus Clay, Jr., in Louisville, Kentucky.

1960

- **September 5**
  At the 1960 Olympics in Rome, Italy, Clay wins the light-heavyweight gold medal for the U.S. team.

1964

- **February 25**
  Only twenty-two years old at the time, Clay beats reigning champ Sonny Liston to become the world heavyweight champion.
- **March 6**
  Clay adopts the Muslim name Muhammad Ali, which means "Praiseworthy One."

1967

- **January 10**
  The Kentucky Appeal Board formally denies Ali's request for conscientious objector status and ministerial exemption.
- **April 28**
  Ali reports for but declines to submit to induction into the service, basing his refusal on the grounds of his religious beliefs as a Muslim minister.
- **June 19–20**
  Ali is tried and convicted by a jury for refusing to submit to induction; he is sentenced to five years' imprisonment and a fine of $10,000.

1968

- **May 6**
  The U.S. Court of Appeals for the Fifth Circuit affirms Ali's conviction.

1971

- **March 8**
  In a match touted as the Fight of the Century against Joe Frazier, Ali is knocked out in the fifteenth round.
- **June 28**
  In an eight-to-zero decision, the U.S. Supreme Court reverses the ruling of the Fifth Circuit, thereby invalidating Ali's conviction.

an eight-to-one majority. As Marshall explained, "However the statutory clause be parsed, it remains that conscientious objection must run to war in any form." For Ali, one of the more visible members of the Nation of Islam, the war in Vietnam was an unjust one fought by nonbelievers. Indeed, contemporary news stories and even some judicial opinions often repeat an inflammatory quote that may well have been misattributed to Ali that "no Vietnamese ever called me a nigger." Ali's case therefore raised a question the Court had yet to answer: whether a religiously grounded but nonpacifistic belief was a legally protected basis for objecting to military service.

A separate but equally important element in Ali's case was the issue of race. Well into the mid-1960s, African Americans were heavily underrepresented on local draft boards, leading to claims that the boards routinely acted in a manner that was racially discriminatory. In 1967 only 0.2 percent of 641 local board members in Kentucky were black, even though African Americans constituted 7.1 percent of the state's total population. In Texas, only 1.1 percent of the local board members were black, as compared with 12.4 percent of the total population. Many of these concerns were bolstered by the 1967 report of the National Advisory Commission on Selective Service, which recommended a number of reforms that were not adopted at least not initially. Instead, inductees turned to the courts and to arguments that such underrepresentation on the local draft boards violated constitutional principles of equal protection.

Ali's case therefore became a lightning rod for some of the most heated religious, racial, social, and political conflicts of the day. In such an atmosphere, it is perhaps unsurprising that the Supreme Court ultimately rested its decision on what may fairly be described as a legal technicality, avoiding the harder and more divisive questions that the case raised.

To fully understand Ali's case, it is worth reviewing the U.S. method of filling its military ranks in the 1960s. Between 1948 and 1973, the United States utilized a conscription system rather than an all-volunteer military. Whether America was engaged in a war or not, young men were required to register for the Selective Service, the agency charged with implementing a military draft. Vacancies in the armed forces were filled from this pool of eligible men when the number of volunteer soldiers in the U.S. military fell short. In 1960, when Ali (then still going by his birth name, Cassius Clay) registered for the Selective Service, men between the ages of eighteen and a half and twenty-five were eligible for the draft.

Early in 1966, after Local Board 47 in Louisville, Kentucky, had classified Clay I-A, meaning that he was fully qualified for induction into the military, he filed a Special Form for Conscientious Objector, seeking a religious exemption from combatant training and service in the armed forces. He based his claim for exclusion from military service on his adherence to the tenets of the Nation of Islam. Ali's application for conscientious objector status, or, alternatively, classification as a Muslim minister, was rejected both by Local Board 47 and by the Kentucky Appeal

Board, which then referred the matter to the U.S. Department of Justice. Following an extensive investigation by the Federal Bureau of Investigation, a Justice Department hearing officer concluded on August 23, 1966, that Ali was sincere in his beliefs and recommended that Ali's request for conscientious objector status be granted. Despite that conclusion, in a letter dated three months later, the Justice Department's Office of Legal Counsel formally recommended to the Kentucky Appeal Board that Ali's request be denied. Specifically, the letter asserted that Ali failed to meet the three basic tests that the Supreme Court had established for conscientious objector status: that he objected to all forms of war, that his objection was grounded in religious training and belief rather than in politics, and that his objection was sincere. Pivotal to the future of the case was the fact that the Justice Department failed to specify which of the three tests Ali had failed to meet.

Following the Justice Department's recommendation, the Kentucky Appeal Board formally denied Ali's request for conscientious objector status. Although Ali proceeded to file a series of lawsuits seeking to block his induction, all of them were dismissed. Ali reported for induction into the U.S. military on April 28, 1967, in Houston, Texas (since he resided in Texas at the time), as ordered, but he declined to step forward when his name was called. Ten days later, he was indicted by a federal grand jury in Houston for knowingly and willfully refusing induction into the armed services a criminal offense punishable by up to five years in prison and a $10,000 fine. After a two-day trial in June 1967, he was convicted by a jury and given that maximum sentence. The jury, composed of six white men and six white women, reportedly deliberated for just twenty-one minutes.

Ali appealed his conviction to the U.S. Court of Appeals for the Fifth Circuit on several different points. In addition to claiming that his request for both conscientious objector status and ministerial exemption had been wrongly denied, he argued that the composition of the Selective Service draft boards was racially disproportionate (with blacks heavily underrepresented), and so the boards were themselves unconstitutional. But in a unanimous ruling handed down on May 8, 1968, a three-judge panel of the Fifth Circuit rejected each of Ali's claims. The Court of Appeals sidestepped Ali's challenge to the racial composition of the local Selective Service boards, noting first that, even if the claim were factually accurate, that would not automatically void the decisions in the case and also emphasizing the *de novo*, or in-depth, review by the racially diverse National Appeal Board, which, in the court's view, necessarily removed any hint of racial prejudice from Ali's case. As to Ali's claims that he was entitled either to a ministerial exemption or to conscientious objector status, the Fifth Circuit further noted that the denial of those claims had some "basis in fact"; the court concluded that the National Appeal Board had properly resolved Ali's case and that his conviction was therefore valid.

Ali's last hope for a reversal of his conviction was a hearing by the U.S. Supreme Court. His case, *Clay v. United States*, was argued before the Court with Justice Thurgood Marshall not participating on April 19, 1971, and the Court handed down its unanimous decision ten weeks later.

Time Line

1974

- **October 30**
  Ali regains his heavyweight title from George Foreman in the fight known as the Rumble in the Jungle.

1975

- **October 1**
  Ali wins his much-anticipated rematch against Joe Frazier in Manila.

1984

- Ali is diagnosed with Parkinson's disease, a degenerative neurological disorder that causes muscle tremors, slowed movement, and impaired speech.

2005

- **November 9**
  President George W. Bush awards Ali the Presidential Medal of Freedom.
- **November 19**
  The Muhammad Ali Center celebrates the grand opening of its ninety-three-thousand-square-foot headquarters in Louisville, Kentucky.

About the Author

The Supreme Court's opinion in Ali's case was per curiam, or "for the Court," meaning that the identity of its actual author was not made public. All of the members of the Court other than Justice Thurgood Marshall (who excluded himself for unstated reasons) participated in the decision in Ali's case, including Chief Justice Warren Burger and associate justices Hugo Black, William O. Douglas, John Marshall Harlan II, William J. Brennan, Jr., Potter Stewart, Byron White, and Harry A. Blackmun the latter being the most recent addition to the Court in June 1970. Ali's was among the last of the cases heard by Justices Black and Harlan prior to their retirement from the Supreme Court later in 1971.

Indeed, the Supreme Court that decided Ali's case was a Court in transition. President Richard Nixon had appointed Warren Burger to replace Earl Warren as chief justice in 1969, thereby signaling the end to one of the most progressive if not radical eras in the Court's history. During Warren's sixteen years in the Court's center seat, the justices moved self-consciously and decidedly to the left, rigorously endorsing sweeping federal regulatory

power in the civil rights sphere while adopting similarly robust views of the limits that the federal Constitution placed on state and local governments, especially where racial discrimination or the rights of criminal defendants were at issue. This was the Court that had decided *Brown v. Board of Education* (1954), holding that race-based segregation in public schools violated the equal protection clause; *Mapp v. Ohio* (1961), holding that evidence obtained in violation of the Fourth Amendment must generally be excluded from admission at trial; *Gideon v. Wainwright* (1963), holding that the Sixth Amendment right to counsel requires that states provide attorneys to indigent defendants; *Griswold v. Connecticut* (1965), holding that the U.S. Constitution protects a right to privacy; *Miranda v. Arizona* (1966), requiring that defendants be notified of their right to speak to a lawyer and holding that statements obtained in the absence of such notification were inadmissible in court; and a host of other lesser-known but no-less-important precedents. Together with Justices Black, Douglas, and Brennan, Warren formed a liberal bloc that controlled much of the Court's agenda throughout the 1960s especially from 1962 through Warren's departure, thanks to the additions of Arthur Goldberg, as succeeded by Abe Fortas in 1965, and Thurgood Marshall. Even the more "conservative" justices on the Warren Court Harlan, Stewart, and White were, by modern-day standards, moderates who routinely joined their more liberal brethren.

Nixon's victory in the 1968 presidential election after a campaign that was highly critical of the Court and vowed to restore "law and order" spelled the beginning of the end for this coalition. Within three years of taking office, Nixon was able to make four appointments to the Court replacing Warren with Burger, Fortas with Harry Blackmun, Black with Lewis F. Powell, Jr., and Harlan with William H. Rehnquist. Each of these appointments moved the Court further to the right. In that sense, the decision in *Clay* proved to be a relic of a soon-to-be forgotten era, in which unanimous decisions invalidating criminal convictions such as Ali's were commonplace.

Explanation and Analysis of the Document

The Supreme Court's decision in *Clay v. United States* is surprisingly brief. In Part I of the majority opinion, which runs a little over one page, the Court provides a condensed overview of the facts of the case. Then, in two short paragraphs, Part II rehashes the "basis in fact" standard, which the government urged was sufficient to affirm the decision. The "basis in fact" standard was articulated by the Court in *Estep v. United States* (1946). Under this standard,

> courts are not to weigh the evidence to determine whether the classification made by the local boards was justified. The decisions of the local boards made in conformity with the regulations are final even though they may be erroneous. The question of jurisdiction of the local board is reached only if there is no basis in fact for the classification which it gave the registrant.

Congress codified this rule through the Military Selective Service Act of 1967. The government's central argument before the Supreme Court in *Clay* was that the Fifth Circuit properly applied this standard in affirming Ali's conviction and that it should therefore be affirmed. The Court, however, concludes Part II with a key statement regarding the question of whether Ali opposed all wars or just certain wars: "Even if the Government's position on this question is correct, the conviction before us must still be set aside for another quite independent reason."

Part III of the opinion its analytical core identifies that "independent reason" as the incorrect advice that the Justice Department had provided to the Kentucky Appeal Board. Apparently, the Justice Department had questioned Ali's convictions on the basis "of the circumstances and timing" of his claim, noting that he did not file for conscientious objector status until the possibility of his being drafted became a certainty. The Supreme Court states that its review revealed no reason to question the sincerity of Ali's beliefs and asserts that these beliefs were indeed "founded on tenets of the Muslim religion as he understands them."

As such, the government conceded that two of the three grounds offered by the Justice Department for rejecting Ali's claim were no longer valid. Only one basic test for establishing conscientious objector status remained, and that was whether Ali objected to war in a universal or selective sense. Because the Appeal Board failed to specify which of the three grounds it used as the basis for its denial of a conscientious objector exemption for Ali, the conviction could not be allowed to stand. The precedent for this opinion was the 1955 case of *Sicurella v. United States*. Thus, without tackling the merits of whether Ali should or should not have received conscientious objector status, the Court was able to invalidate his conviction in light of the errors that pervaded the Justice Department's advice to the Kentucky Appeal Board. Although the Court's decision is significant in establishing that Ali's beliefs were in fact "religious," rather than "political and racial," it does not address the underlying question of whether Ali condoned war under certain circumstances.

Perhaps the most intriguing part of the decision is the concurring opinion authored by Justice William O. Douglas, who offers his own view on the merits of the sole remaining ground upon which Ali's application for conscientious objector status could legally be denied: that Ali did not oppose participating in war "in any form" but rather specifically opposed the conflict in Vietnam. Douglas had been the lone voice of dissent just two months earlier, when the Supreme Court made its ruling in *Gillette v. United States*, another conscientious objector suit. In that case, the Court ruled against objections to "specific" wars as grounds for conscientious objection. The *Gillette* case turned on the distinction between "just" and "unjust" wars, with the majority opinion holding that conscientious objector status be granted only to those who oppose war "in any

form." Douglas disagreed with the decision in *Gillette*, and his difference of opinion carried over to *Clay v. United States*: Whereas one of two defendants in *Gillette* was Catholic and the other a self-described "humanist," Ali's visible adherence to Islam, and his membership in the Nation of Islam in particular, led Douglas to draw analogies between the religious practices.

Specifically, Douglas devotes virtually all of his concurrence in *Ali* to a careful examination of both Ali's statements and the teachings of the Koran. In his words:

> The jihad is the Moslem's counterpart of the 'just' war as it has been known in the West. Neither Clay nor Negre [one of the defendants in *Gillette*, Louis Negre] should be subject to punishment because he will not renounce the 'truth' of the teaching of his respective church that wars indeed may exist which are just wars in which a Moslem or Catholic has a respective duty to participate.

In essence, Douglas supported the ultimate outcome in Ali's case but disagreed with the reasoning used by the Court to arrive at that decision. He expresses clear support for religiously grounded opposition to participation in wars that are inconsistent with that particular religion, even if the religion itself is not pacifistic. If the First Amendment protects the right to worship by any religion, Douglas reasons, it necessarily protects the right to be a selective, rather than categorical, conscientious objector and to support only those wars that are consistent with one's faith.

The opinion in *Clay v. United States* concludes with a separate concurrence by Justice John Marshall Harlan II, noting his narrow agreement with the proposition that reversal was "required under *Sicurella*." It was unclear, he writes, whether and to what extent the Kentucky Appeal Board had relied upon the Justice Department's advice, but he asserts that it was clearly wrong for the Justice Department to question the sincerity of Ali's beliefs.

Audience

Although the *Clay v. United States* litigation was watched closely by Ali supporters, antiwar protesters, and other interest groups, it is unlikely that the opinion handed down by the Court had much of an intended audience outside legal circles. The decision hinged on a technicality that cleared Ali's record but left intact the government's view of selective conscientious objector claims stated two months earlier in *Gillette*. Similarly, it is hard to imagine that Justice Harlan's one-paragraph concurrence one of the last opinions of his distinguished judicial career was itself intended to be widely read.

Justice Douglas's concurrence, however, devotes a significant amount of attention to the distinction between "just" and "unjust" wars under Islamic doctrine. Given the racial and religious fervor that had, at times, marked the dispute over Ali's conduct, Douglas's opinion may well have represented an attempt on the part of the Court's most liberal member to educate the public to identify important similarities between Catholicism (one of the religions at issue in *Gillette*) and Islam, at least insofar as selective conscientious objection was concerned.

Chief Justice Warren Burger (Library of Congress)

Impact

Relying, as it did, on a technicality established by an earlier precedent, the Court's decision itself has had little precedential value. Even Justice Douglas's more useful concurrence, which offered thought-provoking ideas on the true implications of religious freedom in the context of selective conscientious objection to military service, has largely been lost to time, cited only rarely and often for unrelated or at least tangential points. If anything, the Court's decision in *Clay* may best be understood as a reflection of its Vietnam-era legacy avoiding decisive rulings on the most divisive controversial questions and finding ways to reach what it believed to be appropriate results through other means.

Douglas's specific argument about the First Amendment and religiously grounded selective conscientious objection was never put to the test. By the time of the Court's decision, the U.S. government had already begun moving toward an all-volunteer army, and so the hard questions that the Court

Essential Quotes

"In this Court the Government has now fully conceded that the petitioner's beliefs are *based upon 'religious training and belief,' as defined in* United States v. Seeger.... *This concession is clearly correct. For the record shows that the petitioner's beliefs are founded on tenets of the Muslim religion as he understands them."*

(Per Curiam, III)

"The Government in this Court has also made clear that it no longer questions the sincerity of the petitioner's beliefs."

(Per Curiam: III)

"The Department of Justice was wrong in advising the Board in terms of a purported rule of law that it should disregard this finding simply because of the circumstances and timing of the petitioner's claim."

(Per Curiam: III)

"The jihad is the Moslem's counterpart of the 'just' war as it has been known in the West. Neither Clay nor Negre should be subject to punishment because he will not renounce the 'truth' of the teaching of his respective church that wars indeed may exist which are just wars in which a Moslem or Catholic has a respective duty to participate."

(Mr. Justice Douglas's Concurrence)

"What Clay's testimony adds up to is that he believes only in war as sanctioned by the Koran, that is to say, a religious war against nonbelievers. All other wars are unjust. That is a matter of belief, of conscience, of religious principle."

(Mr. Justice Douglas's Concurrence)

had not yet answered about the extent to which the Constitution protected religiously based selective conscientious objection remain unanswered today. And although Ali went on to complete a remarkable career that culminated with his selection by *Sports Illustrated* as the "sportsman of the century," his controversial position on the war in Vietnam, and the litigation arising out of his refusal to be inducted, have remained an inescapable part of his enigmatic legacy.

In the decades since the Supreme Court decision in the case of *Clay v. United States*, numerous critics have analyzed Ali's impact on American culture. In a *Sports Illustrated* "Flashback," William Nack stated that "he not only came to personify the turbulent '60s but also became one of the decade's most hated figures." Thirty years later, though, Ali managed to "navigat[e] the sweet land of liberty and religious freedom" and, according to Nack, was "as

loved and embraced as he once was scorned and despised." Clearly, the fighter's antidraft stance sparked a heated debate about the depth of his patriotism, but as John C. Walter pointed out, his performance at the 1960 Olympics in Rome, Italy, revealed not only his athletic prowess but also a deeply rooted devotion to his country: A Soviet reporter had brought up the issue of segregation in the United States, and the then-eighteen-year-old gold medalist responded, "The U.S.A. is still the best country in the world, including yours."

Between 1967 and 1971 the years separating Ali's conviction and his ultimate victory in the Supreme Court U.S. support for the Vietnam War eroded. At the same time, Ali's popularity grew. No longer dismissed as a draft evader, he came to symbolize the antiwar, pro civil rights movement in America. He had weathered a public firestorm with unwavering courage, given up his heavyweight title and more than three years of boxing in the prime of his career, and maintained his beliefs in the process.

Ali was able to resume his boxing career at the end of 1970, when the state of Georgia, which did not have a boxing commission, allowed him to fight. His match in Atlanta against Jerry Quarry was over in the third round: "The Greatest" had returned to the ring. On March 8, 1971, three months before the Court's final decision in *Clay v. United States*, Ali took on Joe Frazier in the Fight of the Century. Like Ali, Frazier who had been named boxing's heavyweight champion after Ali was stripped of the title had never lost a fight. Frazier retained his title, beating Ali by a unanimous decision after fifteen grueling rounds. Ali put up such a fight that his loss in the final round was characterized as courageous, and even heroic, by the media.

In 1973 George Foreman became the world's reigning heavyweight champion by defeating Frazier. Ali was able to regain the heavyweight title that same year, knocking out Foreman in the eighth round of their legendary fight in Zaire known as the Rumble in the Jungle. Nearly a year after defeating Foreman, Ali and Frazier met again in a stunning rematch in the Philippines. The so-called Thrilla in Manila was among the most brutal boxing matches ever fought. Ali withstood more than four hundred punishing blows from Frazier before being declared the winner in the fourteenth round.

Ali's passion in the ring solidified his claim to the title of "the Greatest." He retired from boxing in 1981. Three years later he went public with his Parkinson's disease diagnosis a direct result, doctors say, of repeated trauma to the head. The ravaging effects of the disease have taken their toll on Ali, but he has established himself as a tireless philanthropist, raising funds for a variety of charities, most notably the Muhammad Ali Parkinson Center at Barrow Neurological Institute. In an interesting footnote to a complex life story, Ali went to Vietnam in 1994 in a show of support for families of American soldiers still missing in action.

See also *Brown v. Board of Education* (1954); Martin Luther King, Jr.: "Beyond Vietnam: A Time to Break Silence" (1967).

Further Reading

Articles

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Questions for Further Study

1. One of the requirements for conscientious objector status is sincerity of belief. How can a draft board or a court measure the sincerity of a person's beliefs? What evidence might it rely on?

2. Do you think that the outcome of this case would have been different if Clay had been an ordinary citizen rather than a highly admired athlete? Why or why not?

3. What is your position on the issue of whether the Nation of Islam opposed the war in Vietnam on religious rather than political and racial grounds? For help, see Stokely Carmichael's "Black Power" and Malcolm X's "After the Bombing."

4. By 1971, it was becoming apparent that the U.S. effort in Vietnam was failing. Further, there was considerable discussion of moving to an all-volunteer army, which became a reality in 1973. To what extent do you think these developments might have influenced the Court's decision?

5. In your opinion, were the religious grounds that Clay/Ali cited for opposing war legitimate? Did they provide ample grounds for the Court's reversal of Clay's conviction?

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Walter, John C. "Muhammad Ali: The Quintessential American." American Studies Centre at Liverpool John Moores University (ARNet) Web site.
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Stephen I. Vladeck

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CLAY V. UNITED STATES

Petitioner appealed his local draft board's rejection of his application for conscientious objector classification. The Justice Department, in response to the State Appeal Board's referral for an advisory recommendation, concluded, contrary to a hearing officer's recommendation, that petitioner's claim should be denied, and wrote that board that petitioner did not meet any of the three basic tests for conscientious objector status. The Appeal Board then denied petitioner's claim, but without stating its reasons. Petitioner refused to report for induction, for which he was thereafter tried and convicted. The Court of Appeals affirmed. In this Court the Government has rightly conceded the invalidity of two of the grounds for denial of petitioner's claim given in its letter to the Appeal Board, but argues that there was factual support for the third ground. *Held:* Since the Appeal Board gave no reason for the denial of a conscientious objector exemption to petitioner, and it is impossible to determine on which of the three grounds offered in the Justice Department's letter that board relied, petitioner's conviction must be reversed. *Sicurella* v. *United States*, 348 U. S. 385.

430 F. 2d 165, reversed.

Chauncey Eskridge argued the cause for petitioner. With him on the briefs were *Jack Greenberg, James M. Nabrit III, Jonathan Shapiro*, and *Elizabeth B. DuBois*.

Solicitor General Griswold argued the cause for the United States. With him on the brief were *Assistant Attorney General Wilson* and *Beatrice Rosenberg*.

Per Curiam

The petitioner was convicted for willful refusal to submit to induction into the Armed Forces. 62 Stat. 622, as amended, 50 U. S. C. App. ß462 (a) (1964 ed., Supp. V). The judgment of conviction was affirmed by the Court of Appeals for the Fifth Circuit. We granted certiorari, 400 U. S. 990, to consider whether the induction notice was invalid because grounded upon an erroneous denial of the petitioner's claim to be classified as a conscientious objector.

◆ I

The petitioner's application for classification as a conscientious objector was turned down by his local draft board, and he took an administrative appeal. The State Appeal Board tentatively classified him I-A (eligible for unrestricted military service) and referred his file to the Department of Justice for an advisory recommendation, in accordance with then-applicable procedures. 50 U. S. C. App. ß456 (j) (1964 ed., Supp. V). The FBI then conducted an "inquiry" as required by the statute, interviewing some 35 persons, including members of the petitioner's family and many of his friends, neighbors, and business and religious associates.

There followed a hearing on "the character and good faith of the [petitioner's] objections" before a hearing officer appointed by the Department. The hearing officer, a retired judge of many years' experience, heard testimony from the petitioner's mother and father, from one of his attorneys, from a minister of his religion, and from the petitioner himself. He also had the benefit of a full report from the FBI. On the basis of this record the hearing officer concluded that the registrant was sincere in his objection on religious grounds to participation in war in any form, and he recommended that the conscientious objector claim be sustained.

Notwithstanding this recommendation, the Department of Justice wrote a letter to the Appeal Board, advising it that the petitioner's conscientious objector claim should be denied. Upon receipt of this letter of advice, the Board denied the petitioner's claim without a statement of reasons. After various further proceedings which it is not necessary to recount here, the petitioner was ordered to report for induction. He refused to take the traditional step forward, and this prosecution and conviction followed.

◆ II

In order to qualify for classification as a conscientious objector, a registrant must satisfy three basic tests. He must show that he is conscientiously opposed to war in any form. *Gillette* v. *United States*, 401 U. S. 437. He must show that this opposition is based upon religious training and belief, as the term has been construed in our decisions. *United States* v.

Seeger, 380 U. S. 163; *Welsh* v. *United States*, 398 U. S. 333. And he must show that this objection is sincere. *Witmer* v. *United States*, 348 U. S. 375. In applying these tests, the Selective Service System must be concerned with the registrant as an individual, not with its own interpretation of the dogma of the religious sect, if any, to which he may belong. *United States* v. *Seeger, supra; Gillette* v. *United States, supra; Williams* v. *United States*, 216 F. 2d 350, 352.

In asking us to affirm the judgment of conviction, the Government argues that there was a "basis in fact," cf. *Estep* v. *United States*, 327 U. S. 114, for holding that the petitioner is not opposed to "war in any form," but is only selectively opposed to certain wars. See *Gillette* v. *United States, supra*. Counsel for the petitioner, needless to say, takes the opposite position. The issue is one that need not be resolved in this case. For we have concluded that even if the Government's position on this question is correct, the conviction before us must still be set aside for another quite independent reason.

◆ III

The petitioner's criminal conviction stemmed from the Selective Service System's denial of his appeal seeking conscientious objector status. That denial, for which no reasons were ever given, was, as we have said, based on a recommendation of the Department of Justice, over-ruling its hearing officer and advising the Appeal Board that it "finds that the registrant's conscientious-objector claim is not sustained and recommends to your Board that he be not [so] classified." This finding was contained in a long letter of explanation, from which it is evident that Selective Service officials were led to believe that the Department had found that the petitioner had failed to satisfy each of the three basic tests for qualification as a conscientious objector.

As to the requirement that a registrant must be opposed to war in any form, the Department letter said that the petitioner's expressed beliefs "do not appear to preclude military service in any form, but rather are limited to military service in the Armed Forces of the United States.... These constitute only objections to certain types of war in certain circumstances, rather than a general scruple against participation in war in any form. However, only a general scruple against participation in war in any form can support an exemption as a conscientious objector under the Act. *United States* v. *Kauten*, 133 F. 2d 703."

As to the requirement that a registrant's opposition must be based upon religious training and belief, the Department letter said: "It seems clear that the teachings of the Nation of Islam preclude fighting for the United States not because of objections to participation in war in any form but rather because of political and racial objections to policies of the United States as interpreted by Elijah Muhammad.... It is therefore our conclusion that registrant's claimed objections to participation in war insofar as they are based upon the teachings of the Nation of Islam, rest on grounds which primarily are political and racial."

As to the requirement that a registrant's opposition to war must be sincere, that part of the letter began by stating that "the registrant has not consistently manifested his conscientious-objector claim. Such a course of overt manifestations is requisite to establishing a subjective state of mind and belief." There followed several paragraphs reciting the timing and circumstances of the petitioner's conscientious objector claim, and a concluding paragraph seeming to state a rule of law that "a registrant has not shown overt manifestations sufficient to establish his subjective belief where, as here, his conscientious-objector claim was not asserted until military service became imminent. *Campbell* v. *United States*, 221 F. 2d 454. *United States* v. *Corliss*, 280 F. 2d 808, *cert. denied*, 364 U. S. 884."

In this Court the Government has now fully conceded that the petitioner's beliefs *are* based upon "religious training and belief," as defined in *United States* v. *Seeger, supra:* "There is no dispute that petitioner's professed beliefs were founded on basic tenets of the Muslim religion, as he understood them, and derived in substantial part from his devotion to Allah as the Supreme Being. Thus, under this Court's decision in *United States* v. *Seeger*, 380 U. S. 163, his claim unquestionably was within the 'religious training and belief' clause of the exemption provision." This concession is clearly correct. For the record shows that the petitioner's beliefs are founded on tenets of the Muslim religion as he understands them. They are surely no less religiously based than those of the three registrants before this Court in *Seeger*. See also *Welsh* v. *United States*, 398 U. S. 333.

The Government in this Court has also made clear that it no longer questions the sincerity of the petitioner's beliefs. This concession is also correct. The Department hearing officer the only person at the administrative appeal level who carefully examined the petitioner and other witnesses in person and who had the benefit of the full FBI file found "that the registrant is sincere in his objection." The

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Department of Justice was wrong in advising the Board in terms of a purported rule of law that it should disregard this finding simply because of the circumstances and timing of the petitioner's claim. See *Ehlert* v. *United States*, 402 U. S. 99, 103 104; *United States ex rel. Lehman* v. *Laird*, 430 F. 2d 96, 99; *United States* v. *Abbott*, 425 F. 2d 910, 915; *United States ex rel. Tobias* v. *Laird*, 413 F. 2d 936, 939-940; *Cohen* v. *Laird*, 315 F. Supp. 1265, 1277 1278.

Since the Appeal Board gave no reasons for its denial of the petitioner's claim, there is absolutely no way of knowing upon which of the three grounds offered in the Department's letter it relied. Yet the Government now acknowledges that two of those grounds were not valid. And, the Government's concession aside, it is indisputably clear, for the reasons stated, that the Department was simply wrong as a matter of law in advising that the petitioner's beliefs were not religiously based and were not sincerely held.

This case, therefore, falls squarely within the four corners of this Court's decision in *Sicurella* v. *United States*, 348 U. S. 385. There as here the Court was asked to hold that an error in an advice letter prepared by the Department of Justice did not require reversal of a criminal conviction because there was a ground on which the Appeal Board might properly have denied a conscientious objector classification. This Court refused to consider the proffered alternative ground:

"[W]e feel that this error of law by the Department, to which the Appeal Board might naturally look for guidance on such questions, must vitiate the entire proceedings at least where it is not clear that the Board relied on some legitimate ground. Here, where it is impossible to determine on exactly which grounds the Appeal Board decided, the integrity of the Selective Service System demands, at least, that the Government not recommend illegal grounds. There is an impressive body of lower court cases taking this position and we believe that they state the correct rule." *Id.*, at 392.

The doctrine thus articulated 16 years ago in *Sicurella* was hardly new. It was long ago established as essential to the administration of criminal justice. *Stromberg* v. *California*, 283 U. S. 359. In *Stromberg* the Court reversed a conviction for violation of a California statute containing three separate clauses, finding one of the three clauses constitutionally invalid. As Chief Justice Hughes put the matter, "[I]t is impossible to say under which clause of the statute the conviction was obtained." Thus, "if any of the clauses in question is invalid under the Federal Constitution, the conviction cannot be upheld." *Id.*, at 368.

The application of this doctrine in the area of Selective Service law goes back at least to 1945, and Judge Learned Hand's opinion for the Second Circuit in *United States* v. *Cain*, 149 F. 2d 338. It is a doctrine that has been consistently and repeatedly followed by the federal courts in dealing with the criminal sanctions of the selective service laws. See, *e. g., United States* v. *Lemmens*, 430 F. 2d 619, 623 624 (CA7 1970); *United States* v. *Broyles*, 423 F. 2d 1299, 1303 1304 (CA4 1970); *United States* v. *Houghton*, 413 F. 2d 736 (CA9 1969); *United States* v. *Jakobson*, 325 F. 2d 409, 416 417 (CA2 1963), aff'd *sub nom. United States* v. *Seeger*, 380 U. S. 163; *Kretchet* v. *United States*, 284 F. 2d 561, 565 566 (CA9 1960); *Ypparila* v. *United States*, 219 F. 2d 465, 469 (CA10 1954); *United States* v. *Englander*, 271 F. Supp. 182 (SDNY 1967); *United States* v. *Erikson*, 149 F. Supp. 576, 578 579 (SDNY 1957). In every one of the above cases the defendant was acquitted or the conviction set aside under the *Sicurella* application of the *Stromberg* doctrine.

The long established rule of law embodied in these settled precedents thus clearly requires that the judgment before us be reversed.

It is so ordered.

Mr. Justice Marshall took no part in the consideration or decision of this case.

Mr. Justice Douglas concurring

I would reverse this judgment of conviction and set the petitioner free.

In *Sicurella* v. *United States*, 348 U. S. 385, the wars that the applicant would fight were not "carnal" but those "in defense of Kingdom interests." *Id.*, at 389. Since it was impossible to determine on exactly which grounds the Appeal Board had based its decision, we reversed the decision sustaining the judgment of conviction. We said: "It is difficult for us to believe that the Congress had in mind this type of activity when it said the thrust of conscientious objection must go to 'participation in war in any form.'" *Id.*, at 390.

In the present case there is no line between "carnal" war and "spiritual" or symbolic wars. Those who know the history of the Mediterranean littoral know that the *jihad* of the Moslem was a bloody war.

This case is very close in its essentials to *Negre* v. *Larsen*, 401 U. S. 437, decided March 8, 1971. The church to which that registrant belonged favored "just" wars and provided guidelines to define them.

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The church did not oppose the war in Vietnam but the registrant refused to comply with an order to go to Vietnam because participating in that conflict would violate his conscience. The Court refused to grant him relief as a conscientious objector, overruling his constitutional claim.

The case of Clay is somewhat different, though analogous. While there are some bits of evidence showing conscientious objection to the Vietnam conflict, the basic objection was based on the teachings of his religion. He testified that he was

"sincere in every bit of what the Holy Qur'an and the teachings of the Honorable Elijah Muhammad tell us and it is that we are not to participate in wars on the side of nobody who on the side of nonbelievers, and this is a Christian country and this is not a Muslim country, and the Government and the history and the facts shows that every move toward the Honorable Elijah Muhammad is made to distort and is made to ridicule him and is made to condemn him and the Government has admitted that the police of Los Angeles were wrong about attacking and killing our brothers and sisters and they were wrong in Newark, New Jersey, and they were wrong in Louisiana, and the outright, every day oppressors and enemies are the people as a whole, the whites of this nation. So, we are not, according to the Holy Qur'an, to even as much as aid in passing a cup of water to the even a wounded. I mean, this is in the Holy Qur'an, and as I said earlier, this is not me talking to get the draft board or to dodge nothing. This is there before I was borned and it will be there when I'm dead but we believe in not only that part of it, but all of it."

At another point he testified: "[T]he Holy Qur'an do teach us that we do not take part of in any part of war unless declared by Allah himself, or unless it's an Islamic World War, or a Holy War, and it goes as far the Holy Qur'an is talking still, and saying we are not to even as much as aid the infidels or the nonbelievers in Islam, even to as much as handing them a cup of water during battle.

"So, this is the teachings of the Holy Qur'an before I was born, and the Qur'an, we follow not only that part of it, but every part."

The Koran defines *jihad* as an injunction to the believers to war against nonbelievers:

"O ye who believe! Shall I guide you to a gainful trade which will save you from painful punishment? Believe in Allah and His Apostle and carry on warfare (*jihad*) in the path of Allah with your possessions and your persons. That is better for you. If ye have knowledge, He will forgive your sins, and will place you in the Gardens beneath which the streams flow, and in fine houses in the Gardens of Eden: that is the great gain." M. Khadduri, War and Peace in the Law of Islam 55 56 (1955).

The Sale edition of the Koran, which first appeared in England in 1734, gives the following translation at 410 411 (9th ed. 1923):

"Thus God propoundeth unto men their examples. When ye encounter the unbelievers, strike off their heads, until ye have made a great slaughter among them; and bind them in bonds; and either give them a free dismission afterwards, or exact a ransom; until the war shall have laid down its arms. This shall ye do. Verily if God pleased he could take vengeance on them, without your assistance; but he commandeth you to fight his battles, that he may prove the one of you by the other. And as to those who fight in defence of God's true religion, God will not suffer their works to perish: he will guide them, and will dispose their heart aright; and he will lead them into paradise, of which he hath told them. O true believers, if ye assist God, by fighting for his religion, he will assist you against your enemies; and will set your feet fast…."

War is not the exclusive type of *jihad;* there is action by the believer's heart, by his tongue, by his hands, as well as by the sword. War and Peace in the Law of Islam 56. As respects the military aspects it is written:

"The *jihad*, in other words, is a sanction against polytheism and must be suffered by all non-Muslims who reject Islam, or, in the case of the dhimmis (Scripturaries), refuse to pay the poll tax. The *jihad*, therefore, may be defined as the litigation between Islam and polytheism; it is also a form of punishment to be inflicted upon Islam's enemies and the renegades from the faith. Thus in Islam, as in Western Christendom, the *jihad* is the *bellum justum*." *Id.*, at 59.

The *jihad* is the Moslem's counterpart of the "just" war as it has been known in the West. Neither Clay nor Negre should be subject to punishment because he will not renounce the "truth" of the teaching of his respective church that wars indeed may exist which are just wars in which a Moslem or Catholic has a respective duty to participate.

What Clay's testimony adds up to is that he believes only in war as sanctioned by the Koran, that is to say, a religious war against nonbelievers. All other wars are unjust.

That is a matter of belief, of conscience, of religious principle. Both Clay and Negre were "by reason of religious training and belief" conscientiously opposed to participation in war of the character pro-

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scribed by their respective religions. That belief is a matter of conscience protected by the First Amendment which Congress has no power to qualify or dilute as it did in ß 6 (j) of the Military Selective Service Act of 1967, 50 U. S. C. App. ß456 (j) (1964 ed., Supp. V) when it restricted the exemption to those "conscientiously opposed to participation in war in any form." For the reasons I stated in *Negre* and in *Gillette* v. *United States*, 401 U. S. 437, 463 and 470, that construction puts Clay in a class honored by the First Amendment, even though those schooled in a different conception of "just" wars may find it quite irrational.

I would reverse the judgment below.

Mr. Justice Harlan concurring in the result

I concur in the result on the following ground. The Department of Justice advice letter was at least

Glossary

bellum justum	Latin for "just war," that is, a war that is justly waged
brief	the document submitted by the parties to a legal dispute outlining their positions for the justices
Chief Justice Hughes	Charles Evans Hughes, chief justice of the Supreme Court during the years of the Great Depression
dhimmis	non-Muslims who live in a Muslim state
Elijah Muhammad	the leader of the Nation of Islam from 1934 to 1975
granted certiorari	the phrase used by a higher court to indicate that it has agreed to hear a case by demanding the record from the lower court whose case the higher court is reviewing
induction	formal entry into the military
jihad	in Islam, a struggle or holy war
Justice Douglas	William O. Douglas, a firm civil libertarian and the longest-serving justice in the history of the Supreme Court
Justice Harlan	John Marshall Harlan II, a conservative member of the Supreme Court at the time
Justice Marshall	Thurgood Marshall, the only black member of the Supreme Court at the time
Koran	the Islamic sacred scripture, often spelled Qur'an
Learned Hand	a prominent twentieth-century district and appeals court judge and legal philosopher from New York whose judicial opinions the Supreme Court cites more frequently than those of any lower court judge
Mediterranean littoral	the coastal areas of the Mediterranean Sea
Moslem	an alternative spelling of the more common "Muslim"
Nation of Islam	the so-called Black Muslims, or the branch of Islam as practiced by some African Americans
Per Curiam	a decision issued by a court as a whole rather than a single judge
Qur'an	the Islamic sacred scripture, later referred to as the Koran
Selective Service System	the government agency that conducted the military draft

Document Text

susceptible of the reading that petitioner's proof of sincerity was insufficient as a matter of law because his conscientious objector claim had not been timely asserted. This would have been erroneous advice had the Department's letter been so read. Since the Appeals Board might have acted on such an interpretation of the letter, reversal is required under *Sicurella v. United States*, 348 U. S. 385 (1955).

Jackie Robinson's *I Never Had It Made*

1972

"I had started the season as a lonely man, often feeling like a black Don Quixote tilting at a lot of white windmills."

Overview

I Never Had It Made is the 1972 autobiography of baseball legend Jackie Robinson, the man who integrated Major League Baseball (MLB). The historic role of Robinson in the integration of professional athletics and more broadly in the U.S. civil rights movement cannot be overestimated. It has been said that the major leagues were slightly ahead of the curve in expanding the rights of all players based on talent rather than skin color.

Robinson's autobiography is a significant document because it details his life both on and off the field. As a role model for all African Americans, he understood that he would have to surpass white athletes in order to earn the respect of his teammates, opposing players, and the nation's sports fans. Robinson was acutely aware of the revolutionary task ahead of him: He literally stepped up to the plate to try to make the United States a land of opportunity for everyone. Robinson's story resonates even in the twenty-first century, especially as he reminds us that it was not so long ago that a person of color could be openly jeered at and humiliated on the public stage with little fear of retribution for the perpetrators. *I Never Had It Made* stands as one of the first autobiographies by a sports legend to go beyond the playing field and out into the larger world.

Context

For much of its history, MLB did not permit African American players in its ranks. There were a few scattered examples of African American or Hispanic players in the nineteenth century, including Moses "Fleetwood" Walker and Bud Fowler, but by the 1890s an unwritten rule forbade people of color from participating in Organized Baseball. In response, black ballplayers formed their own professional clubs, playing each other as well as white semiprofessional teams. Talented stars like the famous shortstop John Henry Lloyd (often called the black Honus Wagner) were virtually unknown in the larger white community but continued to sharpen their skills on all-black teams. There were a few aborted attempts to hire African American players, including one by John McGraw of the Baltimore Orioles, who in 1901 attempted to pass off his new player, Chief Charlie Tokohama, as a full-blooded Native American. In reality, the chief was an African American player, Charlie Grant, who played with the Page Fence Giants, an independent team from Adrian, Michigan. Several fans recognized Grant, and he was forced off the team. Racial bias thus closed off a large pool of potential players for Organized Baseball, which was expanding in the early twentieth century.

Despite the deliberate segregation promulgated by Organized Baseball, teams like the Cuban Giants and the Harrisburg Giants drew crowds among urban black communities. Besides playing on organized teams, African Americans played baseball on sandlots and in other urban spaces just as their white counterparts did. Barnstorming tours were particularly popular: Black teams would travel from town to town, presenting a dazzling display of athletic ability and showmanship to attract people to the game. Colorful costumes and exuberant antics were all a part of the show. Often, the players engaged in horseplay and clowning during the game much like the later Harlem Globetrotters basketball team. Barnstormers brought baseball to smaller communities, which normally did not have access to professional athletic talent.

While there were several attempts to form African American professional leagues, none lasted more than a season, until 1920. That year, Andrew "Rube" Foster, a pitcher who also managed the Leland Giants and later was the main booking agent for black midwestern teams, organized the first black professional league, the National Negro League (NNL). Eight teams comprised the original NNL: the Chicago American Giants, the Chicago Giants, the Cuban Stars, the Dayton Marcos, the Detroit Stars, the Indianapolis ABCs, the Kansas City Monarchs, and the St. Louis Giants. The NNL constantly struggled to survive. Teams came and went, although the Monarchs and the Chicago American Giants were constants.

NNL teams played about sixty to eighty games a year with each other, but they also played other teams, including white semiprofessional teams on their open dates. In 1923 a second Negro League, the Eastern Colored League, began play. This league was composed of teams from the East Coast, including the Hilldale (Philadelphia) Club, the

Time Line

1919

- **January 31**
  Jack Roosevelt Robinson is born in Cairo, Georgia.

1937–1939

- Robinson attends Pasadena City College, where he excels in a number of sports.

1939–1941

- At the University of California at Los Angeles, Robinson letters in four sports.

1942

- Robinson is drafted into the U.S. Army; within a year he completes Officer Candidate School and becomes a second lieutenant.

1945

- Robinson joins the Kansas City Monarchs baseball team in the Negro Leagues.

1946

- **March 17**
  In an exhibition game against the Dodgers, Robinson makes his debut as a Montreal Royal.

1947

- **April 15**
  Robinson plays his first game with the Brooklyn Dodgers.
- **Fall**
  Robinson wins the Major League Rookie of the Year Award.

1956

- Robinson is awarded the NAACP Spingarn Medal.

1957

- **January 5**
  Robinson retires from baseball and becomes director of personnel for Chock full o'Nuts.

1962

- Robinson is inducted into the Baseball Hall of Fame, and the Dodgers retire his number, 42.

Cuban Stars East, the Royal Giants, the Bacharach (New York) Giants, the Lincoln Giants, and the Baltimore Black Sox. The two leagues faced off in their own World Series. This lasted for four years, from 1923 to 1927. The Eastern Colored League folded shortly thereafter.

With the onset of the Great Depression, the NNL as well as white Organized Baseball faced serious difficulties. In 1930, following the death of Rube Foster, the NNL disbanded; three years later it was reborn under the leadership of William A. "Gus" Greenlee. Owner of the Pittsburgh Crawfords, Greenlee had a rather checkered career as a fight promoter, bootlegger, and speakeasy owner not to mention operator of a successful numbers racket. Greenlee took over ownership of the Crawfords to provide himself with a convenient shelter for his illegal activities. One of his best decisions was to hire the inimitable black pitcher Leroy "Satchel" Paige in 1931.

The NNL was followed in 1937 by another new league, the Negro American League (NAL), which was organized by H. G. Hall, president of the Chicago American Giants. With the birth of the NAL, the NNL soon became a league of eastern teams, while the NAL franchises were mostly in the Midwest and South. The NAL, which hung on until 1960, absorbed some of the NNL teams after the latter's demise in 1948.

The Negro Leagues attracted thousands of fans throughout the nation, thanks in part to the rising incomes of a growing African American middle class. African Americans were segregated in their own venues, which actually added to the popularity of the Negro Leagues. The high quality of play further increased the fan base, even during the hard years of the Great Depression. It was only a matter of time, however, before Organized Baseball would finally erase the color line, making the Negro Leagues obsolete.

There were earlier rumblings among sportswriters about the MLB's shortsightedness in not tapping black athletic talent for its teams. The death in 1944 of the longtime MLB commissioner Kenesaw Mountain Landis, who was given the job of cleaning up the game following the infamous "Black Sox" scandal of 1919 (in which eight members of the Chicago White Sox, including "Shoeless" Joe Jackson, were accused of throwing the 1919 World Series, to be acquitted but banned from the league) gave hope to those who wanted to integrate the game. Landis's replacement as commissioner, A. P. "Happy" Chandler, both advocated and pursued the notion of finally ending segregation. Besides the inherent racism, opponents of integration feared financial loss, especially in the South, where most of the teams migrated for spring training. Those who promoted integration talked about the contributions African Americans had made during World War II, putting their lives on the line for their country. It would take the courage of one man Branch Rickey to finally erase the color line in American baseball.

The Ohio-born Rickey, owner of the Brooklyn Dodgers, was determined to build his National League team into a winner. He recognized that one way to accomplish this was to go after the unmined talent in the Negro Leagues. Dur-

ing World War II, his staff scouted the Negro Leagues to find a suitable player to integrate professional baseball as a member of the Brooklyn Dodgers. Jackie Robinson of the Kansas City Monarchs had the right combination of talent, maturity, and cool headedness to become the first black player in Organized Baseball. Robinson was signed in 1946, beginning his career with the Dodgers' farm team, the Montreal Royals. On April 15, 1947, Robinson played his first game as a Dodger at Ebbets Field in Brooklyn. Robinson's success in the majors not to mention the fact that his very presence increased attendance led to the signing of other black ballplayers to MLB contracts. Larry Doby was signed in 1947 by the Cleveland Indians, thus breaking the race barrier in the American League. The following season, the Indians hired the legendary pitcher Satchel Paige.

The ending of segregation in MLB foreshadowed the burgeoning civil rights movement of the 1950s. Indeed, the momentous debut of Jackie Robinson in a Dodger uniform coincided with President Harry S. Truman's Executive Order 9981 desegregating the U.S. armed forces in 1948. Although Robinson's road in the MLB was anything but smooth, his bold strike for equality and perseverance in the face of opposition changed the sport forever.

About the Author

The grandson of slaves, Jack Roosevelt Robinson was born in Cairo, Georgia, on January 31, 1919. His parents, Mallie and Jerry Robinson, were both sharecroppers. Jackie Robinson was the youngest of five children. Six months following Robinson's birth, his father abandoned the family, running off with a neighbor's wife. Mallie Robinson decided to sell everything she could and move her family to California, where she had a brother. She worked hard as a laundress, trying to support her young family. As an adult, Robinson expressed his admiration for the courage and tenacity of his mother in keeping the family together through rough times. Even as a youth, Robinson tried to help support the family with a paper route and other odd jobs.

Looking back on his youth, Robinson noted that he fell in with a rough crowd and might have become a juvenile delinquent if not for the influence of two men: Carl Anderson and the Reverend Karl Downs. Anderson, an auto mechanic at a shop near Robinson's home, pointed out that should Robinson persist with his gang activity, he would be hurting his mother as well as himself. Robinson's pastor, the Reverend Downs, made his church a safe haven for neighborhood youths; he was a good listener, and Robinson spoke with him often, sharing his concerns and problems.

While he was attending John Muir Technical High School, Robinson earned letters in football, basketball, baseball, and track. He continued to excel at Pasadena Junior College, where he received a great deal of publicity regarding his achievements. The attention brought out the college recruiters, and he eventually selected the University of California at Los Angeles (UCLA) because of its proximity to his home. His eldest brother, Frank, who was one of his biggest fans and supporters, was killed in a motorcycle accident just about the time Robinson began attending UCLA. In 1941 Robinson became the first person to letter in four sports at UCLA, namely, basketball, baseball, football, and track. While at the university, he met his future wife, Rachel Isum, a nursing student, whom he married in 1945. Robinson never completed his degree, as he had to leave UCLA owing to his financial circumstances. He played football for a short time with the Honolulu Bears, a pro team, returning to California at the end of the 1941, just two days before Pearl Harbor was attacked by the Japanese.

With the entry of the United States into World War II, Robinson enlisted in the U.S. Army, where he was sent to Fort Riley, Kansas. He applied for Officer Candidate School, but the "Jim Crow Army," as Robinson called it, stalled over admitting the African American candidates. After the army was pressured by officials in Washington, D.C., the African American soldiers miraculously found themselves in Officer Candidate School. In January 1943 Robinson became a second lieutenant. He quickly discovered the inbred racism that permeated the armed forces. In trying to fight racial injustice, Robinson finally went too far when he refused to sit at the back of an army bus on the grounds of Fort Hood, Texas. He was brought to trial but was honorably discharged.

Returning to civilian life, Robinson, through his old pastor, Reverend Downs, became athletic director at Sam Houston College in Texas. In 1945 the Kansas City Monarchs offered Robinson $400 a month to play for them, a princely sum for an African American athlete in the 1940s. He played shortstop for the team, batting .387 in forty-seven games, with five home runs. Robinson's great athletic ability and versatility made him an attractive addition to the team and was among the reasons he was considered one of the top ballplayers to cross Organized Baseball's color line.

Brooklyn Dodgers owner Branch Rickey was determined to integrate MLB. He began looking at several talented Negro League athletes, including Josh Gibson, Satchel Paige, Roy Campanella, and Buck Leonard. Rickey finally decided on Robinson for a number of reasons.

Time Line

1972
- *I Never Had It Made* is first published, and shortly thereafter Jackie Robinson dies of a heart attack.

1984
- President Ronald Reagan awards Robinson a posthumous Presidential Medal of Freedom.

2005
- The Congressional Gold Medal is awarded to Robinson for his contributions to improved race relations in the United States.

Robinson was not the best player among those Rickey scouted, but he certainly was one of the most versatile and athletically adept. He also had the right background and the experience Rickey felt would help the first African American player deal with the hostility he would face. Robinson had grown up in an integrated neighborhood, played on integrated teams, and demonstrated an emotional maturity that stood him in good stead as a pioneer in desegregating professional sports. His courage off the field in standing up to discrimination in the armed forces and elsewhere also weighed in his favor.

Rickey signed Robinson to a contract to play for the minor league Montreal Royals at $600 a month for the 1946 season. The Royals, a farm team for the Dodgers, played in the International League; spring training was in Florida. Robinson made his debut in an exhibition game with the Dodgers on March 17, 1946. While he did face some hostility, the Montreal fans generally embraced him, and attendance at Royals games grew. Robinson batted .349 for the season and won the International League's Most Valuable Player award.

The next season Robinson made his debut with the Brooklyn Dodgers on April 15, 1947, at Ebbets Field. His performance earned him the Major League's Rookie of the Year honors. It was not easy for Robinson, facing discrimination, racial epithets, and general hostility on and off the field. The following season, the presence of other African American players, including Larry Doby, who broke the American League's racial barrier by signing with the Cleveland Indians, took some of the heat off of Robinson.

Robinson worked hard to improve his performance, especially his batting. Working with former player and Dodger adviser George Sisler, he raised his average from .296 in 1947 to .342 two years later. He had improved so much that Robinson was named the National League's MVP in 1949. That same year, he became the first African American to play in the All Star League, voted in by the fans to be starting second baseman. His success in MLB made him a fan favorite and a symbol of racial equality for all Americans. Hollywood quickly jumped on Robinson's popularity and produced *The Jackie Robinson Story*, which was released in 1950. Robinson played himself, and the actress Ruby Dee played his wife, Rachel. He continued to play baseball into the 1950s, but by 1956 he was feeling the effects of diabetes and decided to retire. He officially retired on January 5, 1957, and became director of personnel for Chock full o'Nuts coffee shops. In 1962 Robinson was inducted into the Baseball Hall of Fame in Cooperstown, New York. It was the first year he was eligible, and he was elected on the first ballot. Three years later he became the first African American sports analyst for ABC-TV's Major League Game of the Week.

Understanding his own role in furthering the cause of civil rights, Robinson was actively involved in the movement. He served as the chair of the National Association for the Advancement of Colored People's million-dollar Freedom Fund drive in 1956 and continued on its board until 1967. He was cofounder in 1964 of the Freedom National Bank, which was based in Harlem and owned and operated by African Americans. In 1970 Robinson founded the Jackie Robinson Construction Company, which built residences for low-income people.

Robinson received many honors and accolades during his own lifetime and even after his death from a heart attack on October 24, 1972. The National Association for the Advancement of Colored People awarded him the Spingarn Medal, the highest award for contributions by an African American, in 1956. The Dodgers retired his number, 42, in June 1962; Major League Baseball followed suit on the fiftieth anniversary of his MLB debut in 1997. In 1987 the Rookie of the Year Award in both the National and American leagues was renamed in his honor. *Time* magazine selected him as one of the hundred most important people of the twentieth century. President Ronald Reagan posthumously awarded him the Presidential Medal of Freedom in 1984, and George W. Bush honored him with the Congressional Gold Medal in 2005. Robinson's contributions both on and off the field make him a remarkable and courageous person who gave of himself in all aspects of his life.

Explanation and Analysis of the Document

I Never Had It Made, Jackie Robinson's autobiography as told to Alfred Duckett, was published in 1972, the same year Robinson died. The book stands out because of Robinson's candor, intelligence, and humor. His story tells not only about his life on the field but also about his personal life, even recounting his son's struggle with drug addiction and his early death in an automobile accident. Throughout the book, Robinson reveals his feelings about politics, the civil rights movement, the Vietnam War, and the progress (or lack thereof) of African Americans in society. He openly confronts the critics who accused him of being a black man "made by white people." He acknowledges three white men who were like godfathers to him in different aspects of his life: Branch Rickey in athletics, Bill Black (from Chock full o'Nuts) in business, and Nelson Rockefeller in politics. Robinson felt especially close to Rickey and greatly admired him for his sharp business acumen and courage in integrating MLB.

Robinson understood his position as a role model for African Americans. He dedicated himself to improving the status of blacks in American society. In the tumultuous 1950s and 1960s, he used his celebrity to advance the cause of civil rights. He astutely observes that the route to improving the lot of African Americans was "the ballot and the buck." Incisive observations permeate Robinson's autobiography. He discusses major political leaders, especially Nelson Rockefeller, with whom he became especially close. He shows particular admiration for Rockefeller's staunch support of civil rights.

I Never Had It Made is an apt selection for the title of Robinson's autobiography. "Everything I ever got I fought hard for," he notes in the book's epilogue. "I cannot possibly believe I have it made while so many of my black broth-

Brooklyn Dodgers John Jorgensen, Pee Wee Reese, Ed Stanky, and Jackie Robinson in 1947 (AP/Wide World Photos)

ers and sisters are hungry, inadequately housed, insufficiently clothed, denied their dignity as they live in slums or barely exist on welfare." Although the book was originally published in 1972, a new edition appeared in 1995, with introductions by the Princeton University professor of African American Studies Cornel West and the home run king and all-around baseball legend Henry "Hank" Aaron. The excerpt here is the fourth chapter ("The Major Leagues") of the 1995 edition of the book, in which Robinson describes his MLB debut.

◆ The Big Question

The chapter opens with the birth of Robinson's first child, Jackie, Jr., on November 18, 1946. It was a momentous year in many ways for Robinson and his wife. That spring, he had made his debut with the Brooklyn Dodgers' farm team, the Montreal Royals but not before facing the reality of the segregated South. Spring training was held in Florida, which meant that Robinson could not stay with the rest of the team in a hotel; he had to be put up in a private home. The Dodgers did not own their own spring-training facility at the time, so they relied on local officials for scheduling games. In the segregated South, several communities refused to allow the Royals to play if Robinson was on the roster. Finally, Robinson was able to make his debut in Daytona Beach's City Island Ball Park on March 17, 1946, in an exhibition game with the parent team, the Dodgers. His actual MLB debut was at the Royals' season opener against the Jersey City Giants on April 18, 1946. The strain of his first year playing in the major leagues, even in the farm system, took its toll. To minimize the stress on her husband, Rachel who was expecting their first son at the time spared Robinson the details of the troubles she experienced during her pregnancy; she even insisted on traveling with Robinson, so she could provide support during those difficult times.

Robinson then recounts how tensions mounted as spring training for the 1947 season drew closer. Branch

Branch Rickey (Library of Congress)

Rickey had to decide whether or not to bring Robinson up to the Dodgers. Robinson's strong performance with Montreal led to much speculation in the sporting world about his status; the end of the color line seemed imminent. He comments on his admiration for Rickey's tact and skill in proceeding on the path toward desegregation and goes on to tell about being ordered to report for training in Cuba with the Royals in January 1947. By that time, the Dodgers had hired three other African American players, catcher Roy Campanella and pitchers Don Newcombe and Roy Partlow. All four men were sent to Cuba, where they stayed in separate quarters at a hotel fifteen miles from the practice field. According to Robinson, Rickey told him that he was trying to avoid any racially motivated missteps that might jeopardize his plans for the players' entry into the big leagues. Robinson was also assigned to play first base, which sent up flags that Rickey was planning to bring him up to the Dodger organization.

This set off a conspiracy among a few white Dodger players who agreed to sign a petition stating they would not play on the team with Robinson. A southern player, Kirby Higbe, leaked the plot to one of Rickey's aides. Rickey promptly notified the ringleaders of the scheme that he was going ahead with his plans and anyone who did not like it could quit. In the meantime, Rickey continued to give Robinson advice about doing his best and impressing not only the Dodger players but also the sportswriters who would be sending back stories to New York. Rickey's ulterior motive was to have the Dodger players clamor to have Robinson on the team, but this did not happen. Rickey then decided to have his manager, Leo Durocher, tell the sportswriters that he believed the Dodgers could win the pennant with a talented first baseman and that Robinson was the best prospect. This strategy backfired, however, when Commissioner Happy Chandler suspended Durocher for "unbecoming conduct." Rickey finally decided to ease the negative publicity from Durocher's suspension with the positive story of Robinson's signing with the Dodgers on April 9, 1947.

◆ Debuts with Brooklyn

Robinson's debut at Ebbets Field on April 15, 1947, was less than auspicious. As he describes it, he fell into an early season slump and began to question his own abilities, ruminating about a comment by Cleveland pitcher Bob Feller that he was "good field, no hit." Early that season, Robinson experienced what he refers to as one of the worst times of his career, when the Philadelphia Phillies arrived in Brooklyn for a three-game series. The Phillies were notorious for taunting the other team's players; in Robinson's case, however, they were relentless, spewing vicious and demeaning insults during the entire game. He notes that the abuse was directed by the Phillies' manager, Ben Chapman. Robinson was so enraged that he came close to losing his cool and doing exactly what Branch Rickey had told him not to do: blowing up at the perpetrators. But Robinson recalls thinking about how much faith Rickey had placed in him and credits that sense of gratitude and trust with helping him to stay the course. The Phillies continued to abuse Robinson for the next two games, partly because Brooklyn had been victorious in the first game. Finally, by the third game, Dodger Ed Stankey turned on the Phillies and shouted them down. Other Dodger players told the press how angry they were about the Phillies' behavior. Robinson notes that the Phillies organization tried to cover for the team and claimed that Chapman was not a racist, since he readily used racial slurs on whites as well: For instance, Chapman referred to the Italian American baseball legend Joe DiMaggio as a "the Wop" and Whitey Kurowski of the Cardinals as "the Polack." Robinson says he believed Rickey was wrong in telling him to shake hands with Chapman; for Robinson, having his picture taken while shaking hands with Chapman was one of the most humiliating things he ever had to do.

◆ Clash with the Cardinals

Throughout his first season with the Dodgers, Robinson faced hostility and racist abuse from various quarters. He relates a shocking incident involving Brooklyn's first meeting with the Cardinals in St. Louis in 1947. Stanley Woodward, sports editor of the *New York Herald Tribune*, discovered and "exposed a plot that was brewing among the … Cardinals." The team intended to initiate a protest strike against Robinson's participation in the game. Had the plan succeeded, it might have spread throughout Organized Baseball and kept the major leagues white. The National League president, Ford Frick, warned the Cardinal players that they would not get away with a strike. Frick, who later served as MLB commissioner, was determined that the National League back Robinson, no matter what. Robinson reports that he received much hate mail, including threats against himself and his family. The series Brooklyn played in Philadelphia was remarkably unpleasant for Robinson, as he recalls not only being refused lodging at the Benjamin Franklin Hotel but also being heckled and taunted constantly, with some tormentors actually pointing bats at him from the dugout and making "machine-gunlike noises" in his direction.

Essential Quotes

"For one wild and rage-crazed minute I thought, 'To hell with Mr. Rickey's "noble experiment." It's clear it won't succeed. I have made every effort to work hard, to get myself into shape. My best is not good enough for them.' I thought what a glorious, cleansing thing it would be to let go. To hell with the image of the patient black freak I was supposed to create."

"Getting a hero's welcome in September made me remember how bad the beginning of my first season with the Dodgers had been. At that time I still wasn't looking like any kind of winner, even though the increasing acceptance of my teammates had begun to help me out of a terrible slump. I seriously wondered if I could make the Rickey experiment a success."

"I had started the season as a lonely man, often feeling like a black Don Quixote tilting at a lot of white windmills. I ended it feeling like a member of a solid team. The Dodgers were a championship team because all of us had learned something. I had learned how to exercise self-control—to answer insults, violence, and injustice with silence—and I learned how to earn the respect of my teammates."

"Karl Downs ranked with Roy Wilkins, Whitney Young, and Dr. Martin Luther King, Jr., in ability and dedication, and had he lived he would have developed into one of the front line leaders on the national scene. He was able to communicate with people of all colors because he was endowed with the ability to inspire confidence. It was hard to believe that God had taken the life of a man with such a promising future."

While Robinson faced his share of hostility on the field, he also developed close friendships. He writes, for example, of the unwavering support shown by Pee Wee Reese, the Dodgers' shortstop: The southern-born Reese exhibited courage and decency, defending his black teammate in the face of racist taunts and jeers. Other Dodger teammates followed Reese's example and rallied around Robinson's cause. However, not everyone was happy about the pioneering Rickey's efforts. Robinson recounts a particularly unnerving incident involving boorish behavior at a team poker game. When one of his southern teammates, Hugh Casey, baited him with a vulgar racist comment, Robinson keeping in mind Rickey's words about having "guts enough not to fight back" ignored it and continued playing. According to Robinson, though, most of the team came around to support him and their other black teammates. Robinson also drew satisfaction that the Dodgers set the example for other teams, and he applauded the signing of the African American players Larry Doby with the Cleveland Indians and Willard Brown and Henry Thompson with the St. Louis Browns.

◆ 1947 World Series

The first season with the Dodgers ended in triumph, with the team winning the National League pennant. Robinson finished the season with a .296 batting average, twelve home runs,

and a league-leading twenty-seven stolen bases. He closes this chapter of his autobiography by reflecting on the contrast between the beginning and end of the 1947 season. He had started out feeling lonely and isolated but eventually learned to win people's respect with his behavior on and off the field. By the end of the season, he was truly a part of the team; he had played well and was even given a hero's welcome when the team returned to Brooklyn that September, after clinching the National League title. Robinson ends the chapter on a sad note with the death of his mentor, the Reverend Karl Downs. Having fallen ill while visiting the Robinsons in New York, Downs seemed to recover after being hospitalized. When he returned home to Texas, however, his illness returned, and he was treated in a segregated hospital, where he passed away. Robinson remained convinced that Downs would have survived if he had remained up north, where hospitals were integrated. Robinson felt the loss of his old friend when the World Series opened; the fans, he recalls, were very kind to him, even though the Dodgers lost to their rival Yankees.

Audience

I Never Had It Made was meant for a general audience. Putnam and Sons, the original publisher, distributed the book throughout the United States and abroad. Nearly forty years after its release, Robinson's autobiography appeals to a variety of readers those interested in the history of baseball, sports in general, African American history, reform in the United States, or biography would find Robinson's book of great interest. His story is fascinating, and his character, intelligence, and courage come through in this work. At the time of its publication in 1972, the United States was still reeling from the effects of decades of racism. Robinson's autobiography graphically illustrates many of the issues confronting the nation at the time, especially race relations but also politics and the Vietnam War. As seen through the eyes of a true pioneer, Robinson's story remains a valuable piece of social history.

Impact

By the time his autobiography appeared in 1972, Jackie Robinson had transcended the concept of race that so divided Americans. *I Never Had It Made* is a warts-and-all story that captures Robinson's doubts and dreams. The man who erased Organized Baseball's color line lives on in his own words, speaking with candor and clarity to an entirely new generation of readers in the twenty-first century. As Cornel West, the author of the introduction to the 1995 edition, put it: "The most striking features of the book are its honesty, its courage and its wisdom. Here is a great American hero who refuses to be a mythical hero."

See also *To Secure These Rights* (1947); Executive Order 9981 (1948).

Questions for Further Study

1. It has been argued that athletics and the military are the only institutions in which racism has essentially disappeared. Would you agree with this view? Why or why not?

2. In his account, Robinson makes the following statement: "Others genuinely wouldn't know how to be friendly with me." To what extent have you ever felt this way with regard to a person of a different race or nationality? Alternatively, have you ever felt that this was how others were reacting to you? How did you deal with that situation?

3. Compare Robinson's account with that of another athlete, Jesse Owens, as chronicled in *Blackthink: My Life as Black Man and White Man*, which was published just two years earlier. What similar experiences did the two men share? How were their experiences different? Do you think that Robinson faced a different kind of reaction because he was breaching the color line in America's "national pastime"?

4. In the twenty-first century, Jackie Robinson's name has achieved almost mythical status; merely mention the name, and baseball fans, sports fans, and the public in general will immediately picture the constellation of events in which Robinson was involved. Based on your reading of *I Never Had It Made*, what do you think Robinson's reaction to this mythologizing might be? Explain.

5. Make the argument that putting aside all of the "official" pronouncements about race—*To Secure These Rights* in 1947, President Harry Truman's executive order desegregating the military in 1948, and various Supreme Court decisions—Robinson's desegregation of baseball was the most important civil rights event of a generation.

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Donna M. DeBlasio

Jackie Robinson's *I Never Had It Made*

"The Major Leagues"

Jackie Robinson, Jr., was born in November, 1946. If there is anything to the theory that the influences affecting expectant parents have important impact on the developing child, our baby son was predestined to lead a very complicated and complex life.

Rachel had had problems during her pregnancy that I was not aware of. She accepted them with uncomplaining courage because of her conviction that, since I had a job to do in baseball that was demanding and difficult, I should be as free as possible to deal with it without the further complications of family worries. She was determined, therefore, that, while she shared my problems with me, she would keep me from knowing about her own fears and anxieties. She did a good job of keeping her Problems to herself. It wasn't until after Jackie was born that I learned that Rae had occasionally experienced fevers seemingly unconnected with the normal process of pregnancy. Her temperature would rise to 103 and 104 degrees and she would take sulfa drugs and aspirin to bring her fever down. She had insisted on traveling with me during the first season with Montreal because she knew I needed her. Often I would come home tired, discouraged, wondering if I could go on enduring the verbal abuse and even the physical provocations and continue to "turn the other cheek." Rachel knew exactly how I felt, and she would have the right words, the perfect way of comforting me. Rachel's understanding love was a powerful antidote for the poison of being taunted by fans, sneered at by fellow-players, and constantly mistreated because of my blackness.

In the eighth month of her pregnancy, I insisted that Rachel go home to Los Angeles to have the baby. Two weeks after she returned to her mother's home, I was able to get back to Los Angeles and be there the night she went into labor. When the time came, I got her to the hospital fast and our boy was born with unusual speed. We'll never forget that day November 18, 1946.

The big question, as spring training for the 1947 season became imminent, was whether Branch Rickey would move me out of the minor league and up to the Brooklyn Dodgers. Because of my successful first season with Montreal, it was a question being asked in sportswriting and baseball circles. Even those who were dead set against a black man coming into the majors knew there was a strong possibility that Mr. Rickey would take the big step.

Mr. Rickey had to move cautiously and with skill and strategy. Rae and I never doubted that Mr. Rickey would carry out his intention, but we lived in suspense wondering when. In the latter part of January I was ordered to report back to the Montreal Royals for spring training in Cuba. I would not be able to afford to take Rachel and the baby with me. I had to go it alone.

Although we could not understand Mr. Rickey's reasons for the delay in bringing me up to the Dodgers, we believed he was working things out the best way possible. We thought it was a hopeful sign that both the Dodgers and the Royals would be training in Havana. It could be reasonably expected that the racist atmosphere I had had to face in Florida and other parts of the United States would not exist in another country of non-whites. The Royals now had three more black players Roy Campanella, a catcher; Don Newcombe and Roy Partlow, both pitchers. I learned, on arriving in Havana, that we black players would be housed in separate quarters at a hotel fifteen miles away from the practice field. The rest of the team was living at a military academy, and the Dodgers were headquartered at the beautiful Nacional Hotel. I expressed my resentment that the Cuban authorities would subject us to the same kind of segregation I had faced in Florida and was promptly informed that living arrangements had not been made by local authorities but by Mr. Rickey. I was told that he felt his plans for us were on the threshold of success and he didn't want a possible racial incident to jeopardize his program. I reluctantly accepted the explanation.

I was told I must learn to play first base. This disturbed me because I felt it might mean a delay in reaching the majors. However, it was felt that the Dodgers, in order to become contenders for the pennant, had to strengthen the first base position.

The fact that I had been assigned to first base aroused fear in the Dodger camp. They sensed that Mr. Rickey was planning to bring me up to the Dodgers. Some of the players got together and decided to sign a

petition declaring they would not play with me on the team. Ironically, the leak about the planned revolt came from a Southerner, Kirby Higbe, of South Carolina. Higbe had a few too many beers one night, and he began feeling uncomfortable about the conspiracy. He revealed the plot to one of Mr. Rickey's aides and Mr. Rickey put down the rebellion with steamroller effectiveness. He said later, "I have always believed that a little show of force at the right time is necessary when there's a deliberate violation of law.… I believe that when a man is involved in an overt act of violence or in destruction of someone's rights, that it's no time to conduct an experiment in education or persuasion."

He found out who the ringleaders were Hugh Casey, a good relief pitcher from Georgia; Southerner Bobby Bragan, a respected catcher; Dixie Walker of Alabama; and Carl Furrillo. Walker had deliberately taken a trip so he wouldn't appear to be in on the scheme. The ringleaders were called in individually, and Mr. Rickey told each one that petitions would make no difference. He said he would carry out his plan, regardless of protest. Anyone who was not willing to have a black teammate could quit. The petition protest collapsed before it got started.

Mr. Rickey was very direct with me during those early 1947 spring training days. He told me I couldn't rest on the victories I'd had with Montreal. I should, in fact, forget them as much as possible. My league record meant nothing. The true test would be making the grade on the field against major league pitching.

"I want you to be a whirling demon against the Dodgers," he said. "I want you to concentrate, to hit that ball, to get on base *by any means necessary.* I want you to run wild, to steal the pants off them, to be the most conspicuous player on the field but conspicuous only because of the kind of baseball you're playing. Not only will you impress the Dodger players, but the stories that the newspapermen send back to the Brooklyn and New York newspapers will help create demand on the part of the fans that you be brought up to the majors."

With this kind of marching order, I simply had to give my best. I batted .625 and stole seven bases during seven Royals-Dodgers games. Not even this made the Brooklyn players ask for me as Mr. Rickey had hoped. He had wanted, when promoting me, to appear to be giving in to tremendous pressure from my teammates-to-be.

When this strategy failed, Mr. Rickey, a resourceful man, arranged to have Manager Leo Durocher tell the sportswriters that his Brooklyn team could win the pennant with a good man on first base and that I was the best prospect. Leo would add he was going to try to convince Mr. Rickey to sign me. That plan failed, too, because on April 9 before it could be carried out, Baseball Commissioner Chandler suspended Durocher for a year "for conduct detrimental to baseball." Durocher and the commissioner's office had been in conflict for some time. The commissioner's office had challenged Leo's "questionable associations" off the playing field. Durocher had hit back by noting that some very well-known gangsters had been seen near the Yankee dugout during a Dodger-Yankee game. He said no one had done anything about that. This sparked an exchange between the commissioner's office, Durocher, Mr. Rickey, and Yankee President Larry MacPhail. It had been common belief that the storm had blown over. Ironically, on the same April morning that Mr. Rickey hoped to make his move, Durocher was suspended.

Quickly, Mr. Rickey saw that signing the first black in the major leagues would virtually wipe the Durocher story, a negative one, off the front pages. His action would cause controversy, but he believed it would be like a shot in the arm to the club. On the morning of April 9, 1947, just before an exhibition game, reporters in the press box received a single sheet of paper with a one-line announcement. It read: "Brooklyn announces the purchase of the contract of Jack Roosevelt Robinson from Montreal. Signed, Branch Rickey."

That morning turned into a press Donnybrook. The sports-writers snatched up telephones. The telegraph wires relayed the message to the sports world.

Less than a week after I became Number 42 on the Brooklyn club, I played my first game with the team. I did a miserable job. There was an overflow crowd at Ebbets Field. If they expected any miracles out of Robinson, they were sadly disappointed. I was in another slump. I grounded out to the third baseman, flied out to left field, bounced into a double play, was safe on an error, and, later, was removed as a defensive safeguard. The next four games reflected my deep slump. I went to plate twenty times without one base hit. Burt Shotton, a man I respected and liked, had replaced Durocher as manager. As my slump deepened, I appreciated Shotton's patience and understanding. I knew the pressure was on him to take me out of the lineup. People began recalling Bob Feller's analysis of me. I was "good field, no hit." There were others who doubted that I could field and some who hoped I would flunk out and thus establish that blacks weren't ready for the majors. Shotton, however, continued to encourage me.

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Early in the season, the Philadelphia Phillies came to Ebbets Field for a three-game series. I was still in my slump and events of the opening game certainly didn't help. Starting to the plate in the first inning, I could scarcely believe my ears. Almost as if it had been synchronized by some master conductor, hate poured forth from the Phillies dugout.

"Hey, nigger, why don't you go back to the cotton field where you belong?"

"They're waiting for you in the jungles, black boy!"

"Hey, snowflake, which one of those white boys' wives are you dating tonight?"

"We don't want you here, nigger."

"Go back to the bushes!"

Those insults and taunts were only samples of the torrent of abuse which poured out from the Phillies dugout that April day.

I have to admit that this day, of all the unpleasant days in my life, brought me nearer to cracking up than I ever had been. Perhaps I should have become inured to this kind of garbage, but I was in New York City and unprepared to face the kind of barbarism from a northern team that I had come to associate with the Deep South. The abuse coming out of the Phillies dugout was being directed by the team's manager, Ben Chapman, a Southerner. I felt tortured and I tried just to play ball and ignore the insults. But it was really getting to me. What did the Phillies want from me? What, indeed, did Mr. Rickey expect of me? I was, after all, a human being. What was I doing here turning the other cheek as though I weren't a man? In college days I had had a reputation as a black man who never tolerated affronts to his dignity. I had defied prejudice in the Army. How could I have thought that barriers would fall, that, indeed, my talent could triumph over bigotry?

For one wild and rage-crazed minute I thought, "To hell with Mr. Rickey's 'noble experiment.' It's clear it won't succeed. I have made every effort to work hard, to get myself into shape. My best is not enough for them." I thought what a glorious, cleansing thing it would be to let go. To hell with the image of the patient black freak I was supposed to create. I could throw down my bat, stride over to that Phillies dugout, grab one of those white sons of bitches and smash his teeth in with my despised black fist. Then I could walk away from it all. I'd never become a sports star. But my son could tell his son someday what his daddy could have been if he hadn't been too much of a man.

Then, I thought of Mr. Rickey how his family and friends had begged him not to fight for me and my people. I thought of all his predictions, which had come true. Mr. Rickey had come to a crossroads and made a lonely decision. I was at a crossroads. I would make mine. I would stay.

The haters had almost won that round. They had succeeded in getting me so upset that I was an easy out. As the game progressed, the Phillies continued with the abuse.

After seven scoreless innings, we got the Phillies out in the eighth, and it was our turn at bat. I led off. The insults were still coming. I let the first pitch go by for a ball. I lined the next one into center field for a single. Gene Hermanski came up to hit and I took my lead.

The Phillies pitcher, a knuckle expert, let fly. I cut out for second. The throw was wide. It bounced past the shortstop. As I came into third, Hermanski singled me home. That was the game.

Apparently frustrated by our victory, the Phillies players kept the heat on me during the next two days. They even enlarged their name-calling to include the rest of the Brooklyn team.

"Hey, you carpetbaggers, how's your little reconstruction period getting along?"

That was a typical taunt. By the third day of our confrontation with these emissaries from the City of Brotherly Love, they had become so outrageous that Ed Stanky exploded. He started yelling at the Phillies.

"Listen, you yellow-bellied cowards," he cried out, "why don't you yell at somebody who can answer back?" It was then that I began to feel better. I remembered Mr. Rickey's prediction. If I won the respect of the team and got them solidly behind me, there would be no question about the success of the experiment.

Stanky wasn't the only Brooklyn player who was angry with the Phillies team. Some of my other teammates told the press about the way Chapman and his players had behaved. Sports columnists around the country criticized Chapman. Dan Parker, sports editor of the New York *Daily Mirror*, reported:

> Ben Chapman, who during his career with the Yankees was frequently involved in unpleasant incidents with fans who charged him with shouting anti-Semitic remarks at them from the ball field, seems to be up to his old trick of stirring up racial trouble. During the recent series between the Phils and the Dodgers, Chapman and three of his players poured a stream of abuse at Jackie Robinson. Jackie,

with admirable restraint, ignored the gutter-snipe language coming from the Phils dugout, thus stamping himself as the only gentleman among those involved in the incident.

The black press did a real job of letting its readers know about the race baiting which had taken place. The publicity in the press built so much anti-Chapman public feeling that the Philadelphia club decided steps must be taken to counteract it. Chapman met with representatives of the black press to try to explain his behavior. The Phillies public relations people insisted, as Ben Chapman did, that he was not anti-Negro. Chapman himself used an interesting line of defense in speaking with black reporters. Didn't they want me to become a big-time big leaguer? Well, so did he and his players. When they played exhibitions with the Yanks, they razzed DiMaggio as "the Wop," Chapman explained. When they came up against the Cards, Whitey Kurowski was called "the Polack." Riding opposition players was the Phils' style of baseball. The Phils could give it out and they could take it. Was I a weakling who couldn't take it? Well, if I wasn't a weakling, then I shouldn't expect special treatment. After all, Chapman said, all is forgotten after a ball game ends.

The press, black and white, didn't buy that argument. They said so. Commissioner Happy Chandler wasn't having any either. His office warned the Phils to keep racial baiting out of the dugout bench jockeying.

A fascinating development of the nastiness with the Phils was the attitude of Mr. Rickey and the reaction of my Brooklyn teammates. Mr. Rickey knew, better than most people, that Chapman's racial prejudice was deeper than he admitted. Bob Carpenter, the Phils' president, had phoned Rickey before game time to try to persuade him not to include me in the lineup. If I played, Carpenter threatened, his team would refuse to play. Mr. Rickey's response was that this would be fine with him. The Dodgers would then take all three games by default. The Dodgers' president wasn't angry with Chapman or his players. As a matter of fact, in later years, Mr. Rickey commented, "Chapman did more than anybody to unite the Dodgers. When he poured out that string of unconscionable abuse, he solidified and unified thirty men, not one of whom was willing to sit by and see someone kick around a man who had his hands tied behind his back Chapman made Jackie a real member of the Dodgers."

Privately, at the time, I thought Mr. Rickey was carrying his "gratitude" to Chapman a little too far when he asked me to appear in public with Chapman. The Phillies manager was genuinely in trouble as a result of all the publicity on the racial razzing. Mr. Rickey thought it would be gracious and generous if I posed for a picture shaking hands with Chapman. The idea was also promoted by the baseball commissioner. I was somewhat sold but not altogether on the concept that a display of such harmony would be "good for the game." I have to admit, though, that having my picture taken with this man was one of the most difficult things I had to make myself do.

There were times, after I had bowed to humiliations like shaking hands with Chapman, when deep depression and speculation as to whether it was all worthwhile would seize me. Often, when I was in this kind of mood, something positive would happen to give me new strength. Sometimes the positive development would come in response to a negative one. This was exactly what happened when a clever sports editor exposed a plot that was brewing among the St. Louis Cardinals. The plan was set to be executed on May 9, 1947, when Brooklyn was to visit St. Louis for the first game of the season between the two clubs. The Cards were planning to pull a last-minute protest strike against my playing in the game. If successful, the plan could have had a chain reaction throughout the baseball world with other players agreeing to unite in a strong bid to keep baseball white. Stanley Woodward, sports editor of the New York *Herald Tribune*, had learned of the plot and printed an exclusive scoop exposing it. Ford Frick reacted immediately and notified the Cardinal players in no uncertain terms that they would not be permitted to get away with a strike.

"If you do this you will be suspended from the league," Frick warned. "You will find that the friends you think you have in the press box will not support you, that you will be outcasts. I do not care if half the league strikes. Those who do it will encounter quick retribution. They will be suspended and I don't care if it wrecks the National League for five years. This is the United States of America, and one citizen has as much right to play as another.

"The National League," Frick continued, "will go down the line with Robinson whatever the consequence. You will find if you go through with your intention that you have been guilty of complete madness."

The hot light of publicity about the plot and the forthright hard line that Frick laid down to the plotters helped to avert what could have been a disaster for integration of baseball. Many writers and baseball

personalities credited Woodward with significant service to baseball and to sportsmanship.

While some positive things were happening, there were others that were negative. Hate mail arrived daily, but it didn't bother me nearly as much as the threat mail. The threat mail included orders to me to get out of the game or be killed, threats to assault Rachel, to kidnap Jackie, Jr. Although none of the threats materialized, I was quite alarmed. Mr. Rickey, early in May, decided to turn some of the letters over to the police.

That same spring the Benjamin Franklin Hotel in Philadelphia, where my teammates were quartered, refused to accommodate me. The Phillies heckled me a second time, mixing up race baiting with childish remarks and gestures that coincided with the threats that had been made. Some of those grown men sat in the dugout and pointed bats at me and made machine-gunlike noises. It was an incredibly childish display of bad will.

I was helped over these crises by the courage and decency of a teammate who could easily have been my enemy rather than my friend. Pee Wee Reese, the successful Dodger shortstop, was one of the most highly respected players in the major leagues. When I first joined the club, I was aware that there might well be a real reluctance on Reese's part to accept me as a teammate. He was from Ekron, Kentucky. Furthermore, it had been rumored that I might take over Reese's position on the team. Mischief-makers seeking to create trouble between us had tried to agitate Reese into regarding me as a threat a black one at that. But Reese, from the time I joined Brooklyn, had demonstrated a totally fair attitude.

Reese told a sportswriter, some months after I became a Dodger, "When I first met Robinson in spring training, I figured, well, let me give this guy a chance. It may be he's just as good as I am. Frankly, I don't think I'd stand up under the kind of thing he's been subjected to as well as he has."

Reese's tolerant attitude of withholding judgment to see if I would make it was translated into positive support soon after we became teammates. In Boston during a period when the heckling pressure seemed unbearable, some of the Boston players began to heckle Reese. They were riding him about being a Southerner and playing ball with a black man. Pee Wee didn't answer them. Without a glance in their direction, he left his position and walked over to me. He put his hand on my shoulder and began talking to me. His words weren't important. I don't even remember what he said. It was the gesture of comradeship and support that counted. As he stood talking with me with a friendly arm around my shoulder, he was saying loud and clear, "Yell. Heckle. Do anything you want. We came here to play baseball."

The jeering stopped, and a close and lasting friendship began between Reese and me. We were able, not only to help each other and our team in private as well as public situations, but to talk about racial prejudices and misunderstanding.

At the same time Mr. Rickey told me that when my teammates began to rally to my cause, we could consider the battle half won; he had also said that one of my roughest burdens would be the experience of being lonely in the midst of a group my teammates. They would be my teammates on the field. But back in the locker rooms, I would know the strain and pressure of being a stranger in a crowd of guys who were friendly among themselves but uncertain about how to treat me. Some of them would resent me but would cover the resentment with aloofness or just a minimum amount of courtesy. Others genuinely wouldn't know how to be friendly with me. Some would even feel I preferred to be off in a corner and left out. After the games were over, my teammates had normal social lives with their wives, their girls, and each other. When I traveled, during those early days, unless Wendell Smith or some other black sportswriter happened to be going along, I sat by myself while the other guys chatted and laughed and played cards. I remember vividly a rare occasion when I was invited to join a poker game. One of the participants was a Georgia guy, Hugh Casey, the relief pitcher. Casey's luck wasn't too good during the game, and at one point he addressed a remark directly to me that caused a horrified silence.

"You know what I used to do down in Georgia when I ran into bad luck?" he said. "I used to go out and find me the biggest, blackest nigger woman I could find and rub her teats to change my luck."

I don't believe there was a man in that game, including me, who thought that I could take that. I had to force back my anger. I had the memory of Mr. Rickey's words about looking for a man "with guts enough not to fight back." Finally, I made myself turn to the dealer and told him to deal the cards.

Traveling had its problems but being at home with Rachel and little Jackie was great even if our living conditions left something to be desired. If we had been living away from our home base, the club would have found some type of separate living arrangement for us. But in the excitement of converting me into a Dodger, no one seemed to have given a thought to

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our accommodations. We were living three of us in one room in the McAlpin Hotel in midtown Manhattan. It was miserable for Rae. In that one room that seemed constantly overrun with newsmen, she had to fix the baby's formula, change his diapers, bathe him, and do all the things mothers do for small babies. We had no relatives in New York and no one to turn to for babysitting. Rae brought our son out to the ball park for the first game I played with the Dodgers. She was determined not to miss that game. Never having lived in the East, she brought little Jackie dressed in a coat which, in California, would have been a winter coat. He would not have been able to stand the cold, dressed as he was, if Roy Campanella's mother-in-law hadn't kept him with her under her fur coat. Rae warmed bottles at a hot dog stand. At four and a half months, Jackie began what was to be the story of his young life growing up in the ball park. He came to many games with his mother, and when he was old enough, he became very popular with some of the Dodger players who would keep him on their laps and play with him.

Before the season ended, we did manage to escape from the hotel. We found a place in Brooklyn where there was a small sleeping room for little Jackie, a bedroom, and use of a kitchen for us. We had no place to entertain the few friends we were making, but it certainly beat living in the hotel and we were grateful.

We were glad, too, that we could see some tangible results from our sacrifices. Not only were the other black players on the Dodger team winning acceptance, but other teams started to follow Mr. Rickey's example. Larry Doby became the first black player in the American League, signing on with the Cleveland Indians, and Willard Brown and Henry Thompson had been hired by the St. Louis Browns.

The Dodgers won the pennant that year, and when our club came home in September from a swing across the West, we were joyfully received by our fans. Their enthusiasm for me was so great that I once went into a phone booth to call Rae and was trapped in that phone booth by admirers who let up only when policemen arrived on the scene to liberate me.

Getting a hero's welcome in September made me remember how bad the beginning of my first season with the Dodgers had been. At that time I still wasn't looking like any kind of winner, even though the increasing acceptance of my teammates had begun to help me out of a terrible slump. I seriously wondered if I could ever make the Rickey experiment a success. Both Manager Burt Shotton and Mr. Rickey believed I would eventually come through. Clyde Sukeforth with his quiet confidence helped as much as anybody else.

During the season I was under even greater pressure than in my Montreal days. It was there that I had earned a reputation for stealing bases, and the pressure eased when I began stealing them again. Late in June, in a night game at Pittsburgh, with the score tied 2-2 I kept a careful eye on pitcher Fitz Ostermueller. I noticed he had become a little careless and relaxed. I began dancing off third base. Ostermueller paid me the insult of winding up, ignoring my movements as antics. The pitch was a ball. Easing open my lead off third, I made a bold dash for home plate and slid in safe. That put us in the lead 3-2. It was the winning run of the game. As I ran I heard the exhilarating noise that is the best reward a player can get. The roar of the crowd.

After I made that comeback, I think Mr. Rickey was as happy as I was. He said to some friends at the time, "Wait! You haven't seen Robinson in action yet not really. You may not have seen him at his best this year at all, or even next year. He's still in his shell. When he comes out for good, he'll be compared to Ty Cobb."

Mr. Rickey's words meant a great deal to me but not as much as something he did. Howie Schultz, the player who had been mentioned as a possible replacement for me during the bad days of my slump, was sold by the club.

That 1947 season was memorable in many ways. Some of the incidents that occurred resulted in far-reaching changes for the club. In late August we played the St. Louis Cardinals. In one of the last games, Enos Slaughter, a Cards outfielder, hit a ground ball. As I took the throw at first from the infielder, Slaughter deliberately went for my leg instead of the base and spiked me rather severely.

It was an act that unified the Dodger team. Teammates such as Hugh Casey of the poker game incident came charging out on the field to protest. The team had always been close to first place in the pennant race, but the spirit shown after the Slaughter incident strengthened our resolve and made us go on to win the pennant. The next time we played the Cards, we won two of the three games.

I had started the season as a lonely man, often feeling like a black Don Quixote tilting at a lot of white windmills. I ended it feeling like a member of a solid team. The Dodgers were a championship team because all of us had learned something. I had learned how to exercise self-control to answer

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insults, violence, and injustice with silence and I had learned how to earn the respect of my teammates. They had learned that it's not skin color but talent and ability that counts. Maybe even the bigots had learned that, too.

The press had also changed. When I came up to the majors, the influential *Sporting News* had declared that a black man would find it almost impossible to succeed in organized baseball. At the end of the season, when they selected me as Rookie of the Year, that same publication said:

> That Jackie Roosevelt Robinson might have had more obstacles than his first year competitors, and that he perhaps had a harder fight to gain even major league recognition, was no concern of this publication. The sociological experiment that Robinson represented, the trail-blazing that he did, the barriers he broke down, did not enter into the decision. He was rated and examined solely as a freshman player in the big leagues on the basis of his hitting, his running, his defensive play, his team value.

Dixie Walker summed it up in a few words the other day when he said: "No other ballplayer on this club with the possible exception of Bruce Edwards has done more to put the Dodgers up in the race than Robinson has. He

Glossary

Baseball Commissioner Chandler	A. P. "Happy" Chandler
Bob Feller	a Hall of Fame pitcher who spent his career with the Cleveland Indians
Branch Rickey	the owner of the Brooklyn Dodgers
Brooklyn Dodgers	the team that moved after the 1957 season to become the Los Angeles Dodgers
carpetbaggers	a reference to northerners who moved to the South after the Civil War, so called because many carried suitcases made of carpeting material
City of Brotherly Love	the common nickname of Philadelphia, Pennsylvania
Don Quixote tilting at a lot of white windmills	a reference to the title character in Miguel Cervantes's seventeenth-century novel in which the mad knight Quixote does battle with windmills; a common expression for acts of impractical nobility or courage
Donnybrook	a brawl or fracas, named after an Irish town that was the scene of a notoriously raucous annual fair
Montreal	the Canadian home of the Montreal Royals, a Dodgers' farm team
paid me the insult of winding up	an insult because usually pitchers shorten or eliminate their wind-up when men are on base to make it harder for the base runner to steal a base
reconstruction	a reference to the period after the Civil War during which the rebellious states were readmitted to the Union
Royals	the Brooklyn Dodgers' farm team in Montreal, Canada
sulfa	a type of drug used as an antibiotic
Ty Cobb	an outfielder with the Detroit Tigers in the early decades of the twentieth century, known for his disagreeable temperament and aggressiveness on the field and for his career batting average, which still stands as the record
Wop	a common slur at the time for Italians, from the Italian word *guappo*, meaning "pimp"

is everything Branch Rickey said he was when he came up from Montreal."

Rachel and I moved again. She had managed to find more satisfactory living quarters in Brooklyn, where we had our own kitchen and living room and even a guest bedroom. I was delighted when I learned that the man I had admired so much as a youngster, the Reverend Karl Downs, wanted to visit us. I had kept in touch with Karl over the years. Before I'd gone into service, he had left Pasadena to become president of Sam Houston State College in Texas. When I left UCLA, I heard from Karl who said he was on the spot. He needed a coach for his basketball team. There was very little money involved, but I knew that Karl would have done anything for me, so I couldn't turn him down. I went to Texas and took the job but could only stay for a few months before financial pressures caught up with me. When Rachel and I were married, Karl, insisting on paying his own expenses, had set aside all his duties in Texas to fly to Los Angeles and officiate at our wedding. I was delighted by the prospect of his visit to Brooklyn.

One day, during his visit, Karl had come out to see one of the games. Suddenly he felt sick and decided to go back home to rest and wait for us. I had no idea his sickness was serious. That evening when I reached home, Rachel had taken him to the hospital. Several days later, apparently recovered, Karl had returned to Texas. In a few days, he was dead.

Karl's death, in itself, was hard enough to take. But when we learned the circumstances, Rae and I experienced the bitter feeling that Karl Downs had died a victim of racism. We are convinced that Karl Downs would not have died at that time if he had remained in Brooklyn for the operation he required.

When he returned to Texas, Karl went to a segregated hospital to be operated on. As he was being wheeled back from the recovery room, complications set in. Rather than returning his black patient to the operating room or to a recovery room to be closely watched, the doctor in charge let him go to the segregated ward where he died. We believe Karl would not have died if he had received proper care, and there are a number of whites who evidently shared this belief. After Karl's death the doctor who performed the operation was put under such pressure that he was forced to leave town.

Karl Downs ranked with Roy Wilkins, Whitney Young, and Dr. Martin Luther King, Jr., in ability and dedication, and had he lived he would have developed into one of the front line leaders on the national scene. He was able to communicate with people of all colors because he was endowed with the ability to inspire confidence. It was hard to believe that God had taken the life of a man with such a promising future.

I especially missed Karl at the opening day of the 1947 world series. Seventy-five thousand fans, many of whom were black, turned out for that first series game. During the game, the fans were very kind to me, and there was an avalanche of crowd approval in the first inning as I drew a base on balls from Frank Shea and stole second. Pete Reiser hit a ground ball to shortstop and I tried for third, but I was caught in the run down. Fortunately my stops and starts gave Reiser a chance to reach second and, from that position, to score the first run of the game. In that series, our team was the underdog. We were up against that spectacular New York Yankees team that included some of the greats in baseball: Joe DiMaggio, Tommy Henrich, Yogi Berra, Johnny Lindell, Phil Rizzuto, and George McQuinn. We fought hard, but the Yankees were a great baseball club. Even though we lost we still felt we had acquitted ourselves well.

During the winter I went on a speaking tour of the South. It was a successful tour except for the fact that almost every night we were treated to some of the best Southern cooking available in private homes. We ate like pigs, and for me it was disastrous.

Herman Shaw, a Tuskegee Syphilis Study victim, smiles after receiving an official apology from President Clinton in 1997. (AP/Wide World Photos)

Final Report of the Tuskegee Syphilis Study Ad Hoc Advisory Panel

1973

"Penicillin therapy should have been made available to the participants in this study."

Overview

The *Final Report of the Tuskegee Syphilis Study Ad Hoc Advisory Panel* was written for officials at the U.S. Department of Health, Education and Welfare (DHEW) when the agency was facing increasing public scrutiny about a bioethical scandal. The report was a response from the DHEW (today's Department of Health and Human Services) to revelations that hundreds of black men in Alabama had been the unknowing subjects of a government-operated medical research project. These men were not treated for their disease (syphilis), even though a treatment had been discovered and widely disseminated since the mid-1940s. Furthermore, since these patients were allowed to remain infected with syphilis, many of their wives and infants became infected with the disease as well. The DHEW organized the Tuskegee Syphilis Study Ad Hoc Advisory Panel in early 1972 as the Tuskegee Syphilis Study (TSS) became increasingly publicized and shocked large segments of the nation.

The TSS was initiated in 1932 by physician-researchers at the U.S. Public Health Service. The purpose of the project was to investigate the effects of untreated syphilis in black males. The TSS was set up to attract participants from the largely poor and segregated black communities of Macon County, Alabama. Overall, some 399 black males already infected with syphilis prior to their enrollment in the study were selected, along with another two hundred uninfected black males serving as a control group for the project. A number of government agencies, physician groups, and local institutions, including one of the nation's most famous black colleges, the Tuskegee Institute, cooperated with or acquiesced in the TSS project activities. The research proceeded for forty years, with the infected men left deliberately untreated during these decades. When newspaper reports revealed the TSS to the American public in the early 1970s, a firestorm of criticism was unleashed against government health officials and the nation's medical profession as a whole. As a result, the assistant secretary of DHEW implemented the TSS Ad Hoc Advisory Panel to explore the project's current state and then recommend appropriate policy actions for DHEW.

Context

The TSS project proceeded for decades without attracting public controversy. The "scientific" outcomes of the TSS were reported in at least twelve published research articles that appeared between 1932 and 1972. In the meantime, evidence of the decline in the health of TSS subjects was followed throughout medical and public health professional circles. As early as 1936 the U.S. Public Health Service researchers involved with the TSS reported at a meeting of the American Medical Association that 84 percent of the infected subjects were demonstrating symptoms of sickness. By 1955 approximately one-third of the infected subjects who had died had succumbed primarily to the effects of the disease. In addition, surviving TSS participants were afflicted with the most serious syphilis complications. Moreover, forty wives of the subjects had become infected with syphilis, and nineteen of the subjects' children had birth defects attributed to the disease.

By the late 1960s a keen awareness of racial injustice pervading American institutional life became widespread throughout the nation, much of that awareness the result of the 1968 report of the National Advisory Commission on Civil Disorders, also called the Kerner Commission. The report drew national attention to the deeply rooted nature of antiblack discrimination in the fields of employment, housing, education, and criminal justice in American cities. There was also growing dissatisfaction with discriminatory patterns in health and medical care that disproportionately affected black Americans and the nation's other disadvantaged segments. Also, in the 1960s and early 1970s black-white race relations in the United States were reaching a boiling point. Black American political militancy was on the rise, despite historic federal initiatives such as the Civil Rights Act (1964) and the War on Poverty federal programs. Title VI of the Civil Rights Act removed the "separate-but-equal" clause from the 1946 Hill-Burton Act that financed segregated hospital construction. This was a major step in the elimination of segregated health care facilities throughout the nation. Nevertheless, the civil rights movement had lost the leadership of its most brilliant nonviolent leader, Martin Luther King, Jr. Racial flare-ups in schools and on city streets as well as in police

Time Line

1932

- **October**
  The U.S. Public Health Service initiates the Tuskegee Syphilis Study (TSS) in and around Macon County, Alabama.

1943

- The U.S. Public Health Service begins treating syphilis patients with penicillin at numerous treatment clinics nationwide. Physicians in the armed forces also begin effective penicillin treatment of thousands of patients.

1947

- **August**
  The Nuremberg Code of ethical standards is created.

1964

- **June**
  The Eighteenth World Medical Assembly adopts the Declaration of Helsinki.
- **July 2**
  President Lyndon Johnson signs the Civil Rights Act into law.

1966

- The U.S. Public Health Service endorses procedures designed to protect human subjects in agency-related clinical research.

1968

- **February 29**
  The National Advisory Commission on Civil Disorders (Kerner Commission) releases its report.

1971

- The U. S. Congressional Black Caucus is founded.

1972

- **July 26**
  The *New York Times* publishes a front-page article with the headline "Syphilis Victims in U. S. Study Went Untreated for 40 Years."

encounters and courtrooms were widespread and daily publicized in the national media. As the political expectations of black Americans reached this historical high mark, black political officials at all levels were organizing in ways to try to become a permanent source of pressure on electoral institutions, federal agencies, and the presidency. One example is the formation of the Congressional Black Caucus in 1971.

Meanwhile, in 1947 the Nuremberg Code had established international ethical standards that made voluntary consent from subjects a requirement for any biomedical research involving human experimentation. The code was embodied in a judicial verdict issued against German Nazi physicians as part of the Nuremberg trials after World War II, held by the victorious Allied forces to prosecute the political and military leaders of Nazi Germany for war crimes. Among the Nazis' many outrages was medical experimentation on unwitting subjects. The key provision of the code for purposes of the TSS was the first:

> The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision.

Then, in 1964, the Eigtheenth World Medical Assembly adopted the Declaration of Helsinki (Finland). These standards stressed that in any research on human beings, the potential subjects were to be informed about the nature of and risks entailed in their participation in the research. For those potential subjects not competent to provide informed consent (for example, minors and the mentally ill), a legal guardian's consent was required. In 1966 the U.S. Public Health Service endorsed procedures designed to protect human subjects in agency-related clinical research. These guidelines required all investigators associated with a project to establish a committee to review and assure the rights and welfare of their research project's human subjects and groups. The TSS fit within these projects but nonetheless was allowed to proceed. Clearly, the TSS violated both the Nuremberg and Helsinki standards and the Public Health Service's own standards.

The story broke in 1972 when the nation's most influential newspaper, the *New York Times*, published a front-page article with the headline "Syphilis Victims in U.S. Study Went Untreated for 40 Years." Later that year, the nation's most widely circulated black American magazine, *Ebony*, published an article on the TSS experiments titled "Condemned to Die for Science." In this context, forestalling the potentially explosive political nature of the TSS exposé was foremost among the concerns of national political and

health officials at the time the TSS Ad Hoc Advisory Panel was formed. Making the evaluation of the TSS a public matter and placing this task in the hands of a distinguished interracial group of public service oriented educational, medical, and religious professionals was the most expedient approach for federal administrators and public health officials. Therefore, in the summer of 1972 the federal DHEW implemented the TSS Ad Hoc Advisory Panel, and the panel issued its final report the following year.

About the Author

Facing increased pressure to halt the study by the National Association for the Advancement of Colored People and the Congressional Black Caucus, the DHEW decided to convene the TSS Ad Hoc Advisory Panel and selected its chair and members, who were highly respected in black American professional and medical circles. The panel had nine members in all, five blacks and four whites. It included members who were in tune with activists across the nation and who were striving to expand legal protections and rights for patients and others such as the physically disabled and mentally ill under the care of the medical professions.

Dr. Broadus N. Butler was appointed chair of the TSS Ad Hoc Advisory Panel. He was president of Dillard University and a nationally prominent figure in black higher education. Born in Mobile, Alabama, Butler was educated at Talladega College, a highly ranked historically black college. By the 1980s Butler was recognized as a leading figure throughout the national community of historically black colleges and universities, including their umbrella organization, the National Negro College Fund.

In addition to his educational achievements, after graduating in 1941 Butler had gone into military service and became one of the famous Tuskegee Airmen. At the outset of World War II, the U.S. armed forces were strictly segregated. However, the Tuskegee Airmen pilots won widespread acclaim for their heroic actions through the course of the war. Their effectiveness and bravery as pilots helped erase racial lines in the U.S. military. Butler went on to receive graduate degrees in philosophy at the University of Michigan and began a series of teaching and federal education administration posts. He assumed the presidency of Dillard University in New Orleans in 1969 and was in that position when he became chair of the ad hoc committee. Butler died on January 29, 1996.

Another member of the committee was attorney Ronald H. Brown. Born in Washington, D.C., in 1941, Brown grew up in Harlem in a middle-class family. He attended Middlebury College and St. John's University Law School. Attracted to the civil rights movement, Brown from the earliest period of his career focused on public service law and politics. At the time of his appointment to the panel, he had become the general counsel for the National Urban League. In later years he would become a lead attorney and campaign manager for Senator Edward Kennedy as well as for the Democratic National Committee. From 1989 to 1992 Brown served as the nation's first African American leader of a major U.S. political party when he headed the Democratic National Committee. During his career, Brown maintained especially deep ties to black political activism within the Democratic Party, serving as the Reverend Jesse Jackson's campaign manager during Jackson's 1988 presidential bid. Brown died in a plane crash on April 3, 1996.

Time Line

1972

- **August 28**
  Dr. Merlin K. DuVal, assistant secretary for Health and Scientific Affairs, Department of Health, Education and Welfare, formally recognizes the Tuskegee Syphilis Study Ad Hoc Advisory Panel.
- **November**
  Ebony magazine publishes an article on the TSS experiments, "Condemned to Die for Science."

1973

- **April 28**
  The *Final Report of the Tuskegee Syphilis Study Ad Hoc Advisory Panel* is transmitted to the U.S. Department of Health, Education and Welfare.
- **June**
  The *Final Report of the Tuskegee Syphilis Study Ad Hoc Advisory Panel* is submitted to the U.S. Congress.

1974

- **July 12**
  The National Medical Research Act of 1974 creates the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

1996

- **May 20**
  The final report of the Tuskegee Syphilis Study Legacy Committee is issued.

1997

- **May 16**
  President Bill Clinton issues an apology to the survivors of the TSS and their families.

Like Butler and Brown, most of the other members of the panel had links to civil rights, the medical profession, or community activism. Three of the committee's members had strong reputations in fields linked to medical ethics, pastoral care, and labor organizations. These were Seward Hiltner, a prominent religious scholar at Princeton Theological Seminary, and Barry H. Weeks of the Alabama Labor Council. Additionally, Jacob ("Jay") Katz, whose "Reservations about the Panel Report on Charge I" was included as part of the report, was a medical ethicist on the faculty at the Yale Law School.

Explanation and Analysis of the Document

The *Final Report of the Tuskegee Syphilis Study Ad Hoc Panel* spells out the specific charges to the panel presented by the assistant secretary of DHEW. First, the panel was to address whether the study was justified at its origins in 1932 (Charge I-A). Second, the report was to investigate whether the men should have received penicillin treatment once this treatment became widely available (Charge I-B). Third, the panel was to address the issue of whether the rights of patients in general participating in health research projects connected with the DHEW were adequately protected by existing policies (Charge III). An additional concern was directed to the panel: In the event that the study was terminated, how could it been done in a way that protected the rights and health needs of the project's remaining participants?

◆ "Report on Charge I-A"

To address these issues, the panel traced the origins of the TSS, noting that it extended back to 1926. After a review of the facts surrounding the origins of the TSS, the panel states: "There is no protocol which documents the original intent of the study." This led the panel to assume that it was intended to be a long-term study. Then the panel makes its devastating judgment: "There is no evidence that informed consent was gained from the human participants in this study." The panel goes on to say that "submitting voluntarily" to the study is not the same thing as giving "informed consent," which would require that a participant be apprised of the study's risks. What made the study so problematic was that, as the panel notes, about 85 percent of people with syphilis who are treated recover from the disease. Making matters worse, the study was deceptive, in that it described its subjects as "untreated" black males, though in fact a significant percentage of control subjects in the study who contracted syphilis were then moved to the "untreated" category. Finally, the panel notes that the study employed no standard evaluative procedures that are essential to a valid scientific study.

The panel states that the study was "ethically unjustified in 1932." The panel concedes that there might have been some justification for a short-term study of this nature, but it was unable to pass judgment on this matter because of an absence of information on the way in which the study had been conducted. In the era before penicillin, when treatments for syphilis involved highly toxic substances, the study might have had validity. But because it was so poorly conducted and because participants were not informed of the risks, the panel is forced to conclude that the study was, in its words, "scientifically unsound."

◆ "Report on Charge I-B"

This section of the report addresses the issue of whether the study should have been continued after penicillin became widely available. The panel notes that it is unclear whether those who wanted treatment were able to receive it. Some documentation suggested that treatment was deliberately withheld, but other documentation indicated that those wanting treatment were not denied treatment. Reference is made to Raymond Vonderlehr, who was appointed the on-site director of the study in 1932 and who was responsible for converting it into a long-term study and who convinced participants that they were being examined and treated for "bad blood." (While the term "positive blood" is used in the panel report, "bad blood" was commonly used throughout the rural South as the informal name for syphilis.) The panel notes a damning fact: In 1941 1942, a number of participants in the study were called for army duty and tested positive for syphilis. The draft board, however, was given the names of 256 men along with a request that these men "be excluded from the list of draftees needing treatment!" Giving them treatment would have interfered with the study as it was then being conducted. This evidence suggests that, at least at that time, treatment was being deliberately withheld. In its judgment on Charge I-B, the panel clearly states that "penicillin therapy should have been made available to the participants in this study especially as of 1953 when penicillin became generally available." The panel goes on to say that withholding of penicillin was an "injustice" and a "violation of basic ethical principles."

◆ "Reservations about the Panel Report on Charge I"

This section of the report was written by the panel member Jay Katz, a member of the faculty at Yale Law School and a leading scholar of medical ethics. In this portion of the report, Katz does not express any reservations per se. He does, however, put aside the neutral, scholarly language of the report to openly and roundly condemn the study. He confirms the panel's judgments about the ethics of the study, saying that the participants were "exploited, manipulated, and deceived." He notes that the study continued after the Nuremberg Code was widely disseminated and after the Public Health Service promulgated guidelines for the "ethical conduct of research." He further notes that a review of the study was conducted in 1969 but that nothing was done in response to this review. He concludes by asking rhetorically when the medical and research community would begin to take seriously its responsibilities "particularly to the disadvantaged in our midst who so consistently throughout history had been the first to be selected for human research."

◆ **"Addendum to Panel Report on Charge II"**

In this brief addendum, Katz concurs with the panel's judgment with regard to Charge II (not reproduced here) recommending termination of the study. In its deliberations, the panel failed to include as one of its reasons for termination that the study produced no findings of scientific merit. The panel's reasoning, according to Katz, was "that recording this fact might create the impression that it was *the* major reason" for making its recommendation. Otherwise, some readers of the report might get the impression that the panel recommended termination not because of the study's unethical nature but rather because the study failed to provide scientists with useful information. Katz challenges this view, arguing that the panel should have included "no scientific merit" in its reasons for ending the study. His reasoning is that in any scientific study involving human subjects, a balancing act must be performed between useful results and risk to the participants. As any such study is reviewed, there must be a "relentless inquiry into the harmful consequence to the participants." Katz states that he wants there to be recognition that "no interests of science are surrendered by terminating the Tuskegee Syphilis Study" and that therefore there is "nothing to balance."

◆ **"Final Report on Charge III"**

The final section takes up the issue of DHEW's current policy regarding protection of human subjects in biomedical research. The panel emphasizes that DHEW needed to develop specific procedures to convey possible risks and benefits to potential human research subjects not just in medical research but in other arenas where human subjects are used, such as psychiatry, sociology, education, and the law. It recommends that a centralized body be formed to develop specific standards for the operation of institutional review committees at the institutions applying to sponsor human subject research. Moreover, for all research projects seeking DHEW funding, a review by an institutional committee was also to be followed by a review by specialists within DHEW itself.

The document concludes with a brief philosophical commentary on the issues the TSS presented. It notes that the there is an "unresolved conflict between two strongly held values: the dignity and integrity of the individual, and the freedom of scientific inquiry." Numerous professionals have to rely on their own discretion when they intervene in the lives of subjects in the name of scientific progress. Sometimes ethical obligations are ignored for what is perceived as the greater good, and "society" acquiesces in this because it wants the fruits of scientific inquiry. The report concludes by expressing the belief that "the goal of scientific progress can be harmonized with the need to assure the protection of human subjects."

Audience

The *Final Report of the Tuskegee Syphilis Study Ad Hoc Advisory Panel* gained an audience that went well beyond the DHEW. Indeed, this was the intention of DHEW officials. From the start of the panel, DHEW released news about the group's formation, membership, and purpose immediately after its decisions. One month before the report was officially transmitted to the panel's supervisory DHEW official, its contents were released by the press. Shortly after the completed report was submitted to the assistant secretary of DHEW in April 1973, the report was submitted to Congress (in June 1973).

Beyond DHEW and Congress, the final report's contents became the subject of news media coverage. The report helped to make the TSS one of a series of public controversies over medical mistreatment and experimentation involving vulnerable populations. Reporters and columnists criticized the immorality of the TSS and similar incidents of nonconsensual research involving mentally handicapped children, patients with chronic diseases, and other vulnerable populations. Through the intervening decades, medical historians, bioethicists, legalists, health care policy makers, and political leaders have debated the TSS as a race relations and bioethical tragedy. Many hold up the TSS as one of the most egregious incidents of unethical medical experimentation on patients since the concentration-camp medical experiments of Nazi physicians and scientists during World War II. The facts and positions contained in this document go a long way toward explaining why.

Impact

In the final report the panel recommended that the TSS be terminated immediately and that the study's participants be given the necessary care to treat disabilities resulting from their participation in the study. The growing publicity over the TSS brought the subject into congressional hearings that were under way on abuse of patients and medical care. The public outcry and federal activities relating to the TSS contributed to the passage of the National Medical Research Act of 1974. The act created the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. These were significant first steps in the total overhaul and building of national standards and policies to protect the medical rights of patients and to guard patients from unethical medical experimentation.

As for the men who were the subject of the TSS, the veteran civil rights attorney Fred Gray filed a $1.8 billion civil suit on behalf of these men against the federal government. The case, *Pollard v. United States*, led to a settlement that provided each surviving participant a sum of $37,000 and the estate of deceased participants $15,000.

In the decades following the final report, the TSS has been a recurrent public issue in American race relations, medical bioethics, government health affairs, and medical law. In 1994 a group comprising medical academicians, historians, health officials, and bioethicists held a conference on the TSS at the Claude Moore Health Sciences

Essential Quotes

"In retrospect, the Public Health Service Study of Untreated Syphilis in the Male Negro in Macon County, Alabama, was ethically unjustified in 1932."

("Report on Charge I-A")

"Penicillin therapy should have been made available to the participants in this study especially as of 1953 when penicillin became generally available."

("Report on Charge I-B")

"There is ample evidence in the records available to us that the consent to participation was not obtained from the Tuskegee Syphilis Study subjects, but that instead they were exploited, manipulated, and deceived. They were treated not as human subjects but as objects of research."

("Reservations about the Panel Report on Charge I")

"We believe that the goal of scientific progress can be harmonized with the need to assure the protection of human subjects."

("Final Report on Charge III")

Library at the University of Virginia. A similar follow-up conference took place at Tuskegee University in January 1996. Known as the TSS Legacy Committee, the group issued a report, dated May 20, 1996, highlighting the history and ongoing bioethical impact that the TSS caused the nation. Citing President Bill Clinton's apology on behalf of the government to victims of nuclear radiation experiments, the Legacy Committee urged the president to issue a formal apology to the TSS participants and their families. On May 16, 1997, President Clinton presented the apology to the living participants of the TSS and their families. Also participating in the program were Vice President Al Gore, Centers for Disease Control and Prevention director David Satcher, and members of the TSS Legacy Committee. Plays, movies, television shows, and countless academic studies, news reports, and public debates about the legacy of TSS continue to appear to this day.

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David M. McBride

Questions for Further Study

1. The report makes the distinction between "submitting voluntarily" to a medical study and giving "informed consent." What is the distinction, and why is it important?

2. In many drug trials, one group of patients is given the actual drug, while another group is given a placebo—that is, a substance that has no therapeutic effect. In a sense, then, the second group is being denied treatment. Is this ethical? How would the panel respond to charges that it is not?

3. Sometimes good can grow out of evil. What "good," if any, could be said to have resulted from the Tuskegee study and, particularly, the final report of the study's advisory panel?

4. In 1997 President Bill Clinton apologized to the survivors of the Tuskegee Syphilis Study, one of several such apologies the Clinton administration issued. Then, in 2009, the U.S. Senate passed a resolution "Apologizing for the Enslavement and Racial Segregation of African Americans." Of what value do you think these kinds of official apologies are? Explain.

5. In your opinion, were the people who designed and conducted the Tuskegee Syphilis Study evil, similar to Nazi doctors before and during World War II? Or were they ignorant and misguided? Explain your view

Document Text

Final Report of the Tuskegee Syphilis Study Ad Hoc Advisory Panel

Report on Charge I-A

Statement of Charge I-A: Determine whether the study was justified in 1932.

◆ Background Data

The Tuskegee Study was one of several investigations that were taking place in the 1930's with the ultimate objective of venereal disease control in the United States. Beginning in 1926, the United States Public Health Service, with the cooperation of other organizations, actively engaged in venereal disease control work. In 1929, the United States Public Health Service entered into a cooperative demonstration study with the Julius Rosenwald Fund and state and local departments of health in the control of venereal disease in six southern states: Mississippi (Bolivar County); Tennessee (Tipton County); Georgia (Glynn County); Alabama (Macon County); North Carolina (Pitt County); Virginia (Albermarle County). These syphilis control demonstrations took place from 1930 1932 and disclosed a high prevalence of syphilis (35%) in the Macon County survey. Macon County was 82.4% Negro. The cultural status of this Negro population was low and the illiteracy rate was high.…

◆ Facts and Documentation Pertaining to Charge I-A

1. There is no protocol which documents the original intent of the study.…

In the absence of an original protocol, it can only be assumed that between 1932 and 1936 (when the first report of the study was made) the decision was made to continue the study as a long-term study.…

2. There is no evidence that informed consent was gained from the human participants in this study. Such consent would and should have included knowledge of the risk of human life for the involved parties and information re possible infections of innocent, nonparticipating parties such as friends and relatives. Reports such as "Only individuals giving a history of infection who submitted voluntarily to examination were included in the 399 cases" are the only ones that are documentable. Submitting voluntarily is not informed consent.

3. In 1932, there was a known risk to human life and transmission of the disease in latent and late syphilis was believed to be possible. Moore 1932 reported satisfactory clinical outcome in 85% of patients with latent syphilis that were treated in contrast to 35% if no treatment is given.

4. The study as announced and continually described as involving "untreated" male Negro subjects was not a study of "untreated" subjects. Caldwell in 1971 reported that: All but one of the originally untreated syphilitics seen in 1968 1970 have received therapy,…

5. There is evidence that control subjects who became syphilitic were transferred to the "untreated" group.…

6. In the absence of a definitive protocol, there is no evidence or assurance that standardization of evaluative procedures, which are essential to the validity and reliability of a scientific study, existed at any time.…

◆ Panel Judgments on Charge I-A

1. In retrospect, the Public Health Service Study of Untreated Syphilis in the Male Negro in Macon County, Alabama, was ethically unjustified in 1932. This judgment made in 1973 about the conduct of the study in 1932 is made with the advantage of hindsight acutely sharpened over some forty years, concerning an activity in a different age with different social standards. Nevertheless one fundamental ethical rule is that a person should not be subjected to avoidable risk of death or physical harm unless he freely and intelligently consents. There is no evidence that such consent was obtained from the participants in this study.

2. Because of the paucity of information available today on the manner in which the study was conceived, designed and sustained, a scientific justification for a short term demonstration study cannot be ruled out. However, the conduct of the longitudinal study as initially reported in 1936 and through the years is judged to be scientifically unsound and its results are disproportionately meager compared with known risks to human subjects involved. Outstanding weaknesses of this study, supported by the lack of written protocol, include lack of validity and reliabil-

ity assurances; lack of calibration of investigator responses; uncertain quality of clinical judgments between various investigators; questionable data base validity and questionable value of the experimental design for a long term study of this nature.

The position of the Panel must not be construed to be a general repudiation of scientific research with human subjects. It is possible that a scientific study in 1932 of untreated syphilis, properly conceived with a clear protocol and conducted with suitable subjects who fully understood the implications of their involvement, might have been justified in the pre-penicillin era. This is especially true when one considers the uncertain nature of the results of treatment of late latent syphilis and the highly toxic nature of therapeutic agents then available.

Report on Charge I-B

Statement of Charge l-B: Determine whether the study should have been continued when penicillin became generally available.

◆ Facts and Documentation re Charge I-B…

3. Reports regarding the withholding of treatment from patients in this study are varied and are still subject to controversy.…

What is clearly documentable (in a series of letters between Vonderlehr and Health officials in Tuskegee taking place between February 1941 and August 1942) is that known seropositive, untreated males under 45 years of age from the Tuskegee Study had been called for army duty and rejected on account of a positive blood. The local board was furnished with a list of 256 names of men under 45 years of age and asked that these men be excluded from the list of draftees needing treatment! According to the letters, the board agreed with this arrangement in order to make it possible to continue this study on an effective basis.…

◆ Panel Judgments on Charge I-B

The ethical, legal and scientific implications which are evoked from the facts presented in the previous section led the Panel to the following judgment:

That penicillin therapy should have been made available to the participants in this study especially as of 1953 when penicillin became generally available.

Withholding of penicillin, after it became generally available, amplified the injustice to which this group of human beings had already been subjected. The scientific merits of the Tuskegee Study are vastly overshadowed by the violation of basic ethical principles pertaining to human dignity and human life imposed on the experimental subjects.…

Respectfully Submitted,
Ronald H. Brown
Jean L7 Harris, M.D.
Seward Hiltner, Ph.D., D.D.
Jeanne C. Sinkford, D.D.S., Ph.D.
Fred Speaker
Barney H. Weeks …
Yale Law School, New Haven, Connecticut 06520

TO: The Assistant Secretary for Health and Scientific Affairs
FROM: Jay Katz, M.D.
TOPIC: Reservations about the Panel Report on Charge I

I should like to add the following findings and observations to the majority opinion:

(1) There is ample evidence in the records available to us that the consent to participation was not obtained from the Tuskegee Syphilis Study subjects, but that instead they were exploited, manipulated, and deceived. They were treated not as human subjects but as objects of research. The most fundamental reason for condemning the Tuskegee Study at its inception and throughout its continuation is not that all the subjects should have been treated, for some might not have wished to be treated, but rather that they were never fairly consulted about the research project, its consequences for them, and the alternatives available to them. Those who for reasons of intellectual incapacity could not have been so consulted should not have been invited to participate in the study in the first place.

(2) It was already known before the Tuskegee Syphilis Study was begun, and reconfirmed by the study itself, that persons with untreated syphilis have a higher death rate than those who have been treated. The life expectancy of at least forty subjects in the study was markedly decreased for lack of treatment.

(3) In addition, the untreated and the "inadvertently" (using the word frequently employed by the investigators) but inadequately treated subjects suffered many complications which could have been ameliorated with treatment. This fact was noted on occasion in the published reports of the Tuskegee Syphilis Study and as late as 1971. However the subjects were not apprised of this possibility.

(4) One of the senior investigators wrote in 1936 that since "a considerable portion of the infected

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Negro population remained untreated during the entire course of syphilis … an unusual opportunity (arose) to study the untreated syphilitic patient from the beginning of the disease to the death of the infected person." Throughout, the investigators seem to have confused the study with an "experiment in nature." But syphilis was not a condition for which no beneficial treatment was available, calling for experimentation to learn more about the condition in the hope of finding a remedy. The persistence of the syphilitic disease from which the victims of the Tuskegee Study suffered resulted from the unwillingness or incapacity of society to mobilize the necessary resources for treatment. The investigators, the USPHS, and the private foundations who gave support to this study should not have exploited this situation in the fashion they did. Unless they could have guaranteed knowledgeable participation by the subjects, they all should have disappeared from the research scene or else utilized their limited research resources for therapeutic ends. Instead, the investigators believed that the persons involved in the Tuskegee Study would *never* seek out treatment; a completely unwarranted assumption which ultimately led the investigators deliberately to obstruct the opportunity for treatment of a number of the participants.

(5) In theory if not in practice, it has long been "a principle of medical and surgical morality (never to perform) on man an experiment which might be harmful to him to any extent, even though the result might be highly advantageous to science" (Claude Bernard 1865), at least without the knowledgeable consent of the subject. This was one basis on which the German physicians who had conducted medical experiments in concentration camps were tried by the Nuremberg Military Tribunal for crimes against humanity. Testimony at their trial by official representatives of the American Medical Association clearly suggested that research like the Tuskegee Syphilis Study would have been intolerable in this country or anywhere in the civilized world. Yet the Tuskegee study was continued after the Nuremberg findings and the Nuremberg Code had been widely disseminated to the medical community. Moreover, the study was not reviewed in 1966 after the Surgeon General of the USPHS promulgated his guidelines for the ethical conduct of research, even though this study was carried on within the purview of his department.

(6) The Tuskegee Syphilis Study finally was reviewed in 1969. A lengthier transcript of the proceedings, not quoted by the majority, reveals that one of the five members of the reviewing committee repeatedly emphasized that a moral obligation existed to provide treatment for the "patients." His plea remained unheeded. Instead the Committee, which was in part concerned with the possibility of adverse criticism, seemed to be reassured by the observation that "if we established good liaison with the local medical society, there would be no need to answer criticism."

(7) The controversy over the effectiveness and the dangers of arsenic and heavy metal treatment in 1932 and of penicillin treatment when it was introduced as a method of therapy is beside the point. For the real issue is that the participants in this study were never informed of the availability of treatment because the investigators were never in favor of such treatment. Throughout the study the responsibility rested heavily on the shoulders of the investigators to make every effort to apprise the subjects of what could be done for them if they so wished. In 1937 the then Surgeon General of the USPHS wrote: "(f)or late syphilis no blanket prescription can be written. Each patient is a law unto himself. For every syphilis patient, late and early, a careful physical examination is necessary before starting treatment and should be repeated frequently during its course." Even prior to that, in 1932, ranking USPHS physicians stated in a series of articles that adequate treatment "will afford a practical, if not complete guaranty of freedom from the development of any late lesions.…"

In conclusion, I note sadly that the medical profession, through its national association, its many individual societies, and its journals, has on the whole not reacted to this study except by ignoring it. One lengthy editorial appeared in the October 1972 issue of the Southern Medical Journal which exonerated the study and chastised the "irresponsible press" for bringing it to public attention. When will we take seriously our responsibilities, particularly to the disadvantaged in our midst who so consistently throughout history have been the first to be selected for human research?

Respectfully submitted,
Jay Katz, M.D.
October 27, 1972

TO: Assistant Secretary for Health and Scientific Affairs

FROM: Jay Katz, M.D.

SUBJECT: Addendum to Panel Report on Charge II

I entirely concur in the Panel's recommendations and in the reasons given therefor. However, one additional piece of evidence lends even greater convic-

tion, if any is still needed, to the decision to terminate the Tuskegee Syphilis Study. We have been informed that no scientific knowledge of any consequence would be derived from its continuation. The Panel felt that recording this fact might create the impression that it was *the* major reason for terminating the study. I believe that its inclusion should not, and would not, be so construed.

There are cogent reasons for not dismissing the issue of scientific merit. As long as society continues to favor the pursuit of medical knowledge for the possible benefit of the patients participating in research or for the benefit of future patients, a balancing of risks and benefits is inevitable. We must acknowledge this reality in order to confront such questions as: Do we wish to preserve this balancing process and, if we do, how might we learn to minimize inevitable harm to subjects and science? We urgently need to establish an orderly process which will permit the assessment of the conflicting claims inherent in decisions to initiate, continue or terminate research projects. Such an assessment might proceed in four steps: (1) a relentless inquiry into the harmful consequences to the participants; (2) an appraisal of the benefits which may accrue to science as well as to society: (3) a balancing of the risks to the participants against the benefits to them and/or science; and (4) an anticipatory rebuttal to the charge that either the interests of the participants or of science have not been sufficiently considered. In the light of the finding that no interests of science are surrendered by terminating the Tuskegee Syphilis Study, there is nothing to balance and nothing to rebut, and continuance of the study would for this reason alone be inadmissible.

I appreciate that had the conclusion been otherwise, the study would in all probability still have to be terminated because of the other findings set forth in the Panel's report, findings which will be further explored in our deliberations with respect to Charge One ("whether the study was justified"). Moreover, I should note that the four factors, listed above, do not directly address themselves to such other important considerations as: who should be selected for research, what disclosures must be made to participants in research, etc. This will surely be considered in our response to Charge Three ("whether existing (research) policies are adequate and effective"). Finally, I also leave unconsidered for now another question which emerges from the finding of "no scientific merit": why was the study not terminated at a time prior to the appointment of this Panel? One of the benefits of including a finding of scientific merit in every assessment is that many more projects might be terminated sooner, because the reviewer would be hard pressed to make an affirmative finding on this issue.

Respectfully submitted,

(sgd.) Jay Katz, M.D.

…

Report on Charge III

TO: The Assistant Secretary for Health

FROM: Tuskegee Syphilis Study Ad Hod Advisory Panel

TOPIC: Final Report on Charge III

◆ I. Introduction

In his third charge to the Tuskegee Syphilis Study Ad Hoc Advisory Panel, Dr. Merlin K. DuVal, the HEW Assistant Secretary for Health and Scientific Affairs, has asked us to determine whether existing policies to protect the rights of patients participating in health research conducted or supported by the Department of Health, Education, and Welfare are adequate and effective and to recommend improvements in these policies, if needed.

Our response to this charge, embodied in this report, should not be viewed simply as a reaction to a single ethically objectionable research project. For the Tuskegee Syphilis Study, despite its widespread publicity was not an isolated phenomenon. We believe that the revelations from Macon County merely brought to the surface once again the unresolved problems which have long plagued medical research activities. Indeed, we hasten to add that although we refer in this report almost exclusively to physicians and to biomedical investigations, the issues we explore also arise in the context of non-medical investigations with human beings, conducted by psychologists, sociologists, educators, lawyers and others. The scope of the DHEW Policy on Protection of Human Subjects, broadened in 1971 to encompass such research, attests to the increasing significance of non-medical investigations with human beings.

Our initial determination that the protection of human research subjects is a current and widespread problem should not be surprising, especially in light of the recent Congressional hearings and bills focusing on the regulation of experimentation. In the past decade the press has publicized and debated a num-

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ber of experiments which raised ethical questions: for example, the injection of cancer cells into aged patients at the Jewish Chronic Disease Hospital in Brooklyn, the deliberate infection of mentally retarded children with hepatitis at Willowbrook, the development of heart transplantation techniques, the enormous amount of drug research conducted in American prisons, the whole-body irradiation treatment of cancer patients at the University of Cincinnati, the advent and spread of "psychosurgery," and the Tuskegee Syphilis. Study itself.

With so many dramatic projects coming to the attention of the general public, more must he beneath the surface. Evidence for this too has been forthcoming. In 1966, Dr. Henry K. Beecher, the eminent Dorr Professor of Research in Anesthesia at the Harvard Medical School, charged in the prestigious New England Journal of Medicine that "many of the patients (used in experiments which Dr. Beecher investigated and reported) never had the risk satisfactorily explained to them, and … further hundreds have not known that they were the subjects of an experiment although grave consequences have been suffered as the direct result…." Dr. Beecher concluded that "unethical or questionably ethical procedures are not uncommon." Quite recently this charge has been corroborated by the sociologist Bernard Barber and his associates, who interviewed biomedical researchers about their own research practices. Despite the expected tendency of researchers to minimize ethical problems in their own work, Barber *et al.* were able to conclude that "while the large majority of our samples of biomedical researchers seems to hold and live up to high ethical standards, a significant minority may not."

The problem of ethical experimentation is the product of the unresolved conflict between two strongly held values: the dignity and integrity of the individual, and the freedom of scientific inquiry. Professionals of many disciplines, and researchers especially, exercise unexamined discretion to intervene in the lives of their subjects for the sake of scientific progress. Although exposure to needless harm and neglect of the duty to obtain the subject's consent have generally been frowned upon in theory, the infliction of unnecessary harm and infringements on informed consent are frequently accepted, in practice, as the price to be paid for the advancement of knowledge. How have investigators come to claim this sweeping prerogative? If the answer to this question is that "society" has authorized professionals to choose between scientific progress and individual human dignity and welfare, should not "society" retain some control over the research enterprise? We agree with

Glossary

Hans Jonas	a German-born philosopher and bioethicist who taught at the New School for Social Research in New York City in the middle half of the twentieth century
latent	not presently active, referring to a disease with no current symptoms
longitudinal study	any scientific study that measures a phenomenon over time rather than at a moment in time
Nuremburg Code	an ethical code for human subjects participating in medical experimentation, issued in response to the Nazi war crimes trials following World War II
Nuremburg Military Tribunal	the court that tried Nazi war criminals in the German city of Nuremburg after World War II
seropositive	having a blood serum test result that indicates infection
venereal disease	a term commonly used in the past to refer to what today are called sexually transmitted diseases, derived from Venus, the classical goddess of love
Vonderlehr	Raymond Vonderlehr, appointed the on-site director of the study in 1932 and who was responsible for converting it into a long-term study
Willowbrook	Willowbrook State School in Staten Island, New York City, the scene of an infamous 1960s study in which mentally retarded children were infected with hepatitis

philosopher Hans Jonas that a slower progress in the conquest of disease would not threaten society, grievous as it is to those who have to deplore that their particular disease be not yet conquered, but that society would indeed be threatened by the erosion of those moral values whose loss, possibly caused by too ruthless a pursuit of scientific progress, would make its most dazzling triumphs not worth having.

We have, as will be seen, made far-reaching recommendations for change. We do not propose these changes lightly. But throughout, in accordance with our mandate, our concern has not been just to define the ethical issues, but also to examine the structures and policies thus far devised to deal with those issues. In urging greater societal involvement in the research enterprise, we believe that the goal of scientific progress can be harmonized with the need to assure the protection of human subjects.

Elijah Muhammad (AP/Wide World Photos)

FBI Report on Elijah Muhammad

1973

"We Want To Unite the scattered tribes of the Black Man into one Nation and build for ourselves a strong Nation."

Overview

Made available to the public under the Freedom of Information Act, the report of the Federal Bureau of Investigation (FBI) on the Nation of Islam (NOI) leader Elijah Muhammad dates to 1973. The report is typical of the files the FBI maintained on prominent Americans, particularly under the long tenure (1924 1972) of its controversial director, J. Edgar Hoover. Many of these Americans were leaders in the civil rights movement and the protest movements of the 1960s; among them were Martin Luther King, Jr., Malcolm X, Abbie Hoffman (founder of the Youth International Party, or "Yippies"), and innumerable others. Hoover maintained his power in Washington, D.C., in part by accumulating large amounts of information on people whose political beliefs he saw as a threat to American security. During the height of the civil rights movement in the 1950s and 1960s, various organizations fell under the scrutiny of the FBI, including the NOI, which the bureau regarded as a radical, subversive group. The report itself, though, expresses few judgments about Muhammad. It summarizes the known facts of his life and includes portions of a published interview with him and excerpts from articles he had written. The report's significance is more one of implication: the mere existence of a report by the nation's chief law-enforcement agency at a time when that agency was preoccupied with foreign and domestic threats suggests that at the highest levels of the nation's government, Muhammad was seen as a dangerous, perhaps subversive, character who had to be watched. And in fact a form attached to the file indicates that Muhammad was under investigation as "potentially dangerous because of background, emotional instability or activity in groups engaged in activities inimical to the U.S."

Context

The NOI was formed in Detroit in 1930 by Wallace Fard Muhammad. Little is known about Fard's early life, and even his true identity is disputed, with names on record including Wallace Dodd Ford, Wallace Dodd, Wallie Dodd Fard, W. D. Fard, David Ford-el, Wali Farad, Farrad Mohammed, and F. Mohammed Ali. It is known, however, that in 1929 he joined the Moorish Science Temple of America founded by Timothy Drew, known as Noble Drew Ali. As far back as 1931 the FBI extensively investigated the Moorish Science Temple of America for sedition, spreading Japanese propaganda, and other possible crimes, though it eventually found no grounds for prosecution. After Drew's death in 1929, Fard assumed leadership of a faction of the organization in Chicago, moved to Detroit, and renamed his group the Allah Temple of Islam. He created the University of Islam, an elementary school operating under Islamic principles that evolved into a series of such institutions; the Fruit of Islam, an all-male security force; and a number of other black Muslim organizations. Fard disappeared in 1934; it is unclear whether he died, moved to Saudi Arabia, or moved to New Zealand, but some evidence suggests that he lived until the 1960s. After his disappearance, the leadership of what was now called the Nation of Islam was assumed by one of his disciples, Elijah Poole, an unemployed Detroit assembly-line worker who first came under Fard's influence about 1930 and who later took the name Elijah Muhammad.

Members of the NOI are commonly called Black Muslims, though the organization has had conflicted relations with mainstream Islam, and many African American Muslims, then and now, are unaffiliated with it. The NOI's teachings departed from traditional Islam in a number of important respects, notably their belief that Wallace Fard Muhammad was both the Messiah of Christianity and the Mahdi, or redeemer, of Islam. Fard believed in the imminence of the biblical Armageddon the final battle between good and evil that will mark the end of the world (Revelation 16). In his view, Christianity was a white religion imposed on blacks by slave owners to subordinate them. Further, he argued that the original faith of black people was Islam and that originally the people of the world were all black. In his view, whites were a race of "devils" created on the Greek island of Patmos by a scientist named Yakub. Black people, he said, were divine in origin, created by Allah from the dark substance of space. He placed great emphasis on the biblical book of Ezekiel, which, he said, described a "Mother Plane" or "wheel" (chapter 1) that would destroy whites for their evil. A central tenet of the

Time Line

1893
- **February 26** Wallace Fard Muhammad is thought to have been born in Afghanistan.

1885
- **January 1** J. Edgar Hoover is born in Washington, D.C.

1897
- **October 7** Elijah Muhammad is born Elijah Poole in Sandersville, Georgia.

1924
- **May 10** Hoover is appointed head of the Bureau of Investigation, renamed the Federal Bureau of Investigation in 1935.

1930
- **July** Wallace Fard Muhammad founds an organization called Allah's Temple of Islam (or Nation Cult of Islam), which would become the Nation of Islam (NOI).

1934
- Wallace Fard Muhammad disappears, leaving the organization under the control of Elijah Muhammad.

1965
- **February 21** Malcolm X, the famous former NOI spokesman, is assassinated by three Black Muslims.

1972
- **May 2** Hoover dies.

1973
- The FBI releases its report on Elijah Muhammad.

1975
- **February 25** Elijah Muhammad dies, leaving the NOI under the leadership of his son, Warith Deen Mohammad.

NOI was that African American youth were being disadvantaged by the nation's school system. Muhammad and his followers argued that African Americans had an obligation to learn about their purpose and origins but that the circumstances of the African diaspora denied them knowledge of their history and deprived them of any control over their future. In response, the NOI established its own schools in various cities, often over the objections of state and local authorities because the schools were unaccredited.

The NOI arose during an era when a number of prominent black militants were espousing black nationalism, the belief that blacks could gain true liberation only by uniting and gaining power and, in the belief of some, establishing a separate black nation. The doctrine of black nationalism reached back at least to the work of Martin R. Delany, the author of an 1852 book, *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States, Politically Considered*. In the twentieth century, black nationalism underpinned the work of Marcus Garvey, the flamboyant founder of the Universal Negro Improvement Association in 1917 and advocate of black capitalism and a return to Africa. During the 1930s one of the most prominent black nationalists was Paul Robeson, a college All-American football player, actor, and singer whose rich bass voice electrified audiences. Robeson was a Communist sympathizer, though he was never a member of the Communist Party. In the 1930s he visited the Soviet Union on several occasions and concluded that the Communist nation did not carry the same burden of racism that the United States did. During the early years of the cold war, the U.S. State Department revoked his passport, and Hoover labeled him one of the most dangerous men in the world. Even the National Association for the Advancement of Colored People distanced itself from him, scrubbing his name from a list of winners of the prestigious Spingarn Medal.

After the Russian Revolution in 1917, people began to fear that Soviet Communism might spread, possibly even to the United States. In response to this fear, the House Committee on Un-American Activities was formed in 1938, and over the next decade the committee conducted numerous hearings that "exposed" Communists and their sympathizers, including authors and members of the entertainment industry such as Charlie Chaplin, Dashiell Hammett, Leonard Bernstein, Edward G. Robinson, Pete Seeger, and Orson Welles. These people and others were almost always confronted on the basis of innuendo, rumor, and statements they had made that could be seen as sympathetic to Communism. Attention focused on colleges and universities, believed to be hotbeds of leftist and "un-American" viewpoints, as well as on the labor movement. Communism in general and the Soviet Union in particular were regarded as a menace, a threat to world stability. In the United States, fear grew that American Communists were working as spies and saboteurs for the Soviets, and for this reason Communist sentiments were criminalized.

It was in this climate of fear some would say near paranoia that the FBI began to investigate and keep files on civil rights organizations and persons or groups suspected of

subversive tendencies. By some measures, the FBI's concerns were almost comical. The bureau kept a file, for example, on the issue of whether the lyrics to the Kingmen's 1963 version of the classic rock song "Louie Louie" were obscene. More and more entertainers, musicians, and artists came under scrutiny, especially for associating with Communists or joining the Communist Party, including the Beatles, Marilyn Monroe, Frank Sinatra, Andy Warhol, and Pablo Picasso. Regarding more serious threats, the FBI kept extensive files on genuine Soviet espionage as well as on crime families, serial murderers, the Ku Klux Klan, the 1964 murder of civil rights workers in Mississippi, and a host of other criminal activities and threats to the nation's security.

As the civil rights movement gained momentum in the 1950s and 1960s, the FBI kept track of numerous organizations, and as the movement overlapped with the anti Vietnam War movement, student protests, and other conflicts after 1965, many other groups also fell under FBI investigation. Martin Luther King, suspected of Communist sympathies and an outspoken opponent of the war in Vietnam, came under investigation. So did Stokely Carmichael, the leader of the Student Nonviolent Coordinating Committee, who urged black men to resist the draft, and Malcolm X, who emerged as one of the most prominent and fiery spokesmen for the NOI. The black nationalism of the NOI under its leader, Elijah Muhammad, would have been high on the FBI's list. Accordingly, in common with many Americans, Muhammad had his name on an FBI file.

About the Author

It is unknown who actually composed the FBI's report on Elijah Muhammad, which was likely the work of numerous agents. The compilers were certainly acting under the authority of the FBI's director, J. Edgar Hoover, so the very existence of the report reflected Hoover's preoccupations. Little is known about Hoover's early life. John Edgar Hoover was born on January 1, 1885, in Washington, D.C. He attended George Washington University, where he completed a law degree in 1917. During World War I, he worked at the U.S. Justice Department, where he earned an appointment as the head of the Enemy Aliens Registration Section at a time when Americans felt deep unease about potentially subversive foreign influences and about immigration, particularly from places like Russia and eastern Europe. In 1919 he was appointed head of the Justice Department's General Intelligence Division, which over the next two years arrested some ten thousand suspected political radicals. Hoover was appointed deputy director of what was then called the Bureau of Investigation in 1921. In 1924 he was appointed acting head of the bureau. On May 10, 1924, President Calvin Coolidge appointed him director of the bureau, which changed its name to the Federal Bureau of Investigation in 1935.

For nearly five decades Hoover dominated federal law enforcement. Almost single-handedly, he forged the image of American "G-men" (government men) who exhibited "Fidelity, Bravery, and Integrity" (the FBI's motto) in fighting crime. Beginning in 1924 until his death in 1972, he turned the bureau into a highly efficient professional organization. His reputation was perhaps greatest during the Great Depression, when many Americans came to see the nation's financial institutions as adversaries. Accordingly, when a rash of daring bank robberies broke out in the 1930s, some Americans were almost sympathetic to the colorful, quasi-romantic outlaws who became household names, including John Dillinger, "Machine Gun" Kelly, Ma Barker, and Clyde Barrow and Bonnie Parker the infamous "Bonnie and Clyde." Local authorities, helpless to stop these robberies, called in the bureau's help. Many of its investigations, including the one that led to the gunning down of John Dillinger in Chicago, were highly publicized and captured the public's imagination. It was largely as a result of these successes that the bureau's powers were expanded.

During the 1930s, Hoover took advantage of the FBI's growing reputation and influence to expand its recruitment efforts, create the FBI Laboratory to examine forensic evidence, and form the Identification Division, which assembled the world's largest collection of fingerprints. In the years leading up to World War II and beyond, Hoover's greatest concern was the threat of foreign subversives and saboteurs on American soil. This concern with subversion deepened during the cold war, when Hoover's focus was on Communism and then on antiwar and revolutionary groups, including members of the civil rights movement and anyone associated with the Black Power or black nationalist movements. Hoover died on May 2, 1972.

Time Line

1976

- **April 23**
  The Select Committee to Study Governmental Operations with Respect to Intelligence Activities of the United States Senate, known as the Church Committee, issues its report critical of FBI tactics.

1981

- After a period of divisive conflict, the NOI is reconstituted under the leadership of Louis Farrakhan.

Explanation and Analysis of the Document

Any list of persons and organizations that the FBI investigated during the years of the civil rights movement reads like a who's who of protest and reform movements. The FBI had extensive files on the Southern Christian Leadership Conference (with a separate file on Communist influ-

ences in the organization), the Black Panthers, the National Association for the Advancement of Colored People, the Organization of Afro-American Unity, and the Student Nonviolent Coordinating Committee. Individuals included Paul Robeson, W. E. B. Du Bois, Roy Wilkins, Thurgood Marshall, Adam Clayton Powell, Jesse Jackson, among numerous others. Most of these files were dry accumulations of factual information. The file on Elijah Muhammad was little different, though undoubtedly the unorthodox views Muhammad expressed were of concern to federal law enforcement.

◆ "I. Background"

The file begins with background information on Muhammad, including his original name (Elijah Poole), his address, and his occupation in connection with Muhammad's Temple 2 in Chicago reflecting the NOI's practice of numbering each of its temples in the order they were created. The file then provides basic information on the NOI, with emphasis on the notion that white people are to be regarded as "devils" and that NOI members are not to arm themselves but are required to defend the NOI and its members at all costs.

◆ "II. Personal History"

The second portion of the FBI file reproduces an interview with Elijah Muhammad that was published in the yearbook of "Muhammad University of Islam No. 2" for 1973. In a question-and-answer format, "Messenger Muhammad" provides details about his background when and where he was born and how he was given the name Elijah, for example. The reader learns that when Muhammad moved to Detroit, he heard Wallace Fard Muhammad speak and believed that he was listening to the voice of Allah, or God. He describes how Fard gave him the name Elijah Karriem typical of the way Fard provided his followers with Islamic-sounding names for a fee of ten dollars. He then describes how Fard appointed him as "Supreme Minister" and gave him the name Muhammad. Throughout the discussion, Fard is referred to as the Savior and Muhammad is referred to as a "humble" little man.

The interview goes on to elicit odd details about the movements of Fard and Muhammad in the early 1930s, disputes within the organization, Fard's "persecution" and disappearance, and Muhammad's assumption of the leadership of the NOI. Muhammad then discusses his arrest and imprisonment for failing to register for the draft, claiming that he would not take part in a war (World War II) on behalf of "infidels." The interview also provides details about how the NOI was run during Muhammad's absence, when the day-to-day operations were taken over by Muhammad's wife, "Sister Clara Muhammad."

◆ "III. Teachings"

The third section of the FBI's file reproduces portions of three documents written by Muhammad. The first is taken from a 1973 edition of the NOI's publication, *Muhammad Speaks*. In this article Muhammad explains some of the NOI's theological doctrines, many of them adopted from the Old Testament prophetic book of Ezekiel, though this source is never named. He explains that there is a ship, or plane, that is made like a wheel and is the means by which Allah will carry out his aims in the world, particularly his aim of creating a new world "under the Eyes and Guidance of Allah." He claims that this wheel, "the most miraculous mechanical building of a plane that has ever been Imagined by man," measures a half mile by a half mile and is capable of holding many people and of destroying the earth. Muhammad then makes an enigmatic reference when he asks, "After trillions of years should we let a baby, only six months old (6,000 years old) outwit us?" The meaning of this comment is unclear, but it is probably a reference to the emergence of the white race, a "baby" in comparison with the much-older black race. He goes on to assert that the "Black Man" created the heavens and the earth and that white people want to keep blacks "dumb" to the power of God. The passage concludes with assertions that whites want to shoot down the plane with military weapons and that the wheel will continue to protect the black man on earth.

The second article quoted in this section also appeared in *Muhammad Speaks* and is titled "Indians in America." It begins with the assertion, derived from Wallace Fard Muhammad, that the American Indians are the descendents of black Asians, specifically from India. According to this theory, they were exiled from their native land sixteen thousand years earlier and arrived in North America by crossing, on foot, the Bering Straits the narrow channel that separates Russia and Alaska and that in earlier ages was above water. They were driven away from India because they did not recognize Allah and the religion of Islam. Arriving in North America without guidance, they suffered further punishment at the hands of white men for their disobedience to Allah. Muhammad asserts that the "so-called Negro in America" is suffering a similar fate conquest by the white man because he, too, refuses to follow Allah.

Muhammad then states that the white man, too, is an exile, having been expelled from Arabia some six thousand years ago for spreading lies about Islam an odd belief, given that Islam was founded in the seventh century by the prophet Muhammad. Blacks, though, arrived in the Western Hemisphere in a way different from the Indians and whites, for "we were kidnapped by the white man and brought here by force against our will, for the purpose of evil slavery and mistreatment." Thus, to Muhammad it is clear that the black man arrived in North America without a burden of sin and therefore has a better chance of succeeding than do Indians and whites. Throughout this discussion, Muhammad emphasizes that Allah has manifested himself in the person of Fard, "To Whom Praises are Due forever."

Muhammad rallies Black Muslims by telling them that their purpose is to create a new government, one that is dedicated to freedom, justice, and equality. He urges American Indians to join in his movement based on the notion that the Indians have a remnant of black blood. Even though Indians and blacks are two peoples, they share a common ancestry. He concludes by saying that "we want to

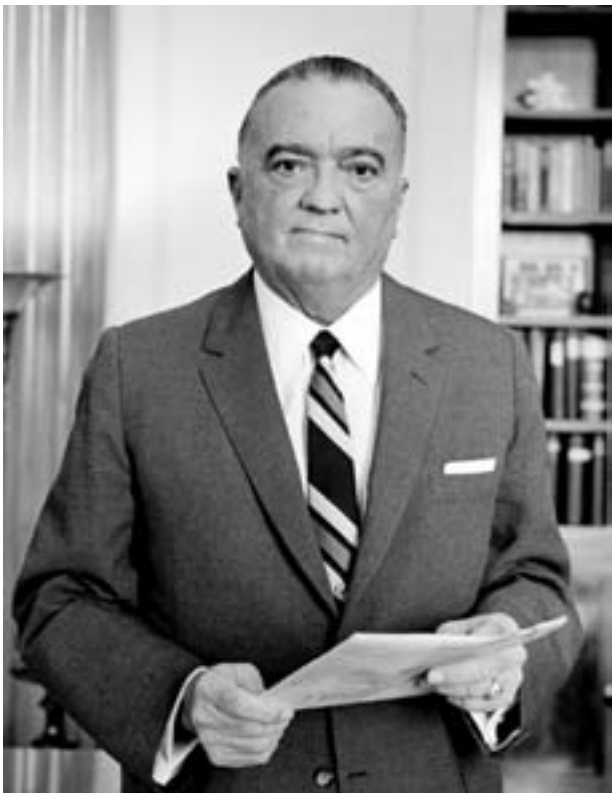
unite the scattered tribes of the Black Man into one Nation and build for ourselves a strong Nation.

The third article, titled "We Want Earth," is again from the publication *Muhammad Speaks*. Muhammad begins with the assertion that black people are the original people on earth and that they acquired the name Negroes from their slave masters. This excerpt is the most explicitly black nationalistic one of the three articles, for he states that "we must have some of this earth to live free on so that we can exercise freedom of action." Former slaves cannot rely on their former masters for the necessities of life but have to provide them for themselves. He asserts that blacks make a boast of their freedom and reiterates that blacks have to provide for their own welfare. He reminds his readers that the slave masters robbed blacks both morally and physically and imposed on them a false religion. He asks black America to bring forward its scientists and educated people to help black Americans achieve prosperity and independence.

◆ "IV. Foreign Contacts"

The fourth section of the FBI report has been heavily edited. This is common for files released to the public. It is impossible to say what has been omitted or why. Readers can only conclude that the decision was made to withhold some information for diplomatic or national security concerns, to avoid placing foreign people in embarrassing situations, to avoid revealing sensitive foreign intelligence, or some similar reason. In what remains, the section comments on some domestic contacts directly and indirectly associated with Muhammad, starting with a reference to "Hanafi American Mussulman." An NOI member named Khalifa Hamaas Abdul Khaalis, whose original name was Ernest T. McGee, created a rift in the NOI because he wanted to bring the organization in line with orthodox Sunni Islam. In 1958 he created a splinter organization somewhat cumbersomely named the Al-Hanif, Hanifi, Madh-Hob Center, Islam Faith, United States of America, American Mussulmans in Washington, D.C. The group gained publicity in 1973 when members of Abdul Khaalis's family mostly his children as well as a follower were murdered by members of the NOI in Philadelphia. As the FBI file states, Abdul Khaalis believed that Elijah Muhammad was responsible for these killings. Later, in 1977, the Hanafis would seize buildings in Washington, D.C., and take hostages in an effort to force the government to turn over the NOI members convicted for the killing of Abdul Khaalis's family members as well as to halt the screening of a movie called *Mohammad, Messenger of God*, which they regarded as sacrilegious. Abdul Khaalis was sentenced to prison for his role in the event.

Reference is made to two additional figures. One is Kareem Abdul-Jabbar, known as Lew Alcindor throughout his college career as an All-American basketball player at the University of California at Los Angeles. Abdul-Jabbar was affiliated with the American Mussulmen and, the file asserts, owned the house in which the 1973 murders took place. Malcolm X, born Malcolm Little, became the most prominent spokesperson for the NOI in the 1950s and early 1960s, but when his views began to conflict with those of Muhammad, he defected from the organization to form his own more orthodox Islamic group. He was assassinated on February 21, 1965, by three members of the NOI.



J. Edgar Hoover, head of the FBI (Library of Congress)

Audience

The audience for an FBI report would, of course, have been primarily the FBI itself. The purpose of such a report was to assemble investigative information about people and organizations that the FBI deemed suspicious. Such a report would be available to anyone within the organization or the government who needed information about its subject and had authorization to view the file. After the Freedom of Information Act was signed into law on September 6, 1966, and went into effect the next year, numerous citizens and organizations began filing requests for government documents never previously released to the public. Many such documents have remained classified because they have a bearing on national security. And many of the documents that are released are "redacted," meaning that portions of the document are blacked out, usually to avoid revealing information that has national security implications or to protect the identities of FBI agents and informants, who might be subject to reprisals. Nevertheless, the Freedom of Information Act has opened a window into governmental activities and helped to create greater transparency in government operations. While the FBI report on

Essential Quotes

"The NOI is an all-black nationwide organization … under the guidance of Elijah Muhammad, self-styled "Messenger of Allah" and alleged divinely appointed leader of the black race in the United States. Its purpose is separation of the black man from the "devil" (white race) through establishment of a black nation."

("I. Background")

"The Wheel is in fact a ship (plane) made like a wheel. And it is made for the Purpose of Allah (God) Carrying out His Aim upon this world. This Wheel is by no means to be taken lightly! After The Wheel has done its Work it will have Made Way for a New World to be Built under the Eyes and Guidance of Allah (God)."

("III. Teachings")

"But, it is our Black People who the white man is desirous to keep dumb to the Power of our God, Allah. But, Think Over It! If the Black Man created the heavens and the earth. And The Black Man Did Create The Heavens And The Earth … then what man is fool enough to challenge the Black Man."

("III. Teachings")

"The American White Man is an exile from Arabia. They were exiled into Europe 6,000 years ago because of their disobedience and causing dissatisfaction, fighting and blood-shed among the righteous due to their spreading lies between the Muslims. That is what they were made for."

("III. Teachings")

"We Want To Unite the scattered tribes of the Black Man into one Nation and build for ourselves a strong Nation."

("III. Teachings")

Elijah Muhammad does not contain any startling revelations virtually all of the information contained in it could have been found in other sources, including NOI publications the mere fact of its existence sheds as much light on the FBI's concerns as it does on the NOI.

Impact

After J. Edgar Hoover's death in 1972 and in light of abuses during the Watergate scandal that enveloped the presidency of Richard Nixon that year (leading to his res-

ignation in 1974), historians and politicians began a reexamination of Hoover's legacy and tactics. In 1976 the FBI's activities were investigated by the U.S. Senate's Select Committee to Study Governmental Operations with Respect to Intelligence Activities, usually referred to as the Church Committee after its chairman, Senator Frank Church of Idaho. The committee's investigation revealed that FBI investigations often relied on infiltration of suspected subversive groups and on psychological warfare, including the planting of rumors, false reports, and other "dirty tricks"; harassment through the legal system; and illegal activities, including wiretapping, break-ins, vandalism, and violence. The FBI indeed used such methods in investigating the NOI, including infiltration one of Malcolm X's bodyguards was an FBI plant wiretapping, and camera surveillance. In the eyes of many historians, these extralegal activities reflected the views and personality of the FBI's longtime director, a public hero for much of his career, whose reputation was thus irretrievably tarnished.

The NOI survived, although its form would change radically. After the death of Elijah Muhammad in 1975, leadership of the organization passed to his son, Warith Deen Mohammad. The son, however, rejected the deification of Wallace Fard Muhammad, brought the organizations closer to mainstream Islamic thinking, admitted white people, and changed the NOI's name several times, eventually settling on American Society of Muslims. Numerous NOI members, though, resisted these changes and broke with the organization. Notable among them was Louis Farrakhan (Louis Eugene Walcott), who in 1981 created his own organization and adopted for it the name Nation of Islam. Farrakhan has continued to lead the reconstituted NOI into the twenty-first century and in the process has attracted considerable controversy for his allegedly anti-Semitic comments as well as for views that some observers regard as outlandish. One was that Hurricane Katrina, which struck the Gulf Coast in 2005, did so much damage because a hole was allowed to remain in the levee around New Orleans in a deliberate effort to wipe out the city's black population. Another was that the H1N1 ("swine flu") vaccine was developed as part of a conspiracy to reduce the earth's population. Mainstream Americans regard Farrakhan and his organization as something of a fringe group, but both continue to elicit admiration among dispossessed Americans.

See also Martin Delany: *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States* (1852); Marcus Garvey: "The Principles of the Universal Negro Improvement Association" (1922); Malcolm X's "After the Bombing" (1965); Stokely Carmichael's "Black Power" (1966); Martin Luther King, Jr.: "Beyond Vietnam: A Time to Break Silence" (1967); Louis Farrakhan's Million Man March Pledge (1995).

Further Reading

Books

Ackerman, Kenneth D. *Young J. Edgar: Hoover, the Red Scare, and the Assault on Civil Liberties*. New York: Da Capo Press, 2008.

Berg, Herbert. *Elijah Muhammad and Islam*. New York: New York University Press, 2009.

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Questions for Further Study

1. If you had been the director of the FBI in the 1950s and 1960s, would you have ordered the investigation of the Nation of Islam? Why or why not?

2. What is the connection between black nationalism and the Nation of Islam?

3. Based on the material presented in the FBI file, do you believe that the Nation of Islam is (or was) a racist organization? Explain.

4. Using such documents as Malcolm X's "After the Bombing" speech and Louis Farrakhan's Million Man March Pledge, explain how the modern-day Nation of Islam is different from the organization as it was conceived by Fard and Elijah Muhammad.

5. Muhammad expressed a number of views that run counter to known facts and accepted beliefs; examples include his view of the origin of American Indians and his apparent belief that Mars is populated. To what extent do you think that these highly unorthodox views undermine Elijah Muhammad's message—if at all?

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■ Web Sites

"Elijah Muhammad." Federal Bureau of Investigation Web site.
http://foia.fbi.gov/foiaindex/muhammad.htm.

"A Historic Look at The Honorable Elijah Muhammad." Nation of Islam Web site.
http://www.noi.org/elijah_muhammad_history.htm.

"The Honorable Elijah Muhammad." Coalition for the Remembrance of the Honorable Elijah Muhammad Web site.
http://www.croe.org.

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http://www.missionislam.com/conissues/malcolmx.htm.

Michael J. O'Neal

Document Text

FBI Report on Elijah Muhammad

File:105-24822
Details:

I. Background

Elijah Muhammad, true name Elijah Poole, resides at 4847 South Woodlawn Avenue, Chicago, Illinois. He also maintains a residence at 2118 East Violet Drive, Phoenix, Arizona, but rarely utilizes same. Muhammad is the leader of the Nation of Islam (NOI). He claims to be the Messenger of Allah and the only divinely appointed leader of the black man in North America. He formulates and/or approves all teachings, policies and programs in the NOI… He is considered to be Minister of Muhammad's Temple (MT) 2, 7351 South Stony Island Avenue, Chicago. He performs the above tasks, which are his sole occupation, from his residence and through MT 2. …

The NOI is an all-black nationwide organization headquartered at Muhammad's Temple 2, 7351 South Stony Island Avenue, Chicago, Illinois, under the guidance of Elijah Muhammad, self-styled "Messenger of Allah" and alleged divinely appointed leader of the black race in the United States. Its purpose is separation of the black man from the "devil" (white race) through establishment of a black nation. Followers are instructed to obey the laws of the land if they do not conflict with NOI laws and not to carry weapons but are to defend NOI officials, their property, women and themselves if attacked at all costs and are to take weapons away from their attackers and use same on the attacker.

II. Personal History

"Muhammad University of Islam No. 2 1973" Year Book on page 24 sets forth an article titled "History," which is as follows:

Q. What year, month and day was Messenger Muhammad born?

A. He was born in October, 1897.

Q. Where was Messenger Muhammad born?

A. Messenger Muhammad was born in Sandersville, Georgia, not many miles from his hometown he grew up in Macon, Georgia.

Q. How large was his family?

A. Messenger Muhammad was the seventh child of thirteen children.

Q. Who gave him the name of Elijah?

A. A paternal grandfather gave him the name Elijah, and always addressed him as Elijah the Prophet.

Q. Did Messenger Muhammad show leadership traits early?

A. Yes, the older children in the family would always come to him to settle disputes and at fifteen; he was a foreman over a crew of men much older than he.

Q. How old was Messenger Muhammad when he married and migrated to Detroit?

A. Messenger Muhammad was twenty-five years of age, and be moved to Detroit in April, 1923.

Q. What was the first meeting of Allah and Elijah Poole like?

A. Someone, one day went excitedly to tell Mr. Elijah Poole that there was a certain man in town teaching that which he just had to go hear for himself. So, Mr. Elijah Poole went down to the meeting hall to hear this certain man speak, According to the best reports, as soon as he walked into the room he realized that the one who was speaking was God, Himself. When shaking the man's hand after the meeting, Mr. Elijah Poole said, "I know who you are, you're God Himself." The certain man whispered to him, that's right, but don't tell it now: It is not yet time for it to be known.

Q. When did Master Fard Muhammad name Elijah Poole Elijah Karriem?

A. The Savior Master Fard Muhammad named Elijah Poole Elijah Karriem shortly after he accepted his own.

Q. How was Elijah Karriem appointed as Supreme Minister and describe how it took place. Did he receive the name Muhammad then?

A. The Savior, Master Fard Muhammad, used a system of permitting the student ministers to select their own minister from among themselves. They would always select the most articulate, smooth-talking one. However, one day the Savior decided to select his own."I've let you select yours for awhile," he told the student ministers. "Now I'll select mine." "Hey, you over there, Karriem!" Master Fard called

out to the humble little man seated in the corner rear of the classroom. "Who me?" The Messenger asked humbly. "Yes, you Elijah Karriem," The Savior commanded. "Come up here with me." The humble little man went to the front of the class and stood beside his Master. The Savior put his right arm around the little man's shoulder and said, "From now on this is My Minister." The Savior gave Elijah the name of Muhammad, His name. Muhammad was given the title "Supreme Minister" until later on when he received the title "Messenger of Allah," a title which he was not to use until the Savior had gone because it was not to be revealed until then that Savior Himself was Allah in person.

Q. Why did Master Fard Muhammad allow himself to be persecuted?

A. Master Fard Muhammad allowed Himself to be persecuted because he chose to suffer three and one-half years to show His love for His people who have suffered over 300 years at hands of a people who by nature are evil and wicked and have no good in them. He was persecuted, sent to jail in 1932 and ordered out of Detroit on May 26, 1933.

In 1933 he came to Chicago and was arrested almost immediately on His arrival and placed behind prison bars.

Q. Why did Master Fard Muhammad always call Messenger Muhammad to Him when He went Jail?

A. He submitted himself with all humbleness to his persecutors. "Each time he was arrested, He sent for me so that I might see and learn the price of truth for us, the so-called American Negroes (members of the Asiatic Nation). He was able to save Himself from such suffering, but how else was the scripture to be fulfilled? We followed in His footsteps suffering the same persecution."

Q. How many years did Master Fard Muhammad teach Messenger Muhammad?

A. Messenger Muhammad was taught by Allah for three years and four or five months.

Q. When did Master Fard Muhammad leave and how many books did he leave for Messenger Muhammad to find and read?

A. He left in 1934 and left 104 books for Messenger Muhammad to find.

Q. Why did Messenger Muhammad leave Detroit?

A. Sometime in 1934 Allah left. As they had agreed before Master Fard Muhammad left, Elijah Muhammad began teaching that the one who had been known as Prophet Fard was in fact Allah (God) Himself, in the Person of Master Fard Muhammad, Some of the former student ministers disagreed. They didn't want to believe that the most humble among them had been chosen to be The Messenger of Allah - they began disbelieving in Allah after they had said that they believed; they became hypocrites.

Q. Where did Messenger Muhammad go during the period of 1934?

A. Messenger Muhammad moved to Chicago in 1934. In 1935, The Honorable Elijah Muhammad fled to Washington, D. C. from the hypocrites.

Q. Where did Messenger Muhammad go during the period of flight?

A. He went from city to city teaching Islam on the east coast, mainly.

Q. How did he go about establishing the different Mosques?

A. While on the run.

Q. In what year did Chicago become the Headquarters?

A. In September, 1934.

Q. When did Messenger Muhammad go to jail for five years?

A. "I was arrested on May 8, 1942, in Washington, D. C. by the F.B.I. for not registering for the draft. When the call was made for all males between 18 and 44, I refused and would not take part in war and especially not on the side with the infidels. Second, I was 45 years of age and was not, according to the law, required to register." Brother Emmanuel Muhammad speaking of his father: "What has impressed me most, I think, was my stay with my father in prison. He set up a Temple in the prison despite the difficulties he experienced with the blackboard and all. He set up classes right there in prison. He would teach on Wednesday and Friday evenings until the bugle was blown for us to go to bed. He also taught on Sunday afternoons at 2:00 p.m. He made many, many converts in prison. Even the devils who came by to steal an earful wound up bowing in agreement, an unconscious bearing of witness to the truth The Messenger taught.

"There are, in my mind, many memorable instances of my father's love for Allah, but the one that sticks in me most is of the tears Allah and The Messenger shed the day Allah left us.

"I also recall seeing my father reading the Bible after breakfast; or whatever they called breakfast during the depression He would read all day, and this reading would bring tears to His eyes. The tears would fall at the time he was reading. …"

Q. How was the Nation of Islam run during this period?

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A. Sister Clara Muhammad was the first of the family to accept the mission of The Honorable Elijah Muhammad. She held the Muhammad family together all the while He was on the run. And, while He was in prison, the remaining officials would seek information from her. "She would bring understanding from my father on questions she could not answer. She gathered and sent or brought to my father and I whatever literature the prison permitted. She typed verses from the Holy Quran and sent them to us." Where were the meeting places in those days? In 1945, Messenger Elijah Muhammad sent instructions for us not to pay any more rent but to hold our meetings in one of the believer's homes and to purchase a building. In the winter of 1955 56 in October, the building at 5333-35 South Greenwood was purchased. In June, 1972, a new Temple was purchased at 7351 Stoney Island Avenue. Messenger Muhammad and his followers across the Nation are determined to build an Educational Center at this site, second to none on Chicago's southside, which will serve as memorial to the dedicated mission of God's Messenger. The Honorable Elijah Muhammad, here in America.…

III. Teachings

"Muhammad Speaks" (MS), September 7, 1973, page 12, sets forth an article titled "O Wheel - Mother of Planes," by Elijah Muhammad. He wrote:

… The Wheel is in fact a ship (plane) made like a wheel. And it is made for the Purpose of Allah (God) Carrying out His Aim upon this world. This Wheel is by no means to be taken lightly!

After The Wheel has done its Work it will have Made Way for a New World to be Built under the Eyes and Guidance of Allah (God).

The Wheel is so wonderful that even the prophet had to declare it in these words, "O Wheel, O Wheel" meaning that he is admiring his vision that he was receiving from Allah (God).

The Wheel is the most wonderful and the most miraculous mechanical building of a plane that has ever been Imagined by man. The planes on this Wheel will be sent down, earthward and are capable of destroying the world almost at once. The Wheel, (the Mother Plane) is capable of carrying many people in it! The Wheel is 1⁄2 mile by 1⁄2 mile in size.

The Wheel is capable of sitting up above earth's atmosphere for a whole year before coming down into earth's atmosphere to take on more oxygen and hydrogen for the people who are on this plane (The Wheel) O she is a wonderful thing!

The Planes that she uses to send earthward are so swift that they can make their flight and return their plane to The Wheel, the Mother Plane, almost like a flash of lightning. O Wheel!

Think Over It: After trillions of years should we let a baby, only six months old (6,000 years old) outwit us? This I say to those ignorant people of mine. I do not say this to the white man, for the white man knows, too.

But, it is our Black People who the white man is desirous to keep dumb to the Power of our God, Allah. But, Think Over It! If the Black Man created the heavens and the earth. And The Black Man Did Create The Heavens And The Earth … then what man is fool enough to challenge the Black Man.

It Is Not that the white man is a fool to try to challenge Allah. It is the intention of the white man to make a fool out of the Black Man and to try to show Allah that he can make a fool out of the Black Man.

But, in a twinkling of an eye, Allah (God) can take away the heavens and the earth, not to think over a few little people just made six days ago (6,000 years ago). O Wheel, the greatest most miraculous plane ever built. There never was such a plane made before this Wheel. There never was a need for such a plane before now.

You may wish Mr. Enemy that you could get a shot at The Wheel with your jet planes and other military weapons, but you should just go home and go to sleep. No one can harm this plane, The Wheel. They are going to fix you up first, Before The Wheel ever comes into sight!

You cannot live on the moon, only just so long as your oxygen and hydrogen last you. The moon is about the closest platform that I know of, that you could probably try to use.

Venus And Mars … you cannot use Venus and Mars. The people on Mars will not let you light (land) on Mars. If they do let you land on Mars, they will be silly to do so.

You would like to see what the people on Mars look like. That is not, say, impossible. O Wheel … the greatest mechanical defender, powered by the Spirit of Allah, to Protect us, the Black People On The Face Of The Earth.

MS newspaper is self-described as published weekly by MT 2 in Chicago.

MS, October 12, 1973, page 12, sets forth an article titled "Indians in America" by Elijah Muhammad. He wrote

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Allah (God) Who Came in the Person of Master Fard Muhammad, To Whom Praises are due forever, taught me, that the Indians, who are so-called American Indians, are descendants from an old Ancient People, the Black Man of Asia, in that part of the country that is known as India. They are by no means a modern people.

The Indians, who are here in the Western Hemisphere are non-American, therefore I use the word, so-called American Indians. They were captured and subdued by the Americans, but this does not mean that they are Americanized.

The So-Called American Indians, so Allah (God) Who Came in the Person of Master Fard Muhammad, To Whom Praises are Due forever, taught me, were exiled from their native land (India) and people, 16,000 years ago. They migrated, by walking from the country that is now known as India and entered this country, by way of the Bering Straits.

They Were Driven Out Of India because of their unbelief in Allah and their failure to worship in His True Religion, Islam. They had to walk all that way because their fathers rebelled against Allah and His Religion, Islam.

They Suffered for a long time trying to get into this part of the earth. Imagine, if you would start out to walk to America through the Bering Straits to India, you would probably never reach there alive. To even walk across the continent of America would probably get a man for life. So imagine these people walking thousands and tens of thousands of miles to get into this part of the earth. It takes a long time.

They Had To Take Such terrible chastisement due to the spirit of Allah (God) against these people, because of their disobedience to Allah (God) and His Religion, Islam.

The So-Called American Indians were completely guideless. Allah allowed this to happen to them because of their disobedience. They built many kinds of gods with their own hands and bowed down and worshiped the work of their own hands as they are still doing in India, today. They are not successful in India, except those who turn to Islam.

And Since the Western Hemisphere became a prison exile for the American Indians, Allah (God) sent another exiled enemy (white man) to chase this (Indian) exile and to bring him into subjection to the late white exile and give the Indians another whipping.

Here In America, the white man has almost annihilated the Indian from the *face of* the earth. I want you to see into the work of God upon a people who refuse Him, as the so-called Negro in America desires to do, today. They Ignore Allah (God) and follow an exiled enemy of God.

The American White Man is an exile from Arabia They were exiled into Europe 6,000 years ago because of their disobedience and causing dissatisfaction, fighting and blood-shed among. the righteous due to their spreading lies between the Muslims. That is what they were made for.

The So-Called Negro in America came into America in such a different way than that of the Indians and the white man. We were not exiled from our native country and people. We were kidnapped by the white man and brought here by force against our will, for the purpose of evil slavery and mistreatment.

The So-Called Negro has no divine Charge or sin placed against them, by God, for being here or for doing anything in the way of other than righteous. The so-called Negro in America is cleared by Allah (God) Who Came in the Person of Master Fard Muhammad, To Whom Praises are Due forever.

Since Allah (God) has forgiven us for what was put upon us by the slavemaster (other than righteous), we have the better chance than the former two (the exiled enemy Indian and the exiled enemy white man).

We, The So-Called Negro in America, have a Defender in God, The All-Wise, The Best-Knower, The All-Powerful, The Mighty God and the Greatest of Them all, Allah, In the Person of Master Fard Muhammad, To Whom Praises are Due forever, Who is on our side.

Allah (God) Desires to use us, the descendants of our Black Nation, the best and the greatest of the Black Nation of Earth, since the time of its creation. The fact about it, He wants to build a new and Eternal Government of Freedom, Justice and Equality, out of us, for the Nation of Black People of the Earth.

However, The Door Is Open, to the remnant of the American Indians, so I turn my attention to this all but annihilated people, to see if they will come and follow me to Allah. Allah (God) Who Came in the Person of Master Fard Muhammad, To Whom Praises are Due forever, discussed them with me. So if you desire to live, my once-brothers, the Indians of America, seek me and I will Seek God, for you, that you may live, yet again. Allah (God) taught me that we can get along with the Indians of America, for they yet have some blood of the aboriginal Black people.

We Are Two People, who have been nearly destroyed. I seek the Indians. There are various newly made races of people here in the Western Hemisphere. They are mixed with the blood of this

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people and that people, but if you notice there is a trace of the blood of the Black Man in most of them.

We Want To Unite the scattered tribes of the Black Man into one Nation and build for ourselves a strong Nation.

MS, October 19, 1973, page 12, sets forth an article titled "We Want Earth:" by Elijah Muhammad. He wrote:

We, The Lost and Found Members of our Nation, the Original Black Nation of the Earth, called Negroes a name given to us by the slavemasters along with their own, which have no divine meaning need some of this earth on which we can build a home of our own. If we now are free and must go for self, we must have some of this earth to live free on so that we can exercise freedom of action.

The freed slave is not to depend on his ex-slavemaster for the necessities of life. This is the free slave's responsibility. The slave must be educated into the knowledge of how to do for self. He is not to depend on his former master if he is to become self independent.

We Boast that we are free. We love to tell the world that we are free. Freedom means that we are free to do what we like. We cannot yell to the world that we are free while begging to be freed.

It is the free man's duty to accept his own responsibilities accompanying freedom. If we turn back pleading to the master who freed us to feed, clothe and shelter us, we are still in slavery to the master. The Bible refers to this type of person as a "home-born slave."

If One Were to care for us, taking the responsibility for us, we would become a servant to that one. We are in bondage to whosoever takes our responsibilities to care for us.

Can we blame the masters for the treatment they give their own slaves? Yes, and no. They have robbed us both physically and mentally. They have spiritually blinded us to the knowledge of ourself and kind, God, the devil and true religion. This truth would bring to us eternal salvation.

We Love freedom. If we love freedom for self, remember that we must assume our own responsibility, so we are free to exercise the freedom of actions as well as freedom of thinking. Both the clergy and political classes of our people should remember this and preach it.

Where are our degreed scholars' and scientists' works in the way of trying to help themselves and their people to self independence?

We are a nation in a nation, with a population, according to the census, between 20 to 30 million ex-slaves roaming the country over seeking the master's pity. If we do something for self we accept our own pity.

Glossary

Allah	the name of the Islamic deity
Bering Straits	the narrow channel that separates Russia and Alaska and that in earlier ages was above water
Hanafi American Mussulman	a splinter organization of the Nation of Islam formed by Khalifa Hamaas Abdul Khaalis in 1958
Master Fard Muhammad	the founder of the Nation of Islam
MS	an abbreviation for the title of the Nation of Islam publication *Muhammad Speaks*
MT	an abbreviation for Muhammad's Temple, the name given to all Nation of Islam temples, which are then distinguished by a number
Quran	the Islam sacred scripture, usually spelled Qur'an or Koran
Sister Clara Muhammad	Elijah Muhammad's wife
Wheel	based on the biblical book of Ezekiel, an immense ship or plane made like a wheel and the means by which Allah will carry out his aims in the world

God Will help those who help themselves, let us unite and agree on simple truth and get some of this earth wherein we can do for self as other free nations have done.

IV. Foreign Contacts…

It is public knowledge that in January 1973, seven members of the Hanafi American Mussulman, Washington, D. C. were murdered, that Hamaas Khalis, leader of the group and former secretary of MT 2 in the late 1950's, true name Ernest McGhee, publicly stated Elijah Muhammad was responsible for the murder of the seven members of his family and the critically wounding of two others.

It is public knowledge that Kareem Abdul Jabbar, renowned basketball player with the Milwaukee Bucks of the National Basketball Association, was affiliated with the Hanafi American Mussulman and the murder occurred in a house purchased by Jabbar.

Malcolm X Little in the early 1960's was a leading spokesman for Elijah Muhammad and was Minister of MT 7, New York City, New York. He defected, founded his own organization based on Orthodox Islam and was murdered in New York City in 1965.

Shirley Chisholm (Library of Congress)

Shirley Chisholm: "The Black Woman in Contemporary America"

1974

"Black women have a duty to move from the periphery of organized political activity into its main arena."

Overview

Selected as the keynote speaker for a national conference on black women held at the University of Missouri in Kansas City, Shirley Chisholm enumerated the key issues facing African American women. She pointedly reminded her audience that black women were not interested in being addressed as "Ms." or in gaining access to all-male social clubs. Rather, African American women's top priority was the welfare of their families and communities. Black and white women should unite around issues such as improved day-care facilities and increased job opportunities. At the same time that Chisholm was criticizing white feminists, she chided African American spokesmen who suggested that black women step aside to allow black men to monopolize leadership positions. Only by working together as equals could black men and women create the programs and policies needed by their communities. This speech typified Chisholm's fighting spirit, her willingness to confront contentious issues head on, and her rousing oratorical style.

As the first African American woman elected to Congress and a candidate for the 1972 Democratic presidential nomination, Chisholm was the most prominent black female political leader of the 1970s. An articulate and fiery public speaker, Chisholm was not afraid to challenge established power brokers or take a stand on controversial issues. Her arrival on the national stage coincided with growing African American political power and the emergence of the women's liberation movement. At a time when many women of color criticized white feminists for pursuing goals irrelevant to minority communities, Chisholm attempted to bridge the racial divide. She frequently claimed that she was more often discriminated against because she was a woman than because she was black.

Context

As America entered the 1970s, the social movements that defined the tumultuous 1960s evolved and, in some cases, began to disintegrate. The civil rights movement that had been a powerful force for societal change a decade earlier no longer dominated the national agenda. Militant groups such as the Black Panther Party that had advocated armed revolution were forcefully suppressed. Other organizations concentrated their energies on developing black consciousness and building black studies programs on college and university campuses. As U.S. forces were withdrawn from Vietnam, the antiwar movement fell apart. Protest on college campuses receded, and the youthful counterculture began to wane.

In their place new forces appeared. The 1969 Stonewall Riots in New York City launched a gay pride movement that grew in strength during the next decade. A nascent environmental movement urged Americans to stop polluting the atmosphere and treat the earth with greater respect. The most potent inspiration for social change during the 1970s, however, came from the women's liberation movement. Influenced by the rhetoric of the civil rights struggle, American women began questioning their roles in the home, the economy, and the political system. The National Organization for Women, the foremost feminist organization of the 1960s, initially focused on legislative and economic goals such as ending discriminatory hiring practices and expanding educational opportunities. Across the country small groups of women gathered in "consciousness raising" sessions that critically examined relations between the sexes and encouraged women to seek fulfillment beyond their domestic roles. More young women sought higher education and delayed marriage and childbearing to pursue careers outside the home.

The emerging women's movement encompassed many interests and divergent ideological factions, but the most pronounced split was the racial divide. Since its origins in the early 1960s, its most articulate and visible figures had been college educated, middle-class white women. Betty Friedan's widely read book *The Feminine Mystique* (1963) identified "the problem without a name" the lack of fulfillment felt by affluent suburban housewives whose status was defined by their husbands and whose lives revolved around child care and homemaking.

For many African American women this problem seemed inconsequential; they were preoccupied with more fundamental issues of family stability and economic survival. Although black feminists recognized the need for women of color to resist male chauvinism, they were reluc-

Time Line

1924

- **November 30**
  Shirley Anita St. Hill is born in Brooklyn, New York.

1946

- Chisholm graduates from Brooklyn College.

1964

- **November 3**
  Chisholm is elected to the New York State Assembly from Brooklyn's Bedford-Stuyvesant.

1968

- **November 5**
  Chisholm is elected to the U.S. House of Representatives.

1969

- Chisholm and others form the Congressional Select Committee, which was named the Congressional Black Caucus in 1971.

1971

- **July**
  Chisholm is among the founders of the National Women's Political Caucus.

1972

- **January 25**
  Chisholm announces her candidacy for the Democratic presidential nomination.
- **July 12**
  Chisholm receives 152 first-ballot votes at the Democratic National Convention.

1974

- **June 17**
  Chisholm delivers her keynote speech "The Black Woman in Contemporary America" to the conference on black women in Kansas City, Missouri.

1982

- **February 10**
  Chisholm announces she will not seek reelection to Congress.

2005

- **January 1**
  Chisholm dies in Ormond Beach, Florida.

tant to make common cause with white women. Mississippi civil rights icon Fannie Lou Hamer acidly observed that she was not interested in being liberated from a man she liked her black husband just fine.

Young black women faced many challenging questions in the 1970s. Should they pursue newly opened career opportunities in the larger society or use their energies to build institutions within the black community? Should they take up the cause of gender equality or concentrate on eliminating racism from American society? Should they unite in the call for gender equity with women of other races or form independent all-black organizations?

These were some of the contentious issues being debated when Shirley Chisholm appeared at the conference on black women in contemporary America. As one of the most prominent and outspoken African American women, Chisholm was an ideal choice to deliver the keynote address. In Congress she vigorously championed the interests of her mostly black and Latino constituents. At the same time, she maintained ties to the largely white women's movement. As a former teacher, Chisholm enjoyed speaking to youthful audiences, especially college students.

About the Author

Shirley Anita St. Hill was born in Brooklyn, New York, on November 30, 1924, to West Indian immigrant parents. Her father, Charles St. Hill, was a factory worker and a follower of Jamaican black nationalist Marcus Garvey. Ruby Seale, her mother was a seamstress and domestic worker. At the age of three Chisholm was sent with her sisters to the Caribbean island of Barbados, where they were raised on a farm by their maternal grandparents. There she received her early education in strict, British-style schools that she credited for much of her later success.

Chisholm rejoined her parents in the Bedford-Stuyvesant area of Brooklyn in 1934. A shy, serious student, she attended Girls High School and qualified for tuition scholarships at Oberlin and Vassar colleges. Because her family could not afford to pay room and board, she lived at home and attended Brooklyn College, graduating with honors in 1946. She found work as a nursery school teacher. In 1949 she married Conrad Chisholm, a private investigator. They had no children and divorced in 1977. Chisholm earned a master's degree in elementary education from Columbia University in 1952. From 1953 to 1959 she was director of the Hamilton-Madison Child Care Center in Manhattan and later was employed as a consultant for the New York City Division of Day Care.

Chisholm's involvement in politics began during her college years when she and other students pushed for a course on "Negro history" and petitioned Congress to outlaw poll taxes. After college she became active in local Democratic politics, repeatedly challenging the white-dominated Brooklyn machine. Chisholm worked with insurgent organizations to increase African American representation, expand employment opportunities, and improve city services for her

neighbors in Bedford-Stuyvesant. In 1964 she announced her candidacy for a vacant seat in the New York State Assembly. Although some leaders were reluctant to endorse a female candidate, Chisholm's strong grass-roots organization won impressive victories in the primary and general elections. As a member of the assembly she sponsored legislation to aid the poor, increase educational opportunities for low-income students, and eliminate racial discrimination. She also introduced bills to assist women, such as expanding day care for working mothers and preserving seniority benefits for public school teachers on maternity leave.

In 1967 a new congressional district centered in Bedford-Stuyvesant was created. A coalition of African American organizations endorsed Shirley Chisholm for the seat. She ran as an independent fighter, committed to the welfare of her community. Her campaign slogan, "Fighting Shirley Chisholm Unbought and Unbossed," expressed her willingness to take on political bosses. She defeated two other Democrats in the primary and outpolled the nationally known civil rights leader James Farmer in the general election. On January 3, 1969, Chisholm was sworn in as the first African American woman member of Congress.

From the start of her congressional career, Representative Chisholm asserted her independence. She refused to accept an appointment to the Agriculture Committee, insisting that this assignment was utterly inappropriate for her urban district. House leaders backed down and named her to a seat on the Veterans Affairs Committee instead. Her stubborn refusal to "play ball" with powerful congressional leaders, however, limited her legislative effectiveness. She cosponsored bills to increase the right of workers to unionize, provide health insurance for domestic workers, reform welfare laws, abolish the draft, lower the voting age to eighteen, and drastically cut back military spending, but few of these measures became law. She later was appointed to the influential Education and Labor Committee. In 1977 she accepted a seat on the House Rules Committee.

Chisholm used her position in Congress to speak out on issues of the day. She attacked the Vietnam War and vowed to vote against war-related spending bills, she urged passage of the Equal Rights Amendment, and she advocated the legalization of abortion. Chisholm also collaborated with other elected officials to form the Congressional Black Caucus and the National Women's Political Caucus.

Increasingly frustrated with national political leaders, Chisholm declared her candidacy for president of the Unites States in January 1972. She pledged to work for the elimination of poverty, end the Vietnam War, and build a more just society. She envisioned a movement of marginalized people women, young people, African Americans, Latinos, Native Americans, and the poor to revitalize the American political system. Although Chisholm's candidacy drew enthusiastic support from many feminists and African American groups, including the Black Panther Party, her drive for the nomination suffered from inadequate funding, lacked an experienced campaign staff, and never developed a strong national presence. Reporters and pundits regarded her candidacy as a symbolic gesture and not a serious effort to win the presidency. Chisholm was especially disappointed in the tepid support she received from black male leaders and the failure of the National Black Political Convention to endorse her. At the Democratic National Convention in Miami she received 152 first-round votes.

Chisholm returned to Congress, where she continued to push for welfare reform, extension of the minimum wage, and a federal child-care program. She was in great demand as a speaker, frequently lecturing on college campuses. Chisholm did not seek reelection in 1982. After leaving Congress, she held distinguished professorships at Mount Holyoke College and Spellman College. She wrote two political biographies, *Unbought and Unbossed* (1970) and *The Good Fight* (1973). Chisholm supported the Reverend Jesse Jackson's presidential campaigns in 1984 and 1988. She retired to Florida in 1991 with Arthur Hardwick, Jr., her second husband, and died there on January 1, 2005, following a series of strokes.

Explanation and Analysis of the Document

In her keynote speech for the conference on the African American woman, Chisholm ranges widely from the era of slavery to an imagined future time when racism and sexism are no longer important problems. Her main objective, however, was to inspire other women to enter the political arena. Drawing on her twenty-year public career, Chisholm alerts her audience to the barriers they will face but insists they are not insurmountable obstacles. She criticizes white feminists for pursuing goals unrelated to the needs of the African American community and also faults black men for suggesting that women take a back seat to male leaders. Only by working side by side as equals, she maintains, could African American men and women create the unified movement needed to achieve their common goals.

Chisholm introduces her topic by explaining that her speech would not be a scholarly dissertation on the black woman in contemporary America. Rather, she bases her remarks on two decades of involvement in local and national affairs, during which time she encountered "all kinds of obstacles." Her audience, no doubt, was well aware of these problems, most notably the opposition she experienced during her 1972 run for the Democratic presidential nomination.

In the second paragraph, she places the current situation of black women in historical perspective. Understanding the "emasculation" of the black male is fundamental to appreciating the distinct role of the black woman, she notes. During slavery, black men frequently were separated from their wives and families. The fruits of their labor were not used to support their families but instead appropriated by slave owners. Black men were unable to protect their wives and daughters from assault and exploitation. As a result, black women had to take a more active role in their families, providing both economic support and social stability. Black women often were able to find work when their men were unemployed or imprisoned. To keep her family intact, the black woman developed strengths that today are

viewed negatively by sociologists. The most prominent example of this trend is found the work of the future senator Daniel Patrick Moynihan, who was at the time a social scientist working for the U.S. Department of Labor and who prepared a 1965 study titled *The Negro Family: The Case for National Action*. In a section labeled "The Tangle of Pathology," he wrote, "The Negro community has been forced into a matriarchal structure which, because it is out of line with the rest of the American society, seriously retards the progress of the group as a whole, and imposes a crushing burden on the Negro male."

African American scholars and activists took issue with Moynihan's analysis, branding it simplistic, condescending, and racist. In a 1966 article titled "Moynihan of the Moynihan Report," the *New York Times* reporter Thomas Meehan quoted civil rights leader Floyd McKissick's attack on Moynihan's report:

> It assumes that middle-class American values are the correct values for everyone in America.… Moynihan thinks that everyone should have a family structure like his own. Moynihan also emphasizes the negative aspects of the Negroes and then seems to say that it's the individual's fault when it's the damn system that really needs changing.

Chisholm clearly shared this view.

In the third paragraph, Chisholm articulates her main thesis that black women "have much to offer" and that only by pooling their collective talents and abilities would black men and women achieve "the liberation of their people." In the next two paragraphs Chisholm deals with the proposal put forward by some black nationalists, most notably spokesmen of the Nation of Islam, that black women should bolster the authority of African American men by declining leadership positions within the black freedom struggle. She emphatically rejects this notion as "historically incorrect" and as "a scapegoating technique" that prevents the unification of African Americans in pursuit of shared objectives. Sowing discord and distrust between men and women, the proponents of this view aid "the enemy" by distracting African Americans from the common goal of racial advancement. Chisholm points out that it is unreasonable to expect educated black women to sit on the sidelines, leaving the liberation struggle to men alone. Those who advocate this position act irresponsibly and do not constructively contribute to solving the problems facing African Americans.

In the sixth paragraph Chisholm takes issue with white feminists, whose objectives sometimes appear ill advised to African American women. She cites two infamous examples: picketing a New York cocktail lounge for excluding female patrons and insisting on the use of "Ms." instead of "Mrs." as a courtesy title. Neither issue, she asserts, speaks to the interests of black women, who have other, more pressing concerns. She mocks white women for their preoccupation with labels and urges them to focus on more substantive issues.

This did not mean, to Chisholm, that the women's liberation movement was irrelevant, however. Chisholm goes on to offer the nationalization of day care as an issue around which black and white women could build a meaningful partnership; it was a goal that would benefit working women of all races. Black women must not adopt a go-it-alone stance, she notes, but should seek alliances with people in other "humanitarian" movements, educating them to the needs of the black community and acting as catalytic agents to turn these coalitions in more beneficial directions.

Chisholm asserts in the eighth paragraph that black women were beginning to realize that they had to free themselves from male domination to fully contribute to black liberation. They had to stand up to men who would restrict them to secondary roles while monopolizing top positions for themselves. This, unfortunately, was the case in the civil rights movement, where few women occupied prominent public roles. A handful, like Coretta Scott King and Betty Shabazz, were well known because of their husbands (Martin Luther King, Jr., and Malcolm X, respectively). Other women made valuable contributions working behind the scenes while seldom receiving the recognition they deserved. Because they had to struggle against male domination in addition to racial oppression, African American women were among the most committed freedom fighters. Chisholm names the antilynching crusader Ida Wells as an example of this militant spirit, along with the Little Rock, Arkansas, leader of the National Association for the Advancement of Colored People, Daisy Bates, and Nashville sit-in pioneer Diane Nash.

Black women faced the double jeopardy of racism and sexism; their problems could not be compared with the obstacles faced by white women. In the ninth paragraph Chisholm notes the beginning of a new movement by African American women. Because the unique political and cultural constraints they faced had been addressed by neither the black movement nor the women's movement, they were moving in new directions. Nowhere was this trend more evident than in the realm of politics. Chisholm's tenth paragraph traces the evolution of the civil rights movement of the 1960s into the activism of the 1970s. Young black women were beginning to realize that they could exercise power through electoral politics. By registering new voters and forming grassroots organizations, black women were reshaping the political landscape. Chisholm's pathbreaking challenge and ultimate defeat of the Brooklyn Democratic machine is an early example of this potential.

Chisholm recounts the long-standing barriers to women's meaningful political participation in her eleventh paragraph. Undoubtedly recalling her own painful initiation into patriarchal politics, she lists the trivial tasks once assigned to women "opening envelopes, hanging up posters, and giving teas." In addition to the handicap imposed by their gender, black women belonged to a politically marginalized group. These factors made the recent emergence of African American women in politics even more remarkable.

Chisholm next asserts that changes within the black community have given birth to a new generation of African Amer-

ican women who understand that their well-being could be affirmed only "in connection with the total black struggle." Their work in the civil rights movement helped them realize the importance of political involvement. Chisholm predicts that these women would form a vanguard fashioning new kinds of political participation. African American women were uniquely situated to address the most critical issues facing their communities, in "their unusual proximity to the most crucial issues affecting black people today." In paragraph 13, Chisholm praises New York City welfare mothers for calling attention to problems threatening the survival of the black family. She declares that black women have a duty to their families to press for increases in the minimal welfare allowances that contribute to the breakdown of black family life. To accomplish this goal, they must move into the "main arena" of American political life.

Chisholm then repeats a message she delivered in countless speeches to women's groups across the United States. Involvement in politics is not a question of competition against men, she states; it is a question of women realizing their responsibility to their own families. She encourages women in her audience "to give everything that is within ourselves to give" to create a better future for their children. Chisholm quotes Frances Beal, author of the 1969 pamphlet "Black Women's Manifesto," in paragraph 15. In this pamphlet, Beal reiterates the low status of black women and claims that they were being used as scapegoats for the evils that American society inflicted on the black man. They had been maligned and molested; their labor had been exploited to the neglect of their own children. Not only had black women been degraded, but they were also powerless to improve their situation.

In the next two paragraphs, Chisholm cites the work of Susan Johnson, a young African American scholar. Johnson asserted that the success of the black woman in politics resulted from her capacity to free herself from the constraints imposed by the double burdens of racism and sexism. By taking an active role in politics she threatened the status of the black male as well as the deeply entrenched structure of white supremacy. Striking a positive note, however, Johnson observed that because the African American woman was seen as less dangerous than her male counterpart, white politicians sometimes underestimated her ability. This view provided "the necessary leverage for political mobility."

Chisholm notes that psychologists, sociologists, and psychiatrists had tried without success to define and interpret the African American woman. Usually this resulted in misunderstanding and misinterpretation. Everyone had joined the act except black women themselves. She declares that it is time for black women to take control of their destiny. Chisholm urges the women in her audience to "stand up and be counted." In paragraph 19 she prays that in years to come the division between male and female will disappear. When that day arrives, all people would be able to employ their god-given talents for the benefit of humanity. Chisholm then reminds her listeners that no racial group had a monopoly on wisdom or ignorance, and neither did one gender. Americans should understand the historical forces and contemporary pressures that prevented black women and men from forming a powerful united movement. Creating this common front, however, should remain their objective.

Civil rights leader James Farmer (Library of Congress)

Using her career as a case in point, in paragraph 21 Chisholm admonishes her audience not to listen to critics and naysayers. Black women would not make progress unless they concentrated on their strengths. During the coming conference she advises participants to openly confront the dangerous and difficult issues that might easily be ignored. She paraphrases the old adage that "the truth shall make you free." In her concluding paragraph Chisholm encourages her listeners to reject old politics and obsolete morality. Young activists, she says, must cast off outdated traditions and conventions to find their own way. Only by standing up for the right as determined by their consciences would Americans achieve the greatness to which they aspired.

Audience

The immediate audience for Chisholm's address consisted of delegates to a national conference on the status of

Essential Quotes

"The black woman who is educated and has ability cannot be expected to put said talent on the shelf when she can utilize these gifts side-by-side with her man. One does not learn, nor does one assist in the struggle, by standing on the sidelines, constantly complaining and criticizing. One learns by participating in the situation—listening, observing and then acting."

(Paragraph 5)

"The black woman lives in a society that discriminates against her on two counts. The black woman cannot be discussed in the same context as her Caucasian counterpart because of the twin jeopardy of race and sex which operates against her, and the psychological and political consequences which attend them.… To date, neither the black movement nor women's liberation succinctly addresses itself to the dilemma confronting the black who is female."

(Paragraph 9)

"[African American women] are beginning to realize their capacities not only as blacks, but also as women. They are beginning to understand that their cultural well-being and their social well-being would only be affirmed in connection with the total black struggle. The dominant role black women played in the civil rights movement began to allow them to grasp the significance of political power in America."

(Paragraph 12)

"In the face of the increasing poverty besetting black communities, black women have a responsibility. Black women have a duty to bequeath a legacy to their children. Black women have a duty to move from the periphery of organized political activity into its main arena."

(Paragraph 13)

"It is not a question of competition against black men or brown men or red men or white men in America. It is a question of the recognition that, since we have a tremendous responsibility in terms of our own families, that to the best of our ability we have to give everything that is within ourselves to give … to make that future a better future for our little boys and our little girls."

(Paragraph 14)

black women. It is safe to assume that a majority of the participants were young African American women, but men and whites were not excluded. More broadly, her comments were intended for all persons working for social change. Although some examples and references may seem dated, Chisholm's message remains relevant: Black women must struggle against the twin barriers of racism and sexism to create a more just society for themselves and their children. She argued that political power could be a tool for social change and that black women must not be afraid to seek it.

Impact

In an era when women are represented at all levels of government, when they occupy influential seats in the presidential cabinet and on the U.S. Supreme Court, and when they make up a growing portion of the nation's governors and senators, it is easy to forget that only a few decades ago a woman running for elective office was a rarity. Pioneering female politicians like Shirley Chisholm and Congresswoman Barbara Jordan overcame monumental barriers. Their success required enormous personal commitment and great sacrifice.

Chisholm was the first African American woman to be elected to Congress, but she was far from the last. By 2010 fourteen black women sat in the House of Representatives. Many accomplished female politicians took their inspiration from Chisholm's career. She was a role model for a generation of female activists. Her victories proved that racism and sexism need not be insurmountable obstacles to political power.

Shirley Chisholm believed that she had a duty to spread the gospel of political empowerment. That is why, after her 1968 election, she devoted much of her time to public speaking. While it is difficult to accurately assess the impact of her Kansas City speech, there is no denying the cumulative effect of hundreds of similar addresses delivered to young women who packed college auditoriums to listen to her advice and learn from her example. All her life Chisholm fought against entrenched privilege to give a voice to those excluded from the corridors of power. Her courage and dedication remain an inspiration to all who hear her message.

See also Moynihan Report (1965).

Further Reading

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Questions for Further Study

1. Compare this document with Mary Church Terrell's "The Progress of Colored Women," an address delivered in 1898. What do you think Church Terrell's reaction to Chisholm's speech would have been? How were Chisholm's circumstances similar to, and different from, those surrounding Church Terrell?

2. What was Chisholm's relationship with the burgeoning feminist movement? Was she critical of that movement in any way? Explain.

3. Compare this document with the 1965 Moynihan Report. How did Chisholm respond to the findings of that report?

4. What historical circumstances, in Chisholm's view, forced upon African American women the need to be strong leaders in their communities?

5. Chisholm once said that she felt more discriminated against because she was a woman than because she was black. Does this statement surprise you? Why do you think she made this claim?

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Paul T. Murray

Document Text

Shirley Chisholm: "The Black Woman in Contemporary America"

Ladies and gentlemen, and brothers and sisters all I'm very glad to be here this evening. I'm very glad that I've had the opportunity to be the first lecturer with respect to the topic of the black woman in contemporary America. This has become a most talked-about topic and has caused a great deal of provocation and misunderstandings and misinterpretations. And I come to you this evening to speak on this topic not as any scholar, not as any academician, but as a person that has been out here for the past twenty years, trying to make my way as a black and a woman, and meeting all kinds of obstacles.

The black woman's role has not been placed in its proper perspective, particularly in terms of the current economic and political upheaval in America today. Since time immemorial the black man's emasculation resulted in the need of the black woman to assert herself in order to maintain some semblance of a family unit. And as a result of this historical circumstance, the black woman has developed perseverance; the black woman has developed strength; the black woman has developed tenacity of purpose and other attributes which today quite often are being looked upon negatively. She continues to be labeled a matriarch. And this is indeed a played-upon white sociological interpretation of the black woman's role that has been developed and perpetrated by Daniel Moynihan and other sociologists.

Black women by virtue of the role they have played in our society have much to offer toward the liberation of their people. We know that our men are coming forward, but the black race needs the collective talents and the collective abilities of black men and black women who have vital skills to supplement each other.

It is quite perturbing to divert ourselves on the dividing issue of the alleged fighting that absorbs the energies of black men and black women. Such statements as "the black woman has to step back while her black man steps forward" and "the black woman has kept back the black man" are grossly, historically incorrect and serve as a scapegoating technique to prevent us from coming together as human beings some of whom are black men and some are black women.

The consuming interest of this type of dialogue abets the enemy in terms of taking our eyes off the ball, so that our collective talents can never redound in a beneficial manner to our ethnic group. The black woman who is educated and has ability cannot be expected to put said talent on the shelf when she can utilize these gifts side-by-side with her man. One does not learn, nor does one assist in the struggle, by standing on the sidelines, constantly complaining and criticizing. One learns by participating in the situation listening, observing and then acting.

It is quite understandable why black women in the majority are not interested in walking and picketing a cocktail lounge which historically has refused to open its doors a certain two hours a day when men who have just returned from Wall Street gather in said lounge to exchange bits of business transactions that occurred on the market. This is a middle-class white woman's issue. This is not a priority of minority women. Another issue that black women are not overly concerned about is the "M-S" versus the "M-R-S" label. For many of us this is just the use of another label which does not basically change the fundamental inherent racial attitudes found in both men and women in this society. This is just another label, and black women are not preoccupied with any more label syndromes. Black women are desperately concerned with the issue of survival in a society in which the Caucasian group has never really practiced the espousal of equalitarian principles in America.

An aspect of the women's liberation movement that will and does interest many black women is the potential liberation, is the potential nationalization of daycare centers in this country. Black women can accept and understand this agenda item in the women's movement. It is important that black women utilize their brainpower and focus on issues in any movement that will redound to the benefit of their people because we can serve as a vocal and a catalytic pressure group within the so-called humanistic movements, many of whom do not really comprehend the black man and the black woman.

An increasing number of black women are beginning to feel that it is important first to become free as women, in order to contribute more fully to the task of black liberation. Some feel that black men like all men, or most men have placed women in the stereotypes of domestics whose duty it is to stay

in the background cook, clean, have babies, and leave all of the glory to men. Black women point to the civil rights movement as an example of a subtle type of male oppression, where with few exceptions black women have not had active roles in the forefront of the fight. Some like Coretta King, Katherine Cleaver, and Betty Shabazz have come only to their positions in the shadows of their husbands. Yet, because of the oppression of black women, they are strongest in the fight for liberation. They have led the struggle to fight against white male supremacy, dating from slavery times. And in view of these many facts it is not surprising that black women played a crucial role in the total fight for freedom in this nation. Ida Wells kept her newspaper free by walking the streets of Memphis, Tennessee, in the 1890s with two pistols on her hips. And within recent years, this militant condition of black women, who have been stifled because of racism and sexism, has been carried on by Mary McLeod Bethune, Mary Church Terrell, Daisy Bates, and Diane Nash.

The black woman lives in a society that discriminates against her on two counts. The black woman cannot be discussed in the same context as her Caucasian counterpart because of the twin jeopardy of race and sex which operates against her, and the psychological and political consequences which attend them. Black women are crushed by cultural restraints and abused by the legitimate power structure. To date, neither the black movement nor women's liberation succinctly addresses itself to the dilemma confronting the black who is female. And as a consequence of ignoring or being unable to handle the problems facing black women, black women themselves are now becoming socially and politically active.

Undoubtedly black women are cultivating new attitudes, most of which will have political repercussions in the future. They are attempting to change their conditions. The maturation of the civil rights movement by the mid '60s enabled many black women to develop interest in the American political process. From their experiences they learned that the real sources of power lay at the root of the political system. For example, black sororities and pressure groups like the National Council of Negro Women are adept at the methods of participatory politics particularly in regard to voting and organizing. With the arrival of the '70s, young black women are demanding recognition like the other segments of society who also desire their humanity and their individual talents to be noticed. The tradition of the black woman and the Afro-American subculture and her current interest in the political process indicate the emergence of a new political entity.

Historically she has been discouraged from participating in politics. Thus she is trapped between the walls of the dominant white culture and her own subculture, both of which encourage deference to men. Both races of women have traditionally been limited to performing such tasks as opening envelopes, hanging up posters and giving teas. And the minimal involvement of black women exists because they have been systematically excluded from the political process and they are members of the politically dysfunctional black lower class. Thus, unlike white women, who escape the psychological and sociological handicaps of racism, the black woman's political involvement has been a most marginal role.

But within the last six years, the Afro-American subculture has undergone tremendous social and political transformation and these changes have altered the nature of the black community. They are beginning to realize their capacities not only as blacks, but also as women. They are beginning to understand that their cultural well-being and their social well-being would only be affirmed in connection with the total black struggle. The dominant role black women played in the civil rights movement began to allow them to grasp the significance of political power in America. So obviously black women who helped to spearhead the civil rights movement would also now, at this juncture, join and direct the vanguard which would shape and mold a new kind of political participation.

This has been acutely felt in urban areas, which have been rocked by sporadic rebellions. Nothing better illustrates the need for black women to organize politically than their unusual proximity to the most crucial issues affecting black people today. They have struggled in a wide range of protest movements to eliminate the poverty and injustice that permeates the lives of black people. In New York City, for example, welfare mothers and mothers of schoolchildren have ably demonstrated the commitment of black women to the elimination of the problems that threaten the well-being of the black family. Black women must view the problems of cities such as New York not as urban problems, but as the components of a crisis without whose elimination our family lives will neither survive nor prosper. Deprived of a stable family environment because of poverty and racial injustice, disproportionate numbers of our people must live on minimal welfare allowances that help to perpetuate the breakdown of family life. In the face of the

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increasing poverty besetting black communities, black women have a responsibility. Black women have a duty to bequeath a legacy to their children. Black women have a duty to move from the periphery of organized political activity into its main arena.

I say this on the basis of many experiences. I travel throughout this country and I've come in contact with thousands of my black sisters in all kinds of conditions in this nation. And I've said to them over and over again: it is not a question of competition against black men or brown men or red men or white men in America. It is a questions of the recognition that, since we have a tremendous responsibility in terms of our own families, that to the best of our ability we have to give everything that is within ourselves to give in terms of helping to make that future a better future for our little boys and our little girls, and not leave it to anybody.

Francis Beal describes the black woman as a slave of a slave. Let me quote: "By reducing the black man in America to such abject oppression, the black woman had no protector and she was used and is still being used in some cases as the scapegoat for the evils that this horrendous system has perpetrated on black men. Her physical image has been maliciously maligned. She has been sexually molested and abused by the white colonizer. She has suffered the worst kind of economic exploitation, having been forced to serve as the white woman's maid and wetnurse for white offspring, while her own children were more often starving and neglected. It is the depth of degradation to be socially manipulated, physically raped and used to undermine your own household and then to be powerless to reverse this syndrome."

However, Susan Johnson notes a bit of optimism. Because Susan, a brilliant young black woman, has said that the recent strides made by the black woman in the political process is a result of the intricacies of her personality. And that is to say that as a political animal, she functions independently of her double jeopardy. Because confronted with a matrifocal past and present, she is often accused of stealing the black male's position in any situation beyond that of housewife and mother. And if that were not enough to burden the black woman, she realizes that her political mobility then threatens the doctrine of white supremacy and male superiority so deeply embedded in the American culture.

So choosing not to be a victim of self-paralysis, the black woman has been able to function in the political spectrum. And more often than not, it is the subconsciousness of the racist mind that perceives her as less harmful than the black man and thus permits her to acquire the necessary leverage for political mobility. This subtle component of racism could prove to be essential to the key question of how the black woman has managed some major advances in the American political process.

It is very interesting to note that everyone with the exception of the black woman herself has been interpreting the black woman. It is very interesting to note that the time has come that black women can and must no longer be passive, complacent recipients of whatever the definitions of the sociologists, the psychologists and the psychiatrists will give to us. Black women have been maligned, misunderstood, misinterpreted who knows better than Shirley Chisholm?

And I stand here tonight to tell to you, my sisters, that if you have the courage of your convictions, you must stand up and be counted. I hope that the day will come in America when this business of male versus female does not become such an overriding issue, so that the talents and abilities that the almighty God have given to people can be utilized for the benefit of humanity.

One has to recognize that there are stupid white women and stupid white men, stupid black women and stupid black men, brilliant white women and brilliant white men, and brilliant black women and brilliant black men. Why do we get so hung-up in America on this question of sex? Of course, in terms of the black race, we understand the historical circumstances. We understand, also, some of the subtle maneuverings and machinations behind the scenes in order to prevent black women and black men from coming together as a race of unconquerable men and women.

And I just want to say to you tonight, if I say nothing else: I would never have been able to make it in America if I had paid attention to all of the doomsday-criers about me. And I want to say in conclusion that as you have this conference here for the next two weeks, put the cards out on the table and do not be afraid to discuss issues that perhaps you have been sweeping under the rug because of what people might say about you. You must remember that once we are able to face the truth, the truth shall set all of us free.

In conclusion, I just want to say to you, black and white, north and east, south and west, men and women: the time has come in America when we should no longer be the passive, complacent recipients of whatever the morals or the politics of a nation

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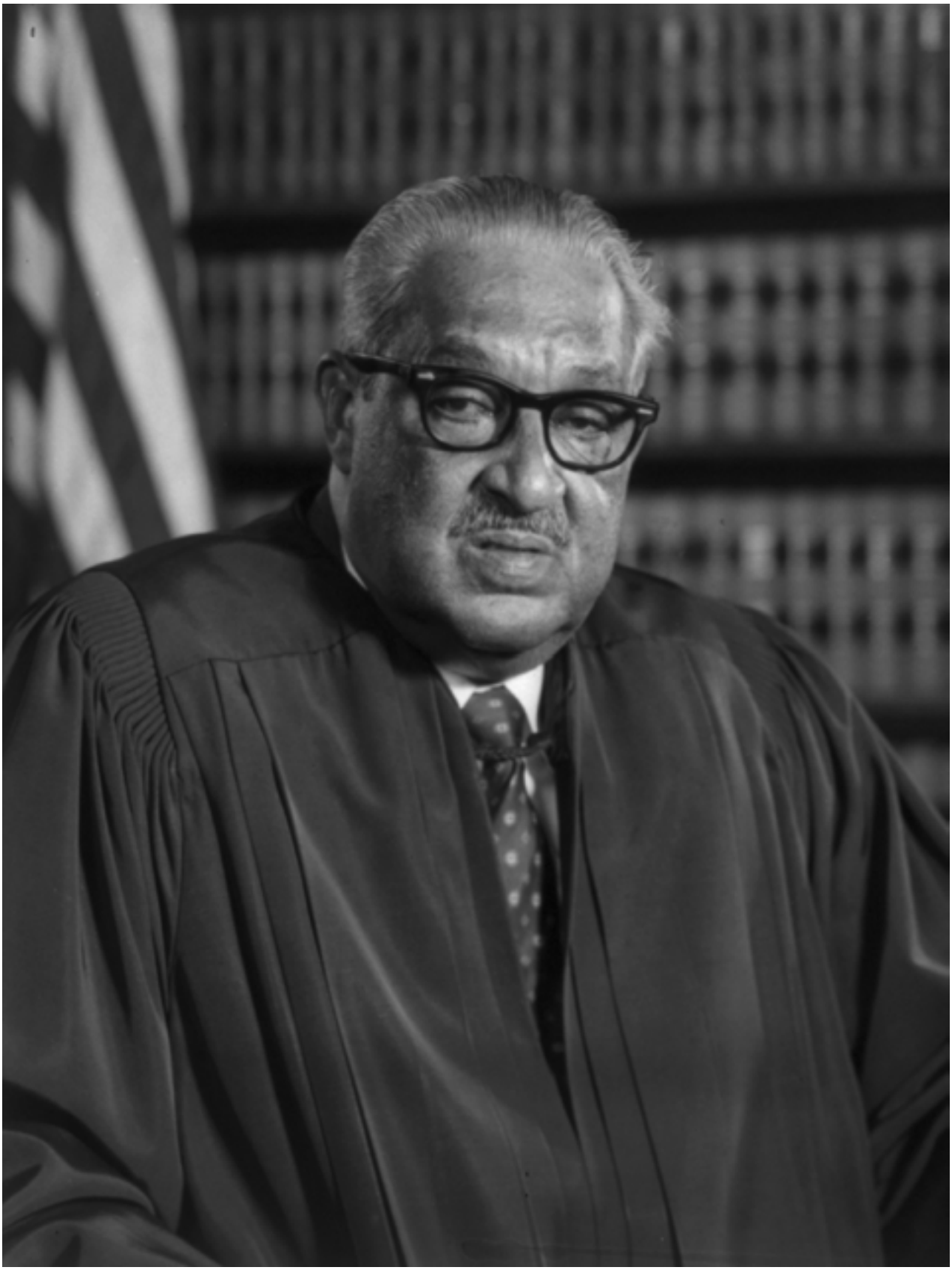
may decree for us in this nation. Forget traditions! Forget conventionalisms! Forget what the world will say whether you're in your place or out of your place. Stand up and be counted. Do your thing, looking only to God whoever your God is and to your consciences for approval. I thank you.

Glossary

Betty Shabazz	the widow of slain civil rights leader Malcolm X
Coretta King	the widow of Martin Luther King, Jr.
Daisy Bates	a twentieth-century civil rights activist and journalist who served as an adviser to the black students who enrolled at Little Rock (Arkansas) High School under a court desegregation order in 1957
Daniel Moynihan	the author of the 1965 government report commonly called the Moynihan Report, which argued that the chief problem in the black community was the disintegration of the family
Diane Nash	a civil rights activist, cofounder of the Student Nonviolent Coordinating Committee, and a major figure in the Southern Christian Leadership Conference
Francis Beal	author of the 1969 pamphlet "Black Women's Manifesto"
Katherine Cleaver	probably a reference to Kathleen Cleaver, the wife of Black Panther Party activist Eldridge Cleaver and a civil rights activist in her own right
Mary Church Terrell	a late-nineteenth and early-twentieth-century activist, cofounder of the National Association of College Women, which later became the National Association of University Women, and one of the cofounders of the NAACP
Mary McLeod Bethune	an American educator who founded a Florida school that became Bethune-Cookman University
matrifocal	matriarchal, referring to a society in which women take the leading role
"M-S" versus the "M-R-S" label	a reference to the use of Ms. rather than Mrs. (or Miss) in addressing women, to take attention away from marital status



Thurgood Marshall (Library of Congress)

Thurgood Marshall's Equality Speech

1978

"You are in competition with a well trained white lawyer and you better be at least as good as he, and if you expect to win, you better be better."

Overview

Thurgood Marshall's Equality Speech as his untitled address came to be known was delivered on November 18, 1978, at Howard University School of Law in Washington, D.C., at a convocation honoring Wiley A. Branton, its new dean. An associate justice of the U.S. Supreme Court and a 1933 graduate of the school, Marshall had come to Howard to praise his old friend and partner in the fight to integrate the schools of Little Rock, Arkansas, some two decades earlier. In addition, he would celebrate the Howard law school's legacy: its trained corps of African American lawyers who, at great personal risk, went into the American South in the second third of the twentieth century to change the racially segregated world that Jim Crow laws had produced and reinforced since the end of Reconstruction in 1877.

As chief counsel to the Legal Defense and Educational Fund, an organization developed by the National Association for the Advancement of Colored People (NAACP), until 1961, Marshall supervised many of those lawyers in civil rights cases throughout the South and elsewhere. As the lead litigator in the landmark 1954 Supreme Court case *Brown v. Board of Education of Topeka*, which had opened the way to desegregating the nation's public schools, Marshall and his teams of lawyers laid the legal foundation for the civil rights movement in the 1960s. Now, as a new chapter in the law school's history was beginning, Marshall would look back on more than four decades of civil rights litigation to offer a rueful assessment of African American equality in 1978.

Context

The civil rights movement of the 1960s had its roots in the actions of African American lawyers, who, in the 1930s, entered all-white southern courtrooms to challenge the harsh Jim Crow laws that, since the end of the nineteenth century, had restricted or denied African Americans in the South access to housing, medical care, public parks, swimming pools, public transportation, all levels of education, and well-paid jobs because of their race. As late as the mid-1950s in the South, public drinking fountains and restrooms, dime store lunch counters, restaurants, hotels, and theaters were strictly segregated with many such facilities available only to whites. African Americans were routinely denied access to voting rolls and jury service. Southern public and private colleges routinely refused to admit African Americans and denied them admission to graduate and professional schools as well. Elsewhere, informal racial quotas limited African American enrollments. In many parts of the country marriage of interracial couples was strictly prohibited. Real estate deeds in the 1950s often contained restrictive racial covenants preventing sales of homes to African Americans. Neighborhoods were "redlined" by banks the term refers to lines drawn on urban maps to identify ethnic concentrations so as to preserve privileged white enclaves by withholding mortgages from African Americans seeking to move in. Professional sports were rigidly segregated, as were the military forces in both world wars.

These racially biased practices were protected by an 1896 decision of the U.S. Supreme Court, *Plessy v. Ferguson*. Voting seven to one (with one justice not participating), the Court upheld a Louisiana law requiring separate passenger cars for blacks and whites on intrastate railroads and ruled that state laws based on a "separate but equal" doctrine did not violate the Fourteenth Amendment's equal protection clause. That amendment, the Court said, provides only for political, not social, equality. Southern governments soon applied the decision's "separate but equal" standard to every area of life to keep the races apart, and the Supreme Court, until the 1930s, consistently gave them the right to do so. In interstate transportation, for example, southern states required passengers to obey segregation laws while in transit from state to state. African Americans traveling, say, from the Midwest to Mississippi had to give up their seats to white passengers if they were ordered to do so by the bus driver or train conductor once they had crossed into a segregated state.

Change, when it arrived, came slowly and grudgingly through a series of lawsuits brought to the nation's courtrooms by teams of lawyers supported by the NAACP Legal Defense and Educational Fund. Over time, some of these cases reached the U.S. Supreme Court, producing victories that incrementally deemed unconstitutional the Jim Crow laws that had kept African Americans from full equality. This legal approach was the brainchild of Charles Hamil-

Time Line

1868

- **July 9**
  The Fourteenth Amendment to the United States Constitution, requiring equal protection under the law for all persons, is ratified.

1896

- **May 18**
  In *Plessy v. Ferguson* the Supreme Court by a vote of seven to one rules that segregation by race is not unconstitutional.

1908

- **July 2**
  Thurgood Marshall is born into a middle-class African American family in Baltimore, Maryland, a segregated city.

1909

- **February 12**
  The National Association for the Advancement of Colored People (NAACP) is founded on the hundredth anniversary of Abraham Lincoln's birth "to secure for all people" their rights under the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution.

1933

- After being mentored by Charles Hamilton Houston, Marshall graduates first in his class from the Howard University School of Law.
- **Summer and Fall**
  Marshall passes the Maryland bar examination and opens a private law practice in Baltimore.

1936

- **January 15**
  Marshall secures the admission of the first African American student to the University of Maryland Law School.

1938

- **December 12**
  Houston and Marshall win a decision from the U.S. Supreme Court that invalidates state laws that force African American students to attend out-of-state graduate and professional schools because in-state schools are for whites only.

ton Houston, the African American dean of the Howard University School of Law in the 1930s, who trained his students as "social engineers" with the legal skills necessary to change America's civil rights landscape. Proposing to challenge segregation and its legal sanctions in the courts rather than through political action, Houston, aided by Thurgood Marshall, developed a simple courtroom strategy: *Plessy* would be attacked by applying the equal protection clause of the Fourteenth Amendment to social as well as political equality. Through two decades African American lawyers consistently argued that the South's separate but equal laws were inherently unequal and in violation of the Fourteenth Amendment's promised protections.

In 1935, using Houston's approach, Marshall, who was then in private practice in Baltimore but working under contract for the NAACP, persuaded the Maryland Court of Appeals to order the University of Maryland Law School to admit an African American applicant it had earlier rejected because of his race and, in the future, to admit all qualified students regardless of color. It was a sweet victory for Marshall, who had been denied admission to the same school five years earlier on racial grounds. In 1938 Houston himself secured a ruling from the U.S. Supreme Court invalidating state laws that forced African American students to attend out-of-state graduate schools because their race barred them from the states' all-white schools.

Succeeding Houston as the NAACP's special counsel in 1938, Marshall was appointed the first director and chief counsel of the newly independent Legal Defense and Educational Fund in 1940. Over the course of twenty years, he traveled throughout the South assisting African American lawyers in implementing hundreds of legal attacks on segregation and serving as lead counsel in the cases that, on appeal, reached the nation's highest court. During this long period of litigation, Marshall argued thirty-two major civil rights cases before the Court, winning twenty-nine of them, including decisions that granted African American teachers pay equal to whites (1940); forced the state of Texas to abandon policies barring blacks from primary elections (1944); banned state statutes requiring racial segregation on interstate railroads and buses (1946); ordered Oklahoma (1948) and Texas (1950) to admit African Americans to their law schools; and granted African American graduate students equal admission to dormitories and classrooms in graduate schools (1950).

During the 1950s Marshall won cases in the Supreme Court that led to the desegregation of public parks, swimming pools, local bus systems, and athletic facilities. His most important legal victory came on May 17, 1954, when a unanimous Supreme Court in *Brown v. Board of Education* effectively overturned *Plessy v. Ferguson*, holding segregation in the nation's public schools unconstitutional and in violation of the equal protection clause of the Fourteenth Amendment. That decision was the forerunner of other judicial enforcement of African American rights, including decisions upholding affirmative action policies in education and employment. It opened the way to Martin Luther King, Jr.'s, leadership of the 1960s civil rights movement and, through that movement, to the comprehensive Civil Rights Act of 1964 and the

Voting Rights Act of 1965, which gave African Americans in the South federal protection when they registered to vote.

Brown secured Marshall's national reputation as a litigator and led to his three successive appointments in the federal government first as an appellate judge, then as solicitor general, and finally as the first African American justice on the Supreme Court. In each of these roles, he continued to defend racial equality, the subject of his speech in 1978.

About the Author

Thurgood Marshall, a civil rights lawyer, solicitor general, and the first African American associate justice of the U.S. Supreme Court was born in the segregated city of Baltimore, Maryland, on July 2, 1908. Growing up in a middle-class home his mother was an elementary school teacher and his father supervised the dining room staff at a local country club Marshall graduated from Lincoln University in Pennsylvania in 1930. Refused admission to the University of Maryland School of Law because of his race, he commuted daily to the Howard University School of Law, where Charles Hamilton Houston mentored him. He finished first in his class in 1933.

After two years in private practice, Marshall went to New York to become a staff lawyer for the NAACP. In 1939 he replaced Houston as the association's chief counsel to lead an aggressive program litigating civil rights cases across the nation, but principally in the South. As lead counsel, he argued thirty-two cases before the Supreme Court, winning twenty-nine and earning a national reputation as a brilliant litigator. In 1961 President John F. Kennedy appointed him to the U.S. Court of Appeals for the Second Circuit (New York, Connecticut, and Vermont).

In 1965 President Lyndon B. Johnson appointed Marshall U.S. solicitor general, the first African American to serve as the nation's chief litigator, representing the federal government in legal arguments before the Supreme Court. Two years later President Johnson appointed him to the Supreme Court, where Marshall became best known for his hundreds of dissents, his championing of civil rights, his opposition to the death penalty, and especially his promotion of affirmative action policies designed to heal the wounds of slavery and racial bias. Although Marshall insisted that he would never retire, his health failed him in the end, and he left the bench in 1991. He died of heart failure on January 24, 1993.

Explanation and Analysis of the Document

The document reproduced here is a copy of the verbatim transcript of Marshall's address to the convocation audience at the Howard University School of Law on Saturday, November 18, 1978. Marshall spoke extemporaneously, using only a few notes. Lee Roy Clemons, a law student, who was both a certified court reporter and court stenographer, compiled the transcript, which was subsequently published in *The Barrister*, the student newspaper.

Time Line

1948

- **July 26**
  President Harry S. Truman signs Executive Order 9981, desegregating the military services and requiring equal treatment of all service personnel regardless of race, religion, or ethnicity.

1954

- **May 17**
  In *Brown v. Board of Education*, by a vote of nine to zero, the Supreme Court overturns *Plessy v. Ferguson*, holding that "in the field of public education the doctrine of 'separate but equal' has no place" and affirming the "equal protection clause" of the Fourteenth Amendment.

1955

- **May 31**
  Revisiting *Brown*, the Supreme Court orders the states to desegregate the nation's schools "with all deliberate speed."

1958

- **September 12**
  In a nine-to-zero decision the Supreme Court rules that the states are bound by the Fourteenth Amendment to enforce the *Brown* rulings.

1961

- **September 23**
  President John F. Kennedy appoints Marshall to be a judge on the U.S. Second Circuit Court of Appeals.

1964

- **July 2**
  President Lyndon B. Johnson signs the comprehensive Civil Rights Act of 1964, intended to end discrimination or segregation because of race, religion, or sex in broad areas of American life.

1965

- **July 13**
  President Johnson appoints Marshall as U.S. solicitor general.

Time Line

1965

- **August 6**
  President Johnson signs the Voting Rights Act of 1965, providing for federal protection and assistance to African Americans seeking to register to vote.

1967

- **October 2**
  Marshall, appointed by President Johnson, becomes the first African American associate justice on the U.S. Supreme Court.

1978

- **June 28**
  In *University of California v. Bakke*, a divided Supreme Court holds that affirmative-action policies are constitutional but a race-based quota system for admissions is not.
- **November 18**
  Marshall gives his Equality Speech at the Howard University School of Law in Washington, D.C.

Speaking informally, Marshall drew on ideas and themes from speeches he had delivered over the years to civil rights groups or university audiences as a lawyer or to bar associations as a judge. His seemingly impromptu comments about the history of the law school, for example, and especially those concerning his mentor, Charles Hamilton Houston, echo a more formal talk he gave in the spring of 1978 at Amherst College in a program honoring Houston, an Amherst alumnus.

◆ Introductory Remarks

The speech at Howard moves through several stages. The first five paragraphs are the customary informal remarks that set the stage; they serve to introduce the speaker, to thank the institution that has invited him, and to set a cordial tone before proceeding to the main themes of the event. In this case the topics that follow are a brief history of the school, Marshall's personal recollections of Charles Hamilton Houston and his students, and his final, powerful assessment of the state of African American lives in 1978.

In the first paragraph, Marshall offers a salutation to Warren Burger, the chief justice of the United States, and to Dr. James Edward Cheek, president of Howard University. He acknowledges as well, though he does not name them, other judges in attendance from the federal and state courts. His acknowledgment of these dignitaries establishes the importance of the occasion.

Paragraphs 2 5 reflect Marshall's well-known reputation as a playful teller of parable-like tales that he often used in trials to lighten the proceedings and drive home a point of law in terms understandable to juries. As a legal tactic, he used such stories to mask his own abilities and lead white attorneys in white southern courtrooms to view him as an easy adversary. His opponents often underestimated his legal mind because his language was often couched in folksy images, but he moved easily and quickly, at the appropriate time, from field or street language to academic and lawyerly sophistication. He was a master at giving a different voice to each character in the tales he told, and it is likely he did so here.

◆ The Importance of Howard University

Marshall explains why he has chosen to speak extemporaneously rather than to rely on speechwriters. The long and funny Las Vegas tale that follows is a setup for the transition to the school's history and its importance in the civil rights movement. Marshall begins his reflection on the history of the school with an emphasis on the importance of any educational institution's reputation to the success of the school's mission a point he would return to several times. Much of what the Howard University School of Law was able to accomplish was a result of the rigor that successive deans, beginning with Houston, brought to its curriculum and its classrooms.

In the next half-dozen paragraphs, Marshall contrasts the current Howard law campus with the school of his youth, in order to highlight the dramatic changes in the school's appearance and reputation and to introduce his theme centering on changes to African American lives in the same period. Until 1933 the School of Law met in a small university-owned house on Fifth Street in the District of Columbia. The next year the school moved to larger facilities on Howard's main campus and, forty years later still, to a twenty-two-acre campus in northwest Washington, once the site of Dunbarton College, which closed in 1973. Marshall was speaking in the newly renovated Moot Court Room in Houston Hall, the main administrative and classroom building.

◆ Charles Hamilton Houston: A Pragmatic Approach to the Law

Marshall offers a warm and extensive remembrance of Charles Hamilton Houston and how he transformed the law school. Houston was a summa cum laude graduate of Amherst College and of Harvard Law School, where he was also the first African American editor of the law review. He became dean of the Howard School of Law at age thirty-five and immediately attacked its many deficiencies, developing more rigorous courses, demanding greater discipline and self-direction from his students, and securing accreditation from the major legal associations. A charismatic figure, Houston attracted nationally acclaimed legal scholars to lecture at the small house on Fifth Street (often at no fee) to introduce his students to a wider world of law and possibility.

Marshall describes Houston's pragmatic approach to the law. Wall Street was left to Harvard and the eastern law

Graduating class of 1900 from Howard University School of Law (Library of Congress)

schools. Howard students would be social engineers trained for the courtroom and community service; they would be "hands on" lawyers, who would work together for change. Marshall describes one such team project initiated by a fellow student, Oliver Hill, that became a model for the careful strategic pretrial planning that was the hallmark of Marshall's later civil rights career.

William H. Hastie, mentioned here, was, like Houston, a graduate of Amherst and Harvard and later dean of the Howard School of Law (1939 1946). The passing reference to "a man named Crawford" concerns a sensational trial in Leesburg, Virginia, in 1933, where Houston, a team of NAACP lawyers, and Marshall, a third-year student, faced an all-white jury and daily threats of violence in their courtroom defense of George Crawford, a Negro chauffeur accused of murdering his wealthy employer's wife and daughter. Marshall provided much of the legal research and participated in the nightly strategy sessions that earned Crawford a life sentence instead of the death penalty. The experience turned Marshall into a lifelong opponent of capital punishment.

In the following paragraphs, Marshall describes other aspects of Houston's approach to legal training, his realistic assessment of the difficulties African American lawyers could expect to encounter in the all-white courtrooms where they would plead their cases, and his justification for the rigor he was demanding from them as students. There is an honor roll of African American lawyers (from Howard and eastern law schools) who were closely linked to civil rights gains before and after World War II; many of them played a part in the *Brown* case. James Nabrit and Spottswood Robinson, like Houston and Hastie, became deans of the law school.

The brief paragraph about the "other side" refers to white educators who supported the civil rights movement. Charles Black was a Columbia University law professor who wrote key briefs in *Brown*. In the next paragraph, "a certain wild guy over there in Arkansas" is, of course, Wiley A. Branton, the new dean of the law school.

Marshall next recalls Damon J. Keith, a judge on the U.S. Court of Appeals for the Sixth Circuit (who had introduced Marshall to the convocation audience) for mentioning how Houston had trained Howard's lawyers, including Marshall and himself, to work as teams and to hold lengthy pretrial dry runs, or moot courts, to uncover possible weaknesses in their cases. Marshall here elaborates on these simulated trials and team approaches to courtroom preparation as the key to the Legal Defense and Educational Fund's suc-

cessful litigation of cases throughout the South and to his team's victory in *Brown*. In fact, Marshall makes the point that the trial judges they faced were far less rigorous that the moot court referees. The law school continues to use moot courts as a central teaching device, and as proof of their value, Marshall praises the legal brief presented by Herbert O. Reid, Sr., of the Howard law faculty, in the recently concluded *Bakke* case before the Supreme Court.

◆ Looking to the Future

Marshall gives further praise to Dean Branton and then makes a transition to the third and central theme of his address, stressing the need to move beyond mere praise of accomplishments thus far: "That's not enough because we have got to look to the future. They are still laying traps for us." It is the obligation of the Howard University School of Law, he affirms, to continue preparing its students to work with the poor by providing legal services to those who need them most. In the ensuing paragraphs Marshall develops this theme by illustrating what he means by traps, invoking a warning from Houston and adding a warning of his own, buttressed by a quotation from President John F. Kennedy's commencement address at Yale University on June 11, 1962. (Marshall slightly misspeaks. Kennedy actually said, "For the great enemy of the truth is very often not the lie deliberate, contrived and dishonest but the myth persistent, persuasive, and unrealistic.")

Marshall elaborates on Kennedy's thought. His opening line "Be aware of that myth, that everything is going to be all right" is a reference to the contemporary politicians, editorial writers, and commentators who argued that all that needed to be done to rectify the past evils of slavery and the injustices of Jim Crow laws had been done. Affirmative action, they claimed, had leveled the playing field in housing, education, and employment for African Americans; it was time for them to assume responsibility for their own actions and lives.

Marshall's dismissal of these traps, or myths, as he calls them, is actually a subtle criticism of the 1970s Supreme Court, which during his tenure had changed from a liberal-centrist orientation to an increasingly conservative one, a shift that threatened, he believed, much of his life's work. By 1978 it had become clear to Marshall that he and his close friend William J. Brennan, Jr., were the only liberal justices on the Court. Although protocol discouraged open criticism of fellow justices, Marshall here implicitly chides his colleagues in a nonjudicial setting. His audience, most of them legally trained, surely understood this. Because his listeners were familiar with his judicial writings (increasingly at this time, dissenting from the majority opinions), they were doubtless aware of his disappointment at the Court's narrowing or eliminating recently won protections of civil rights for African Americans, most notably in the *Bakke* decision. The chief significance of Marshall's message in this address lies in these concluding thoughts.

Twice Marshall quotes Chief Justice Earl Warren, who served on the Supreme Court from 1953 to 1969 and led his fellow justices to the unanimous decision in *Brown v. Board of Education*. The two quotations are from Warren's *A Republic, If You Can Keep It*. The first is from Justice Louis Brandeis, the first Jew appointed to the Supreme Court, who served with distinction from 1916 until his retirement in 1939. The second quotation is Warren's own. The remark, which inspired Warren's title, is attributed to Benjamin Franklin allegedly his reply to a woman in Philadelphia who asked him as he left the Constitutional Convention in 1787 what kind of government the Constitution created. Marshall says that Warren (who had died in 1974) wrote only one book, but, in fact, there is a second: *The Memoirs of Earl Warren* was published posthumously in 1977.

The remaining paragraphs pull together the speech's several themes: First, despite past successes in ending racial discrimination, Marshall believes that there is still much to be done in broadening education and in extending economic opportunity to African Americans in places where, despite laws to the contrary, it was still denied. Second, it is his conviction that the Howard University School of Law, which has been in the forefront of bringing about the legal end of racial segregation, will continue, under the leadership of Dean Branton, to be a strong defender against further erosions of the rights already won.

"Home" in the penultimate paragraph refers to Africa as the ancestral home of African Americans a concept inspired by *Roots*, the phenomenally popular twelve-hour television miniseries first aired in January 1977 and based on Alex Haley's novel of the same name, which told the dramatic story of several generations of a slave family, from its West African beginnings to its emancipation in the American Civil War. Almost half the nation's population watched the final episode, and it was estimated that 85 percent of American households saw a portion of the miniseries. It inspired genealogical searches among African Americans, a number of whom journeyed to Africa in search of their own roots, and in its skillful combination of fact and fiction led many white Americans to an new understanding of the brutal nature of slavery in their nation's past.

Marshall himself had made several trips to Kenya, which he came to think of as his ancestral home. He helped to draft its constitution in the early 1960s, and he toured the country in the summer of 1963 as the personal representative of President Kennedy. On December 12, 1963, he returned to celebrate Kenya's first Independence Day and hear fifty thousand people chant "Harambee," a Swahili word variously translated as "pull together," "let's pull together," or "all pull together." His last visit to Kenya was made just weeks before his speech at Howard, in order to attend President Jomo Kenyatta's funeral on August 31, 1978. Marshall's final words, delivered with warmth and humor, urge his audience to "pull together" with the new dean of the law school to continue to defend and protect the civil liberties so recently won.

Audience

The audience for Marshall's speech was essentially limited to the federal and state judges, law school faculty, alumni,

Essential Quotes

"You know, I used to be amazed at people who would say that 'The poorest Negro kid in the South was better off than the kid in South Africa.' So what! We are not in South Africa. We are here."

"Harvard was training people to join big Wall Street firms. Howard was teaching lawyers to go out and go in court."

"When you get in the courtroom you can't say 'Please, Mr. Court have mercy on me because I am a Negro.' You are in competition with a well-trained white lawyer and you better be at least as good as he, and if you expect to win, you better be better."

"There are people that tell us today, and there are movements that tell us, tell Negroes, 'Take it easy man. You made it. No more to worry about. Everything is easy.' Again, I remind you about what Charlie Houston said, 'You have got to be better, boy. You better move better.' "

"Back in the 30's and 40's, we could go no place but to court. We knew then, the court was not the final solution. Many of us knew then the final solution would have to be politics, if for no other reason, politics is cheaper than lawsuits."

and students attending the convocation that Saturday in November 1978. A reporter from the *Washington Post* was present and filed a 573-word account of Marshall's remarks for the Sunday edition (November 19, 1978), and the school's student newspaper, *The Barrister*, published the transcript of the speech for the law school community the following week. The paper's editor in chief told the *Washington Business Journal* in 2002 that immediately after *The Barrister* was distributed, the dean's office was inundated with phone calls from people around the world asking for copies, but no other newspaper coverage at the time has come to light.

Impact

The immediate impact of the Equality Speech was limited to those who heard or read it in November 1978, but viewed over time the speech is an important part of Marshall's legacy: Its informality reveals the man behind the words and its substance the central role the Howard University School of Law played in his life and in the civil rights movement from the 1930s to the 1970s. Marshall's tribute to the school's alumni provides an honor roll of the school's graduates, who shaped the legal battles of their time and won key victories for African Americans in particular and the American people in general. His rueful comments about the myths that continue to challenge the twin principles of equal justice and opportunity for all and his veiled disappointment in the rightward drift of the Supreme Court presaged two important later addresses: "The Sword and the Robe" (May 8, 1981), in which he deplored recent decisions of the Court, where he believed the justices had too often bowed to public pressure instead of maintaining their neutrality, and "The Bicentennial Speech" (May 18, 1987), in which he argued against the veneration of the Constitution as a perfect document

because of its slavery provisions and the relegation of African Americans to second-class citizenship for so many years. The Equality Speech also highlighted several principles that governed his legal and judicial career: the power of the law evenhandedly applied to change lives for the better, the importance of individual liberty to a free society, the centrality of freedom of speech to society, and the continuing need for affirmative action to heal the lingering damage of slavery and Jim Crow.

See also Thirteenth Amendment to the U.S. Constitution (1865); Fourteenth Amendment to the U.S. Constitution (1868); Fifteenth Amendment to the U.S. Constitution (1870); *Plessy v. Ferguson* (1896); Executive Order 9981 (1948); *Brown v. Board of Education* (1954); Civil Rights Act of 1964.

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Allan L. Damon

Questions for Further Study

1. Summarize the role Thurgood Marshall played in the civil rights movement.

2. In his address, Marshall makes the following statement: "It's not a republic if we keep it. With me: 'It's a democracy, if we can keep it.'" What is the distinction between a republic and a democracy? Is Marshall correct when he suggests that the United States is a democracy, not a republic?

3. Read this document in conjunction with Charles Hamilton Houston's "Educational Inequalities Must Go!" To what extent did Marshall continue the legal strategy that Houston adopted?

4. In recent years there has been much discussion of "activist" judges—that is, judges whose decisions are influenced by certain social views. Was Marshall an "activist" judge? Do you think it is proper for members of the judiciary to impose their own views in their decisions? Explain.

5. By his own admission, Marshall's remarks were not particularly organized because they were not written down. In his speech, he reminisces, tells stories, makes jokes, and, it could be argued, wanders. Yet the speech has been reprinted in anthologies, and when it was published in the student newspaper, the university received many requests for copies. Why do you think this speech has attracted so much attention?

Document Text

Thurgood Marshall's Equality Speech

Mr. Chief Justice, Mr. President, My friends: It is a great day. I am particularly happy that people like the Chief Justice of the United States is here, and other Chief Judges. I want to confess, I begged him not to come; because I know how much work he has to do. By statute, he has jurisdiction over I don't know how many different outfits in this country, which he has to go to. And then he has to preside over some five hundred Federal Judges, each of whom is an individual prima donna. And with all of that, he shouldn't find time to come something like this. But, he insisted. To him, it was that important; and to me that truly demonstrates how important it is.

I would like to start off by having a couple of true stories on the record. I do not have a written speech. I have gotten away from written speeches since I heard about that legislator who had a speech committee in his office, and they would write up these speeches for him. He wouldn't even look at them before he delivered them. He just read them off. And this day he said, "Look! Next Monday night I am speaking for Senator Johnson; and I want a speech, twenty minutes, and I want it on energy." And they said, "What are …?" And he said, "That's it. Just go do it." And they did.

And on Monday they gave him the speech and he went out, got in his car, got in the place, got there, got in another car, went there. When he was called on to speak, he opened up his speech, and on the first page he went on telling stories like this. Except mine is true. Then he went on talking in general about the energy problem. And then he said, "He has an airtight program for taking care of the entire energy program. It was very elaborate; and it was set up in five different phases, all five of which, I shall set forth before you tonight." And he turned over the page and to his utter surprise, he saw "Now, you sucker, you are on your own."

I have given up that idea when I decided to come. I am not too much in the line of notes. But the one that really is what I am going to talk about today is a Las Vegas story.

This guy went out from California to Las Vegas and did what all others do. He lost his money. All of it, including his fare home. And he was commiserating with himself, and as sometimes happens, he had to go. And when he got to the toilet room he found out, that they had not nickel or dime [slots], they had quarter ones. And he didn't have a nickel. So he was in pretty bad shape. And just then a gentleman came by and he told the gentleman his problem. The guy said, "I will give you a quarter." And the guy said, "Well look, you don't know me." "I don't care if you give it back to me or not. You are no problem. Here's a quarter."

He took the quarter and went in the room there, and just as he was about to put the quarter in the slot to open the door, the door had been left open for somebody. So he put the quarter in his pocket. He went on in, and when he finished, he went upstairs. A quarter wasn't going to get him back to Los Angeles. A quarter wasn't even going to feed him. So, he put the quarter in the slot machine. And it wouldn't be any story if he didn't hit the jackpot. Then he hit the bigger jackpot and he went to the craps table; he went to the roulette table. He ended up with about ten or fifteen thousand dollars worth.

He went back to Los Angeles [and] invested in the right stock. He got the right business together. And in pretty short order, about fifteen years, he became the second-wealthiest man in the world. And on television, they asked him about it; and he said he would like to tell his story. And he told the story. And he said, "I am so indebted to that benefactor of mine. That man who made all of this possible. And if he comes forth and proves it, that he was the man, I will give him half of my wealth in cash. So a man came forth. They had all the elaborate, private detective investigation, and sure enough, "That was the man." The guy said, "Well look. Are you sure you are the one I am looking for?" He said, "Why certainly." He said, "Who are you?" He said, "I am the man that gave you that quarter." He said, "Heck, I'm not looking for him. I am looking for the man who left the door opened. Because you see, if he hadn't left the door open, I would have had to put the quarter in the slot."

I figure at a stage like this in our development of our law school, we have to be sure we know just what we are after.

Why do we have occasions like this? Well, I will tell you why. Everything in any question of education depends on the reputation of the school. And a part

of the reputation of the school, is the reputation of the dean. And being so old as I am, you almost scared me to death, Wiley, talking about the oldest graduate was here.

In order to find out just where we stand, and to be in a room like this, and on a campus like this, I had to go back. But you know it's an awful long way from Fifth Street which, incidentally, I went by not too long ago. Those of you that hadn't been by, it's gone. They have torn it down. It was a marvelous place when it was there.

But today, you know, we have reached the place where people say, "We've come a long way." But so have other people come a long way. And so have other schools come a long way. Has the gap been getting smaller? It's getting bigger. Everybody's been doing better. And so, as you took at the law school today, and that's what you have to look at, you look back, and people say we are better off today. Better than what?

You know, I used to be amazed at people who would say that "The poorest Negro kid in the South was better off than the kid in South Africa." So what! We are not in South Africa. We are here. "You ought to go around the country and show yourself to Negroes; and give them inspiration." For what? These Negro kids are not fools. They know to tell them there is a possibility that someday you'll have a chance to be the *o-n-l-y* Negro on the Supreme Court, those odds aren't too good.

When I do get around the country like recently, I have been to places like unfortunately for funerals like New Orleans, Houston, Dallas, et cetera when I get out and talk with the people in the street, I still get the same problems. "You know, like years ago, you told us things were going to get better. But they are not a darn bit better for me. I am still having trouble getting to work. I have trouble eating." And guess what I am getting now? "You not only told me that, you told my father that. And he's no better off, and neither am I. And can you tell me my children will be better off?" Well, all I am trying to tell you [is] there's a lot more to be done.

Now, think of those good old days. We started at Howard with Charlie Houston as dean. The school had several things that they did not have [which] would be more important. They did not have a reputation, and they did not have any accreditation, and they did not have anything it looked to me.

Charlie Houston took over and in two or three years got full accreditation: American Bar Association, Association of American Law Schools, et cetera. He did it the hard way.

And for any students that might be interested, for these of you who came to this school later and had complaints: You should have been there when I was there.

We named Charlie the only repeatable names I could give him as "Iron Shoes and Cement Pants." We had a lot of others but

He even installed the cutback system that would keep you on the books all the time. And that was that, a professor could take five points off your mark for no reason at all. So the only way you could really make it is to get around 95.

He gave an examination in evidence in our second year that started at nine o'clock in the morning and ended at five in the afternoon. One subject.

In our first year he told us, "Look at the man on your right, took at the man on your left, and at this time next year, two of you won't be here."

I know my class started, as I remember, it was around thirty; and it ended up with six. He brought in people not on the faculty; but who were coming by Washington. And because of his reputation and background he could get them.

And the people I would list. Every time they came to Washington, they would come by; and we would close up the school and listen to them, in our moot courtroom, which held about fifteen.

For example, a man by the name of Roscoe Pound who just happened to be Dean of Harvard Law School, would talk and lecture to us on the Common Law. And it just so happened that at that time he was the greatest authority in the world.

Then we had Bill Lewis, a Negro lawyer from Boston, Massachusetts who had the distinction of being Assistant Attorney General, a little while back, under Theodore Roosevelt. He would tell us about how to try a lawsuit; and how to argue with the judges; because he was a master of it. And we would run to the Supreme Court and hear him argue.

Then Garfield Hayes would drop by from the American Civil Liberties Union. The first time, I was very impressed with the fact, he was en route from Birmingham, Alabama where he had defended a poor Negro. He was then en route to Boston, Massachusetts to defend the Ku Klux Klan. He explained to me about the constitution being colorblind.

Then you had people like Clarence Darrow, who told us the importance of sociology and other studies rather than law which he considered to be unimportant. As witness one time, he was trying a case in North Carolina. A Negro beating up a white man. And his whole argument to the jury was he had

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never touched the facts of the case that this was a waste of time for him to stand up there and argue to this all white Southern prejudiced jury; that no way in the world they could give this Negro a chance. They just couldn't do it because they were too prejudiced. And he argued that for two and a half hours; and the jury went out and came back and proved to him that they weren't prejudiced. And they turned the man loose.

We had Vaughn S. Cooke, a great expert on Conflict Law. People like that because the emphasis was not theory. The emphasis in this school was on practice. How to get it done.

Harvard was training people to join big Wall Street firms. Howard was teaching lawyers to go out and go in court. Charlie's phrase was Social Engineer. To be a part of the community. And have the lawyer to take over the leadership in the community.

And we used to hold forth in our little library down there, after school, at night. And start out on research problems sometimes sponsored by him and sometimes on our own.

Indeed, I remember one time, one night. One guy, I believe it was Oliver Hill. He got to work on something, we all joined in. And we found out that in codifying the Code of the District of Columbia, they had just left out the Civil Rights Statute. So, since it didn't apply to anybody but us, they left it out. We eventually got through in court and got that straightened out. And we got to work on segregation. What are we going to do about that?

I for one was very interested in it because I couldn't go to the University of Maryland. I had to ride the train every day, twice a day. Back and forth. I didn't like that.

Well, it ended up Bill Hastie went down to North Carolina and filed our first University case which we lost on a technicality. But Hastie laid the groundwork for the future.

Then we had a criminal case dealing with a man named Crawford. We did more litigating, I guess, than any school ever did.

But I emphasize that it was aimed at working in the community. The other thing that Charlie beat in our heads I think that it is very important. He says, "You know when a doctor makes a mistake, he buries his mistake. When a lawyer makes a mistake, he makes it in front of God and everybody else."

When you get in the courtroom you can't say "Please, Mr. Court have mercy on me because I am a Negro." You are in competition with a well-trained white lawyer and you better be at least as good as he, and if you expect to win, you better be better. If I give you five cases to read overnight, you read eight. And when I say eight, you read ten. You go that step further; and you might make it. And then you had all these other people, Charles H. Houston, William H. Hastie, George E.C. Hayes, Leon A. Ransom, Edward P. Lovett, James Nabrit, Spottswood W. Robinson III.

Then later you had Robert L. Carter, Constance Baker Motley, A.T. Walden in Atlanta, Arthur Shores in Birmingham, A.P. Tureaud, Sr., in New Orleans.

Then on the other side you had a very good group of professors from other schools. Charles Black and others.

Then we had a certain wild guy over there in Arkansas. I would just like to mention it at this point, because it is very important, I think, to realize that in those days, "it was rough." And I think Wiley is an example of one part of it. I got the credit mostly. But I would go to those places, and I would get out on the fastest damn thing that moved. I couldn't wait for the plane. And then I couldn't wait for the jet.… He stayed there. He didn't go. He stayed right there. He had not once, but crosses were burned on his lawn. He had everything they could try. He laughed at them. He stayed there, and made them take it and like it. I mentioned that because it seems to me, that while we had this whole movement going along, we were beginning to touch it.

Then we had those dry runs that Damon was talking about. We would have both of the lawyers who were going to argue tomorrow's case before the Supreme Court, to come before a panel of judges in our old moot courtroom, when we were in the library down there on the campus. This went on all during the 1940's. The faculty members who set as members of the Court were deliberately urged to be rougher and excuse me, "nastier than the judges would be." And you know, it worked well; because once you got through with that slugging match with them, you didn't worry about anything the next day. It was like going to an ice cream party because the members of the court were so polite and nice to you. Well, I keep reminding you that this was done at Howard; all of it. How much it was necessary to the success of those cases, is left to anybody. And finally on that point, I want you to know, that starting with that research in the library of finding the Civil Rights Statute, through all these cases in the Supreme Court, clean up to the present time, in the Bakke case, I will tell anybody, and I will dispute anybody who does not agree, that the brief filed by Herb Reid

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was one of the best briefs. He didn't pay me a nickel for it.

Now, you know, Wiley integrated the University of Arkansas. He went back down in there; and cases that were mentioned, I know several other criminal cases that were just unbelievable. He went from there to Atlanta; and up here to Washington. I hate to get down into the gutter; but "Wiley" stands for, "brains and guts." I know both of them; I have seen him in action. It seems to me, that what are we going to do now, other than, all of us to give our blessings to what I consider a perfect marriage; Branton and the Howard Law School.

That's not enough because we have got to look to the future. They are still laying traps for us.

I have just requested a book which I heard about. Believe it or not, somebody found out the Klan (Ku Klux Klan) is still around. I could have told them that. The Klan never died. They just stopped wearing the sheets, because the sheets cost too much. When I say they, I think we all know who they would include. We have them in every phase of American life. And as we dedicate this courtroom, as we launch Wiley on his road, we just have to continue that basic theory of practice; and not just theory. With these clinics that have been set up, you note we can give the poor people in the ghettoes for peanuts better legal protection than the millionaires get. If, we could just get them to bring their legal problems to the lawyer, before they sign them. That's how to stay out of trouble. And that can be done with clinics. And I think this law school has to insist on that. And here I have a note which says all of this has to be done and it has to be done together.

There are people that tell us today, and there are movements that tell us, tell Negroes, "Take it easy man. You made it. No more to worry about. Everything is easy." Again, I remind you about what Char-

Glossary

Bakke case	*Regents of the University of California v. Bakke*, a key case bearing on the legality and scope of affirmative action programs
Bill Hastie	William H. Hastie, former dean of the Howard University School of Law
Charlie Houston	Charles Hamilton Houston, Marshall's predecessor as head of the NAACP's Legal Defense and Educational Fund and former dean of the Howard University School of Law
Chief Justice Warren	Earl Warren, the chief justice of what is generally regarded as a liberal Court during the 1950s and 1960s; the quote is from his book *A Republic, If You Can Keep It*.
Clarence Darrow	a leading late-nineteenth and early-twentieth-century lawyer and civil libertarian
couldn't go to the University of Maryland	a reference to the fact that Marshall was refused admission to the university's law school because he was black
Louis Brandeis	a distinguished Supreme Court justice—and the first Jewish member of the High Court—in the early twentieth century; the quote is from a 1927 case, *Whitney v. California*.
moot courtroom	a courtroom at a law school where students practice lawyering skills by presenting hypothetical cases
Oliver Hill	a civil rights lawyer and one of the key lawyers in *Brown v. Board of Education*
prima donna	literally, the principal female singer in an opera or concert; figuratively, a vain or overly sensitive person
Roots	a 1977 television miniseries based on Alex Haley's book of the same title
"The greatest enemy of truth …"	a slight misquotation from President John F. Kennedy's commencement address at Yale University in 1962
Wiley	Wiley A. Branton, the new dean of the Howard University School of Law

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lie Houston said, "You have got to be better, boy. You better move better."

Be careful of these people who say, "You have made it. Take it easy; you don't need any more help." I would like to read, for these people who tell you, "to take it easy. Don't worry, et cetera": "The great enemy of truth very often is not the lie; deliberate, contrived and dishonest; but the myth persistent, persuasive, and unrealistic." [John F. Kennedy]

Be aware of that myth, that everything is going to be all right. Don't give in. I add that, because it seems to me, that what we need to do today is to refocus. Back in the 30's and 40's, we could go no place but to court. We knew then, the court was not the final solution. Many of us knew the final solution would have to be politics, if for no other reason, politics is cheaper than lawsuits. So now we have both. We have our legal arm, and we have our political arm. Let's use them both. And don't listen to this myth that it can be solved by either or that it has already been solved. Take it from me, it has not been solved.

I will conclude if I may with a conclusion from another great American, the late Chief Justice [Earl] Warren in his one book. And this is the conclusion of his book. And more important and as we move more in what I consider to be this new phase, he says [quoting Louis Brandeis] : "Those who won our independence believed … that the greatest menace to freedom is an inert people, that public discussion is a political duty and that this should be a fundamental principle of the American government.… They eschewed silence coerced by law."

And then again, Chief Justice Warren,

> No, the democratic way of life is not easy. It conveys great privileges with constant vigilance needed to preserve them. This vigilance must be maintained by those responsible for the government: and in our country those responsible are "we the people" no one else. Responsible citizenship is therefore the … anchor of our Republic. With it, we can withstand the storm; without it, we are helplessly at sea.

It is beyond question the ingredient Benjamin Franklin had in mind when he said: "A republic, if you can keep it."

To me, that means much. It's not a republic if we keep it. With me: "It's a democracy, if we can keep it. And in order to keep it, you can't stand still. You must move, and if you don't move, they will run over you."

This law school has been in the front. It's been the bellwether. It's been the fulcrum of pressure.

In driving on, I am just as certain as I have ever been in my life, that under the leadership of Wiley Branton, it will not only continue: it will broaden, increase and continue to be the bulwark that we all can be proud of.

This is a great day. We are entering a great era. And let's do as many of us did back home. You know some people have been going home with the *Roots* business and all that. I have been going over there since the late 50's, when Kenya got its independence in 1963, and to see all those hundreds of thousands of people when freedom was declared in unison yelled, "Harambee" …"Pull Together."

We could, and with Wiley and this school, we will continue to do it. Anything I can do to help, I will do, "that is except raise money." Because there are a couple of committees of the Judiciary that say, "No."

Jesse Jackson (Library of Congress)

Jesse Jackson's Democratic National Convention Keynote Address

1984

"Our flag is red, white, and blue, but our nation is a rainbow red, yellow, brown, black, and white."

Overview

When the Reverend Jesse L. Jackson stood on the rostrum at the Democratic National Convention in San Francisco, California, on July 17, 1984, he was in an unusual and historic position. He was only the second African American to become a serious candidate for the presidential nomination of a major American political party. Twelve years earlier, Representative Shirley Chisholm of New York had made a bid for the Democratic presidential nomination. Chisholm's candidacy was mainly symbolic, but Jackson's was highly substantive. He had run in all of the primaries and caucuses, and he had won sufficient support from voters to command influence in the party, even if his delegate total was far short of the number needed for the nomination. Jackson used his keynote address to insist that the Democratic Party had to be a stronger advocate for the needy and the neglected. "They have voted in record numbers," he declared. "The Democratic Party must send them a signal that we care." Jackson called his supporters the "rainbow coalition," since they were diverse in background, ethnicity, and religion. Yet while Jackson had attracted enthusiastic support during his campaign, he had also aroused controversy because of his willingness to negotiate with hostile or adversarial foreign leaders and owing to his inflammatory remarks about American Jews. Jackson's speech was the culmination of his candidacy, and it produced an electrifying response. Delegates in the convention center cheered and cried; listeners were moved by his powerful voice and emotional appeals. His message hardly satisfied all his critics, but his speech proved that African Americans had achieved a new level of prominence and power in presidential politics.

Context

On November 3, 1983, Jackson announced his candidacy for president and became only the second African American to seek the presidential nomination of a major political party. In 1972 Shirley Chisholm had also sought the Democratic nomination, but she had run a limited campaign, entering only twelve primaries and earning less than 3 percent of the vote in those contests. Jackson planned to run in all the Democratic primaries and declared that his main goal was to "help restore a moral tone, a redemptive spirit, and a sensitivity to the poor and the dispossessed of the nation." A severe recession had raised unemployment to more than 10 percent of the workforce and increased the number of Americans living in poverty. Jackson blamed President Ronald Reagan for policies that had exacerbated the difficulties of the poor and minorities, and he also criticized the other declared Democratic presidential candidates for having failed to speak out strongly enough on behalf of people in need. Jackson said he would represent African Americans as well as Hispanics, Native Americans, Asian Americans, European Americans, workers, and women. Together, he said, these groups would form what he termed a "rainbow coalition," and at that time he also founded a national advocacy organization of that same name. He told an enthusiastic audience of twenty-five-hundred supporters who attended the announcement of his candidacy, "Our time has come."

Jackson's candidacy produced strong reactions. Some African American political leaders, such as Richard Hatcher, the mayor of Gary, Indiana, quickly pledged their support. Others, such as Detroit's mayor, Coleman Young, insisted that Jackson had no chance of winning the nomination and endorsed former Vice President Walter Mondale, the candidate who had been leading in the polls. Mondale also believed that Jackson could not win but worried about losing so much minority support to Jackson that one of their rivals could emerge with the nomination. Jackson also aroused controversy because of his foreign policy positions. He favored the creation of a Palestinian homeland, and during a trip to the Middle East in 1979 he had embraced Yasser Arafat, the head of the Palestine Liberation Organization, at a time when the governments of both the United States and Israel considered the organization a terrorist group. On December 29, 1983, Jackson flew to Syria, where he negotiated the release of U.S. Navy Lieutenant Robert O. Goodman, Jr., an African American flyer who had been captured when his plane was shot down earlier that month. Jackson believed that he had undertaken a humanitarian mission, but critics questioned his decision to negotiate with a government that the U.S. State Department considered a state sponsor of terrorism.

Time Line

1941

- **October 8**
  Jesse Jackson is born in Greenville, South Carolina.

1965

- **March**
  Jackson meets Martin Luther King, Jr., in Selma, Alabama.

1966

- **February 11**
  Jackson becomes head of the newly established Chicago division of Operation Breadbasket, a national organization sponsored by the Southern Christian Leadership Conference and dedicated to improving economic opportunities for African Americans.

1968

- **April 4**
  Jackson is in Memphis, Tennessee, with Martin Luther King, Jr., when King is assassinated.

1971

- **December 25**
  Jackson establishes Operation PUSH in Chicago.

1979

- **September–October**
  Jackson meets with Yasser Arafat, head of the Palestine Liberation Organization, during a trip to the Middle East.

1983

- **November 3**
  Jackson declares his candidacy for the Democratic nomination for president.

1984

- **January 4**
  Jackson returns to Washington, D.C., after having traveled to Syria, where he negotiated the release of U.S. Navy Lieutenant Robert O. Goodman, Jr.
- **February 13**
  The *Washington Post* carries an article, "Peace with American Jews Eludes Jackson," quoting Jackson as using a derogatory term for Jews during a conversation with the reporter Milton Coleman in January.

Jackson aroused even greater controversy in February 1984, when newspapers quoted derogatory language that he had used to describe Jews. At first, he maintained that he had never made such comments; later, he insisted that his remarks had been part of a private conversation and interpreted out of context. Eventually, Jackson apologized, but he continued to face charges that he was insensitive to Jews or even anti-Semitic because of his association with Louis Farrakhan, the head of the Nation of Islam. Farrakhan held no official position in the campaign, but he had accompanied Jackson to Syria to negotiate Goodman's release. During the controversy over Jackson's pejorative comments about Jews, Farrakhan gave a speech in which he praised the German leader Adolf Hitler. Jewish leaders and organizations denounced Farrakhan and criticized Jackson for having failed to cut all ties to Farrakhan.

Despite such turmoil, Jackson proved to be an effective candidate. He won two primaries, Louisiana and the District of Columbia, as well as the caucuses in Virginia and in his native state, South Carolina. These victories along with winning 20 percent or more of the vote in primaries in several large states, including New York, Illinois, and New Jersey helped him finish the series of nomination contests in third place behind Mondale and Senator Gary Hart of Colorado, with 18.6 percent of the total vote. Jackson, however, was upset with party rules that awarded him only 12 percent of the convention delegates, a significantly smaller share than his percentage of the popular vote. When the Democratic National Convention began in San Francisco on July 16, Jackson and his supporters proposed changes in rules governing the selection of delegates and additions to the party's platform, the Democrats' official position on key issues that would be important in the campaign. Jackson lost on most of his challenges, although he secured stronger language on affirmative action in the platform and a promise to establish a commission to consider reforms in delegate selection. Mondale, who was assured the Democratic presidential nomination, wanted party unity and recognized the need to accommodate Jackson, who had demonstrated his appeal to African American voters. Mondale revised the convention schedule, allowing Jackson to deliver a keynote address during prime television time on the night before the delegates nominated their candidate. Mondale's aides did not know what Jackson would say, but they hoped for a memorable speech that would prepare the party for the fall campaign against President Ronald Reagan.

About the Author

Jesse Jackson was born on October 8, 1941, in Greenville, South Carolina, to a single mother, Helen Burns. Three years later, she married Charles Jackson, who adopted Jackson in 1957. As a high school student in Greenville, Jackson was an honor student and an outstanding athlete. He earned a football scholarship to the University of Illinois in 1959, but transferred after his first year to the Agricultural and Technical College of North Carolina, a historically

black institution now known as North Carolina Agricultural and Technical State University. Jackson excelled at his new school, playing quarterback on the football team, winning election as student body president, and earning a BA in sociology in 1964. After graduation, Jackson began training for the ministry at Chicago Theological Seminary, where he studied for two years but failed to complete his course work. He was nonetheless ordained as a Baptist minister in 1968.

Shortly after he moved to Chicago, civil rights work became Jackson's main activity. In March 1965, he traveled to Selma, Alabama, where he met the Reverend Martin Luther King, Jr., who was organizing demonstrations to protest the denial of voting rights to African Americans. Partly through Jackson's efforts, King came to Chicago, where he organized marches and rallies against racial discrimination in housing in 1966. During a visit to Chicago, King offered Jackson a job as coordinator of the Chicago branch of Operation Breadbasket, an organization established in 1962 by the Southern Christian Leadership Conference that focused on improving economic opportunities for African Americans. By means of boycotts, picketing, and publicity, Jackson opened up job opportunities in businesses that had previously excluded African Americans and persuaded retail chains to expand shelf space for products made by minority-owned firms. On April 4, 1968, Jackson was in Memphis, Tennessee, when King was murdered in that city. Jackson quickly returned to Chicago, where riots had erupted in outrage over King's killing. Jackson then vowed that he would remain faithful to King's principle of nonviolent protest.

During the 1970s, Jackson became one of the nation's most prominent African American leaders. In 1971 he resigned from Operation Breadbasket and founded Operation PUSH (People United to Save Humanity). Operation PUSH engaged in a variety of activities to advance minority interests, including sponsoring educational programs and pressing major corporations to adopt affirmative action programs. A charismatic speaker, Jackson became one of the most eloquent and recognized advocates for social justice. He spoke throughout the United States and also to international audiences, journeying, for example, to South Africa in 1979 to denounce apartheid.

During the 1980s, Jackson became an important figure in national politics and international diplomacy. He campaigned for the Democratic presidential nomination in 1984, finishing third in the balloting behind front-runner and nominee Walter Mondale at the Democratic National Convention in San Francisco. In 1988 Jackson campaigned again for his party's presidential nomination. He ran an even stronger campaign in which he won several primaries and caucuses, finishing with the second-highest total of convention delegates after Michael Dukakis. In early January 1984, Jackson completed negotiations for the release of a captured U.S. pilot in Syria. Later that year, he went to Cuba and gained the release of forty-eight prisoners, including twenty-seven Americans. In 1989 he moved to Washington, D.C., where he served from 1991 until 1997 as a statehood senator, an office designed to encourage Congress to grant statehood to the District of Columbia.

Time Line

1984

- **July 17** Jackson addresses the Democratic National Convention in San Francisco.
- **July 18** Jackson finishes third in the balloting for the presidential nomination at the Democratic National Convention.

1988

- **July 20** Jackson finishes second behind Michael Dukakis in the contest for the presidential nomination at the Democratic National Convention in Atlanta, Georgia.

1990

- **November 6** Voters in the District of Columbia elect Jackson to the position of "statehood senator."

1997

- **January 15** Jackson announces plans to establish his Wall Street Project.

2007

- **March 29** Jackson endorses Barack Obama for the Democratic nomination for president.

He founded the Wall Street Project in 1997, an effort to increase business opportunities for minorities. During that same year, President Bill Clinton named him special envoy to Africa for the promotion of democracy.

Jackson continues to work as a prominent activist for human rights and social justice. He has undertaken diplomatic missions to many international trouble spots, including Iraq (1990), Kosovo (1999), and Libya (2004) to negotiate the release of prisoners or hostages and mediate disputes. He still serves as president of the organization he founded, now known as the Rainbow/PUSH Coalition. In March 2007 he became an early supporter of Barack Obama's candidacy for president.

Explanation and Analysis of the Document

Jackson begins with an affirmation of faith in God, loyalty to country, and commitment to the Democratic Party.

The pledge of support for the party was particularly important, since Jackson had challenged the Democratic platform in 1984 and complained about the party's rules for selecting delegates. With his assertion that the party, even if imperfect, was still "the best hope for redirecting our nation," Jackson quieted fears that he would be a disruptive force in Democratic politics after the nomination of Walter Mondale for president, scheduled for the following evening.

◆ Mission and Leadership

Jackson's main concerns at the outset of his speech were the issues he considered important and their effects on those groups on whose behalf he spoke. Jackson here uses "mission," a word with religious connotations, to emphasize the importance of the Democrats' obligation to help those in need. His specific language "to feed the hungry; to clothe the naked; to house the homeless" recalls passages in the Bible, especially a passage in the Gospel of Matthew about good works. Jackson declares that he represents "the desperate, the damned, the disinherited, the disrespected, and the despised." His use of alliteration, a series of words that begin with the same letter, is one of the notable characteristics of his speaking style; alliterative sequences gain the attention of the audience and lend prominence to his ideas. At this point, Jackson does not further identify the constituencies he represents, but he insists that the party has an obligation to them because they had "voted in record numbers" during the primaries and caucuses.

Jackson then shifts to a discussion of leadership, asserting that it is the key to solving the nation's problems. He focuses on political leadership, particularly the Democrats' choice of their next presidential nominee. Once again, Jackson uses biblical imagery, when he asserts that "leadership can part the waters and lead our nation in the direction of the Promised Land." In this section, as in other parts of his address, Jackson blends the attributes of a political speech with those of a sermon. He refers to the contest for the Democratic presidential nomination, which began with eight candidates and then narrowed to three: Mondale, Hart, and Jackson himself. Jackson asks the delegates who supported his candidacy to vote for him as a sign of their commitment to "a new direction for this Party and this nation." He pledges, however, to support the convention's nominee, who he knows would be Mondale, and he commends Mondale's choice of Representative Geraldine Ferraro as the party's candidate for vice president the first woman nominated by a major party for that office. Once again, he finds inspiration in the Bible, specifically the book of Ecclesiastes, when he concedes that the contest for the nomination has concluded and that loyal Democrats must rally around Mondale. "There is a time to compete," he declares, "and a time to cooperate."

◆ Apology

In perhaps the most important part of his address, Jackson apologizes for mistakes made during the campaign. He mentions no specific errors; he only asks for forgiveness for any "word, deed, or attitude" that has "caused anyone discomfort, created pain, or revived someone's fears." It is clear, however, that Jackson is referring to his derogatory language about Jews and his association with Louis Farrakhan that led to charges of anti-Semitism. Again, Jackson frames his discussion of a political issue in religious terms, as he asserts that "God is not finished with me yet." He also invokes the example of Hubert Humphrey, the Democratic nominee who lost the presidential election of 1968 to Richard Nixon, to justify his conviction that "we must forgive each other … and move on."

◆ Celebration of Diversity

Celebrating the diversity of the American people is the theme of the next section of the speech. Jackson uses two metaphors to describe ethnic, racial, religious, and political differences. The first is a rainbow "red, yellow, brown, black and white." During his campaign, Jackson had described his supporters as "the rainbow coalition," which mirrored the name of the organization he had then founded, the National Rainbow Coalition. The second metaphor is a quilt consisting of "many pieces, many colors, many sizes," yet "held together by a common thread." While celebrating difference, Jackson calls for cooperation, since "we have not proven that we can win and make progress without each other." He cites the achievements in civil rights during the preceding twenty years, making reference to Fannie Lou Hamer, an African American who participated in a challenge to the all-white Mississippi delegation to the Democratic convention in Atlantic City in 1964. He emphasizes the pain that has accompanied progress, including the murders of the Martin Luther King, Jr., Malcolm X, Medgar Evers, Robert Kennedy, and John F. Kennedy as well as the killings of the civil rights activist Viola Liuzzo after the Selma-to-Montgomery march in Alabama and of three young civil rights workers, Michael Schwerner, Andrew Goodman, and James Chaney, in Mississippi during the Freedom Summer of 1964, a campaign to register African American voters in that state. He refers once more to the tensions between the black and Jewish communities that occurred during his campaign. He emphasizes, however, the common values and goals of blacks and Jews, inspired by religious principles and embodied in two great spiritual leaders, Martin Luther King and Rabbi Abraham Joshua Heschel, who marched together for voting rights in Selma, Alabama, in 1965. He urges African Americans and Jews to renew their partnership by turning "to each other and not on each other."

Next, Jackson appeals to the Democratic Party to welcome members of his rainbow coalition. He lists specific constituencies, including Arab Americans, Hispanic Americans, Native Americans, Asian Americans, young people, disabled veterans, small farmers, lesbians, and gays. Jackson maintains that these groups have been victimized, ostracized, or ignored, and he insists that inclusion rather than exclusion must be the hallmark of the Democratic Party. "Don't leave anybody out," he declares while counseling against hate, which he believes is often the result of

Presidential candidate Walter Mondale and his running mate, Geraldine Ferraro (AP/Wide World Photos)

"ignorance, anxiety, paranoia, fear, and insecurity." By representing the interests of this rainbow coalition, Jackson asserts that Democrats would be empowered to "expand our Party, heal our Party, and unify our Party." This part of the speech amounts to a plea to the party leadership to give more attention to minorities and their concerns as a way of building the party's strength for the 1984 election.

◆ Critique of Reagan's Policies

Jackson then begins an extensive critique of Ronald Reagan's first term as president. One of the main goals of a national convention was to rally support for the party's candidates and issues. Jackson's speech contributes to that goal with its denunciation of the Reagan administration for having made the world more "miserable" and more "dangerous."

Jackson particularly criticizes the president's policies for having made life harsher for the nation's poor. A severe recession had occurred during 1981 1982, after which an economic recovery began in 1983. Jackson maintains, however, that the poor had experienced none of the benefits of the recovery. He condemns the president's reductions in spending on social programs such as Social Security and school lunch programs as "cruel and unfair." He maintains that the president's program of tax cuts had disproportionately benefited big corporations and wealthy individuals while producing record budget deficits. Jackson then explains that the administration had tried to reduce the deficit with spending cuts on government-subsidized programs for people in need. Jackson echoed other critics, including some members of the president's own party, such as Vice President George H. W. Bush and Representative John Anderson of Illinois, both of whom had challenged Reagan for the Republican presidential nomination in 1980 and warned of dangers ahead if Reagan were to implement his economic plans and policies. According to Jackson, Reaganomics a combination of tax cuts, increases in the defense budget, and reductions in funding for social programs had brought about a "superficial economic recovery" with high unemployment and a national debt that had diminished the quality of life for poor people and had made the U.S. economy heavily dependent on foreign loans.

Jackson also harshly criticizes Reagan's national security policies. He deplores the loss of American lives in the bombing of a U.S. Marine barracks in Lebanon as well as the casualties that occurred during the U.S. invasion of Grenada. He also maintains that the steep increases in defense spending had not strengthened security against Soviet threats. "The danger index," Jackson warns, "has risen for everybody."

Jackson then looks to the future, as he outlines what he believes will be a winning strategy for Democrats. He tells his supporters that they had raised "the right questions,"

even if they had lost votes about the party's platform. He nonetheless believes that the platform provides "a solid foundation on which to build." The South, in his view, held the key to progressive politics, since there was the potential for a significant number of African Americans and Hispanics to be elected to Congress from that region. Jackson emphasizes that the triumph of one constituency would lead to the success of others, as he declares, "We must all come up together." A key to his vision was enforcement of the Voting Rights Act of 1965, which protected the right of minorities to exercise the franchise and to gain political representation.

Jackson then contrasts his ideas about peace and justice with Reagan administration policies. He asserts that the United States has been "at its best" when it fed hungry people but "at its worst" when it mined the harbors of Nicaragua and tried to overthrow the government of that nation. During Reagan's first term, the Central Intelligence Agency had placed mines in the harbor of Managua, Nicaragua's capital, and provided training and weapons to counter-revolutionaries in an effort to overthrow the Nicaraguan government, which the Reagan administration considered Communist. Jackson also condemns the "moral disgrace" of the Reagan administration's "partnerships" with South Africa. Prior to the end of apartheid in South Africa, a white minority government had enforced a system of racial segregation that oppressed the black majority. Jackson also calls for greater attention to Arab and Palestinian interests in the quest for Middle Eastern peace. Although he avoids specificity in an effort to appease supporters of Israel, he implies that U.S. policy makers have too often used a double standard in judging the human rights policies of Israel and its Arab neighbors. Overall, Jackson asserts that policies that promise peace and jobs and that shift spending from military to social programs will ensure that "the whole nation will come running to us."

◆ Optimism and Hope

In the final section of his address, Jackson preaches a message of optimism: hope for those disappointed that his candidacy had not led to his nomination and hope for Democrats who yearned for victory in the November election. Jackson particularly appeals to young people and their ability to imagine a better future. Much as he uses alliterative phrases earlier in his address, he uses a rhyming slogan to make an important point, when he challenges youth "to put hope in their brains not dope in their veins." Hope and imagination, he counsels them, can be "weapons of survival and progress." He ends by repeating his campaign slogan, "Our time has come." He speaks to those who support his candidacy, telling them, "Our faith, hope, and dreams will prevail." Yet he also addresses all Democrats, when he assures them that in November their time, too, will come. He ends on a note of triumph, confident that his candidacy has proved that African Americans have gained a central role in national politics. He also emphasizes unity, when he declares, "We must leave racial battle ground and come to economic common ground and moral high ground." In the end, Jackson maintains that the vibrant differences of the people within his coalition were less important than their common concerns.

Audience

Jackson's audience for his keynote address consisted of over twenty thousand delegates, alternates, party officials, and other spectators who attended the Democratic National Convention at the Moscone Center in San Francisco, California. The speech occurred during prime-time viewing hours and was carried on major broadcast and cable television channels. Thirty-three million viewers across the United States saw Jackson speak. Included among them were Democrats, Republicans, and independents who had been given an exceptional opportunity to learn more about one of the first African American candidates for president of the United States.

Impact

Jackson's address created great anticipation, and it did not disappoint. "We are seeing something historic," declared ABC News commentator David Brinkley as Jackson was about to begin his address. "Just twenty years ago, Jesse Jackson was leading demonstrations demanding the right to eat at the Woolworth lunch counter." CBS News anchor Dan Rather echoed Brinkley's assessment. "Jackson's address, whatever you think of him," Rather suggested, "may be one for the history books." Many commentators agreed that the speech met those high expectations. "If you are a human being and weren't affected by what you just heard," Florida governor Bob Graham exclaimed, "you may be beyond redemption." Jackson's rhythmic cadences, alliterative phrases, and emotional delivery had a powerful effect on listeners. Delegates applauded, roared, and cried. Lucius J. Barker, an African American delegate from Missouri who supported Jackson, recalled, "Tears rolled down my face … [and] when I looked around, others' eyes were also flowing with tears." A *Washington Post* editorial asserted that Jackson had given a great speech; a few commentators thought it was the most remarkable speech that had been given at a party convention to that point in the twentieth century.

There were some dissenting reactions, however. A few Jackson delegates, who thought that the party should have acceded to their platform proposals, criticized their candidate for having been too conciliatory in his address. While many Jewish leaders praised Jackson for having helped bridge political differences between blacks and Jews, some still emphasized that he had taken only a first step.

For many African Americans, Jackson's address was a source of pride and satisfaction. The author James Baldwin summarized the importance of Jackson's candidacy and speech by proclaiming, "Nothing will ever again be what it was before." Barker also thought the speech was significant because Jackson had showed that he was "the

Essential Quotes

"This is not a perfect party. We are not a perfect people. Yet, we are called to a perfect mission. Our mission: to feed the hungry; to clothe the naked; to house the homeless; to teach the illiterate; to provide jobs for the jobless; and to choose the human race over the nuclear race."

(Mission and Leadership)

"My constituency is the desperate, the damned, the disinherited, the disrespected, and the despised. They are restless and seek relief. They have voted in record numbers."

(Mission and Leadership)

"If, in my low moments, in word, deed, or attitude, through some error of temper, taste, or tone, I have caused anyone discomfort, created pain, or revived someone's fears, that was not my truest self. If there were occasions when my grape turned into a raisin and my joy bell lost its resonance, please forgive me."

(Apology)

"Our flag is red, white, and blue, but our nation is a rainbow—red, yellow, brown, black, and white—and we're all precious in God's sight."

(Celebration of Diversity)

"America is not a blanket–one piece of unbroken cloth, the same color, the same texture, the same size. America is more like a quilt: many patches … held together by a common thread. The white, the Hispanic, the black, the Arab, the Jew, the woman, the Native American, the small farmer, the businessperson, the environmentalist, the peace activist, the young, the old, the lesbian, the gay, and the disabled make up the American quilt."

(Celebration of Diversity)

"We live in a world tonight more miserable and a world more dangerous."

(Critique of Reagan's Policies)

first black person to really become a *national political* leader in terms of national *presidential* politics." Jackson's speech, in short, helped open the door for Barack Obama a quarter century later.

See also Martin Luther King, Jr.: "I Have a Dream" (1963); John F. Kennedy's Civil Rights Address (1963); Fannie Lou Hamer's Testimony at the Democratic National Convention (1964); Malcolm X: "After the Bombing" (1965); Barack Obama's Inaugural Address (2009).

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"Rainbow/PUSH Coalition" Web site.
http://www.rainbowpush.org.

Chester Pach

Questions for Further Study

1. Jesse Jackson ran for the presidency in 1984 and 1988, and although he surprised some observers with a strong showing, he was never really regarded as an electable candidate? Why?

2. What was Jackson's primary political mission during this time?

3. What political considerations prompted the Democratic Party's nominee, Walter Mondale, to allow Jackson to deliver the convention's keynote address?

4. Jackson's speeches have often been admired for their emotion and soaring rhetoric. What types of rhetorical devices did Jackson use in this speech to sweep his listeners along with him?

5. Compare this speech with Barack Obama's Inaugural Address. In what ways are Jackson and Obama similar? How do they differ—in style, points of view, and the like?

Document Text

Jesse Jackson's Democratic National Convention Keynote Address

Tonight we come together bound by our faith in a mighty God, with genuine respect and love for our country, and inheriting the legacy of a great Party, the Democratic Party, which is the best hope for redirecting our nation on a more humane, just, and peaceful course.

This is not a perfect party. We are not a perfect people. Yet, we are called to a perfect mission. Our mission: to feed the hungry; to clothe the naked; to house the homeless; to teach the illiterate; to provide jobs for the jobless; and to choose the human race over the nuclear race.

We are gathered here this week to nominate a candidate and adopt a platform which will expand, unify, direct, and inspire our Party and the nation to fulfill this mission. My constituency is the desperate, the damned, the disinherited, the disrespected, and the despised. They are restless and seek relief. They have voted in record numbers. They have invested the faith, hope, and trust that they have in us. The Democratic Party must send them a signal that we care. I pledge my best not to let them down.

There is the call of conscience, redemption, expansion, healing, and unity. Leadership must heed the call of conscience, redemption, expansion, healing, and unity, for they are the key to achieving our mission. Time is neutral and does not change things. With courage and initiative, leaders change things.

No generation can choose the age or circumstance in which it is born, but through leadership it can choose to make the age in which it is born an age of enlightenment, an age of jobs, and peace, and justice. Only leadership that intangible combination of gifts, the discipline, information, circumstance, courage, timing, will and divine inspiration can lead us out of the crisis in which we find ourselves. Leadership can mitigate the misery of our nation. Leadership can part the waters and lead our nation in the direction of the Promised Land. Leadership can lift the boats stuck at the bottom.

I have had the rare opportunity to watch seven men, and then two, pour out their souls, offer their service, and heal and heed the call of duty to direct the course of our nation. There is a proper season for everything. There is a time to sow and a time to reap. There's a time to compete and a time to cooperate.

I ask for your vote on the first ballot as a vote for a new direction for this Party and this nation a vote of conviction, a vote of conscience. But I will be proud to support the nominee of this convention for the Presidency of the United States of America. Thank you.

I have watched the leadership of our party develop and grow. My respect for both Mr. Mondale and Mr. Hart is great. I have watched them struggle with the crosswinds and crossfires of being public servants, and I believe they will both continue to try to serve us faithfully.

I am elated by the knowledge that for the first time in our history a woman, Geraldine Ferraro, will be recommended to share our ticket.

Throughout this campaign, I've tried to offer leadership to the Democratic Party and the nation. If, in my high moments, I have done some good, offered some service, shed some light, healed some wounds, rekindled some hope, or stirred someone from apathy and indifference, or in any way along the way helped somebody, then this campaign has not been in vain.

For friends who loved and cared for me, and for a God who spared me, and for a family who understood, I am eternally grateful.

If, in my low moments, in word, deed or attitude, through some error of temper, taste, or tone, I have caused anyone discomfort, created pain, or revived someone's fears, that was not my truest self. If there were occasions when my grape turned into a raisin and my joy bell lost its resonance, please forgive me. Charge it to my head and not to my heart. My head so limited in its finitude; my heart, which is boundless in its love for the human family. I am not a perfect servant. I am a public servant doing my best against the odds. As I develop and serve, be patient: God is not finished with me yet.

This campaign has taught me much; that leaders must be tough enough to fight, tender enough to cry, human enough to make mistakes, humble enough to admit them, strong enough to absorb the pain, and resilient enough to bounce back and keep on moving.

For leaders, the pain is often intense. But you must smile through your tears and keep moving with the faith that there is a brighter side somewhere.

Document Text

I went to see Hubert Humphrey three days before he died. He had just called Richard Nixon from his dying bed, and many people wondered why. And I asked him. He said, "Jesse, from this vantage point, the sun is setting in my life, all of the speeches, the political conventions, the crowds, and the great fights are behind me now. At a time like this you are forced to deal with your irreducible essence, forced to grapple with that which is really important to you. And what I've concluded about life," Hubert Humphrey said, "When all is said and done, we must forgive each other, and redeem each other, and move on."

Our party is emerging from one of its most hard fought battles for the Democratic Party's presidential nomination in our history. But our healthy competition should make us better, not bitter. We must use the insight, wisdom, and experience of the late Hubert Humphrey as a balm for the wounds in our Party, this nation, and the world. We must forgive each other, redeem each other, regroup, and move on. Our flag is red, white and blue, but our nation is a rainbow red, yellow, brown, black and white and we're all precious in God's sight.

America is not like a blanket one piece of unbroken cloth, the same color, the same texture, the same size. America is more like a quilt: many patches, many pieces, many colors, many sizes, all woven and held together by a common thread. The white, the Hispanic, the black, the Arab, the Jew, the woman, the native American, the small farmer, the businessperson, the environmentalist, the peace activist, the young, the old, the lesbian, the gay, and the disabled make up the American quilt.

Even in our fractured state, all of us count and fit somewhere. We have proven that we can survive without each other. But we have not proven that we can win and make progress without each other. We must come together.

From Fannie Lou Hamer in Atlantic City in 1964 to the Rainbow Coalition in San Francisco today; from the Atlantic to the Pacific, we have experienced pain but progress, as we ended American apartheid laws. We got public accommodations. We secured voting rights. We obtained open housing, as young people got the right to vote. We lost Malcolm, Martin, Medgar, Bobby, John, and Viola. The team that got us here must be expanded, not abandoned.

Twenty years ago, tears welled up in our eyes as the bodies of Schwerner, Goodman, and Chaney were dredged from the depths of a river in Mississippi. Twenty years later, our communities, black and Jewish, are in anguish, anger, and pain. Feelings have been hurt on both sides. There is a crisis in communications. Confusion is in the air. But we cannot afford to lose our way. We may agree to agree; or agree to disagree on issues; we must bring back civility to these tensions.

We are co-partners in a long and rich religious history the Judeo-Christian traditions. Many blacks and Jews have a shared passion for social justice at home and peace abroad. We must seek a revival of the spirit, inspired by a new vision and new possibilities. We must return to higher ground. We are bound by Moses and Jesus, but also connected with Islam and Mohammed. These three great religions, Judaism, Christianity, and Islam, were all born in the revered and holy city of Jerusalem.

We are bound by Dr. Martin Luther King Jr. and Rabbi Abraham Heschel, crying out from their graves for us to reach common ground. We are bound by shared blood and shared sacrifices. We are much too intelligent, much too bound by our Judeo-Christian heritage, much too victimized by racism, sexism, militarism, and anti-Semitism, much too threatened as historical scapegoats to go on divided one from another. We must turn from finger pointing to clasped hands. We must share our burdens and our joys with each other once again. We must turn to each other and not on each other and choose higher ground.

Twenty years later, we cannot be satisfied by just restoring the old coalition. Old wine skins must make room for new wine. We must heal and expand. The Rainbow Coalition is making room for Arab Americans. They, too, know the pain and hurt of racial and religious rejection. They must not continue to be made pariahs. The Rainbow Coalition is making room for Hispanic Americans who this very night are living under the threat of the Simpson-Mazzoli bill; and farm workers from Ohio who are fighting the Campbell Soup Company with a boycott to achieve legitimate workers' rights.

The Rainbow is making room for the Native American, the most exploited people of all, a people with the greatest moral claim amongst us. We support them as they seek the restoration of their ancient land and claim amongst us. We support them as they seek the restoration of land and water rights, as they seek to preserve their ancestral homeland and the beauty of a land that was once all theirs. They can never receive a fair share for all they have given us. They must finally have a fair chance to develop their great resources and to preserve their people and their culture.

The Rainbow Coalition includes Asian Americans, now being killed in our streets scapegoats for

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the failures of corporate, industrial, and economic policies.

The Rainbow is making room for the young Americans. Twenty years ago, our young people were dying in a war for which they could not even vote. Twenty years later, young America has the power to stop a war in Central America and the responsibility to vote in great numbers. Young America must be politically active in 1984. The choice is war or peace. We must make room for young America.

The Rainbow includes disabled veterans. The color scheme fits in the Rainbow. The disabled have their handicap revealed and their genius concealed; while the able-bodied have their genius revealed and their disability concealed. But ultimately, we must judge people by their values and their contribution. Don't leave anybody out. I would rather have Roosevelt in a wheelchair than Reagan on a horse.

The Rainbow is making room for small farmers. They have suffered tremendously under the Reagan regime. They will either receive 90 percent parity or 100 percent charity. We must address their concerns and make room for them. The Rainbow includes lesbians and gays. No American citizen ought be denied equal protection from the law.

We must be unusually committed and caring as we expand our family to include new members. All of us must be tolerant and understanding as the fears and anxieties of the rejected and the party leadership express themselves in many different ways. Too often what we call hate as if it were some deeply-rooted philosophy or strategy is simply ignorance, anxiety, paranoia, fear, and insecurity. To be strong leaders, we must be long-suffering as we seek to right the wrongs of our Party and our nation. We must expand our Party, heal our Party, and unify our Party. That is our mission in 1984.

We are often reminded that we live in a great nation and we do. But it can be greater still. The Rainbow is mandating a new definition of greatness. We must not measure greatness from the mansion down, but the manger up. Jesus said that we should not be judged by the bark we wear but by the fruit that we bear. Jesus said that we must measure greatness by how we treat the least of these.

President Reagan says the nation is in recovery. Those 90,000 corporations that made a profit last year but paid no federal taxes are recovering. The 37,000 military contractors who have benefited from Reagan's more than doubling of the military budget in peacetime, surely they are recovering. The big corporations and rich individuals who received the bulk of a three-year, multibillion tax cut from Mr. Reagan are recovering. But no such recovery is under way for the least of these.

Rising tides don't lift all boats, particularly those stuck at the bottom. For the boats stuck at the bottom there's a misery index. This Administration has made life more miserable for the poor. Its attitude has been contemptuous. Its policies and programs have been cruel and unfair to working people. They must be held accountable in November for increasing infant mortality among the poor. In Detroit one of the great cities of the western world, babies are dying at the same rate as Honduras, the most underdeveloped nation in our hemisphere. This Administration must be held accountable for policies that have contributed to the growing poverty in America. There are now 34 million people in poverty, 15 percent of our nation. 23 million are White; 11 million Black, Hispanic, Asian, and others mostly women and children. By the end of this year, there will be 41 million people in poverty. We cannot stand idly by. We must fight for a change now.

Under this regime we look at Social Security. The '81 budget cuts included nine permanent Social Security benefit cuts totaling 20 billion over five years. Small businesses have suffered under Reagan tax cuts. Only 18 percent of total business tax cuts went to them; 82 percent to big businesses. Health care under Mr. Reagan has already been sharply cut. Education under Mr. Reagan has been cut 25 percent. Under Mr. Reagan there are now 9.7 million female head families. They represent 16 percent of all families. Half of all of them are poor. 70 percent of all poor children live in a house headed by a woman, where there is no man. Under Mr. Reagan, the Administration has cleaned up only 6 of 546 priority toxic waste dumps. Farmers' real net income was only about half its level in 1979.

Many say that the race in November will be decided in the South. President Reagan is depending on the conservative South to return him to office. But the South, I tell you, is unnaturally conservative. The South is the poorest region in our nation and, therefore, [has] the least to conserve. In his appeal to the South, Mr. Reagan is trying to substitute flags and prayer cloths for food, and clothing, and education, health care, and housing.

Mr. Reagan will ask us to pray, and I believe in prayer. I have come to this way by the power of prayer. But then, we must watch false prophecy. He cuts energy assistance to the poor, cuts breakfast programs from children, cuts lunch programs from

children, cuts job training from children, and then says to an empty table, "Let us pray." Apparently, he is not familiar with the structure of a prayer. You thank the Lord for the food that you are about to receive, not the food that just left. I think that we should pray, but don't pray for the food that left. Pray for the man that took the food to leave. We need a change. We need a change in November.

Under Mr. Reagan, the misery index has risen for the poor. The danger index has risen for everybody. Under this administration, we've lost the lives of our boys in Central America and Honduras, in Grenada, in Lebanon, in nuclear standoff in Europe. Under this Administration, one-third of our children believe they will die in a nuclear war. The danger index is increasing in this world. All the talk about the defense against Russia; the Russian submarines are closer, and their missiles are more accurate. We live in a world tonight more miserable and a world more dangerous.

While Reaganomics and Reaganism is talked about often, so often we miss the real meaning. Reaganism is a spirit, and Reaganomics represents the real economic facts of life. In 1980, Mr. George Bush, a man with reasonable access to Mr. Reagan, did an analysis of Mr. Reagan's economic plan. Mr. George Bush concluded that Reagan's plan was "voodoo economics." He was right. Third-party candidate John Anderson said "a combination of military spending, tax cuts, and a balanced budget by '84 would be accomplished with blue smoke and mirrors." They were both right.

Mr. Reagan talks about a dynamic recovery. There's some measure of recovery. Three and a half years later, unemployment has inched just below where it was when he took office in 1981. There are still 8.1 million people officially unemployed; 11 million working only part-time. Inflation has come down, but let's analyze for a moment who has paid the price for this superficial economic recovery.

Mr. Reagan curbed inflation by cutting consumer demand. He cut consumer demand with conscious and callous fiscal and monetary policies. He used the Federal budget to deliberately induce unemployment and curb social spending. He then weighed and supported tight monetary policies of the Federal Reserve Board to deliberately drive up interest rates, again to curb consumer demand created through borrowing. Unemployment reached 10.7 percent. We experienced skyrocketing interest rates. Our dollar inflated abroad. There were record bank failures, record farm foreclosures, record business bankruptcies; record budget deficits, record trade deficits.

Mr. Reagan brought inflation down by destabilizing our economy and disrupting family life. He promised he promised in 1980 a balanced budget. But instead we now have a record 200 billion dollar budget deficit. Under Mr. Reagan, the cumulative budget deficit for his four years is more than the sum total of deficits from George Washington to Jimmy Carter combined. I tell you, we need a change.

How is he paying for these short-term jobs? Reagan's economic recovery is being financed by deficit spending 200 billion dollars a year. Military spending, a major cause of this deficit, is projected over the next five years to be nearly 2 trillion dollars, and will cost about 40,000 dollars for every taxpaying family. When the Government borrows 200 billion dollars annually to finance the deficit, this encourages the private sector to make its money off of interest rates as opposed to development and economic growth.

Even money abroad, we don't have enough money domestically to finance the debt, so we are now borrowing money abroad, from foreign banks, governments and financial institutions: 40 billion dollars in 1983; 70-80 billion dollars in 1984 40 percent of our total; over 100 billion dollars 50 percent of our total in 1985. By 1989, it is projected that 50 percent of all individual income taxes will be going just to pay for interest on that debt. The United States used to be the largest exporter of capital, but under Mr. Reagan we will quite likely become the largest debtor nation.

About two weeks ago, on July the 4th, we celebrated our Declaration of Independence, yet every day supply-side economics is making our nation more economically dependent and less economically free. Five to six percent of our Gross National Product is now being eaten up with President Reagan's budget deficits. To depend on foreign military powers to protect our national security would be foolish, making us dependent and less secure. Yet, Reaganomics has us increasingly dependent on foreign economic sources. This consumer-led but deficit-financed recovery is unbalanced and artificial. We have a challenge as Democrats to point a way out.

Democracy guarantees opportunity, not success.

Democracy guarantees the right to participate, not a license for either a majority or a minority to dominate.

The victory for the Rainbow Coalition in the Platform debates today was not whether we won or lost, but that we raised the right issues. We could afford to lose the vote; issues are non-negotiable. We could not afford to avoid raising the right questions. Our

Document Text

self-respect and our moral integrity were at stake. Our heads are perhaps bloody, but not bowed. Our back is straight. We can go home and face our people. Our vision is clear.

When we think, on this journey from slave-ship to championship, that we have gone from the planks of the Boardwalk in Atlantic City in 1964 to fighting to help write the planks in the platform in San Francisco in '84, there is a deep and abiding sense of joy in our souls in spite of the tears in our eyes. Though there are missing planks, there is a solid foundation upon which to build. Our party can win, but we must provide hope which will inspire people to struggle and achieve; provide a plan that shows a way out of our dilemma and then lead the way.

In 1984, my heart is made to feel glad because I know there is a way out justice. The requirement for rebuilding America is justice. The linchpin of progressive politics in our nation will not come from the North; they, in fact, will come from the South. That is why I argue over and over again. We look from Virginia around to Texas, there's only one black Congressperson out of 115. Nineteen years later, we're locked out of the Congress, the Senate and the Governor's mansion. What does this large black vote mean? Why do I fight to win second primaries and fight gerrymandering and annexation and at-large [elections]. Why do we fight over that? Because I tell you, you cannot hold someone in the ditch unless you linger there with them. Unless you linger there.

If you want a change in this nation, you enforce that Voting Rights Act. We'll get 12 to 20 Black, Hispanics, female and progressive congresspersons from the South. We can save the cotton, but we've got to fight the boll weevils. We've got to make a judgment. We've got to make a judgment.

It is not enough to hope ERA will pass. How can we pass ERA? If Blacks vote in great numbers, progressive Whites win. It's the only way progressive Whites win. If Blacks vote in great numbers, Hispanics win. When Blacks, Hispanics, and progressive Whites vote, women win. When women win, children win. When women and children win, workers win. We must all come up together. We must come up together.

Thank you.

For all of our joy and excitement, we must not save the world and lose our souls. We should never short-circuit enforcing the Voting Rights Act at every level. When one of us rise[s], all of us will rise. Justice is the way out. Peace is the way out. We should not act as if nuclear weaponry is negotiable and debatable.

In this world in which we live, we dropped the bomb on Japan and felt guilty, but in 1984 other folks [have] also got bombs. This time, if we drop the bomb, six minutes later we, too, will be destroyed. It's not about dropping the bomb on somebody. It is about dropping the bomb on everybody. We must choose to develop minds over guided missiles, and think it out and not fight it out. It's time for a change.

Our foreign policy must be characterized by mutual respect, not by gunboat diplomacy, big stick diplomacy, and threats. Our nation at its best feeds the hungry. Our nation at its worst, at its worst, will mine the harbors of Nicaragua, at its worst will try to overthrow their government, at its worst will cut aid to American education and increase the aid to El Salvador; at its worst, our nation will have partnerships with South Africa. That's a moral disgrace. It's a moral disgrace. It's a moral disgrace.

We look at Africa. We cannot just focus on Apartheid in Southern Africa. We must fight for trade with Africa, and not just aid to Africa. We cannot stand idly by and say we will not relate to Nicaragua unless they have elections there, and then embrace military regimes in Africa overthrowing democratic governments in Nigeria and Liberia and Ghana. We must fight for democracy all around the world and play the game by one set of rules.

Peace in this world. Our present formula for peace in the Middle East is inadequate. It will not work. There are 22 nations in the Middle East. Our nation must be able to talk and act and influence all of them. We must build upon Camp David, and measure human rights by one yard stick. In that region we have too many interests and too few friends.

There is a way out jobs. Put America back to work. When I was a child growing up in Greenville, South Carolina, the Reverend Sample used to preach every so often a sermon relating to Jesus. And he said, "If I be lifted up, I'll draw all men unto me." I didn't quite understand what he meant as a child growing up, but I understand a little better now. If you raise up truth, it's magnetic. It has a way of drawing people.

With all this confusion in this Convention, the bright lights and parties and big fun, we must raise up the simple proposition: If we lift up a program to feed the hungry, they'll come running; if we lift up a program to study war no more, our youth will come running; if we lift up a program to put America back to work, and an alternative to welfare and despair, they will come working.

Document Text

If we cut that military budget without cutting our defense, and use that money to rebuild bridges and put steel workers back to work, and use that money and provide jobs for our cities, and use that money to build schools and pay teachers and educate our children and build hospitals and train doctors and train nurses, the whole nation will come running to us.

As I leave you now, we vote in this convention and get ready to go back across this nation in a couple of days. In this campaign, I've tried to be faithful to my promise. I lived in old barrios, ghettos, and reservations and housing projects. I have a message for our youth. I challenge them to put hope in their brains and not dope in their veins. I told them that like Jesus, I, too, was born in the slum. But just because you're born in the slum does not mean the slum is born in you, and you can rise above it if your mind is made up. I told them in every slum there are two sides. When I see a broken window that's the slummy side. Train some youth to become a glazier that's the sunny side. When I see a missing brick that's the slummy side. Let that child in the union and become a brick mason and build that's the sunny side. When I see a missing door that's the slummy side. Train some youth to become a carpenter that's the sunny side. And when I see the vulgar words and hieroglyphics of destitution on the walls that's the slummy side. Train some youth to become a painter, an artist that's the sunny side.

We leave this place looking for the sunny side because there's a brighter side somewhere. I'm more convinced than ever that we can win. We will vault up the rough side of the mountain. We can win. I just want young America to do me one favor, just one favor. Exercise the right to dream. You must face reality that which is. But then dream of a reality that ought to be that must be. Live beyond the pain of reality with the dream of a bright tomorrow. Use

Glossary

Abraham Heschel	a Jewish rabbi who marched with Martin Luther King, Jr., for voting rights in Selma, Alabama, in 1965
Apartheid	the system of legal racial segregation in South Africa
Camp David	a naval facility in Maryland used as a presidential retreat; the site of the signing of the Camp David Accords, a peace agreement between Israel and Egypt in 1978
ERA	the Equal Rights Amendment
Fanny Lou Hamer	an African American who participated in a challenge to the all-white Mississippi delegation to the Democratic convention in Atlantic City in 1964
George Bush	George H. W. Bush, who ran unsuccessfully for the Republican presidential nomination in 1980 and Reagan's vice president
Geraldine Ferraro	a New York congressional representative who ran for vice president on the ticket with Walter Mondale in 1984
Gross National Product	the sum total of all goods and services produced in a country
Hart	Senator Gary Hart, who finished second to Walter Mondale in the race for the 1984 Democratic presidential nomination
Hubert Humphrey	the Minnesota senator who ran for president against Richard Nixon in 1968
Jimmy Carter	Ronald Reagan's predecessor as U.S. president
John Anderson	an Illinois congressional representative who mounted a 1980 campaign for president as an independent candidate
Malcolm, Martin, Medgar, Bobby, John, and Viola	slain civil rights leaders and activists Malcolm X, Martin Luther King, Jr., Medgar Evers, Robert Kennedy, John Kennedy, and Viola Liuzzo

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hope and imagination as weapons of survival and progress. Use love to motivate you and obligate you to serve the human family.

Young America, dream. Choose the human race over the nuclear race. Bury the weapons and don't burn the people. Dream dream of a new value system. Teachers who teach for life and not just for a living; teach because they can't help it. Dream of lawyers more concerned about justice than a judgeship. Dream of doctors more concerned about public health than personal wealth. Dream of preachers and priests who will prophesy and not just profiteer. Preach and dream!

Our time has come. Our time has come. Suffering breeds character. Character breeds faith. In the end, faith will not disappoint. Our time has come. Our faith, hope, and dreams will prevail. Our time has come. Weeping has endured for nights, but now joy cometh in the morning. Our time has come. No grave can hold our body down. Our time has come. No lie can live forever. Our time has come. We must leave racial battle ground and come to economic common ground and moral higher ground. America, our time has come. We come from disgrace to amazing grace. Our time has come. Give me your tired, give me your poor, your huddled masses who yearn to breathe free and come November, there will be a change because our time has come.

Glossary

Mohammad	usually Muhammad, the founder of Islam
Mondale	Senator Walter Mondale, the Democratic presidential candidate in 1984 and former vice president under Jimmy Carter
Reagan	Ronald Reagan, Mondale's opponent in the 1984 presidential election and an avid horseback rider
Reaganomics	the informal name given to President Ronald Reagan's economic views
Richard Nixon	the Republican president from 1969 to 1974
Roosevelt	President Franklin D. Roosevelt, who used a wheelchair because of an early bout with polio
Schwerner, Goodman, and Chaney	Michael Schwerner, Andrew Goodman, and James Chaney, northern civil rights workers murdered in Mississippi during the Freedom Summer of 1964
seven men	the candidates for the Democratic presidential nomination
Simpson-Mazzoli bill	proposed legislation to reduce illegal immigration to the United States
war in Central America	a reference to ongoing conflict in Nicaragua

Anita Hill testifying before the Senate Judiciary Committee on Capitol Hill (AP/Wide World Photos)

Anita Hill's Opening Statement at the Senate Confirmation Hearing of Clarence Thomas

1991

"I was aware that he could affect my future career and did not wish to burn all my bridges."

Overview

Anita Hill's opening statement in 1991 at the proceedings conducted by the Senate Judiciary Committee regarding the nomination of Clarence Thomas to the U.S. Supreme Court was a bold and revealing account of sexual harassment in the workplace that also brought up issues related to gender discrimination and racism. During the course of the grueling Senate confirmation hearing, startling accusations of sexual harassment were raised by Hill against Thomas. A law professor at the University of Oklahoma who had been one of Thomas's coworkers, Hill only reluctantly came forward with detailed allegations. Her statement and subsequent testimony, which were broadcast on national television, provided a public glimpse into the confirmation process as well as the complex web of issues surrounding sexual harassment, gender discrimination, and racial stereotyping. Despite the controversy over his nomination, Thomas was confirmed by a close vote on the Senate floor, and he was sworn in as the 106th U.S. Supreme Court justice on October 23, 1991. He became only the second African American to hold the position, replacing the first African American Supreme Court justice, Thurgood Marshall.

Hill's opening statement was historically and culturally significant in a number of ways. It showed that as an issue, sexual harassment transcended considerations solely about race, and it exposed the profound damage that could be inflicted by verbal rather than physical sexual harassment. Moreover, Hill's account demonstrated that the "he said, she said" dilemma posed by many sexual harassment claims could be a difficult hurdle to overcome. Hill's statement also gave expression to the gender and racial discrimination she had endured and how they had been important factors in her decision to come forward. The statement was also significant because it pitted two African Americans against each other in the public eye and provoked widespread disagreement in the black community.

Context

On June 27, 1991, Thurgood Marshall, the first African American justice to serve on the Supreme Court, announced that he was retiring. Marshall had been a prominent figure in the civil rights movement prior to his appointment to the nation's highest court. As chief counsel for the National Association for the Advancement of Colored People, Marshall had argued and won the landmark civil rights case *Brown v. Board of Education*. During his twenty-four-year tenure on the Supreme Court, the liberal Marshall championed constitutional protections of individual and civil rights. As a result of Marshall's resignation, President George H. W. Bush was charged with the difficult task of replacing him.

At the time of Marshall's pronouncement, the composition of the Supreme Court was shifting. During the administrations of both the elder Bush and Ronald Reagan, when a vacancy occurred at the Supreme Court, the presidents had chosen to fill it with a conservative justice. In 1987 President Reagan attempted to nominate Judge Robert Bork, a conservative, to the Supreme Court. However, key Democratic members of the Senate Judiciary Committee were concerned about Bork's views and vehemently opposed his nomination. As a result, Bork's nomination was easily defeated when it came to a vote in the Senate. Mindful of what had happened to Bork, President Bush did not want his nominee to be similarly defeated, but he also did not want to replace Marshall with a liberal-leaning justice.

Republicans felt that Judge Clarence Thomas, who had served on the federal court of appeals since 1990, was the best person to replace the retiring Marshall. Unlike Marshall, Thomas was a conservative African American male who had sharply critiqued affirmative action. Although Thomas was an anomaly among African American legal professionals, Republicans believed that by stressing his humble beginnings in Pin Point, Georgia, he would eventually gain African American support. Thomas was a Yale Law School graduate, who from 1981 to 1982 had been the assistant secretary for civil rights in the Department of Education and from 1982 to 1990 had served as chairman of the Equal Employment Opportunity Commission (EEOC). Conservative Washington insiders knew of Thomas from his government service and had suggested him to President Bush.

Civil right activists, leaders of civil rights groups, and liberal organizations were concerned about Thomas's dis-

Time Line

1981

- Anita Hill becomes special counsel to the assistant secretary in the Department of Education's Office of Civil Rights, namely, Clarence Thomas.

1982

- At the Equal Employment Opportunity Commission (EEOC), Hill becomes special assistant to Thomas, the commission's chairman.

1983

- **Fall**
  Hill begins teaching at Oral Roberts University's O.W. Coburn School of Law.

1986

- Hill accepts a professor of law position at the University of Oklahoma.

1991

- **June 27**
  U.S. Supreme Court Justice Thurgood Marshall announces his retirement.
- **July 1**
  President George H. W. Bush nominates Clarence Thomas to replace Justice Marshall.
- **August**
  Rumors begin to surface regarding allegations that Thomas sexually harassed Anita Hill.
- **September 10–20**
  The Senate Judiciary Committee holds hearings on the Thomas nomination.
- **September 23**
  Hill is interview by the FBI and faxes a personal statement to the committee.
- **September 27**
  The Senate Judiciary Committee's vote on whether to confirm Thomas is split at seven to seven; the nomination is sent without the committee's endorsement to the Senate floor.
- **September 28**
  Thomas denies all of Hill's allegations.
- **October 3–4**
  Senate debate begins on Thomas's confirmation.

dain for affirmative action and other progressive causes. Members of the National Association for the Advancement of Colored People overwhelmingly opposed his nomination, and the National Abortion Rights Action League was concerned about his views on abortion, especially his take on the *Roe v. Wade* decision (1973), granting women wider rights to abortion. Moreover, Thomas's lack of judicial experience was a point of contention for the American Bar Association. Typically, the bar association rated Supreme Court justices "well qualified." Because of Thomas's limited experience on the federal court of appeals, however, the bar association gave Thomas only a "qualified" rating. In response, the White House obtained support from conservative groups to mount an attack against liberal groups that opposed Thomas. This campaign helped bolster Thomas's reputation in the right-wing community but did little to sway his many critics.

In August 1991, one month before the start of Thomas's Senate confirmation hearing, newspaper reporters and Washington insiders began to hear rumors that centered on Anita Hill, a former coworker of Thomas's, who claimed that she had been sexually harassed by him repeatedly. As the confirmation hearing neared, opponents of Thomas contacted Hill, a University of Oklahoma law professor, to determine the veracity of her claims. At first, Hill was hesitant to talk to reporters and staff members of the Senate Judiciary Committee, fearing that her anonymity would be jeopardized. She was first contacted by Gail Laster, counsel to the Judiciary Committee's Labor Subcommittee. Laster asked Hill generally about the rumors of sexual harassment; Hill did not tell Laster about the harassing behavior she herself had endured at the EEOC. Ricki Seidman, chief investigator of the Senate Labor and Human Resources Committee, twice communicated with Hill about the sexual harassment allegations. During her second conversation with Seidman, Hill told her some details of Thomas's behavior but also expressed her desire for confidentiality.

James Brudney, chief counsel to the Judiciary Committee's Labor Subcommittee, chaired by Senator Howard Metzenbaum, next contacted Hill about the rumors. After Hill explained the details of Thomas's conduct to Brudney, he spoke to Metzenbaum, who suggested contacting Harriet Grant of the office of Senator Joseph Biden, chairman of the Judiciary Committee. In the weeks prior to Hill's testimony before the Judiciary Committee, both Grant and Brudney spoke to Hill about revealing her information to the Federal Bureau of Investigation (FBI). Eventually, Hill agreed to be interviewed by the FBI and also submitted a written, notarized statement to the Senate Judiciary Committee memorializing her experiences with Thomas. Thereafter, the FBI report on Hill was submitted to some committee members.

Thomas began the confirmation process on September 10, 1991. Each senator on the Judiciary Committee gave an opening statement that either supported Thomas or expressed concerns about his past. For the most part, the committee, which consisted of seven Democrats and six Republicans, was divided along party lines. The commit-

tee's Democrats were much harder on Thomas than were their Republican counterparts, questioning him about his past speeches and articles, his views on natural law, decisions made while at the EEOC, and abortion rights. Typically, after a Democratic member finished questioning Thomas, a Republican member asked him an easier question in order to repair his credibility with the committee. During the initial confirmation hearing, Thomas was unaware of Hill's allegations. He endured the Senate Judiciary Committee's questioning for five days before other witnesses were called.

One of Thomas's key opponents was Sylvia Law, a professor of constitutional law in the areas of personal and privacy rights, who was concerned about Thomas's conservative views on women's reproductive rights. Other opponents included Molly Yard, president of the National Organization of Women; representatives from the American Federation of Labor and Congress of Industrial Organizations; Kate Michelman, executive director of the National Abortion Rights Action League; Faye Wattleton, president of the Planned Parenthood Federation of America; and Julius Chambers, from the National Association for the Advancement of Colored People's Legal Defense and Educational Fund. Speaking in support of Thomas, Guido Calabresi, then the dean of Yale Law School, praised his ability to remain independent and his potential to grow with the Supreme Court. Thomas's proponents also included Robert Woodson, president of the National Center for Neighborhood Enterprise; John E. Palmer, representing the Heartland Coalition for the Confirmation of Judge Clarence Thomas; and the Republican Black Caucus chair George C. Dumas.

Only days before the committee vote, Thomas was informed of the FBI report claiming that he had sexually harassed Hill when they both had worked at the Department of Education and EEOC. Thomas emphatically denied Hill's accusations, but the damage had been done. When the Judiciary Committee voted on the confirmation on September 27, the result was a seven-to-seven tie, and the nomination was sent to the Senate floor with no endorsement. Meanwhile, the news media took hold of the sexual harassment rumors and made Anita Hill a household name. The salacious details of the harassment were cast into the world of public opinion. In turn, the Senate, at the request of Thomas, delayed its confirmation vote. Finally, on October 11, 1991, Hill and Thomas appeared in front of the Senate Judiciary Committee to tell their sides of the story.

About the Author

The thirteenth child born to a poor farm family, Anita Faye Hill was born in 1956 in Okmulgee County, Oklahoma. Her father, Albert Hill, and mother, Erma Hill, both worked on the farm. From a young age, Anita Hill knew that hard work and dedication would be the keys to her success. She attended integrated schools and was shielded from racial tensions for much of her childhood. After she graduated from high school, Hill attended Oklahoma State University and graduated with honors in 1977. She received a JD degree from Yale Law School in 1980.

Hill's initial job out of law school was at the Washington, D.C., law firm Wald, Harkrader & Ross. While working for the law firm, she met Clarence Thomas. Soon afterward, in 1981, Thomas was appointed the assistant secretary for civil rights in the Department of Education, and he asked Hill if she would become his assistant. She accepted the job offer, and she followed Thomas to the EEOC when he became its chairman.

In 1983, Hill left the EEOC and took a position as an assistant law professor at the O.W. Colburn School of Law at Oral Roberts University. She subsequently became a professor at the College of Law at the University of Oklahoma, a position that she held at the time she appeared before the Senate Judiciary Committee. After testifying before the committee, she returned to her position at the University of Oklahoma. She was asked to speak at a number of events about her experience at the hearing and about sexual harassment. After controversy over a proposed and sponsored professorship in her name, she left the University of Oklahoma in 1996. As of 2010 she was employed at Brandeis University's Heller School for Social Policy and Management as a professor of social policy, law, and women's studies.

Time Line

1991

- **October 8**
  Thomas requests a delay in the Senate vote.
- **October 11**
  Hill and Thomas testify before the Senate Judiciary Committee.
- **October 15**
  The Senate confirms Thomas by a vote of fifty-two to forty-eight.
- **October 23**
  Thomas is sworn in as the 106th U.S. Supreme Court justice.

Explanation and Analysis of Document

This document contains four distinct topics: Hill's early life and career, the details of Thomas's harassing behavior, her decision not to come forward, and her subsequent decision to tell her story. Hill was also concerned about silently held biases against her as a result of the sexual harassment claim. It was important for her to make the members of the Senate Judiciary Committee, all of them white men, understand that women do not intentionally invite sexually harassing behavior. As a further obstacle to stating her case, Hill's legal career placed her, in the opinion of the committee, in a different category of women from those in

many harassment cases, because, from a legal standpoint, she must have known right from wrong with respect to her professional relationship with Thomas.

◆ Early Life and Career

Hill's statement begins with a brief discussion of her educational experiences and her background, emphasizing her parents' struggles, her family ties, and her personal religious beliefs. She touches on her childhood poverty and her educational success at Oklahoma State University and Yale Law School. In addition, she notes her early work experiences at Wald, Harkrader & Ross, the Office for Civil Rights within the Department of Education, and the EEOC. All this background information was meant to demonstrate to the fourteen committee members that she was an intelligent, hardworking, and credible witness. Furthermore, Hill had to make herself appear first and foremost as an individual giving testimony, rather than emphasize being a woman or black. Indeed, she never mentions the words *gender discrimination* or *racism*; however, her background information reveals that she was concerned about both, specifically, the obstacles of poverty and racial prejudice that many African American women have had to overcome. Hill was thus portraying herself as someone who had overcome her disadvantaged childhood and become a successful lawyer.

◆ Details of Harassing Behavior

The second part of Hill's statement to the Senate Judiciary Committee focuses on explaining what constituted harassing behavior by Clarence Thomas. Hill starts with a discussion of the harassment that had occurred while she worked as Thomas's assistant in the Office for Civil Rights at the Department of Education. She states that at first Thomas did not exhibit such behavior toward her; however, she then observes that he began to harass her by repeatedly asking her to go out with him socially and even describing to her in detail pornographic films he had seen. After Hill provides these examples, she explains that she told Thomas that she did not want to jeopardize their working relationship and that sexual topics of conversation made her feel uncomfortable. Hill then notes how Thomas's harassing behavior ended before their transfer to the EEOC.

While he was chairman of the EEOC, Hill testifies, Thomas resumed making inappropriate overtures toward her. She describes how he started to make comments about her appearance and whether her clothes were "more or less sexually attractive." Again, she rebuffed Thomas's advances; however, he wanted an explanation as to why she would not go out with him. Hill then details specific episodes of Thomas's harassing behavior, including a conversation he had with her about his sexual prowess. As a result of Thomas's behavior, Hill felt severe stress while she was working at the EEOC.

Throughout her description of Thomas's behavior, Hill relates not only how she repeatedly declined Thomas's invitations but also how he continued to approach her and even questioned why she would not go out with him. These examples support Hill's allegations of workplace sexual harassment and, more important, show how she had become psychologically victimized how she had come to blame herself for having been in such a situation. Indeed, she could have told the Senate Judiciary Committee only the details of Thomas's behavior, but that alone might not have been sufficient information to suggest sexual harassment. Thus, she takes the extra step of explaining that regardless of how she tried to ward off Thomas's advances, he would not listen to her. Hill became both a victim and her own advocate in order to clarify her allegations to the male members of the Senate Judiciary Committee.

Incidentally, Hill's detailed account of Thomas's descriptions of pornographic films and his sexual prowess can be seen as perpetuating stereotypes about African Americans. It is possible that Hill had anticipated that some white male members of the Senate Judiciary Committee would not have given her statement the same weight if she had omitted these details. Although the vivid descriptions Hill gave to the committee could be perceived as reinforcing sexual myths about African Americans, she hardly could have been expected to withhold accurate testimony or make it less graphic for fear of contributing to racial stereotypes.

◆ Decision Not to Come Forward

The third section of Hill's statement focuses on her initial decision not to come forward. She begins by explaining her fear of reprisal from Thomas whenever she chose not to go out with him. These fears included being given less important work assignments and even the possibility of dismissal from her job. Because of these fears, Hill started to look for another job; however, the opportunities were minimal. She eventually found another position and informed Thomas. Hill then pointedly notes to the committee how she agreed to a final dinner with Thomas, during which "he said that if I ever told anyone about his behavior toward me it could ruin his career."

Hill's initial decision not to come forward and expose Thomas reflected a former trend in female reporting of workplace sexual harassment claims. In the early 1980s, sexual harassment claims by women were not prevalent, and these claims were often extremely difficult to prove. Although laws and regulations were already in place to prevent workplace sexual harassment, the support needed to provide credibility to a claim was difficult to obtain. The Civil Rights Act of 1964, signed by President Lyndon Johnson, was the first piece of legislation enacted to help prevent workplace sexual harassment. Title VII of that act prohibits discrimination based upon race, color, religion, national origin, or sex. In 1972 Congress passed the Equal Employment Opportunity Act, which amended the Civil Rights Act of 1964 and established the Equal Employment Opportunity Commission. The EEOC was given the authority to prevent persons from engaging in unlawful employment discrimination practices.

In 1980, the EEOC promulgated regulations titled *Guidelines on Discrimination Because of Sex*. These regulations helped to further define sexual harassment and what were considered acceptable workplace practices. By the

Senate Judiciary Committee members confer prior to the start of hearings before the committee on the nomination of Clarence Thomas to the Supreme Court. (AP/Wide World Photos)

mid-1980s, eighteen states had enacted legislation that specifically prohibited sexual harassment. In addition, as many as twenty-eight other states had laws that prohibited sex discrimination. An important decision by the U.S. Supreme Court, *Meritor Savings Bank v. Vinson* (1986), made it easier to prove sexual harassment under Title VII of the Civil Rights Act of 1964. Unfortunately for Hill, that case was decided after her experiences of sexual harassment, which had occurred during the early 1980s.

Hill's decision not to leave either the Department of Education or the EEOC as well as to follow Thomas from the Department of Education to the EEOC was likely the result of both gender and race discrimination. First, employment opportunities for female attorneys in the 1980s were not abundant. Female attorneys were often relegated to lower-level positions in comparison to those held by their male peers. Second, workplace racial discrimination was still an obstacle in the 1980s, despite laws and regulations that prohibited it. Hill was an African American female attorney working in a primarily white male world. In her statement she opines that at the time it would have been hard for her to find a position outside the Department of Education or EEOC. Thus, the possibility of being discriminated against when applying for other jobs was a significant factor not only in Hill's decision to follow Thomas to the EEOC but also in her delay in seeking other employment.

◆ Decision to Come Forward

The final section of Hill's statement explains her decision to testify about the sexual harassment claims. Hill concedes that she had not felt comfortable coming forward and making her allegations public to the Senate Judiciary Committee and the world. She also admits that her delay in coming forward might have been the result of poor judgment. Finally, Hill testifies that she eventually decided to come forward with the information because she had a duty to tell the truth.

Audience

Hill's comments in the final paragraph of her statement reflect the extreme degree of public scrutiny she knew she would have to endure. The broadcast media was captivated by the Anita Hill Clarence Thomas controversy. Accordingly, the audience for Hill's opening statement was anyone

Essential Quotes

"Telling the world is the most difficult experience in my life. I was aware that he could affect my future career and did not wish to burn all my bridges."

(Decision to Come Forward)

"I have no personal vendetta against Clarence Thomas."

(Decision to Come Forward)

interested in Thomas's confirmation hearing, whether for professional reasons or merely out of curiosity. More specifically, Hill's statement was watched with interest by women and by members of the African American community. In certain respects, her decision to come forward and testify in front of the Judiciary Committee eradicated many gender stereotypes surrounding women. Stereotypes that describe female behavior include passivity, a pleasing nature, and a demeanor that is emotional and feminine. While feminist groups have worked hard to change how women are perceived in the workplace and media, not all women believe that these stereotypes are wrong. In this case, many women viewed Hill's delayed decision to expose Thomas's harassing behavior as an incorrect course of action. In particular, some African American women questioned why it had taken her so long to come forward. In addition, these same women also believed that she should have left her position in the Department of Education once the harassment started. Many African American women also thought Hill should have never raised allegations against Thomas because he was a prominent and successful African American male. Thomas's conservatism, particularly his opposition to abortion and disbelief in affirmative action policies, did bolster support for him in the conservative community. Thus, regardless of Hill's allegations against Thomas, many women supported his nomination.

Hill's choice to come forward did not, however, anger everyone. She was seen by many as a pioneer in the fight against workplace discrimination. Even though it had taken her years to tell her story, she finally had come forward under intense public scrutiny; because of that, many recognized her courage and supported her. Unwittingly, she became a role model for women. For instance, Hill's missteps in coming forward demonstrated that immediate action should be taken against a sexual harasser. Her narrative of what had transpired with Thomas in the Department of Education and the EEOC also helped people learn to gauge what actions were or were not appropriate in the workplace. Most important, Hill's stated belief that she was doing what was right, regardless of the outcome, was an important step in gender equality. In the end, Supreme Court historians and others who write about the Court and the judicial confirmation process, as well as researchers interested in issues of gender and race, will continue to have an interest in Hill's statement.

Impact

Hill's opening statement and testimony became the focal point of Thomas's confirmation hearing, even though she appeared before the Senate Judiciary Committee toward the end of the hearing process, after the committee had voted on whether to recommend Thomas's nomination. Once Hill made her opening statement, she spent the remainder of October 11, 1991, being grilled by the members of the committee. In particular, she was asked many questions about her personal life that had little to do with the sexual harassment claim. Senator Arlen Specter engaged in a concerted effort to discredit Hill. Referring to her statement to the FBI and her testimony to the Senate Judiciary Committee, he pointed out discrepancies between the two and questioned why certain facts were not included in the FBI report. He inquired further as to why Hill did not come forward with her sexual harassment claim until Thomas's confirmation hearing. In addition, Specter introduced an affidavit from John Doggett, a friend to both Hill and Thomas, in which Doggett claimed that Hill was unstable and had fantasized about him. Specter also asked Hill questions related to the number of times she and Thomas had spoken since she left the EEOC; in doing this, Specter attempted to insinuate that Hill was in contact with Thomas for more than professional reasons.

Among the others questioning Hill, Senator Howell Heflin, in order to call her testimony into doubt, accused her of fantasizing about Thomas. Some committee members intimated that her story should be presumed to be fictional because she had chosen to come forward late in the confirmation process. When Hill's testimony was complete, Thomas, angered by her accusations, testified and expressed his disdain for the proceedings as "high-tech lynching for uppity blacks." At that point, the confirmation

hearing turned into a "he said, she said" nightmare for both Thomas and Hill, during which the purpose of the confirmation hearing, namely, to determine whether Thomas was the best person for the job, was lost. Eventually, Thomas was confirmed by a Senate vote of fifty-two to forty-eight, one of the narrowest such votes in U.S. history.

Hill's testimony before the committee captivated and educated audiences on issues surrounding sexual harassment in the workplace. Reporting of sexual harassment rose after Anita Hill came forward, as claims of sexual harassment began to be taken more seriously. Furthermore, her testimony made employers more aware of what constituted sexually harassing behavior, encouraging employers to monitor employee interactions more effectively and thus prevent sexually harassing behavior. In addition, many employers began to make it easier for victims of alleged sexual harassment to come forward without having to reveal their identities. This commitment to anonymity assuaged victims' fears of accuser retaliation and job dismissal. Many companies changed their personnel policies to ensure that all employees would comply with sexual harassment laws and regulations.

An unfortunate aspect of the Thomas confirmation hearing was that the process itself, which could have been relatively straightforward, turned into a public spectacle. Once the Senate Judiciary Committee had been informed that Thomas, a conservative African American, was President Bush's Supreme Court nominee, Democratic and Republican committee members set out to find information that would either help or hurt his chances of confirmation. Democrats on the committee had become aware of Hill's allegations before any Republicans had been informed; therefore, Thomas and Hill became engrossed in a political clash between Democrats and Republicans. The proceedings became unnecessarily acrimonious, as committee members tried to separate truth from lies with respect to Hill's charges of sexual harassment. As a result, the testimonies of both Thomas and Hill were not taken seriously, and the confirmation process was seen as a failure.

The proceedings had a massive impact on the African American community. Two successful African Americans were pitted against each other. On one hand was Clarence Thomas, a conservative who for the most part disliked affirmative action. On the other was Anita Hill, a law professor who some perceived as having turned on "one of her own." Indeed, the conflict over whom to believe created more questions than answers. Although Thomas was uncomfortable with affirmation action, he was nevertheless a nominee to the Supreme Court. Not many African Americans had been offered such a prestigious honor, and many believed that Thomas was a good model of what an African American man could achieve. In addition, many empathized with the struggle against racism and discrimination that Thomas had navigated successfully. Accordingly, some African Americans were willing to ignore Thomas's shortcomings in favor of what they thought his confirmation could do to promote positive views of African Americans.

Like Thomas, Hill had overcome racism and discrimination throughout her career. Notwithstanding, she did not

Questions for Further Study

1. Describe the politics that surrounded the Clarence Thomas nomination. Who supported him and why? What groups opposed his nomination and why?

2. To what extent do you believe that the personal views of a nominee for a judgeship are relevant to that person's qualifications for the job?

3. Many observers at the time simply disbelieved Hill's allegations. How credible do you find Hill's testimony?

4. During the administration of President Bill Clinton, which began shortly after Thomas's ascension to the Supreme Court, numerous allegations were made of sexual misconduct on the president's part, including a sexual relationship with a young White House intern. Yet many of the same people who vigorously opposed Thomas supported the president or at least remained quiet. What would account for the difference?

5. In 1987 Robert Bork's nomination to the Supreme Court failed, in large part because of a rapid, well-organized, and well-financed campaign to discredit him, despite his extensive qualifications (including a faculty position at the Yale University law school, where Anita Hill was one of his students). The result was the emergence of a slang term, "to bork," defined as "to defame or vilify a person systematically, especially in the mass media, usually with the aim of preventing his or her appointment to public office." Do you believe that Thomas was "borked"? Why or why not?

fare as well as Thomas in African American public opinion. For example, there was a male-versus-female difference of opinion about her among African Americans. Some believed that Hill, as a black woman, should have remained quiet and not publicly revealed that she had been sexually harassed by a black man. Furthermore, Hill's accomplishments as a black woman were not accorded the same weight as Thomas's achievements. This caused confusion as to who, either Hill or Thomas, was best equipped to advance the interests of the African American community, and the two were inadvertently caught in a political nightmare that had both racial and gender ramifications. For these reasons, Hill's opening statement will have a lasting imprint on American history.

See also *Brown v. Board of Education* (1954); Civil Rights Act of 1964; A. Leon Higginbotham: "An Open Letter to Justice Clarence Thomas from a Federal Judicial Colleague" (1992); Justice Clarence Thomas's Concurrence/Dissent in *Grutter v. Bollinger* (2003).

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Colleen Ostiguy

Document Text

Anita Hill's Opening Statement at the Senate Confirmation Hearing of Clarence Thomas

Mr. Chairman, Senator Thurmond, Members of the Committee, my name is Anita F. Hill, and I am a Professor of Law at the University of Oklahoma. I was born on a farm in Okmulge, Oklahoma in 1956, the 13th child, and had my early education there. My father is Albert Hill, a farmer of that area. My mother's name is Erma Hill; she is also a farmer and housewife. My childhood was the childhood of both work and poverty; but it was one of solid family affection as represented by my parents who are with me as I appear here today. I was reared in a religious atmosphere in the Baptist faith and I have been a member of the Antioch Baptist Church in Tulsa since 1983. It remains a warm part of my life at the present time.

For my undergraduate work I went to Oklahoma State University and graduated in 1977. I am attaching to this statement my resume with further details of my education. I graduated from the university with academic honors and proceeded to the Yale Law School where I received my J.D. degree in 1980.

Upon graduation from law school I became a practicing lawyer with the Washington, D.C. firm of Wald, Harkrader & Ross. In 1981, I was introduced to now Judge Thomas by a mutual friend. Judge Thomas told me that he anticipated a political appointment shortly and asked if I might be interested in working in that office. He was in fact appointed as Assistant Secretary of Education, in which capacity he was the Director of the Office for Civil Rights. After he was in that post, he asked if I would become his assistant and I did then accept that position. In my early period there I had two major projects. The first was an article I wrote for Judge Thomas' signature on "Education of Minority Students." The second was the organization of a seminar on high risk students, which was abandoned because Judge Thomas transferred to the EEOC before that project was completed.

During this period at the Department of Education, my working relationship with Judge Thomas was positive. I had a good deal of responsibility as well as independence. I thought that he respected my work and that he trusted my judgment. After approximately three months of working together, he asked me to go out with him socially. I declined and explained to him that I thought that it would only jeopardize what, at the time, I considered to be a very good working relationship. I had a normal social life with other men outside of the office and, I believed then, as now, that having a social relationship with a person who was supervising my work would be ill-advised. I was very uncomfortable with the idea and told him so.

I thought that by saying "no" and explaining my reasons, my employer would abandon his social suggestions. However, to my regret, in the following few weeks he continued to ask me out on several occasions. He pressed me to justify my reasons for saying "no" to him. These incidents took place in his office or mine. They were in the form of private conversations which would not have been overheard by anyone else.

My working relationship became even more strained when Judge Thomas began to use work situations to discuss sex. On these occasions he would call me into his office for reports on education issues and projects or he might suggest that because of time pressures we go to lunch at a government cafeteria. After a brief discussion of work, he would turn the conversation to discussion of sexual matters. His conversations were very vivid. He spoke about acts that he had seen in pornographic films involving such matters as women having sex with animals and films showing group sex or rape scenes. He talked about pornographic materials depicting individuals with large penises or large breasts involved in various sex acts. On several occasions Thomas told me graphically of his own sexual prowess.

Because I was extremely uncomfortable talking about sex with him at all and particularly in such a graphic way, I told him that I did not want to talk about those subjects. I would also try to change the subject to education matters or to nonsexual personal matters such as his background or beliefs. My efforts to change the subject were rarely successful.

Throughout the period of these conversations, he also from time-to-time asked me for social engagements. My reaction to these conversations was to avoid having them by eliminating opportunities for us to engage in extended conversations. This was difficult because I was his only assistant at the Office for Civil Rights. During the latter part of my time at the Department of Education, the social pressures and any conversations of this offensive kind ended. I

began both to believe and hope that our working relationship could be on a proper, cordial and professional base.

When Judge Thomas was made Chairman of the EEOC, I needed to face the question of whether to go with him. I was asked to do so. I did. The work itself was interesting and at that time it appeared that the sexual overtures which had so troubled me had ended. I also faced the realistic fact that I had no alternative job. While I might have gone back to private practice, perhaps in my old firm or at another, I was dedicated to civil rights work and my first choice was to be in that field. Moreover, the Department of Education itself was a dubious venture; President Reagan was seeking to abolish the entire Department at that time.

For my first months at the EEOC, where I continued as an assistant to Judge Thomas, there were no sexual conversations or overtures. However, during the Fall and Winter of 1982, these began again. The comments were random and ranged from pressing me about why I didn't go out with him to remarks about my personal appearance. I remember his saying that someday I would have to give him the real reason that I wouldn't go out with him. He began to show real displeasure in his tone of voice, his demeanor and his continued pressure for an explanation. He commented on what I was wearing in terms of whether it made me more or less sexually attractive. The incidents occurred in his inner office at the EEOC.

One of the oddest episodes I remember was an occasion in which Thomas was drinking a Coke in his office. He got up from the table at which we were working, went over to his desk to get the Coke, looked at the can, and said, "Who has put pubic hair on my Coke?" On other occasions he referred to the size of his own penis as being larger than normal and he also spoke on some occasions of the pleasures he had given to women with oral sex.

At this point, late 1982, I began to feel severe stress on the job. I began to be concerned that Clarence Thomas might take it out on me by downgrading me or not giving me important assignments. I also thought that he might find an excuse for dismissing me. In January of 1983, I began looking for another job. I was handicapped because I feared that if he found out, he might make it difficult for me to find other employment and I might be dismissed from the job I had. Another factor that made my search more difficult was that this was a period of a government hiring freeze. In February, 1983, I was hospitalized for five days on an emergency basis for an acute stomach pain which I attributed to stress on the job. Once out of the hospital, I became more committed to find other employment and sought further to minimize my contact with Thomas. This became easier when Allyson Duncan became office director because most of my work was handled with her and I had contact with Clarence Thomas mostly in staff meetings.

In the Spring of 1983, an opportunity to teach law at Oral Roberts University opened up. I agreed to take the job in large part because of my desire to escape the pressures I felt at the EEOC due to Thomas. When I informed him that I was leaving in July, I recall that his response was that now I "would no longer have an excuse for not going out with" him. I told him that I still preferred not to do so. At some time after that meeting, he asked if he could take me to dinner at the end of my term. When I declined, he assured me that the dinner was a professional courtesy only and not a social invitation. I reluctantly agreed to accept that invitation but only if it was at the very end of a workday. On, as I recall, the last day of my employment at the EEOC in the summer of 1983, I did have dinner with Clarence Thomas. We went directly from work to a restaurant near the office. We talked about the work I had done both at Education and at EEOC. He told me that he was pleased with all of it except for an article and speech that I done for him when we were at the Office for Civil Rights. Finally, he made a comment which I vividly remember. He said that if I ever told anyone about his behavior toward me it could ruin his career. This was not an apology nor was there any explanation. That was his last remark about the possibility of our going out or reference to his behavior.

In July 1983, I left the Washington, D.C. area and have had minimal contacts with Judge Clarence Thomas since.

I am of course aware from the press that some question has been raised about conversations I had with Judge Clarence Thomas after I left the EEOC. From 1983 until today I have seen Judge Clarence Thomas only twice. On one occasion I needed to get a reference from him and on another he made a public appearance in Tulsa. On one occasion he called me at home and we had an inconsequential conversation. On one other occasion he called me without reaching me and I returned the call without reaching him and nothing came of it. I have, on at least three occasions been asked to act as a conduit for others.

I knew his secretary, Diane Holt, well when I was with the EEOC. There were occasions on which I

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spoke to her and on some of those occasions undoubtedly I passed on some casual comment to Thomas.

There was a series of calls in the first three months of 1985 occasioned by a group in Tulsa which wished to have a civil rights conference; they wanted Thomas to be the speaker, and enlisted my assistance for this purpose. I did call in January and February to no effect and finally suggested to the person directly involved, Susan Cahall, that she put the matter back into her own hands and call directly. She did do that in March of 1985. In connection with that March invitation to Tulsa by Ms. Cahall, which was for a seminar conference some research was needed; I was asked to try to get the research work and did attempt to do so by a call to Thomas. There was another call about another possible conference in July of 1985.

In August of 1987, I was in Washington and I did call Diane Holt. In the course of this conversation she asked me how long I was going to be in town and I told her; she recorded it as August 15; it was in fact August 20. She told me about Thomas' marriage and I did say "congratulate him."

It is only after a great deal of agonizing consideration that I am able to talk of these unpleasant matters to anyone but my closest friends. Telling the world is the most difficult experience of my life. I was aware that he could affect my future career and did not wish to burn all my bridges. I may have used poor judgment; perhaps I should have taken angry or even militant steps both when I was in the agency or after I left it, but I must confess to the world that the course I took seemed to me to be the better as well as the easier approach. I declined any comment to newspapers, but later, when Senate staff asked me about these matters, I felt I had a duty to report. I have no personal vendetta against Clarence Thomas. I seek only to provide the Committee with information which it may regard as relevant. It would have been more comfortable to remain silent. I took no initiative to inform anyone. But when I was asked by a representative of this committee to report my experience, I felt that I had no other choice but to tell the truth.

Glossary

EEOC	Equal Employment Opportunity Commission
Senator Thurmond	Strom Thurmond, U.S. senator from South Carolina, at that time the ranking minority Republican on the Senate Judiciary Committee

A. Leon Higgenbotham (AP/Wide World Photos)

A. Leon Higginbotham: "An Open Letter to Justice Clarence Thomas from a Federal Judicial Colleague"

1992

"The choice as to whether you will build a decisional record of true greatness or of mere mediocrity is yours."

Overview

On November 29, 1991, Judge A. Leon Higginbotham wrote an open letter to the newest Supreme Court justice titled "An Open Letter to Justice Clarence Thomas from a Federal Judicial Colleague" and published it in the *University of Pennsylvania Law Review* in January 1992. Clarence Thomas was confirmed as the 106th Justice of the U.S. Supreme Court on October 15, 1991. His nomination and confirmation provoked great controversy. One aspect of that controversy was his well-known conservative judicial philosophy, which was compounded by the fact that he was nominated to replace Justice Thurgood Marshall, one of the heroes of the civil rights movement, the first African American appointed to the Court, and one of the Court's "liberal lions."

In his letter, Higginbotham stated his belief that Thomas, as the second African American ever to serve on the Supreme Court, bore a unique and grave responsibility and had the opportunity to "preserve or dilute the gains this country has made in the struggle for equality." Higginbotham's letter criticized Thomas's judicial philosophy and Thomas himself as being insensitive to concerns about equality and divorced from the long history of discrimination in the United States.

Context

President George H. W. Bush's nomination of Clarence Thomas to the Supreme Court caused immediate and sustained controversy. The criticisms centered on three areas: his relative lack of judicial experience, his conservative legal views, and, most explosively, allegations of sexual harassment leveled against him by Anita Hill. Because Thomas had served as a federal appellate judge for only two years prior to his nomination to the Supreme Court, critics charged that he was not the most qualified candidate for the open seat on the Court. Critics also opposed Thomas's nomination because of his conservative legal philosophy, in particular because of his opposition to affirmative action and concerns about whether he would vote to reverse *Roe v. Wade*, protecting the right to privacy with regard to abortion.

Higginbotham's "Open Letter" addressed Thomas's legal philosophy regarding equality and individual rights. Higginbotham's letter came toward the end of his own lengthy career as a prominent lawyer, jurist, and legal scholar. As a scholar, he had immersed himself in American legal history with regard to issues of race and equality, writing two significant books and over two dozen law review articles on issues of race, civil rights, American legal history, judging, and comparative constitutional law. He was also part of the generation of African Americans who lived through institutionalized discrimination and segregation as well as the civil rights period that followed in the 1950s and 1960s, when the force of the law turned from exclusion to inclusion. As the Supreme Court moved in a more conservative direction in the 1980s and 1990s, Higginbotham wrote in the "Open Letter" that he wondered if Thomas would be part of the Court's continued retreat from rulings aimed at protecting minorities, women, and the poor.

About the Author

Judge A. Leon Higginbotham is often described as a giant in American law, both because of his physical stature (he stood six feet, six inches) and, more important, because of his intellect, tirelessness, and impact on the legal profession. Yet he came from very humble beginnings. Aloysius Leon Higginbotham was born on February 25, 1928, in Ewing, New Jersey. His mother, Emma Lee Higginbotham, was a domestic worker. His father, Aloysius Leon Higginbotham, Sr., was a laborer. He was raised in a predominantly African American neighborhood and attended a segregated grammar school, where his mother insisted he be tutored in Latin, which was a required subject usually denied to African American students. He became the first African American to attend Central High School in Trenton, New Jersey. After graduation, he enrolled at Purdue University at the age of sixteen, which he left because of his experiences with racism there.

In the preface to his book *In the Matter of Color: Race and the American Legal Process* (1978), Higginbotham recounts at length his encounter with institutionalized racism at Purdue and the effect it had on his views of race

Time Line

1944

- A. Leon Higginbotham enrolls at Purdue University in Indiana; he would eventually transfer to Antioch College in Ohio, after experiencing institutional racism.

1952

- Higginbotham graduates from Yale Law School, to soon be appointed assistant district attorney in Philadelphia, Pennsylvania.

1954

- Higginbotham joins the Philadelphia law firm Norris, Schmidt, Green, Harris & Higginbotham, the first African American law firm in Pennsylvania.

1962

- Higginbotham is appointed to serve on the Federal Trade Commission by President John F. Kennedy, making him the youngest person and first African American to have ever served on the commission.

1963

- Higginbotham is nominated by President Kennedy to be a judge on the District Court for the Eastern District of Pennsylvania; he would be renominated by President Lyndon Johnson following Kennedy's assassination.

1964

- **March 14**
  Higginbotham is confirmed by the Senate, becoming at age thirty-six one of the youngest persons to serve on the district court.

1977

- **September 19**
  President Jimmy Carter nominates Higginbotham to a seat on the U.S. Court of Appeals for the Third Circuit; the Senate confirms Higginbotham on October 7.

1978

- Higginbotham publishes *In the Matter of Color: Race and the American Legal Process*, a critically acclaimed book regarding the laws of slavery and race in the American colonies.

and social justice. At the university, in West Lafayette, Indiana, African American students were forced to live in a crowded private house instead of in the on-campus dormitories provided for their white classmates. When Higginbotham was there, the twelve enrolled students of color slept "barracks-style in an unheated attic." One morning, after suffering through a night with temperatures close to zero, Higginbotham went to the office of Edward Charles Elliott, Purdue's president. He requested that the university's black students be allowed to stay in some section of the state-owned dormitories, even if it were segregated. President Elliott answered, "Higginbotham, the law doesn't require us to let colored students in the dorm, and you either accept things as they are or leave the University immediately." Earlier that morning, Higginbotham had heard a lecture on the history of the Declaration of Independence, the nation's most symbolic document, yet under the existing law the dozen black students at Purdue could still be treated with less respect than were their six thousand white classmates. Higginbotham wondered how a legal system that prided itself on the mantra "equal justice for all" could deny an innocent sixteen-year-old student even a semblance of dignity. He knew that he had been touched in a way he had never been touched before and that one day he would work to make things different.

Upon leaving Purdue, Higginbotham enrolled at Antioch College in Yellow Springs, Ohio, from which he received a BA in sociology in 1949. Because of his outstanding academic performance, members of the faculty and the board of trustees at Antioch encouraged him to go to law school. He enrolled in Yale Law School in the fall of 1949, arriving with a cardboard suitcase and, by his own recounting, little understanding of the challenges he would face. He was initially overwhelmed by his fellow students, many of them the sons of the elite, such as lawyers, judges, and politicians. Nonetheless, he thrived at Yale, earning more honors in oral advocacy than anyone else in the law school. (Notably, in 1969 he was elected as the first black trustee of Yale University.) Higginbotham later said that the most significant event of his law school career was traveling to Washington, D.C., in 1950 to watch Thurgood Marshall's oral argument before the Supreme Court in the case of *Sweatt v. Painter*. The Court in *Sweatt* struck down Texas's attempt to establish a separate "blacks only" law school rather than integrating the University of Texas Law School, a decision that paved the way for the Court to later overrule, in *Brown v. Board of Education* (1954), the "separate but equal" doctrine that the Court had upheld in *Plessy v. Ferguson* (1896). From that point forward, Higginbotham committed himself to fighting for equality under law.

Despite having graduated with honors from one of the nation's premier law schools, because of his race Higginbotham had substantial difficulty finding a job at any major law firm in Philadelphia, a city near his New Jersey hometown. He instead began his legal career in 1952 as a law clerk for Judge Curtis Bok on the Philadelphia Court of Common Pleas. Higginbotham then worked for the city's district attorney's office, becoming both the youngest and

the first African American assistant district attorney in Philadelphia. Higginbotham left the district attorney's office after two years to start the law firm Norris, Schmidt, Green, Harris & Higginbotham, Philadelphia's first African American law firm. (Clifford Scott Green, another of the firm's founding partners later became, like Higginbotham, an esteemed federal judge.) While he was in private practice, Higginbotham also served in a variety of public roles, including president of the Philadelphia chapter of the National Association for the Advancement of Colored People (NAACP), special hearing officer for the United States Department of Justice, commissioner of the Pennsylvania Human Rights Commission, and special deputy attorney general of Pennsylvania.

Higginbotham remained with the firm until 1962, when President John F. Kennedy appointed him to the Federal Trade Commission, making him the first African American member of a federal administrative agency. In 1963, he was nominated to be a federal judge on the U.S. District Court for the Eastern District of Pennsylvania, but Senator James Eastland, a staunch segregationist, delayed his confirmation. In 1964, after Kennedy's death, President Lyndon Johnson appointed Higginbotham to the Eastern District. At the age of thirty-five, Higginbotham was one of the youngest persons ever to be appointed as a federal judge. He nonetheless received a painful reminder on his very first day as a federal judge of the role race plays even for the most accomplished African Americans. As he later recounted in his article "Justice Clarence Thomas in Retrospect,"

> I parked in the spot clearly reserved for federal judges, got out of the car, took out my two attaché cases, and proceeded to walk to the street. After I had gone only a few feet, someone yelled to me, "Hey, boy, you can't park your car there." I continued to walk, and he said, "Hey, boy, didn't you hear me? You can't park your car there." Now at that point a sense of reality came. I knew that I had two attaché cases in my hand, and he had a gun in his holster. So I turned around and calmly said, "What is the problem, officer?" He said, "That spot is reserved for federal judges only." And I responded, "I know. That is why I parked there." And then, with his face flushed, he said, "Oh! You're Judge Higginbotham. Welcome." And I walked into the courthouse considering it just another typical incident Black people experience as part of their daily duality challenge. I knew that if I had been White, dressed as I was, he would not have called me "boy." The difference between being called "boy" or "sir" was solely the color of my skin.

In 1977, President Jimmy Carter elevated Higginbotham to the U.S. Court of Appeals for the Third Circuit. He served as chief judge of the Third Circuit from 1989 to 1991 and as a senior judge until his retirement from the bench in 1993. Upon retiring from the Third Circuit Court in 1993, Higginbotham became counsel to the law firm of Paul, Weiss, Rifkind & Wharton and a professor at

Time Line

1990

- **January 15**
  Higginbotham is sworn in as the chief judge of the U.S. Court of Appeals for the Third Circuit, encompassing Pennsylvania, New Jersey, Delaware, and the Virgin Islands.
- **July**
  Higginbotham declines an invitation to serve as a judge for the Moot Court Competition at the University of Chicago's School of Law, citing the school's failure to have a tenured or tenure-track professor of color in over twenty years.

1991

- **July 1**
  President George H. W. Bush nominates Clarence Thomas, judge on the U.S. Court of Appeals for the District of Columbia Circuit for the past two years, to replace Thurgood Marshall on the U.S. Supreme Court.
- **October 15**
  The U.S. Senate, by a vote of fifty-two to forty-eight, confirms Thomas as the second African American Supreme Court justice in history.
- **November 29**
  Higginbotham writes "An Open Letter to Justice Clarence Thomas from a Federal Judicial Colleague."

1993

- **March 5**
  Higginbotham retires from the bench, joining the international law firm Paul, Weiss, Rifkind & Wharton.
- **June 28**
  The U.S. Supreme Court decides *Shaw v. Reno*, a five-to-four decision holding that a North Carolina districting plan violated the Constitution owing to illegal race-based classification; Justice Thomas joined the majority amid criticisms that the decision would eliminate the districts that sent the state's first African Americans to Congress since Reconstruction.

Time Line

1995

- **June 12**
  The Supreme Court decides *Adarand Constructors, Inc. v. Pena*, holding that all racial classifications, whether local, state, or federal, must be analyzed under a standard of strict scrutiny—a significant obstacle for proponents of affirmative action; Thomas is part of the five-justice majority striking down a program aimed at increasing the number of African American contractors servicing the federal government.

1996

- Higginbotham publishes a second legal historical volume, *Shades of Freedom: Racial Politics and Presumptions of the American Legal Process*.

1998

- **July 29**
  Justice Thomas speaks before the National Bar Association, the nation's largest organization of African American attorneys and judges, at their annual convention in Memphis, Tennessee—an appearance denounced publicly by several senior members, including Higginbotham, who criticized Thomas for "turn[ing] back the clock of racial progress" more than any other African American in history.

Harvard University's John F. Kennedy School of Government. Higginbotham also became deeply involved in legal and policy work in South Africa, including service as an international mediator for the country's first post-apartheid elections in 1994 and as a consultant to President Nelson Mandela, assisting the South African government in drafting its new constitution. In addition, he served as counsel to the Congressional Black Caucus in a series of voting rights cases before the U.S. Supreme Court, was appointed to the U.S. Commission on Civil Rights by President Bill Clinton in 1995, and testified before the House Judiciary Committee regarding the impeachment of President Clinton in 1998.

Higginbotham published two groundbreaking and award-winning books concerning race, civil rights, and American legal history: *In the Matter of Color: Race and the American Legal Process* (1978) and *Shades of Freedom: Racial Politics and Presumptions of the American Legal Process* (1998). He also wrote dozens of law review articles and taught at some of the nation's most prominent law schools, such as Yale, Harvard, Stanford, the University of Pennsylvania, and New York University. Higginbotham received more than sixty honorary degrees and the highest awards of many legal and human rights organizations, including the Presidential Medal of Freedom (the nation's highest civilian honor), the Raoul Wallenberg Humanitarian Award, and the Spingarn Medal from the NAACP. Higginbotham, who died on December 14, 1998, also received numerous posthumous awards and honors.

Explanation and Analysis of the Document

"An Open Letter" begins with an introductory section in which Higginbotham notes his ambivalence about making his letter public in addition to sending it to Justice Thomas privately. He has done so, he says, because he decided the letter should serve "as a public record so that this generation can understand the challenges you face as an Associate Justice to the Supreme Court, and the next can evaluate the choices you have made or will make." In later explaining why he wrote the letter, Higginbotham noted, in an article titled "Justice Clarence Thomas in Retrospect" published in 1994 in the *Hastings Law Review*, that he had made no public statements regarding Justice Thomas during the confirmation process because

> I was then sitting as a federal judge, and I did not want to make any personal statement that would be considered inappropriate, or distorted by the media, or misunderstood by the public. Only after his hearings were finished and he had been confirmed did I publicly express my concerns.

◆ "I. Measures of Greatness or Failure of Supreme Court Justices"

Higginbotham begins by referring to past Supreme Court justices. He notes a 1977 study in which a panel of a hundred scholars evaluated all the justices who had ever served on the Court. The conclusion of the study was that eight justices were "failures," six were "below average," fifty-five were "average," fifteen were "near great," and twelve were "great." He notes that Thomas had been critical of the Court presided over by Chief Justice Earl Warren, generally regarded as a liberal judge, but that Warren was accounted one of the "great" justices. Higginbotham goes on to argue that the "great" justices all regarded the Constitution as an "instrument for justice." After giving his opinion that certain current Supreme Court justices will be highly regarded by future generations, he urges Thomas to join them by becoming "an exemplar of fairness and the rational interpretation of the Constitution." At the same time he cautions Thomas not to become "an archetype of inequality and the retrogressive evaluation of human rights," leaving behind a record of "mere mediocrity."

◆ **"II. Our Major Similarity"**

Prior to describing his concerns about Justice Thomas's legal philosophy, Higginbotham, in section II, "Our Major Similarity," discusses one likeness shared by the two men: Both had attended Yale Law School (Higginbotham twenty-two years before Thomas). Higginbotham notes that all of the other justices then on the Supreme Court had also attended elite law schools but urges Thomas not to be "overly impressed" by this fact. In the second paragraph of section II, Higginbotham reminds Thomas of *Plessy v. Ferguson* (a case that established the "separate but equal" doctrine), which he characterized as "the most wretched decision ever rendered against black people in the past century." Four of the justices in the *Plessy* majority were northerners who had attended the nation's most elite law schools (Yale and Harvard), while the ringing dissent rejecting the majority's legalization of Jim Crow segregation was written by Justice John Harlan, a graduate of a small, non-elite law school in Kentucky (and himself a former slave owner). Higginbotham states in paragraph 6 of section II that the problem in *Plessy* was not "that the Justices had the 'wrong' education, or that they attended the 'wrong' law schools …, [but that they] had the wrong values, and … these values poisoned this society for decades." Higginbotham therefore urges Thomas to focus on what values he and the other justices draw from or impose upon their constitutional law and to be part of the "evolutionary movement" of the Constitution toward greater equality.

◆ **"III. Your Critiques of Civil Rights Organizations and the Supreme Court during the Last Eight Years"**

Higginbotham's substantive legal analysis in "An Open Letter," which begins with the third section, "Your Critiques of Civil Rights Organizations and the Supreme Court during the Last Eight Years," is directed at drawing Thomas's attention to three issues: the history of civil rights lawyers and organizations, the law and history of voting rights, and the law and history of housing and privacy rights. With regard to the first issue, Higginbotham cites Thomas's many critiques of civil rights lawyers and organizations over the years. Having read Thomas's public writings and comments, Higginbotham says that he "could not find one shred of evidence suggesting an insightful understanding on your part on how the evolutionary movement of the Constitution and the work of civil rights organizations have benefitted you."

◆ **"IV. The Impact of the Work of Civil Rights Lawyers and Civil Rights Organizations on Your Life"**

In this section, largely a continuation of the last, Higginbotham offers several examples of how civil rights organizations not only promoted positive social change but also could be seen to have had a direct impact on Thomas's life and career. For example, Higginbotham notes that the NAACP and other civil rights organizations, which Thomas had criticized, secured legal victories such as the Supreme Court's decision in *Brown v. Board of Education*, which reversed *Plessy* and declared segregation unconstitutional. Higginbotham asks Thomas to consider whether, without their work and the Supreme Court precedent that resulted, Thomas would himself have been able to attend elite integrated universities such as Holy Cross and Yale Law School or have been able to obtain the employment opportunities that eventually led him to the Supreme Court. Higginbotham contends that "if you and I had not gotten many of the positive reinforcements that these organizations fought for and that the post-Brown era made possible, probably neither you nor I would be federal judges today."

◆ **"V. What Have the Conservatives Ever Contributed to African-Americans?"**

"An Open Letter" also addresses Thomas's self-identification as a "black conservative." In section V, "What Have the Conservatives Ever Contributed to African-Americans?" Higginbotham argues in paragraph 2 that "it was primarily the conservatives who attacked the Warren Court relentlessly because of *Brown v. Board of Education* and who stood in the way of almost every measure to ensure gender and racial advancement." Higginbotham writes that it is ironic at best for Thomas to adopt conservative legal philosophy, when that same philosophy, had it been successful in defeating legal efforts at equal justice, would have meant, for example, that Thomas could never have been assistant secretary for civil rights or chair of the Equal Employment Opportunity Commission, because such agencies never would have existed. He therefore asks Thomas, in the last paragraph of section V, to "reflect on the evolution of American constitutional and statutory law, as it has affected your personal options and improved the options for so many Americans, particularly non-whites, women, and the poor."

◆ **"VI. The Impact of Eradicating Racial Barriers to Voting"**

Higginbotham's letter also asks Thomas to reflect upon how civil rights progress in the area of voting rights has affected Thomas's life and legal career. By fully enfranchising African Americans and other minorities, the Voting Rights Act (1965) and civil rights litigation ensured that politicians would have to respond to the needs and views of minority communities. "An Open Letter" contends that many of the southern senators who voted to confirm Justice Thomas's appointment to the Supreme Court may have done so not because they believed that he was objectively the most qualified nominee, but instead because they perceived political benefits in doing so because of the large African American voting constituencies in their states. Thus, Higginbotham contends, Thomas has benefited from the very advancements in civil rights law that he has criticized.

◆ **"VII. Housing and Privacy"**

Section VII, "Housing and Privacy," which is the last substantive section of "An Open Letter," addresses how civil rights advances in housing and privacy law affected

Essential Quotes

"You can become an exemplar of fairness and the rational interpretation of the Constitution, or you can become an archetype of inequality and the retrogressive evaluation of human rights. The choice as to whether you will build a decisional record of true greatness or of mere mediocrity is yours."

("I. Measures of Greatness or Failure of Supreme Court Justices")

"If the conservative agenda of the 1950s, '60s, and '70s had been implemented, what would have been the results of the important Supreme Court cases that now protect your rights and the rights of millions of other Americans who can now no longer be discriminated against because of their race, religion, national origin, or physical disabilities?"

("V. What Have the Conservatives Ever Contributed to African-Americans?")

"While there are many other equally important issues that you must consider … none will determine your place in history as much as your defense of the weak, the poor, minorities, women, the disabled and the powerless."

("Conclusion")

Thomas's private life. Higginbotham notes that Thomas lives, with his white wife, in a house in a comfortable Virginia neighborhood. Higginbotham points out that such communities were racially segregated in the past. It was only through the efforts of the NAACP and other civil rights organizations that a constitutional framework was established for dismantling housing segregation so that African Americans, Thomas included, are now able to live in such neighborhoods. Moreover, Higginbotham observes, it would have been illegal under Virginia's so-called Racial Integrity Act of 1924, "which the Virginia State Supreme Court as late as 1966" upheld, for Thomas to be married to his own wife had it not been for the efforts of civil rights organizations and the evolution of constitutional law.

◆ "Conclusion"

Higginbotham concludes "An Open Letter" by noting that although he is skeptical of how Thomas will perform as a Supreme Court justice, he holds out the hope that Thomas might adopt a more expansive view of constitutional law and civil rights than he had previously expressed. He ends "An Open Letter" by stating "with hope to balance my apprehensions, I wish you well as a thoughtful and worthy successor to Justice Marshall in the ever ongoing struggle to assure equal justice under law for all persons."

Audience

Higginbotham's immediate audience for "An Open Letter" was Justice Clarence Thomas, to whom he sent the letter. He published it as an open letter to also address the public at large because, as he says in the third paragraph of the letter's opening, he felt that "all Americans need to understand the issues [Justice Thomas would] face on the Supreme Court." The *University of Pennsylvania Law Review*, in which the letter was published, is widely read by legal academics, lawyers, judges, and law students.

Impact

Higginbotham's "Open Letter" received enormous attention, both positive and negative, in the legal community and beyond. After its publication, the *University of Pennsylvania Law Review* received more than seventeen thousand requests for reprints of the letter. "An Open Letter" has been cited and discussed in over seventy subsequent law review articles by legal scholars and was the subject of articles in major national newspapers, including the *New York Times*, the *Wall Street Journal*, the *Chicago Tribune*, and the *Los Angeles Times*. Higginbotham personally received more than eight hundred let-

ters in response to the article, from a wide spectrum of people. The letter garnered such attention both because it was from one prominent African American judge to another on the opposite side of an ideological divide and because it expressed the frustrations of many in the civil rights and African American communities regarding Thomas's appointment to the Supreme Court. Despite the article's popularity, Thomas's supporters criticized the letter as a premature and somewhat condescending "scolding" of the young justice by Higginbotham. Many felt that Higginbotham was holding Thomas to a higher standard than he did the eight other justices on the court, based solely on the fact that Thomas was African American. As far as has been documented, Thomas never publicly responded to Higginbotham's letter.

See also Anita Hill's Opening Statement at the Senate Confirmation Hearing of Clarence Thomas (1991); Clarence Thomas's Concurrence/Dissent in *Grutter v. Bollinger* (2003).

Further Reading

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http://casey.senate.gov/newsroom/press/release/?id=EFF972AA-411D-4C0A-8541-CA8428BBA253

William M. Carter, Jr.

Questions for Further Study

1. Read this document in conjunction with Anita Hill's Opening Statement at the Senate Confirmation Hearing of Clarence Thomas. Why was the appointment of Clarence Thomas so controversial? What concerns did various groups and individuals have about him?

2. At the time of Higginbotham's letter, Justice Thomas had not yet issued a decision on any Supreme Court case. In light of this, how fair do you think Higginbotham's views were? Was he guilty of prejudging Thomas? What is your reaction to Higginbotham's apparent suggestion that Thomas's record could perhaps be one of "mere mediocrity"?

3. Why is the notion of a black conservative so troubling to so many people? If the goal has been greater inclusion of African Americans in public life, what difference should the person's perceived political leanings have?

4. Read Clarence Thomas's Concurrence/Dissent in *Grutter v. Bollinger*. To what extent, if any, did Thomas's views in that case confirm or refute the feats Higginbotham expressed in his letter?

Document Text

A. Leon Higginbotham: "An Open Letter to Justice Clarence Thomas from a Federal Judicial Colleague"

November 29, 1991

Dear Justice Thomas:

The President has signed your Commission and you have now become the 106th Justice of the United States Supreme Court. I congratulate you on this high honor!

It has been a long time since we talked. I believe it was in 1980 during your first year as a Trustee at Holy Cross College. I was there to receive an honorary degree. You were thirty-one years old and on the staff of Senator John Danforth. You had not yet started your meteoric climb through the government and federal judicial hierarchy. Much has changed since then.

At first I thought that I should write you privately the way one normally corresponds with a colleague or friend. I still feel ambivalent about making this letter public but I do so because your appointment is profoundly important to this country and the world, and because all Americans need to understand the issues you will face on the Supreme Court. In short, Justice Thomas, I write this letter as a public record so that this generation can understand the challenges you face as an Associate Justice to the Supreme Court, and the next can evaluate the choices you have made or will make.

The Supreme Court can be a lonely and insular environment. Eight of the present Justices' lives would not have been very different if the Brown case had never been decided as it was. Four attended Harvard Law School, which did not accept women law students until 1950. Two attended Stanford Law School prior to the time when the first Black matriculated there. None has been called a "nigger" or suffered the acute deprivations of poverty. Justice O'Connor is the only other Justice on the Court who at one time was adversely affected by a white-male dominated system that often excludes both women and minorities from equal access to the rewards of hard work and talent.

By elevating you to the Supreme Court, President Bush has suddenly vested in you the option to preserve or dilute the gains this country has made in the struggle for equality. This is a grave responsibility indeed. In order to discharge it you will need to recognize what James Baldwin called the "force of history" within you. You will need to recognize that both your public life and your private life reflect this country's history in the area of racial discrimination and civil rights. And, while much has been said about your admirable determination to overcome terrible obstacles, it is also important to remember how you arrived where you are now, because you did not get there by yourself.

When I think of your appointment to the Supreme Court, I see not only the result of your own ambition, but also the culmination of years of heartbreaking work by thousands who preceded you. I know you may not want to be burdened by the memory of their sacrifices. But I also know that you have no right to forget that history. Your life is very different from what it would have been had these men and women never lived. That is why today I write to you about this country's history of civil rights lawyers and civil rights organizations; its history of voting rights; and its history of housing and privacy rights. This history has affected your past and present life. And forty years from now, when your grandchildren and other Americans measure your performance on the Supreme Court, that same history will determine whether you fulfilled your responsibility with the vision and grace of the Justice whose seat you have been appointed to fill: Thurgood Marshall.

I. Measures of Greatness or Failure of Supreme Court Justices

In 1977 a group of one hundred scholars evaluated the first one hundred justices on the Supreme Court. Eight of the justices were categorized as failures, six as below average, fifty-five as average, fifteen as near great and twelve as great. Among those ranked as great were John Marshall, Joseph Story, John M. Harlan, Oliver Wendell Holmes, Jr., Charles E. Hughes, Louis D. Brandeis, Harlan F. Stone, Benjamin N. Cardozo, Hugo L. Black, and Felix Frankfurter. Because you have often criticized the Warren Court, you should be interested to know that the list of great jurists on the Supreme Court also included Earl Warren.

Even long after the deaths of the Justices that I have named, informed Americans are grateful for the

extraordinary wisdom and compassion they brought to their judicial opinions. Each in his own way viewed the Constitution as an instrument for justice. They made us a far better people and this country a far better place. I think that Justices Thurgood Marshall, William J. Brennan, Harry Blackmun, Lewis Powell, and John Paul Stevens will come to be revered by future scholars and future generations with the same gratitude. Over the next four decades you will cast many historic votes on issues that will profoundly affect the quality of life for our citizens for generations to come. You can become an exemplar of fairness and the rational interpretation of the Constitution, or you can become an archetype of inequality and the retrogressive evaluation of human rights. The choice as to whether you will build a decisional record of true greatness or of mere mediocrity is yours.

II. Our Major Similarity

My more than twenty-seven years as a federal judge made me listen with intense interest to the many persons who testified both in favor of and against your nomination. I studied the hearings carefully and afterwards pondered your testimony and the comments others made about you. After reading almost every word of your testimony, I concluded that what you and I have most in common is that we are both graduates of Yale Law School. Though our graduation classes are twenty-two years apart, we have both benefitted from our old Eli connections.

If you had gone to one of the law schools in your home state, Georgia, you probably would not have met Senator John Danforth who, more than twenty years ago, served with me as a member of the Yale Corporation. Dean Guido Calabresi mentioned you to Senator Danforth, who hired you right after graduation from law school and became one of your primary sponsors. If I had not gone to Yale Law School, I would probably not have met Justice Curtis Bok, nor Yale Law School alumni such as Austin Norris, a distinguished black lawyer, and Richardson Dilworth, a distinguished white lawyer, who became my mentors and gave me my first jobs. Nevertheless, now that you sit on the Supreme Court, there are issues far more important to the welfare of our nation than our Ivy League connections. I trust that you will not be overly impressed with the fact that all of the other Justices are graduates of what laymen would call the nation's most prestigious law schools.

Black Ivy League alumni in particular should never be too impressed by the educational pedigree of Supreme Court Justices. The most wretched decision ever rendered against black people in the past century was Plessy v. Ferguson. It was written in 1896 by Justice Henry Billings Brown, who had attended both Yale and Harvard Law Schools. The opinion was joined by Justice George Shiras, a graduate of Yale Law School, as well as by Chief Justice Melville Fuller and Justice Horace Gray, both alumni of Harvard Law School.

If those four Ivy League alumni on the Supreme Court in 1896 had been as faithful in their interpretation of the Constitution as Justice John Harlan, a graduate of Transylvania, a small law school in Kentucky, then the venal precedent of Plessy v. Ferguson, which established the federal "separate but equal" doctrine and legitimized the worst forms of race discrimination, would not have been the law of our nation for sixty years. The separate but equal doctrine, also known as Jim Crow, created the foundations of separate and unequal allocation of resources, and oppression of the human rights of Blacks.

During your confirmation hearing I heard you refer frequently to your grandparents and your experiences in Georgia. Perhaps now is the time to recognize that if the four Ivy League alumni all northerners of the Plessy majority had been as sensitive to the plight of black people as was Justice John Harlan, a former slave holder from Kentucky, the American statutes that sanctioned racism might not have been on the books and many of the racial injustices that your grandfather, Myers Anderson, and my grandfather, Moses Higginbotham, endured would never have occurred.

The tragedy with Plessy v. Ferguson, is not that the Justices had the "wrong" education, or that they attended the "wrong" law schools. The tragedy is that the Justices had the wrong values, and that these values poisoned this society for decades. Even worse, millions of Blacks today still suffer from the tragic sequelae of Plessy a case which Chief Justice Rehnquist, Justice Kennedy, and most scholars now say was wrongly decided.

As you sit on the Supreme Court confronting the profound issues that come before you, never be impressed with how bright your colleagues are. You must always focus on what values they bring to the task of interpreting the Constitution. Our Constitution has an unavoidable though desirable level of ambiguity, and there are many interstitial spaces which as a Justice of the Supreme Court you will

have to fill in. To borrow Justice Cardozo's elegant phrase: "We do not pick our rules of law full blossomed from the trees." You and the other Justices cannot avoid putting your imprimatur on a set of values. The dilemma will always be which particular values you choose to sanction in law. You can be part of what Chief Justice Warren, Justice Brennan, Justice Blackmun, and Justice Marshall and others have called the evolutionary movement of the Constitution, an evolutionary movement that has benefitted you greatly.

III. Your Critiques of Civil Rights Oranizations and the Supreme Court during the Last Eight Years

I have read almost every article you have published, every speech you have given, and virtually every public comment you have made during the past decade. Until your confirmation hearing I could not find one shred of evidence suggesting an insightful understanding on your part on how the evolutionary movement of the Constitution and the work of civil rights organizations have benefitted you. Like Sharon McPhail, the President of the National Bar Association, I kept asking myself: Will the Real Clarence Thomas Stand Up? Like her, I wondered: "Is Clarence Thomas a 'conservative with a common touch' as Ruth Marcus refers to him … or the 'counterfeit hero' he is accused of being by Haywood Burns.…"

While you were a presidential appointee for eight years, as Chairman of the Equal Opportunity Commission and as an Assistant Secretary at the Department of Education, you made what I would regard as unwarranted criticisms of civil rights organizations, the Warren Court, and even of Justice Thurgood Marshall. Perhaps these criticisms were motivated by what you perceived to be your political duty to the Reagan and Bush administrations. Now that you have assumed what should be the non-partisan role of a Supreme Court Justice, I hope you will take time out to carefully evaluate some of these unjustified attacks.

In October 1987, you wrote a letter to the San Diego Union & Tribune criticizing a speech given by Justice Marshall on the 200th anniversary celebration of the Constitution. Justice Marshall had cautioned all Americans not to overlook the momentous events that followed the drafting of that document, and to "seek … a sensitive understanding of the Constitution's inherent defects, and its promising evolution through 200 years of history."

Your response dismissed Justice Marshall's "sensitive understanding" as an "exasperating and incomprehensible … assault on the Bicentennial, the Founding, and the Constitution itself." Yet, however high and noble the Founders' intentions may have been, Justice Marshall was correct in believing that the men who gathered in Philadelphia in 1787 "could not have imagined, nor would they have accepted, that the document they were drafting would one day be construed by a Supreme Court to which had been appointed a woman and the descendant of an African slave." That, however, was neither an assault on the Constitution nor an indictment of the Founders. Instead, it was simply a recognition that in the midst of the Bicentennial celebration, "some may more quietly commemorate the suffering, the struggle and sacrifice that has triumphed over much of what was wrong with the original document, and observe the anniversary with hopes not realized and promises not fulfilled."

Justice Marshall's comments, much like his judicial philosophy, were grounded in history and were driven by the knowledge that even today, for millions of Americans, there still remain "hopes not realized and promises not fulfilled." His reminder to the nation that patriotic feelings should not get in the way of thoughtful reflection on this country's continued struggle for equality was neither new nor misplaced. Twenty-five years earlier, in December 1962, while this country was celebrating the 100th anniversary of the emancipation proclamation, James Baldwin had written to his young nephew:

> This is your home, my friend, do not be driven from it; great men have done great things here, and will again, and we can make America what America must become.… But you know, and I know that the country is celebrating one hundred years of freedom one hundred years too soon.

Your response to Justice Marshall's speech, as well as your criticisms of the Warren court and civil rights organizations, may have been nothing more than your expression of allegiance to the conservatives who made you Chairman of the EEOC, and who have now elevated you to the Supreme Court. But your comments troubled me then and trouble me still because they convey a stunted knowledge of history and an unformed judicial philosophy. Now that you sit on the Supreme Court you must sort matters out for yourself and form your own judicial philosophy, and you must

reflect more deeply on legal history than you ever have before. You are no longer privileged to offer flashy one-liners to delight the conservative establishment. Now what you write must inform, not entertain. Now your statements and your votes can shape the destiny of the entire nation.

Notwithstanding the role you have played in the past, I believe you have the intellectual depth to reflect upon and rethink the great issues the Court has confronted in the past and to become truly your own man. But to be your own man the first in the series of questions you must ask yourself is this: Beyond your own admirable personal drive, what were the primary forces or acts of good fortune that made your major achievements possible? This is a hard and difficult question. Let me suggest that you focus on at least four areas: (1) the impact of the work of civil rights lawyers and civil rights organizations on your life; (2) other than having picked a few individuals to be their favorite colored person, what it is that the conservatives of each generation have done that has been of significant benefit to African-Americans, women, or other minorities; (3) the impact of the eradication of racial barriers in the voting on your own confirmation; and (4) the impact of civil rights victories in the area of housing and privacy on your personal life.

IV. The Impact of the Work of Civil Rights Lawyers and Civil Rights Organizations on Your Life

During the time when civil rights organizations were challenging the Reagan Administration, I was frankly dismayed by some of your responses to and denigrations of these organizations. In 1984, the *Washington Post* reported that you had criticized traditional civil rights leaders because, instead of trying to reshape the Administration's policies, they had gone to the news media to "bitch, bitch, bitch, moan and moan, whine and whine." If that is still your assessment of these civil rights organizations or their leaders, I suggest, Justice Thomas, that you should ask yourself every day what would have happened to you if there had never been a Charles Hamilton Houston, a William Henry Hastie, a Thurgood Marshall, and that small cadre of other lawyers associated with them, who laid the groundwork for success in the twentieth-century racial civil rights cases? Couldn't they have been similarly charged with, as you phrased it, bitching and moaning and whining when they challenged the racism in the administrations of prior presidents, governors, and public officials? If there had never been an effective NAACP, isn't it highly probable that you might still be in Pin Point, Georgia, working as a laborer as some of your relatives did for decades?

Even though you had the good fortune to move to Savannah, Georgia, in 1955, would you have been able to get out of Savannah and get a responsible job if decades earlier the NAACP had not been challenging racial injustice throughout America? If the NAACP had not been lobbying, picketing, protesting, and politicking for a 1964 Civil Rights Act, would Monsanto Chemical Company have opened their doors to you in 1977? If Title VII had not been enacted might not American companies still continue to discriminate on the basis of race, gender, and national origin?

The philosophy of civil rights protest evolved out of the fact that black people were forced to confront this country's racist institutions without the benefit of equal access to those institutions. For example, in January of 1941, A. Philip Randolph planned a march on Washington, D.C., to protest widespread employment discrimination in the defense industry. In order to avoid the prospect of a demonstration by potentially tens of thousands of Blacks, President Franklin Delano Roosevelt issued Executive Order 8802 barring discrimination in defense industries or government. The order led to the inclusion of anti-discrimination clauses in all government defense contracts and the establishment of the Fair Employment Practices Committee.

In 1940, President Roosevelt appointed William Henry Hastie as civilian aide to Secretary of War Henry L. Stimson. Hastie fought tirelessly against discrimination, but when confronted with an unabated program of segregation in all areas of the armed forces, he resigned on January 31, 1943. His visible and dramatic protest sparked the move towards integrating the armed forces, with immediate and far-reaching results in the army air corps.

A. Philip Randolph and William Hastie understood though I wonder if you do what Frederick Douglass meant when he wrote:

> The whole history of the progress of human liberty shows that all concessions yet made to her august claims, have been born of earnest struggle.... If there is no struggle there is no progress.... This struggle may be a moral one, or it may be a physical one, and it may be both moral and physical, but it must be a struggle.

> Power concedes nothing without a demand. It never did and it never will.

The struggles of civil rights organizations and civil rights lawyers have been both moral and physical, and their victories have been neither easy nor sudden. Though the Brown decision was issued only six years after your birth, the road to Brown started more than a century earlier. It started when Prudence Crandall was arrested in Connecticut in 1833 for attempting to provide schooling for colored girls. It was continued in 1849 when Charles Sumner, a white lawyer and abolitionist, and Benjamin Roberts, a black lawyer, challenged segregated schools in Boston. It was continued as the NAACP, starting with Charles Hamilton Houston's suit, *Murray v. Pearson*, in 1936, challenged Maryland's policy of excluding Blacks from the University of Maryland Law School. It was continued in *Gaines v. Missouri*, when Houston challenged a 1937 decision of the Missouri Supreme Court. The Missouri courts had held that because law schools in the states of Illinois, Iowa, Kansas, and Nebraska accepted Negroes, a twenty-five-year-old black citizen of Missouri was not being denied his constitutional right to equal protection under the law when he was excluded from the only state supported law school in Missouri. It was continued in *Sweatt v. Painter* in 1946, when Heman Marion Sweatt filed suit for admission to the Law School of the University of Texas after his application was rejected solely because he was black. Rather than admit him, the University postponed the matter for years and put up a separate and unaccredited law school for Blacks. It was continued in a series of cases against the University of Oklahoma, when, in 1950, in *McLaurin v. Oklahoma*, G.W. McLaurin, a sixty-eight-year-old man, applied to the University of Oklahoma to obtain a Doctorate in education. He had earned his Master's degree in 1948, and had been teaching at Langston University, the state's college for Negroes. Yet he was "required to sit apart at … designated desks in an anteroom adjoining the classroom … and on the mezzanine floor of the library, … and to sit at a designated table and to eat at a different time from the other students in the school cafeteria."

The significance of the victory in the Brown case cannot be overstated. Brown changed the moral tone of America; by eliminating the legitimization of state-imposed racism it implicitly questioned racism wherever it was used. It created a milieu in which private colleges were forced to recognize their failures in excluding or not welcoming minority students. I submit that even your distinguished undergraduate college, Holy Cross, and Yale University were influenced by the milieu created by Brown and thus became more sensitive to the need to create programs for the recruitment of competent minority students. In short, isn't it possible that you might not have gone to Holy Cross if the NAACP and other civil rights organizations, Martin Luther King and the Supreme Court, had not recast the racial mores of America? And if you had not gone to Holy Cross, and instead had gone to some underfunded state college for Negroes in Georgia, would you have been admitted to Yale Law School, and would you have met the alumni who played such a prominent role in maximizing your professional options?

I have cited this litany of NAACP cases because I don't understand why you appeared so eager to criticize civil rights organizations or their leaders. In the 1980s, Benjamin Hooks and John Jacobs worked just as tirelessly in the cause of civil rights as did their predecessors Walter White, Roy Wilkins, Whitney Young, and Vernon Jordan in the 1950s and '60s. As you now start to adjudicate cases involving civil rights, I hope you will have more judicial integrity than to demean those advocates of the disadvantaged who appear before you. If you and I had not gotten many of the positive reinforcements that these organizations fought for and that the post-Brown era made possible, probably neither you nor I would be federal judges today.

V. What Have the Conservatives Ever Contributed to African-Americans?

During the last ten years, you have often described yourself as a black conservative. I must confess that, other than their own self-advancement, I am at a loss to understand what is it that the so-called black conservatives are so anxious to conserve. Now that you no longer have to be outspoken on their behalf, perhaps you will recognize that in the past it was the white "conservatives" who screamed "segregation now, segregation forever!" It was primarily the conservatives who attacked the Warren Court relentlessly because of Brown v. Board of Education and who stood in the way of almost every measure to ensure gender and racial advancement.

For example, on March 11, 1956, ninety-six members of Congress, representing eleven southern states, issued the "Southern Manifesto," in which

they declared that the Brown decision was an "unwarranted exercise of power by the Court, contrary to the Constitution." Ironically, those members of Congress reasoned that the Brown decision was "destroying the amicable relations between the white and negro races," and that "it had planted hatred and suspicion where there had been heretofore friendship and understanding." They then pledged to use all lawful means to bring about the reversal of the decision, and praised those states which had declared the intention to resist its implementation. The Southern Manifesto was more than mere political posturing by Southern Democrats. It was a thinly disguised racist attack on the constitutional and moral foundations of Brown. Where were the conservatives in the 1950s when the cause of equal rights needed every fair-minded voice it could find?

At every turn, the conservatives, either by tacit approbation or by active complicity, tried to derail the struggle for equal rights in this country. In the 1960s, it was the conservatives, including the then-senatorial candidate from Texas, George Bush, the then-Governor from California, Ronald Reagan, and the omnipresent Senator Strom Thurmond, who argued that the 1964 Civil Rights Act was unconstitutional. In fact Senator Thurmond's 24 hour 18 minute filibuster during Senate deliberations on the 1957 Civil Rights Act set an all-time record. He argued on the floor of the Senate that the provisions of the Act guaranteeing equal access to public accommodations amounted to an enslavement of white people. If twenty-seven years ago George Bush, Ronald Reagan, and Strom Thurmond had succeeded, there would have been no position for you to fill as Assistant Secretary for Civil Rights in the Department of Education. There would have been no such agency as the Equal Employment Commission for you to chair.

Thus, I think now is the time for you to reflect on the evolution of American constitutional and statutory law, as it has affected your personal options and improved the options for so many Americans, particularly non-whites, women, and the poor. If the conservative agenda of the 1950s, '60s, and '70s had been implemented, what would have been the results of the important Supreme Court cases that now protect your rights and the rights of millions of other Americans who can now no longer be discriminated against because of their race, religion, national origin, or physical disabilities? If, in 1954, the United States Supreme Court had accepted the traditional rationale that so many conservatives then espoused, would the 1896 Plessy v. Ferguson case, which announced the nefarious doctrine of "separate but equal," and which allowed massive inequalities, still be the law of the land? In short, if the conservatives of the 1950s had had their way, would there ever have been a *Brown v. Board of Education* to prohibit state-imposed racial segregation?

VI. The Impact of Eradicating Racial Barriers to Voting

Of the fifty-two senators who voted in favor of your confirmation, some thirteen hailed from nine southern states. Some may have voted for you because they agreed with President Bush's assessment that you were "'the best person for the position.'" But, candidly, Justice Thomas, I do not believe that you were indeed the most competent person to be on the Supreme Court. Charles Bowser, a distinguished African-American Philadelphia lawyer, said, "'I'd be willing to bet … that not one of the senators who voted to confirm Clarence Thomas would hire him as their lawyer.'"

Thus, realistically, many senators probably did not think that you were the most qualified person available. Rather, they were acting solely as politicians, weighing the potential backlash in their states of the black vote that favored you for emotional reasons and the conservative white vote that favored you for ideological reasons. The black voting constituency is important in many states, and today it could make a difference as to whether many senators are or are not re-elected. So here, too, you benefitted from civil rights progress.

No longer could a United States Senator say what Senator Benjamin Tillman of South Carolina said in anger when President Theodore Roosevelt invited a moderate Negro, Booker T. Washington, to lunch at the White House: "'Now that Roosevelt has eaten with that nigger Washington, we shall have to kill a thousand niggers to get them back to their place.'" Senator Tillman did not have to fear any retaliation by Blacks because South Carolina and most southern states kept Blacks "in their place" by manipulating the ballot box. For example, because they did not have to confront the restraints and prohibitions of later Supreme Court cases, the manipulated "white" primary allowed Tillman and other racist senators to profit from the threat of violence to Blacks who voted, and from the disproportionate electoral power given to rural whites. For years, the NAACP litigated

some of the most significant cases attacking racism at the ballot box. That organization almost single-handedly created the foundation for black political power that led in part to the 1964 Civil Rights Act.

Moreover, if it had not been for the Supreme Court's opinion in *Smith v. Allright*, a case which Thurgood Marshall argued, most all the southern senators who voted for you would have been elected in what was once called a "white primary" a process which precluded Blacks from effective voting in the southern primary election, where the real decisions were made on who would run every hamlet, township, city, county and state. The seminal case of *Baker v. Carr*, which articulated the concept of one man-one vote, was part of a series of Supreme Court precedents that caused southern senators to recognize that patently racist diatribes could cost them an election. Thus your success even in your several confirmation votes is directly attributable to the efforts that the "activist" Warren Court and civil rights organizations have made over the decades.

VII. Housing and Privacy

If you are willing, Justice Thomas, to consider how the history of civil rights in this country has shaped your public life, then imagine for a moment how it has affected your private life. With some reluctance, I make the following comments about housing and marriage because I hope that reflecting on their constitutional implications may raise your consciousness and level of insight about the dangers of excessive intrusion by the state in personal and family relations.

From what I have seen of your house on television scans and in newspaper photos, it is apparent that you live in a comfortable Virginia neighborhood. Thus I start with Holmes's view that "a page of history is worth a volume of logic." The history of Virginia's legislatively and judicially imposed racism should be particularly significant to you now that as a Supreme Court Justice you must determine the limits of a state's intrusion on family and other matters of privacy.

It is worthwhile pondering what the impact on you would have been if Virginia's legalized racism had been allowed to continue as a viable constitutional doctrine. In 1912, Virginia enacted a statute giving cities and towns the right to pass ordinances which would divide the city into segregated districts for black and white residents. Segregated districts were designated white or black depending on the race of the majority of the residents. It became a crime for any black person to move into and occupy a residence in an area known as a white district. Similarly, it was a crime for any white person to move into a black district.

Even prior to the Virginia statute of 1912, the cities of Ashland and Richmond had enacted such segregationist statutes. The ordinances also imposed the same segregationist policies on any "place of public assembly." Apparently schools, churches, and meeting places were defined by the color of their members. Thus, white Christian Virginia wanted to make sure that no black Christian churches were in their white Christian neighborhoods.

The impact of these statutes can be assessed by reviewing the experiences of two African-Americans, John Coleman and Mary Hopkins. Coleman purchased property in Ashland, Virginia in 1911. In many ways he symbolized the American dream of achieving some modest upward mobility by being able to purchase a home earned through initiative and hard work. But shortly after moving to his home, he was arrested for violating Ashland's segregation ordinance because a majority of the residents in the block were white. Also, in 1911, the City of Richmond prosecuted and convicted a black woman, Mary S. Hopkins, for moving into a predominantly white block.

Coleman and Hopkins appealed their convictions to the Supreme Court of Virginia which held that the ordinances of Ashland and Richmond did not violate the United States Constitution and that the fines and convictions were valid.

If Virginia's law of 1912 still prevailed, and if your community passed laws like the ordinances of Richmond and Ashland, you would not be able to live in your own house. Fortunately, the Virginia ordinances and statutes were in effect nullified by a case brought by the NAACP in 1915, where a similar statute of the City of Louisville was declared unconstitutional. But even if your town council had not passed such an ordinance, the developers would in all probability have incorporated racially restrictive covenants in the title deeds to the individual homes. Thus, had it not been for the vigor of the NAACP's litigation efforts in a series of persistent attacks against racial covenants you would have been excluded from your own home. Fortunately, in 1948, in Shelley v. Kraemer, a case argued by Thurgood Marshall, the NAACP succeeded in having such racially restrictive covenants declared unconstitutional.

Yet with all of those litigation victories, you still might not have been able to live in your present

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house because a private developer might have refused to sell you a home solely because you are an African-American. Again you would be saved because in 1968 the Supreme Court, in *Jones v. Alfred H. Mayer Co.,* in an opinion by Justice Stewart, held that the 1866 Civil Rights Act precluded such private racial discrimination. It was a relatively close case; the two dissenting justices said that the majority opinion was "ill considered and ill-advised." It was the values of the majority which made the difference. And it is your values that will determine the vitality of other civil rights acts for decades to come.

Had you overcome all of those barriers to housing and if you and your present wife decided that you wanted to reside in Virginia, you would nonetheless have been violating the Racial Integrity Act of 1924, which the Virginia Supreme Court as late as 1966 said was consistent with the federal constitution because of the overriding state interest in the institution of marriage. Although it was four years after the Brown case, Richard Perry Loving and his wife, Mildred Jeter Loving were convicted in 1958 and originally sentenced to one year in jail because of their interracial marriage. As an act of magnanimity the trial court later suspended the sentences, "'for a period of 25 years upon the provision that both accused leave Caroline County and the state of Virginia at once and do not return together or at the same time to said county and state for a period of 25 years.'"

The conviction was affirmed by a unanimous Supreme Court of Virginia, though they remanded the case back as to the re-sentencing phase. Incidentally, the Virginia trial judge justified the constitutionality of the prohibition against interracial marriages as follows:

> Almighty God created the races white, black, yellow, Malay and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix.

If the Virginia courts had been sustained by the United States Supreme Court in 1966, and if, after your marriage, you and your wife had, like the Lovings, defied the Virginia statute by continuing to live in your present residence, you could have been in the penitentiary today rather than serving as an Associate Justice of the United States Supreme Court.

I note these pages of record from American legal history because they exemplify the tragedy of excessive intrusion on individual and family rights. The only persistent protector of privacy and family rights has been the United States Supreme Court, and such protection has occurred only when a majority of the Justices has possessed a broad vision of human rights. Will you, in your moment of truth, take for granted that the Constitution protects you and your wife against all forms of deliberate state intrusion into family and privacy matters, and protects you even against some forms of discrimination by other private parties such as the real estate developer, but nevertheless find that it does not protect the privacy rights of others, and particularly women, to make similarly highly personal and private decisions?

Conclusion

This letter may imply that I am somewhat skeptical as to what your performance will be as a Supreme Court Justice. Candidly, I and many other thoughtful Americans are very concerned about your appointment to the Supreme Court. But I am also sufficiently familiar with the history of the Supreme Court to know that a few of its members (not many) about whom there was substantial skepticism at the time of their appointment became truly outstanding Justices. In that context I think of Justice Hugo Black. I am impressed by the fact that at the very beginning of his illustrious career he articulated his vision of the responsibility of the Supreme Court. In one of his early major opinions he wrote, "courts stand … as havens of refuge for those who might otherwise suffer because they are helpless, weak, out-numbered, or … are non-conforming victims of prejudice and public excitement."

While there are many other equally important issues that you must consider and on which I have not commented, none will determine your place in history as much as your defense of the weak, the poor, minorities, women, the disabled and the powerless. I trust that you will ponder often the significance of the statement of Justice Blackmun, in a vigorous dissent of two years ago, when he said: "Sadly … one wonders whether the majority [of the Court] still believes that … race discrimination or more accurately, race discrimination against nonwhites is a problem in our society, or even remembers that it ever was."

You, however, must try to remember that the fundamental problems of the disadvantaged, women,

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minorities, and the powerless have not all been solved simply because you have "moved on up" from Pin Point, Georgia, to the Supreme Court. In your opening remarks to the Judiciary Committee, you described your life in Pin Point, Georgia, as "far removed in space and time from this room, this day and this moment." I have written to tell you that your life today, however, should be not far removed from the visions and struggles of Frederick Douglass, Sojourner Truth, Harriet Tubman, Charles Hamilton Houston, A. Philip Randolph, Mary McLeod Bethune, W.E.B. Dubois, Roy Wilkins, Whitney Young, Martin Luther King, Judge William Henry Hastie, Justices Thurgood Marshall, Earl Warren, and William Brennan, as well as the thousands of others who dedicated much of their lives to create the America that made your opportunities possible. I hope you have the strength of character to exemplify those values so that the sacrifices of all these men and women will not have been in vain.

I am sixty-three years old. In my lifetime I have seen African-Americans denied the right to vote, the opportunities to a proper education, to work, and to live where they choose. I have seen and known racial segregation and discrimination. But I have also seen the decision in Brown rendered. I have seen the first African-American sit on the Supreme Court. And I have seen brave and courageous people, black and white, give their lives for the civil rights cause. My memory of them has always been without bitterness or nostalgia. But today it is sometimes without hope; for I wonder whether their magnificent achievements are in jeopardy. I wonder whether (and how far) the majority of the Supreme Court will continue to retreat from protecting the rights of the poor, women, the disadvantaged, minorities, and the powerless. And if, tragically, a majority of the Court continues to retreat, I wonder whether you, Justice Thomas, an African-American, will be part of that majority.

No one would be happier than I if the record you will establish on the Supreme Court in years to come demonstrates that my apprehensions were unfounded. You were born into injustice, tempered by the hard reality of what it means to be poor and black in America, and especially to be poor because you are black. You have found a door newly cracked open and you have escaped. I trust you shall not forget that many who preceded you and many who follow you have found, and will find, the door of equal opportunity slammed in their faces through no fault of their own. And I also know that time and the tides of history often call out of men and women qualities that even they did not know lay within them. And so, with

Glossary

A. Philip Randolph	a prominent civil rights leader, president the National Negro Congress, and head of the Brotherhood of Sleeping Car Porters labor union
Brown case	*Brown v. Board of Education*, decided in 1954
Bush	President George H. W. Bush, who served from 1989 to 1993 (and the father of President George W. Bush)
Charles Hamilton Houston	a lawyer for the NAACP and dean of the law school at Howard University
EEOC	Equal Employment Opportunity Commission
Eli	a nickname for a Yale University student, after benefactor Elihu Yale
Frederick Douglass	the preeminent nineteenth-century abolitionist; the quotation is from an 1857 speech, "If There Is No Struggle, There Is No Progress"
Haywood Burns	a civil rights advocate and dean of the City University of New York law school
Holmes	Justice Oliver Wendell Holmes, Jr.; the famous quotation is from his 1921 decision in *New York Trust Co. v. Eisner*.
James Baldwin	a prominent African American novelist, playwright, and essayist

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hope to balance my apprehensions, I wish you well as a thoughtful and worthy successor to Justice Marshall in the ever ongoing struggle to assure equal justice under law for all persons.

Glossary

Jim Crow	the informal name of the legal and social systems that kept African Americans in subservient positions
Justice Cardozo	Benjamin Cardozo; the quotation is from his book *The Nature of the Judicial Process*
Justice O'Connor	Sandra Day O'Connor, the first woman to serve on the Supreme Court
men who gathered in Philadelphia	the members of the Constitutional Convention
Ronald Reagan	the fortieth president of the United States and a noted conservative
Ruth Marcus	an opinion columnist for the *Washington Post*
separate but equal doctrine	the doctrine articulated in the 1896 Supreme Court case *Plessy v. Ferguson,* stating that segregated facilities were allowed as long as those provided to blacks were equal to those provided to whites
sequelae	results, ensuing events
Strom Thurmond	a long-serving, highly conservative senator from South Carolina
William Henry Hastie	the first African American federal judge and dean of the Howard University law school

Colin Powell (AP/Wide World Photos)

Colin Powell's Commencement Address at Howard University

1994

"There is utter foolishness, evil, and danger in the message of hatred, or of condoning violence, however cleverly the message is packaged."

Overview

Colin Powell's commencement address delivered to the graduates of Howard University on May 14, 1994, is among the most remembered speeches of an impressively influential African American in the late twentieth century. The speech helped keep the recently retired General Powell in the headlines at a time when many thought he might be the first black candidate for the presidency on a major party ticket. Like most commencement addresses, Powell's remarks were designed to urge the listening graduates and their friends and families to aspire to greater philosophical and career goals. But because of his unusually popular public reputation and his potential presidential candidacy, Powell's address had a much larger public audience. Today, this speech has been largely overshadowed by some of Powell's remarks as secretary of state during the presidential administration of George W. Bush.

The Howard University commencement speech was given to several hundred graduates, their friends and families, and the faculty of the nation's largest historically black university. Although the circumstances surrounding Powell's appearance were controversial, his remarks were in the main well received by the assembled listeners and even more enthusiastically by the local and national press corps.

Context

After a long and distinguished career in the American military, General Powell announced his retirement from active duty in 1993. Because he had most recently been chairman of the Joint Chiefs of Staff in the presidential administrations of George H. W. Bush and for a brief time under Bill Clinton, General Powell was widely acknowledged to be one of the primary architects of America's successful participation in the First Gulf War. By late 1993, Powell enjoyed unprecedented popularity among voters in both major parties and many independents as well. Interestingly, some polls showed that he was actually more popular with white voters than with blacks, some of whom were wary of Powell's cozy relationship with the Republican Party. Although he made no public announcements about his flirtation with national politics in 1994, it was widely believed that Powell was contemplating a run for the nation's highest office. Powell hesitated to reveal his party affiliation, and both Democrats and Republicans made it clear that they would welcome his endorsement and perhaps his candidacy.

Powell took full advantage of the forthcoming publication of his memoir, *My American Journey*, in a long series of public-speaking appearances in 1994 and 1995, which many thought were thinly disguised campaign speeches. Commencement addresses at a variety of institutions were among his most frequent appearances during these months. Virtually all of these graduation speeches were formulaic attempts to urge his listeners to embrace traditional values of diligence and hard work and to dedicate at least part of their lives to public service. But the Howard speech departed sharply from that pattern in that it spoke directly to the issue of race hatred. The early 1990s had witnessed a spate of incidents on college campuses among them some of the nation's most prestigious institutions which revealed that racial tensions could quickly boil over into public spectacle. In 1994 the dramatic murder trials of Colin Ferguson and O. J. Simpson would be brutal reminders of just how serious the racial divide continued to be in American culture generally. Ferguson, a Jamaican American, was convicted of murder after weeks of outrageous courtroom tactics in which he attempted to defend himself for the shooting of six white passengers on a Long Island commuter train. That same year, O. J. Simpson, the legendary black football star and sometime Hollywood actor, was acquitted of the brutal Los Angeles slaying of his white former wife and her male companion in one of the most controversial murder trials of modern times.

In April 1994, barely three weeks before Powell's speech, Khalid Abdul Muhammad, a one-time lieutenant of the Nation of Islam's leader, Louis Farrakhan, was among several black activist speakers at a rally at Howard University whose remarks struck many as racially inflammatory. Muhammad himself excoriated whites, especially Jews, as untrustworthy allies in the continuing civil rights struggle. Muhammad had made similar remarks on the campus of Kean College in New Jersey in late 1993, a performance so controversial that students at Emory University had canceled a scheduled appearance by Muhammad on

Time Line

1937

- **April 5**
  Colin Luther Powell is born in Harlem as the second of two children to Jamaican immigrant parents.

1941

- Powell moves with his family to the Banana Kelly district of the South Bronx, an ethnically mixed neighborhood where no racial group was in the majority.

1958

- Powell graduates with a bachelor of science degree from City College of New York with a distinguished record in his Reserve Officers Training Corps unit.

1989

- **April 4**
  Powell is promoted to the rank of four-star general, the highest position in the U.S. Army.
- **October 1**
  After being confirmed by the Senate, Powell assumes the office of chairman of the Joint Chiefs of Staff under President George H. W. Bush.

1993

- **September 30**
  Powell resigns from the military, to begin work on his autobiography, launch a speaking tour, and contemplate his political future.
- **November 29**
  Khalid Abdul Muhammad attracts national attention with a racially inflammatory speech given on the campus of Kean College in Union, New Jersey.

1994

- **April 19**
  Khalid Abdul Muhammad makes his second appearance at Howard University, echoing many of the statements and virtually all of the infamous ideas on race that were made at Kean College.
- **May 14**
  Powell delivers his commencement address at Howard University.

that campus on the grounds that his rhetoric might fuel a racial disturbance. In Canada, officials at the University of Toronto canceled their invitation to Muhammad on more philosophical grounds. In the Kean speech, Muhammad characterized Jews as "bloodsuckers," called for the genocide of white people, insulted Pope John Paul II, and excoriated gay rights. The Anti-Defamation League, a Jewish civil rights organization, responded by taking out a full page advertisement in the *New York Times* condemning Muhammad's rhetoric. Shortly thereafter, Congress voted unanimously to reject Muhammad's speech as "outrageous hatemongering" of the worst type. Even Louis Farrakhan was moved to oust Muhammad from his official post in the Nation of Islam in response to the public outcry.

In his second appearance at Howard University in five months, on April 19, 1994, Khalid Muhammad attacked the legend of the Holocaust by insulting its survivors: "You make me sick always got some old crinkly, wrinkled cracker that you bring up, talking about, 'this is one of the Holocaust victims.' Goddamn it! I'm looking at a whole audience full of Holocaust victims." But Muhammad also ridiculed America's black elite particularly the Reverend Jesse Jackson as "boot-licking, buck dancing" traitors who sold their souls and those of their people to whites. In short, Muhammad specialized in an outrageous and unusually militant version of the rhetoric of black nationalism and black supremacy, which unfailingly received a riotous reception from his disciples but was roundly condemned by more conventional audiences both black and white. Muhammad would continue to be a public figure in America's black nationalist movement for many years. He surfaced as the founder of the New Black Panther Party in 1995 and was perhaps the most visible organizer of the aborted "Million Youth" march in New York in 1997 and a rally in that city in 1998 as well as a smaller one in 1999. He died suddenly in Atlanta, Georgia, of a brain hemorrhage in 2001 at age fifty-three.

At Howard University, Muhammad's remarks created more than their usual share of controversy. Almost immediately, the Anti-Defamation League denounced his rhetoric, and several donors to the United Negro College Fund threatened to recall their contributions. Muhammad attempted to explain his Howard rhetoric before a national television audience on *The Phil Donahue Show* a few weeks later, which convinced no one save his most enthusiastic followers. Moreover, the Howard University president, Dr. Franklyn Jenifer, defended his institution's policy of free speech though not the content of Muhammad's remarks but resigned his post in the face of mounting public criticism. It was in the midst of these emotionally charged circumstances that Colin Powell, among the nation's best-known and most respected African Americans, gave his speech on racial hatred at Howard University on May 14, 1994.

About the Author

Colin Powell was not a typical African American leader. He did not have a résumé as a civil rights advocate, nor did

he have any significant ties to the larger African American community. He was a Protestant, but his religious affiliations were not an important part of his background, and as an Episcopalian he seldom saw black parishioners in his congregation let alone in positions of leadership. Rather, Powell rose to prominence through the U.S. Army and not as a result of partisan politics or community activism. Partly because of his extraordinary organizational talents and partly because of fortuitous circumstances, Powell achieved the highest rank in the American military through a series of appointments in the executive branch of the national government. At the peak of his career in the early 1990s, Powell was arguably America's most experienced and successful expert on issues of national defense.

Colin Luther Powell was born in Harlem, New York City, on April 5, 1937, the second of two children of Jamaican immigrant parents. Four years later, he and his parents moved to a four-room apartment in the South Bronx, where Powell would spend his formative years in a mixed-race environment. In his neighborhood no ethnic group could claim to be in the majority, and young Powell would grow up in an atmosphere of racial tolerance. Colin was an indifferent student in public schools despite his parent's hope that he would excel in his studies. After graduation from Morris High School in the Bronx, he gained admission to the City College of New York, where he initially intended to study engineering. Low grades in mathematics, however, persuaded him to change to the less-challenging curriculum in geology, and he graduated with a BS degree in 1958. Along the way, Powell discovered that his real love was participating in the City College of New York Reserve Officers Training Corps program, in which he established a brilliant record. He was a C student in most of his college courses, but he excelled in Reserve Officers Training Corps courses and summer encampments.

Despite the fact that his postgraduation officer training was in the segregated South at Fort Benning, Georgia, Powell was determined not to be distracted by racial bigotry. He later observed in his autobiography that even though he felt the sting of southern racism, he "was not going to let bigotry make me a victim." Focused and determined, he finished in the top ten of his officer class. After tours of duty in Germany and Vietnam as an infantry commander, Powell was promoted to the rank of major in 1964 after only eight years of service, a clear indication that he was on a fast track to success. In 1967 he was among the top ten in his class at the Fort Leavenworth, Kansas, general staff and command school. After finishing a graduate degree in management at George Washington University, he was promoted to lieutenant colonel. Two years later he graduated from the National War College and was promoted to the rank of full colonel.

Although he often longed for a field command, Powell's destiny led him to Washington, D.C., instead. He served first in the Pentagon during the presidential administration of Jimmy Carter and later under President Ronald Reagan as a military adviser in the Department of Defense, reporting to Frank Carlucci and Secretary of Defense Caspar Weinberger. When Carlucci became national security adviser to President Ronald Reagan, Powell was his chief assistant. Just months later, in 1987, Powell succeeded him as national security adviser and head of the National Security Council. In the George H. W. Bush administration, Powell was promoted to the rank of four-star general and became the chairman of the Joint Chiefs of Staff, the highest-ranking officer in the military. As the chief commander of American forces in the First Gulf War, coordinating the efforts of his field commander, Norman Schwarzkopf, Powell was the symbol of American military success in Iraq and widely admired for his "Powell Doctrine" of controlled and pragmatic use of military force.

Time Line

1995	■ **November 8** Powell announces that he will not be a candidate for the presidency in 1996.
2001	■ Powell becomes secretary of state in the George W. Bush presidential administration.
2004	■ **November 15** Secretary of State Powell announces his resignation from the administration of President George W. Bush.
2008	■ Powell endorses Barack Obama for president.

Powell's meteoric rise in the military (made more impressive by the fact that he was not a graduate of a military academy) and his reputation for sound judgment and practical wisdom inevitably brought him to the attention of politicians who saw in him untapped political potential. George H. W. Bush flirted with asking Powell to be his vice presidential running mate, President Bill Clinton wanted the general to be his secretary of state, and Senator Robert Dole offered him a place on his 1996 Republican ticket. Moreover, thanks to his leadership in the First Gulf War, Powell became a household name to many Americans whose admiration for him was reflected in several opinion polls and magazine articles during 1991 and 1992, which showed that he was well liked by a majority of Democrats and Republicans as well as independents.

Powell retired from military service in 1993 and began a lengthy process of evaluating his future in national politics. At the same time, he began work on his autobiography, *My American Journey* (1996), and launched an extensive speaking schedule to promote his book and himself during 1994 and 1995. The Howard address was part of that campaign of self-promotion. Powell eventually decided not to

run for president, but he did accept an offer from George W. Bush to serve as secretary of state, a position he held during Bush's first term from 2001 to 2004. Powell resigned his post amid the controversy surrounding his justification for the invasion of Iraq, although he has since remained quiet about his role in the events leading up to the war. In the month before the presidential election of 2008, General Powell publicly endorsed Barack Obama.

In 2010 Colin Powell was living in retirement with his wife of almost fifty years, Alma, in a suburb of Washington, D.C. Together, they headed America's Promise, a nonprofit corporation that aids disadvantaged young people in a program that reflects Powell's philosophy of self-help, education, and high moral standards.

Explanation and Analysis of the Document

Powell begins by establishing an informal, almost humorous tone to his remarks by pointing out how difficult it is to gauge the appropriate length of a graduation speech. Students want a short speech, he observes, while faculty are usually content with a longer address. Parents, because they have so much invested in their children's graduation, in both real and psychic terms, want to bask in the full glow of a lengthy address. He ends these preliminary remarks by asking for frequent applause early on, and in return he promises to keep his speech brief. He quips that if there is no applause, or infrequent applause, then his address is likely to be much longer. In his words, "If you … applaud a lot early on, you get a nice, short speech. If you make me work for it, we're liable to be here a long time."

◆ Free Speech and Race Hatred

But Powell moves quickly almost abruptly into the serious part of his text by announcing clearly that his speech will address the controversial nature of Howard University's free speech policy, a policy that had attracted national attention when Howard administrators allowed black militant and self-proclaimed "truth terrorist" Khalid Muhammad to speak on campus barely a month earlier. Powell never mentions Muhammad or any other participant in the Howard free speech controversy by name, but his intentions are obvious. As he so disarmingly puts it, "Since many people have been giving advice about how to handle this matter, I thought I might as well too." Not surprisingly, he briefly reviews Howard University's distinguished service to the African American community as its most prestigious and largest institution of higher learning and quickly reassures his listeners that in his view Howard would continue its tradition of excellence despite the recent controversy. What Powell wisely avoided, however, was pointing out that Howard did face an uncertain future. For one thing, it could no longer count on automatically attracting the best and the brightest black students, as it had in the past, because the civil rights movement of the 1950s and 1960s had opened the doors of competitive white colleges and universities to black applicants both faculty and students. The unintended result was a kind of brain drain that threatened to alter the unique and privileged status of Howard in black educational circles. But in this speech and to this audience, Powell diplomatically focused on the subject of race hatred and free speech, which had brought the institution unwanted public attention and embarrassing criticism. A year later he would have to confront other challenges to Howard's status as a member of its board of trustees.

Powell is careful to reassure his listeners that the university's position in support of the principle of free speech is one that he endorses. Without mentioning the fact that the outgoing president was widely criticized in the white press for allowing Muhammad to speak, Powell is obviously supportive of the institution's policy. As he puts it, "I have every confidence in the ability of the administration, the faculty and the students of Howard to determine who should speak on this campus. No outside help needed, thank you." Later, in the middle of his script, he reiterates his support of Howard by saying that "I believe with all my heart that Howard must continue to serve as an institute of learning excellence where freedom of speech is strongly encouraged and rigorously protected. That is the very essence of a great university and Howard is a great university." Powell carefully omitted from his text the fact that the university had cancelled the appearance of a white Yale University professor, David Brion Davis, who intended to refute the claims of Khalid. Howard administrators said that in blocking Davis's speech they acted only to protect his personal safety, but critics condemned their actions as a violation of the principles of free speech that they claimed to uphold.

Powell avoids some troubled waters by artfully drawing a thin line between the support of free speech in philosophical terms and the dangers of accepting every opinion as truth. As he put it, the permission of the "widest range of views" should be matched by the responsibility of the university and its students "to make informed, educated judgments about what they hear." His conclusion, which he draws carefully, goes to the heart of his whole point: "But for this freedom to hear all views, you bear a burden to sort out wisdom from foolishness." Here, at the end of the first third of his remarks, Powell returns to a more conventional message that "there is great wisdom" in the old-fashioned virtues of diligence, hard work, and family values, but there "is utter foolishness, evil, and danger in the message of hatred, or of condoning violence, however cleverly the message is packaged." These ideas form an important part of his worldview. Powell is essentially a racial optimist who is convinced that traditional values triumph. His own life story in the military convinced him that although race prejudice could be annoying and frustrating, excellence and success ultimately triumph. In many ways, these ideas form an important theme that runs through his remarkably candid autobiography in which he refused, in his words, "to be a victim of racism."

◆ Racial Cooperation

At the core of Powell's Howard remarks is a brilliantly argued case for the triumph of racial cooperation over

racial and ethnic hatred. His primary audience, of course, is those assembled at the graduation exercises, but there are at least two other groups to whom he is speaking. One of those is obviously the national press, whose following he had been courting and would continue to do so for months to come. Another is Khalid Abdul Muhammad and his followers, to whom Powell never directly alludes, but his choice of words and his frame of argument are almost certainly aimed at their principles. Take, for instance, his example of the demise of South Africa's system of apartheid and the election of the black activist Nelson Mandela as president of a new and racially liberated South Africa. In Powell's speech, President Mandela becomes a South African Martin Luther King, Jr., by using "his liberation to work his former tormenters to create a new South Africa and to eliminate the curse of apartheid from the face of the earth. What a glorious example! What a glorious day it was!" Powell must have known, of course, that Khalid Muhammad had frequently referred to Mandela in his own speeches as an example of a black leader like Jesse Jackson in the United States who had been used as a tool by the white power structure to prevent full racial liberation and to create only the illusion of progress. Powell uses the same rebuttal technique in his second example of the recently signed peace accord between the Israeli prime minister Yitzhak Rabin and Palestinian leader Yasser Arafat, two seemingly intractable enemies whom Powell rather optimistically (and prematurely, it turns out) claims have tried "to end hundreds of years of hatred and two generations of violence." This Middle East settlement, Powell insists, created "a force of moral authority more powerful than any army." Powell, of course, was fully aware that Khalid Muhammad had savaged Jews time and again as the enemies of world peace, and his use of the Middle East peace accord was intended as another rejection of Muhammad's anti-Semitism. For Powell, these two examples prove that for African Americans the "future lies in the philosophy of love and understanding and caring and building. Not of hatred and tearing down."

The instance of racial cooperation to which Powell devotes most of his speech is that of the Buffalo Soldiers, a contingent of black cavalry in the U.S. Army who had distinguished themselves in a series of military engagements in the post Civil War West. His discussion of the Buffalo Soldiers allows Powell to touch on several points that are central to his Howard message. Powell's connection to the Buffalo Soldiers is, of course, his own service in the military and more directly in his personal efforts to establish a national monument in their honor. In a rather impassioned sentence of the speech, he argues that the military gave him and his forbears including the Buffalo Soldiers, the Tuskegee Airmen, and other black men and women the chance to demonstrate their ability when given the opportunity. "I climbed on their backs," he exclaimed, "and stood on their shoulders to reach the top of my chosen profession." Furthermore, he reminds his audience, the Buffalo Soldiers were formed in 1867, the same year that Howard was founded. Similarly, both were begun and directed in their infancy by well-meaning and right-minded whites who were essential to the survival of both enterprises. This same interracial cooperation, Powell asserts, was instrumental in his own success in the military and, in some ways, in the achievements of the Howard class of 1994 as well.

Khalid Abdul Muhammad (AP/Wide World Photos)

◆ Patriotic and Ethnic Pride

Powell's patriotic conclusion is aimed most directly at his young black listeners and perhaps secondarily to the black community at large: "Never lose faith in America," he says. "America is a family. There may be differences and disputes in the family, but we must not allow the family to be broken into warring factions." By all means, he instructs the graduates, retain "your heritage." He continues:

> Study your origins. Teach your children racial pride.… Not as a way of drawing back from American society and its European roots. But as a way of showing that there are other roots as well. African and Caribbean roots that are also a source of nourishment for the American family tree.… From the diversity of our people let us draw strength and not cause weakness.

Essential Quotes

"There is great wisdom in the message of self reliance, of education, of hard work, and of the need to raise strong families. There is utter foolishness, evil, and danger in the message of hatred, or of condoning violence, however cleverly the message is packaged or entertainingly it is presented."

(Free Speech and Race Hatred)

"I have no doubt that this controversy will pass and Howard University will emerge even stronger, even more than ever a symbol of hope, of promise, and of excellence."

(Racial Cooperation)

"Study your origins. Teach your children racial pride and draw strength and inspiration from the cultures of our forebears. Not as a way of drawing back from American society and its European roots. But as a way of showing that there are other roots as well. African and Caribbean roots that are also a source of nourishment for the American family tree."

(Patriotic and Ethnic Pride)

And he concludes. "Believe in America with all your heart and soul and mind. It remains the 'last best hope of Earth.'"

Audience

Although Powell's speech was given directly to hundreds of Howard University's 1994 graduates, their friends, families, and the university community of faculty and administrators, it also had a much wider audience. In part, Powell was rebutting the racial attitudes and strategies of Khalid Abdul Muhammad and those of his followers and sympathizers who embraced his philosophy. Additionally, he was addressing a national media audience who may have wrongly associated Howard University with violent black nationalism in an effort to rescue the university's public image; it was not coincidental that Powell was subsequently appointed to Howard's board of regents. And, finally, Powell's speech was also aimed at a national voting audience, black and white, who were potential supporters had he actually decided to throw his political hat into the presidential ring.

Impact

Powell's words were received by his immediate audience with general approval. Several graduates gave him high marks in personal interviews, and presumably they reflected the views of their parents and families, too. The fact that Powell was named to Howard's board of regents a few months after his speech also suggests that the university's administration was suitably impressed. But his most enthusiastic audience was the national press corps. The *New York Times* and *Washington Post* gave Powell enthusiastic reviews as a voice of reason on the subject of Howard University and as a reassuring rejection of black supremacists who advocated violence as an important component to full racial liberation; the black mainstream press echoed these impressions. Moreover, one should remember that Powell gave this address at a crucial moment in his consideration of a political career, which included the possibility of running for president of the United States. Bluntly put, the Howard commencement address was, in some sense, an effective campaign speech.

In the years following his Howard remarks, Powell's potential presidential aspirations were largely forgotten

along with the historical context of his speech. Today, Powell's words on this occasion are most often found in anthologies of great civil rights speeches rather than in discussions of his political ambitions, which in the mid-1990s may have rivaled those about Barack Obama in the early twenty-first century. Thus, Powell's Howard speech is a fascinating example of how the political rhetoric of one moment can become the timeless wisdom of another.

See also *Plessy v. Ferguson* (1896); *Sweatt v. Painter* (1950); *Brown v. Board of Education* (1954).

Further Reading

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Charles Cook

Questions for Further Study

1. In recent years, the issue of free speech has arisen with regularity on college campuses. Various speakers have been barred from campuses or have had their appearances canceled because of protest on the part of those who do not like the speaker's views. Numerous speakers have been heckled or shouted down and have had eggs and other objects thrown at them. Under what circumstances, if any, do you think a speaker should be barred from appearing on a college campus, or anywhere? Does hosting a speaker constitute endorsement of his or her views? At what point does legitimate protesting of views cross over to a denial of free speech?

2. Why might Colin Powell's appearance at Howard University have perhaps been seen as controversial by some?

3. As a military figure, Powell appeals to his audience by linking the history of Howard University with that of the military, particularly the role of African American soldiers in the nineteenth century. How does he accomplish this aim? What does making such a connection add to his speech?

4. Powell makes reference to Nelson Mandela and F. W. de Klerk of South Africa. What purpose does this reference serve in the speech? What is the linkage between this reference and his reference to the controversy surrounding Khalid Abdul Muhammad?

5. To what extent, if any, might Powell's speech have been a "campaign speech"?

Document Text

Colin Powell's Commencement Address at Howard University

The real challenge in being a commencement speaker is figuring out how long to speak.

The graduating students want a short speech, five to six minutes and let's get it over. They are not going to remember who their commencement speaker was anyway. P O W E L L.

Parents are another matter. Arrayed in all their finery they have waited a long time for this day, some not sure it would ever come, and they want it to last. So go on and talk for two or three hours. We brought our lunch and want our money's worth.

The faculty member who suggested the speaker hopes the speech will be long enough to be respectable, but not so long that he has to take leave for a few weeks beginning Monday. So the poor speaker is left figuring out what to do. My simple rule is to respond to audience reaction. If you are appreciative and applaud a lot early on, you get a nice, short speech. If you make me work for it, we're liable to be here a long time.

You know, the controversy over Howard's speaking policy has its positive side. It has caused the university to go through a process of self-examination, which is always a healthy thing to do. Since many people have been giving advice about how to handle this matter, I thought I might as well too.

First, I believe with all my heart that Howard must continue to serve as an institute of learning excellence where freedom of speech is strongly encouraged and rigorously protected. That is at the very essence of a great university and Howard is a greet university.

And freedom of speech means permitting the widest range of views to be present for debate, however controversial those views may be. The First Amendment right of free speech is intended to protect the controversial and even outrageous word, and not just comforting platitudes, too mundane to need protection.

Some say that by hosting controversial speakers who shock our sensibilities, Howard is in some way promoting or endorsing their message. Not at all. Howard has helped put their message in perspective while protecting their right to be heard. So that the message can be exposed to the full light of day.

I have every confidence in the ability of the administration, the faculty and the students of Howard to determine who should speak on this campus. No outside help needed, thank you.

I also have complete confidence in the students of Howard to make informed, educated judgments about what they hear.

But for this freedom to hear all views, you bear a burden to sort out wisdom from foolishness.

There is great wisdom in the message of self reliance, of education, of hard work, and of the need to raise strong families. There is utter foolishness, evil, and danger in the message of hatred, or of condoning violence, however cleverly the message is packaged or entertainingly it is presented. We must find nothing to stand up and cheer about or applaud in a message of racial or ethnic hatred.

I was at the inauguration of President Mandela in South Africa earlier this week. You were there too by television and watched that remarkable event. Together, we saw what can happen when people stop hating and begin reconciling. DeKlerk the jailer became DeKlerk the liberator, and Mandela the prisoner became Mandela the president. Twenty-seven years of imprisonment did not embitter Nelson Mandela. He invited his three jail keepers to the ceremony. He used his liberation to work his former tormentors to create a new South Africa and to eliminate the curse of apartheid from the face of the earth. What a glorious example! What a glorious day it was!

Last week you also saw Prime Minister Rabin and PLO Chairman Arafat sign another agreement on their still difficult, long road to peace, trying to end hundreds of years of hatred and two generations of violence. Palestinian authorities have now begun entering Gaza and Jericho.

In these two historic events, intractable enemies of the past have shown how you can join hands to create a force of moral authority more powerful than any army and which can change the world.

Although there are still places of darkness in the world where the light of reconciliation has not penetrated, these two beacons of hope show what can be done when men and women of goodwill work together for peace and for progress.

There is a message in these two historic events for us assembled here today. As the world goes forward, we cannot start going backward.

Document Text

African Americans have come too far and we have too far yet to go to take a detour into the swamp of hatred.

We, as a people who have suffered so much from the hatred of others must not now show tolerance for any movement or philosophy that has at its core the hatred of Jews or anyone else.

Our future lies in the philosophy of love and understanding and caring and building. Not of hatred and tearing down.

We know that. We must stand up for it and speak up for it!

We must not be silent if we would live up to the legacy of those who have gone before us from this campus.

I have no doubt that this controversy will pass and Howard University will emerge even stronger, even more than ever a symbol of hope, of promise, and of excellence. That is Howard's destiny!

Ambassador Annenberg, one of your honorees today, is a dear friend of mine and is one of America's leading businessmen and greatest philanthropists. You have heard of his recent contribution to American education and his generous gift to Howard.

A few years ago I told Mr. Annenberg about a project I was involved in to build a memorial to the Buffalo Soldiers, those brave black cavalrymen of the West whose valor had long gone unrecognized. Ambassador Annenberg responded immediately, and with his help the memorial now stands proudly at Fort Leavenworth, Kansas.

The Buffalo Soldiers were formed in 1867, at the same time as Howard University. It is even said that your mascot, the bison, came from the bison, or buffalo, soldiers. Both Howard and the Buffalo Soldiers owe their early success to the dedication and faith of white military officers who served in the Civil War. In Howard's case, of course, it was your namesake, Major General Oliver Howard. For the 10th Cavalry Buffalo Soldiers, it was Colonel. Benjamin Grierson who formed and commanded that regiment for almost twenty five years. And he fought that entire time to achieve equal status for his black comrades.

Together, Howard University and the Buffalo Soldiers showed what black Americans were capable of when given the education and opportunity; and when shown respect and when accorded dignity.

I am a direct descendant of those Buffalo Soldiers, of the Tuskegee Airmen, and of the navy's Golden Thirteen, and Montford Point Marines, and all the black men and women who served this nation in uniform for over three hundred years. All of whom served in their time and in their way and with whatever opportunity existed then to break down the walls of discrimination and racism to make the path easier for those of us who came after them. I climbed on their backs and stood on their shoulders to reach the top of my chosen profession to become chairman of the American Joint Chiefs of Staff.

I will never forget my debt to them and to the many white "Colonel Griersons" and "General Howards" who helped me over the thirty-five years of my life as a soldier. They would say to me now, "Well done. And now let others climb up on your shoulders."

Howard's Buffalo Soldiers did the same thing, and on their shoulders now stand governors and mayors and congressman and generals and doctors and artists and writers and teachers and leaders in every segment of American society. And they did it for the class of 1994. So that you can now continue climbing to reach the top of the mountain, while reaching down and back to help those less fortunate.

You face "Great Expectations." Much has been given to you and much is expected from you. You have been given a quality education, presented by a distinguished faculty who sit here today in pride of you. You have inquiring minds and strong bodies given to you by God and by your parents, who sit behind you and pass on to you today their still unrealized dreams and ambitions. You have been given citizenship in a country like none other on earth, with opportunities available to you like nowhere else on earth, beyond anything available to me when I sat in a place similar to this thirty-six years ago.

What will be asked of you is hard work. Nothing will be handed to you. You are entering a life of continuous study and struggle to achieve your goals.

A life of searching to find that which you do well and love doing. Never stop seeking. I want you to have faith in yourselves. I want you to believe to the depth of your soul that you can accomplish any task that you set your mind and energy to. I want you to be proud of your heritage. Study your origins. Teach your children racial pride and draw strength and inspiration from the cultures of our forebears.

Not as a way of drawing back from American society and its European roots. But as a way of showing that there are other roots as well. African and Caribbean roots that are also a source of nourishment for the American family tree. To show that African Americans are more than a product of our slave experience. To show that our varied backgrounds are as rich as that of any other American, not better or greater, but every bit as equal.

Document Text

Our black heritage must be a foundation stone we can build on, not a place to withdraw into.

I want you to fight racism. But remember, as Dr. King and Dr. Mandela have taught us, racism is a disease of the racist. Never let it become yours. White South Africans were cured of the outward symptoms of the disease by President Mandela's inauguration, just as surely as black South Africans were liberated from apartheid.

Racism is a disease you can help cure by standing up for your rights and by your commitment to excellence and to performance. By being ready to take advantage of your rights and the opportunities that will come from those rights. Never let the dying hand of racism rest on your shoulder, weighing you down. Let racism always be someone else's burden to carry.

As you seek your way in the world, never fail to find a way to serve your community. Use your education and your success in life to help those still trapped in cycles of poverty and violence.

Above all, never lose faith in America. Its faults are yours to fix, not to curse.

America is a family. There may be differences and disputes in the family, but we must not allow the family to be broken into warring factions. From the diversity of our people, let us draw strength and not cause weakness.

Believe in America with all your heart and soul and mind. It remains the "last best hope of Earth." You are its inheritors and its future is today placed in your hands.

Go forth from this place today inspired by those who went before you. Go forth with the love of your families and the blessings of your teachers.

Go forth to make this a better country and society. Prosper, raise strong families, remembering that

Glossary

Ambassador Annenberg	Walter Annenberg, an American publisher, philanthropist, and diplomat who in 1990 had donated $50 million to the United Negro College Fund
apartheid	the legal system of racial segregation in South Africa
controversy over Howard's speaking policy	a reference to a recent controversy involving Khalid Abdul Muhammad, who had appeared on campus and expressed extreme, racially inflammatory views
DeKlerk	President F. W. de Klerk, who ended apartheid in South Africa and played a key role in turning the country into a multiracial democracy
Dr. King	civil rights leader Dr. Martin Luther King, Jr.
Gaza and Jericho	regions in Israel that have been the focus of conflict between Israel and the Palestinians
Golden Thirteen	the first African American commissioned and warrant officers in the U.S. Navy, commissioned in 1944
"Great Expectations"	the title of a novel by the nineteenth-century British writer Charles Dickens
"last best hope of Earth"	a quotation from Abraham Lincoln's 1862 Annual Message to Congress
Montford Point Marines	the first African Americans who entered the U.S. Marine Corps from 1942 to 1949 at Montford Point Camp in North Carolina
PLO Chairman Arafat	Yasser Arafat, the leader of the Palestine Liberation Organization
President Mandela	Nelson Mandela, who became the president of South Africa after the end of apartheid
Prime Minister Rabin	Yitzhak Rabin of Israel
Tuskegee Airmen	the 332nd Fighter Group of the U.S. Army Air Corps, the first black pilots in U.S. military history, based in Tuskegee, Alabama

Document Text

all you will leave behind is your good works and your children.

Go forth with my humble congratulations.

And let your dreams be your only limitations. Now and forever.

Thank you and God bless you.

Have a great life.

Louis Farrakhan (AP/Wide World Photos)

Louis Farrakhan's Million Man March Pledge

1995

"I ... will strive to improve myself ... for the benefit of myself, my family and my people."

Overview

On October 16, 1995, the Reverend Louis Farrakhan, the leader of the Nation of Islam, brought African American men from around the nation together in Washington, D.C., for a demonstration of unity, pride, and strength. Known as the Million Man March, the daylong assembly culminated with a two-hour speech by Farrakhan that included the recitation of a pledge to secure a better future for African Americans. Unlike Dr. Martin Luther King, Jr.'s March on Washington in 1963, where participants were asked to face westward toward the Lincoln Memorial, Farrakhan asked those present "to face eastward toward a new dawn," noted Arthur J. Magida in *Prophet of Rage: A Life of Louis Farrakhan and His Nation*.

The goals set for the Million Man March were atonement, reconciliation, and responsibility. Farrakhan asked the men in his audience to repent for their sins against themselves and their communities, to forgive those who had done them wrong, and to take responsibility for their families. The day was filled with prayers and speeches given by many prominent African American orators, religious figures, politicians, artists, and entertainers. Most men on the National Mall that day endorsed neither Farrakhan nor the Nation of Islam, but they gathered there to recapture the spirit and integrity of the black male. Farrakhan's closing speech began by outlining the historical oppression of the black man and ended with a pledge each man was asked to recite as a call for individual and collective action.

Context

In his prophetic 1903 book *The Souls of Black Folk*, the African American activist, editor, and scholar W. E. B. Du Bois foresaw that one of the central concerns of the twentieth century would be the persisting division of American society along racial lines. He and others soon founded the National Association for the Advancement of Colored People, an interracial organization that became instrumental in leading the struggle to break through legal and economic barriers to equality during the twentieth century. However, as decades passed, black activists began to feel as though the call for integration had fallen on deaf ears. Some observers believed that racism in the United States was so deeply rooted that it could be countered only by a more assertive ideology an ideology that came to be known as black nationalism.

The basic tenets of black nationalism include two beliefs: first, that African Americans are trapped in a white-dominated society that refuses to grant them comparable civil liberties and economic opportunities and, second, that because the power-holding white majority would continue to oppress them, African Americans had to create their own institutions to provide the goods and services necessary for survival. Black nationalist sentiments gave voice to a growing feeling of disillusionment among people of color, who, rather than feeling like Americans, saw themselves as Africans living in the United States. The outgrowth of black nationalist assumptions was that African Americans had to do one of two things in order to survive and flourish: Create either a separate nation-state outside the United States or an independent African American nation within the southern states.

The sociologist Michael O. West describes "four black nationalist moments" in history. The first of these "moments" occurred during the period referred to as the "Decade of Crisis" before the outbreak of the Civil War. From 1850 to 1861, antiblack social and political policies arose in the United States, compounding racial inequities and prompting many free blacks to view emigration to Haiti as an attractive alternative to the troubling turmoil over slavery. For instance, the Fugitive Slave Act of 1850 compelled Americans to assist in the return of runaway slaves to their owners, even if the slaves had made their way to a free state. Seven years later, the U.S. Supreme Court's decision in the *Dred Scott v. Sandford* case denied the prospect of citizenship to all blacks, whether slaves or freedpeople. Once the Civil War broke out, the nationalists joined the integrationists to support the Union cause, hoping that black emancipation and equal rights would follow.

The second black nationalist "moment" occurred between 1919 and 1925, after the end of World War I and during the Great Migration in the United States, when large numbers of African Americans moved from the South to the North. Racial tensions reached a peak in American

Time Line

1909

- W. E. B. Du Bois and other activists form the National Association for the Advancement of Colored People.

1916

- Marcus Garvey founds the Universal Negro Improvement Association.

1930

- **July**
  The Nation of Islam is founded in Detroit, Michigan, by Wallace D. Fard Muhammad.

1954

- **May 17**
  The U.S. Supreme Court decision in *Brown v. Board of Education of Topeka* declares school segregation unconstitutional and helps propel the modern civil rights movement.

1957

- **Winter**
  Martin Luther King, Jr., cofounds the Southern Christian Leadership Conference.

1963

- **August 28**
  From the steps of the Lincoln Memorial, Martin Luther King, Jr., delivers his stirring "I Have a Dream" speech to the two hundred and fifty thousand spectators gathered for the historic March on Washington for Jobs and Freedom.

1964

- Having broken ties with the Nation of Islam, Malcolm X returns from a pilgrimage to Mecca, Saudi Arabia, in April, abandons his black separatist views, and founds the Organization of Afro-American Unity in June.
- **July 2**
  The Civil Rights Act of 1964 outlaws discrimination in public accommodations and employment on the basis of race, skin color, gender, religion, or national origin.

culture and politics at this time, as blacks began to compete with whites for scarce job opportunities. In this context, the Jamaican-born black activist Marcus Garvey and his Universal Negro Improvement Association gained prominence. Garvey's slogan, "Africa for Africans, at home and abroad," called for a renewal of black nationalism and encouraged black capitalism and black pride. Controversy over Garvey's leadership style and actions ended this movement by 1925, but his efforts set the stage for a new vision of black identity later in the twentieth century.

The third black nationalist "moment" began in 1964, roughly a decade into the modern civil rights movement, and ended in the early 1970s with the decline of political nationalist groups such as the Black Panthers. The Supreme Court's trailblazing 1954 decision in *Brown v. Board of Education of Topeka* which stated that "separate" could never be "equal" energized integrationists to organize and mobilize for full equality for African Americans. Martin Luther King, Jr., and the Southern Christian Leadership Conference encouraged nonviolent resistance as the South exploded with racial conflict. Two important pieces of legislation, the Civil Rights Act of 1964 and the Voting Rights Act of 1965, brought an end to legal segregation. The nation seemed poised to rise above its racist history; in reality, however, few African Americans saw any real change in their everyday lives. The prolonged discontent among black Americans led to the emergence of Malcolm X and the Nation of Islam, led by Elijah Muhammad, with a new call for black nationalism. Elijah Muhammad added a religious component to conservative black nationalism while revitalizing the push for black pride and self-sufficiency. Under Muhammad's leadership, the Nation of Islam taught its members that whites were "devils" who were incapable of overcoming their racial prejudices. Muhammad promoted "black capitalism" through black entrepreneurship as a way for African Americans to prosper, free from the constraints of an oppressive white society.

The charismatic Malcolm X became an influential speaker for the Nation of Islam until he broke with the movement on moral grounds in 1964. Shortly before his assassination in 1965, he underwent a spiritual transformation during a hajj to Mecca. His journey led him to abandon his black separatist views and found the Organization of Afro-American Unity. Malcolm's desire to look for common ground with the members of the American civil rights movement posed an ideological threat to the Nation of Islam and is believed to have been the motive for his death. As an outspoken critic of Malcolm X, Louis Farrakhan quickly stepped in as a spokesperson for the Nation of Islam and ultimately became its leader by 1978, after the death of Elijah Muhammad.

While the black Muslims provided religious support for this third black nationalist "moment," the Black Panthers added their own style of secular militarism to help impoverished and frustrated African Americans find solutions to their problems. The Watts riot in 1965 uncovered the intensity of the struggles of African Americans in the nation's urban areas. A predominantly black neighborhood

located in south-central Los Angeles, Watts came to embody the long-term effects of unyielding poverty, unemployment, crime, blight, and racial conflict on a community. In the early evening hours of August 11, 1965, a white police officer arrested a black motorist for allegedly driving while intoxicated. This incident ignited deeply held racial tensions and sparked a major riot in Watts marked by six days of violence, looting, and burning. The California-based Black Power movement, which gained a following in the 1960s and 1970s, offered a divergent, radical approach to black nationalism after this violent event. Appealing mostly to the African American working class and urban youth, the Panthers offered a ten-point plan to improve employment, housing, education, and racial justice. Unlike another Black Power organization called Us, founded by Dr. Maulana Karenga, which included only blacks and called for a cultural rebirth, the Panthers worked with Native Americans, Hispanics, and white antiwar protesters to help alleviate the plight of blacks in America's urban areas. The Black Panthers' violent revolutionary nature and open challenges to authority led to the group's demise by the early 1970s. However, the cultural black nationalists survived this period by utilizing less radical tactics of protest. Their efforts resulted in the establishment of black studies programs in American colleges and universities and the solidifying of black cultural practices into American society (for example, through the creation of Kwanzaa by Karenga in 1966).

The growth of conservative ideology in American politics brought about the fourth black nationalist "moment." In the early 1980s U.S. president Ronald Reagan and his Republican administration removed many social programs that blacks perceived were working to level the playing field in American society, such as affirmative action. In this vein, black Americans turned to religious leaders for hope, and the popularity of the Nation of Islam swelled. As poverty, unemployment, and civil unrest grew in the 1980s, ethnic and racial connections and nationalist feelings took on renewed importance; the Nation of Islam's radicalism became more attractive to black Americans who felt the political, social, and economic gaps were widening between the races. In his 1996 book *In the Name of Elijah Muhammad: Louis Farrakhan and the Nation of Islam*, the Swedish religious scholar Mattias Gardell offers insights into Farrakhan's rise to power in the 1980s. Farrakhan's charisma and his ability to speak to black America's youth, along with the emergence of hip-hop culture and rap music as venues for communication within the black community, helped young people gravitate toward his nationalist message. According to Gardell, at a time of declining faith in mainstream American politicians, the actions of the Nation of Islam to combat gang violence, crime, drugs, and poverty were seen as successful attempts to curb the problems affecting blacks in the United States.

It was against this backdrop that Louis Farrakhan initiated the idea for the Million Man March in 1995, when black men were called to Washington, D.C., for atonement and reconciliation around the overall theme of unity. Held

Time Line

1965

- **February 21** Malcolm X is assassinated during an appearance at Harlem's Audubon Ballroom.
- **August 6** The passage of the Voting Rights Act authorizes federal supervision of voter registration in states and counties where fewer than half of voting-age residents are registered; it also outlaws literacy and other discriminatory tests used to prevent blacks from registering to vote.
- **August 11** A six-day-long riot in the Watts community of south-central Los Angeles begins with a traffic stop.

1966

- **October** Huey Newton and Bobby Seale found the Black Panther Party for Self-Defense in Oakland, California.

1975

- **February 24** Elijah Muhammad, the leader of the Nation of Islam, dies.

1978

- Louis Farrakhan becomes the leader of the Nation of Islam.

1984

- Jesse Jackson becomes a Democratic contender for the U.S. presidential nomination.

1995

- **October 16** The Million Man March is held in Washington, D.C.

1997

- **October 25** The Million Woman March is held in Philadelphia, Pennsylvania.

2000

- **October 16** The Million Family March is held in Washington, D.C.

2005

- **October 14–16** The Millions More Movement is held in Washington, D.C.

on October 16, 1995, on the National Mall in Washington, the Million Man March proved to be the largest black demonstration in the history of black America and, according to Gardell, a turning point for acceptance of the Nation of Islam within mainstream black America. The National Park Service estimated attendance at four hundred thousand, while the Nation of Islam claimed that nearly two million men were present on the Mall that day. An independent group of researchers, led by the director of the Boston University Center for Remote Sensing, estimated the count to be 837,214, with a margin of error of 20 percent.

Farrakhan and the other event planners intended this day of atonement, reconciliation, and responsibility to include both Muslim and Christian black men and to be understood at two levels. As explained by Gardell, first, black men and their leaders needed to atone for "having allowed the community to embark on the path of self-destruction." Farrakhan asked black men to take responsibility for destroying their families and their communities with antisocial and criminal behaviors. Second, the government, representing white America, needed to "acknowledge the burden of guilt" by atoning for the horrors of slavery and working toward an end to white supremacy. The mission statement for the march explains in detail this challenge to the U.S. government. Included is a request for the government to admit to and apologize for its role in the "Holocaust of African Enslavement," to more thoroughly teach the appalling truth about slavery, and to pay reparations to African Americans. Also included is a call to fortify gains in voting rights, health care, and housing, along with a request to adopt an "economic bill of rights" with a plan for rebuilding urban areas. With regard to foreign policy, the mission statement urges the government to provide for equal treatment of refugees of color from Africa, the Caribbean, and other developing nations, to forgive foreign debt of former colonies, and to change the way the United States intervenes in the Middle East and around the world to promote other nations' sense of self-determination.

Part of Farrakhan's reconciliation message was directed at the Nation of Islam. Although critics, according to West, suggested that behind this rhetoric lurked the twin black nationalist ideas of patriarchy and black capitalism, many who were not supporters of the Nation of Islam and its separatist beliefs still benefited from the energy and camaraderie of this event. Rather than demanding a separate state to promote black nationalism, Farrakhan instead reached out to President Bill Clinton to join a unified black movement. He also spoke about reconciling with groups he had targeted in the past, such as Jews and other more moderate organizations such as the Urban League and the National Association for the Advancement of Colored People, which had boycotted the march.

The full title of the march included the subheading "The Day of Absence." Farrakhan and his organizers asked black women to stay at home and organize and mobilize their communities in support of the Million Man March. This controversial request angered many African American women's groups, which protested their exclusion. Farrakhan also called upon those unable to attend the march to stay away from work, school, businesses, and places of entertainment to help focus the nation on the themes of atonement, reconciliation, and responsibility.

The Reverend Jesse Jackson spoke on the afternoon of the march, delivering a speech that helped to clarify the question, Why march? Jackson cited facts and statistics highlighting the inequities within American society and suggested what the men present must do. He observed, for example, that there were two hundred thousand more blacks in jail than in college, that the media portrayed blacks as unintelligent and violent, that blacks were less able to borrow money in a system built on credit, and that three-strike drug laws unfairly punished smalltime dealers, who were more likely to be black than white, rather than the bigger drug traffickers, who tended to be white. In an article for *Maclean's*, Carl Mollins pointed to other researchers who showed "that blacks constitute 13% of drug users, but make up 35% of arrests, 55% of convictions and 74% of imprisonments for drug possession."

Further statistics from the 1990s demonstrate the differences between white and black America that Jackson and Farrakhan described. According to the Department of Commerce, during that decade blacks fared poorly compared with their white counterparts in a variety of economic and social measures. The unemployment rate among blacks was more than twice the amount found for whites (at 11 percent and 5 percent, respectively), and almost three times the number of blacks compared with whites fell below the poverty level (at 31 percent and 12 percent, respectively). The life expectancy for blacks was sixty-nine years of age, compared with seventy-six years for whites, and blacks were seven times more likely to become homicide victims than were whites. The need for improvement in areas such as these became a rallying cry at the Million Man March. Overall, the march gained historical significance as a prime example of peaceful, well-organized political action in twentieth-century America. Farrakhan's pledge focused national attention on African American ideals and helped renew black America's commitment to social change.

About the Author

Louis Abdul Farrakhan, originally named Louis Eugene Walcott, was born on May 11, 1933, in the Bronx, New York, and later raised in Boston. He graduated with honors from the prestigious Boston English High School. After dropping out of college in 1953, he earned the title of "the Charmer" because he performed professionally on the Boston nightclub circuit as a violinist, dancer, and singer of calypso and country songs. In 1955 he joined the Nation of Islam after being invited to attend a local convention in Chicago, Illinois, thereby choosing to give up music for a life dedicated to the teachings of Elijah Muhammad. He changed his name to Louis X, which was a custom followed by members of the Nation of Islam, who believed their fam-

ily names originated with white slaveholders. He worked closely with Malcolm X in Harlem and was later given the name Abdul Haleem Farrakhan by Elijah Muhammad.

After Malcolm X's assassination in 1965, Farrakhan was given the job of head minister at Harlem's Temple No.7 in New York City and became the second in command of the organization. When Elijah Muhammad died in 1975, the Nation of Islam fragmented, and Elijah's son, Warith Deen Muhammad, emerged as its new leader with the goal of steering the focus of the organization away from radical black nationalism and separatist teachings. Farrakhan's disappointment over not being selected as the group's leader led him to break away in 1975 to form a splinter group, still called the Nation of Islam, which preserved the original teachings of Elijah Muhammad. Farrakhan is credited with rebuilding the Nation of Islam throughout the 1980s according to its militant, black nationalist roots but at the same time helping it to gain acceptance in a nation built on a Christian tradition.

Although Farrakhan was a prominent leader within the Nation of Islam, it was not until the 1984 presidential campaign that mainstream America was introduced to his rhetoric. A series of controversies over Farrakhan's praise of Adolf Hitler and his use of anti-Semitic statements arose during the campaign of the Reverend Jesse Jackson, who was vying for the Democratic nomination for U.S. president in 1984. Farrakhan played on the perceived exploitation of blacks by American Jews, resulting in the alienation of a significant number of moderate Democrats who had shown early support for Jackson. Farrakhan's utterance during the campaign that Judaism was a "gutter religion" further fueled his critics. According to Dennis Walker in *Islam and the Search for African-American Nationhood: Elijah Muhammad, Louis Farrakhan and the Nation of Islam*, many Jackson supporters on the secular Left believed that Farrakhan was "using the presidential primaries as a 'step up for the Nation of Islam' more than as a way to mobilize blacks to vote for Jesse." Farrakhan eventually withdrew his support for the Jackson campaign. Despite these controversies, between 1983 and 1985 Farrakhan gained momentum as a national black leader who reached across America's divide to attract followers from all corners of the black community.

In 1993 Farrakhan battled prostate cancer and the resulting conflicts within the Nation of Islam over his possible successor. That same year, the acclaimed black filmmaker Spike Lee's *Malcolm X* revived the accusation that Farrakhan might be responsible for Malcolm's death. In the film, Lee portrays Elijah Muhammad and his inner circle in the Nation of Islam as secretly plotting the assassination of Malcolm X. In the last year of his life, Malcolm broke ties with the Nation of Islam, journeyed to Mecca, and rejected the philosophy of black separatism. After embracing the idea of an interracial solution to the civil rights crisis in America, Malcolm was viewed as a turncoat by the leaders of the Nation of Islam. Two months before the assassination, Farrakhan voiced his displeasure with Malcolm's rebirth as an integrationist, writing in the Nation's newspaper, "The die is set, and Malcolm shall not escape.… Such a man as Malcolm is worthy of death."

Dr. Betty Shabazz, Malcolm's widow, stated publicly that she felt Farrakhan was somehow involved in the murder of her husband. Farrakhan, however, has repeatedly refuted any connections to Malcolm's assassins. In 2000 he was interviewed by the *60 Minutes* correspondent Mike Wallace, and an account of that interview states that Farrakhan "denied ordering the assassination but later admitted to having 'helped create the atmosphere' that led to it." Farrakhan found himself at the center of another assassination plot in 1994, when the Federal Bureau of Investigation implicated one of the daughters of Malcolm X, Qubilah Shabazz, in the hiring of a hit man to kill Farrakhan. The charges against Shabazz were later dropped.

Since the mid-1990s, Farrakhan has been most recognized nationally and internationally as the primary organizer of the Million Man March of October 16, 1995, which led to subsequent marches over the next ten years. The Million Woman March, staged on October 25, 1997, drew over one million women to the streets of Philadelphia to promote solidarity for black women and to address such issues as human rights abuses against blacks and the crack cocaine trade in black neighborhoods. In 2000, the Million Family March focused on family unity and racial and religious harmony; African American men, women, and children, along with members of all races, were invited to convene in Washington, D.C., to discuss important social and political issues such as abortion, health care, education, welfare, and substance abuse. Five years later, on the tenth anniversary of the Million Man March, the Millions More March was held to unite black men, women, and children. The Millions More March suggested a need to end divisiveness among blacks and black organizations and called for the pooling of financial and intellectual resources to work toward the common goal of uplifting the African American community.

Following a near-death experience in 2000 resulting from complications of prostate cancer, Farrakhan toned down his racial rhetoric and attempted to reach out to other minorities, including Native Americans, Hispanics, and Asians. As of 2010, he continued to lead the Nation of Islam, traveling extensively throughout the United States and the rest of the world, to promote black nationalism and his vision for unity and world peace.

Explanation and Analysis of the Document

The Million Man March Pledge was the Reverend Louis Farrakhan's way of publicly reaffirming the values of the black community in the United States. Considered by many to be the high point of the daylong assembly, it was recited in unison by the attendees of the march at the close of Farrakhan's long awaited two-hour speech. The speech itself was a dramatic event, with the minister standing behind a bulletproof glass screen, immaculately dressed and surrounded by uniformed Fruit of Islam bodyguards.

Scholars note that it is helpful to interpret and evaluate Farrakhan's speech and the pledge that followed with an eye toward the historical and current perspectives of the

Aerial view of the Capitol, the Washington Monument and the Mall, scene of the Million Man March (AP/Wide World Photos)

black community. Farrakhan's success as the most anticipated speaker of the march ties in with his commanding stage presence and effective use of oratory devices such as rhythm, reliance upon myths, and repetition. Rhythm was evident throughout the entire march with the use of music, but it also appeared in Farrakhan's speech as he varied the volume, pitch, rate, and pauses in his delivery. This tactic reflects the traditional use of rhythm in African culture to enhance spirituality and connection to God. According to Jessica M. Henry in an article for the *Howard Journal of Communications*, "African Americans tend to use mythoforms to help explain the human condition, to preserve links to the past, and as an answer to the problem of existence in a racist society." Farrakhan used this approach when he quoted Negro spirituals and passages from the Bible during his speech; he explained the condition of African Americans by connecting the past and present through these stories.

Repetition is a device that helps an audience remember a speaker's message; it also allows an orator to move from one level of intensity to another. The pledge was a good example of the effective use of repetition. Farrakhan repeated the obvious themes of the march atonement, reconciliation, and responsibility and continually brought his audience back to the importance of God and religion. For every request in the Pledge, Farrakhan asked the men to recite after him: "I [insert your name here] pledge that from this day forward I will" thereby emphasizing the personal nature of the promises that were made by the audience.

The purpose of the pledge was to mobilize and organize the men into action. Its first two sentences provide an overview of the ways black men must improve to benefit themselves, their families, and their people. They are asked to make an ongoing commitment to living fuller and more meaningful lives and building strong, loving families. The third sentence suggests ways to better the African American community economically. Specifically, Farrakhan and the organizing committee called on the audience to contribute to a Black Economic Development Fund to build up black communities. They began by taking donations that day and urged participants to continue to pledge money to this fund when possible. They also called for a massive voter registration drive to jumpstart political activity among blacks and help enact meaningful legislation to better the lives of people of color in the United States.

The second paragraph asks black men to take responsibility for their families and to cease the abuse of black women and children. The language is surprisingly direct and targets the very destructive nature of domestic abuse. Farrakhan reiterates his request for black men to be accountable and dependable while they build family relationships based upon equality and mutual respect.

The last paragraph calls for community involvement in the struggle against drugs, crime, and violence and seeks stronger actions to end poverty and increase employment. Farrakhan suggests that black men needed to organize and support positive role models for black youth and support black media outlets as a way to improve the image of blacks in America. He emphasizes the need for volunteerism and strong leadership to correct the societal problems within black communities.

Audience

Louis Farrakhan's Million Man March Pledge was delivered to an estimated eight to nine hundred thousand attendees on October, 16, 1995, but it is clear that he intended it to reach the millions of other black men who would hear this pledge repeated as a call to action across the nation. It was a statement heard through the media by whites as well, encouraging racial understanding and a sense of reconciliation throughout the nation. Furthermore, Farrakhan's message targeted the U.S. government, advocating dialogue and change in national political, economic, and social policies to help black America overcome its struggles. And finally, it was a call for foreign governments to increase their financial responsibility to the world's black communities.

Impact

Although there are many ways to examine African American history, Louis Farrakhan's Million Man March Pledge can best be understood as one course of proposed actions

Essential Quotes

"I … will strive to improve myself spiritually, morally, mentally, socially, politically and economically for the benefit of myself, my family and my people."

(Paragraph 1)

"I pledge from this day forward I will support black newspapers, black radio, and black television. I will support black artists who clean up their acts to show respect for themselves, respect for their people, and respect for the ears of the human family."

(Paragraph 3)

offering hope to a group of people who were still struggling to achieve equal status in America in the 1990s. Supporters of the march, such as Dr. Cornel West of Princeton University, suggested it was a success not only because it displayed a black united front but also because it sent a sign of hope and renewed possibilities to African Americans. Many observers noted that in the year following the march, more black men registered to vote, volunteered for neighborhood and mentorship programs, and in the case of divorced fathers took responsibility for their families by increasing their child support payments, therefore demonstrating that follow-up actions were taken as a result of the pledge.

Critics, however, have argued that the Million Man March was unsuccessful both in the planning of the event and in the aftermath, when antagonism and financial mismanagement loomed. Because of the many controversies surrounding Louis Farrakhan, the mastermind of the event, they questioned whether it was possible to separate "the message from the messenger." For some, messages associated with Farrakhan are seen as founded in hatred, especially because of his history of anti-Semitic comments toward Jews and the black supremacist teachings of the Nation of Islam. Yet many observers believe that the appeals to racial pride, personal responsibility, and economic empowerment inherent in the Million Man March captured the hearts and minds of those who attended and spread hope throughout the black community.

See also Fugitive Slave Act of 1850; *Dred Scott v. Sandford* (1857); W. E. B. Du Bois: *The Souls of Black Folk* (1903); Marcus Garvey: "The Principles of the Universal Negro Improvement Association" (1922); *Brown v. Board of Education* (1954); Civil Rights Act of 1964; Martin Luther King, Jr.: "I Have a Dream" (1963); Malcolm X: "After the Bombing" (1965); Stokely Carmichael's "Black Power" (1966); FBI Report on Elijah Muhammad (1973).

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Wendy Thowdis

Questions for Further Study

1. In your opinion, was it a mistake for the Million Man March to exclude women?

2. On the one hand, Farrakhan chastised African American men for ""having allowed the community to embark on the path of self-destruction." On the other hand, he chastises the white community for the history of enslavement and white supremacy. Do you see these views as inconsistent? Or do you see them as complementary views, both of which are valid?

3. In the twenty-first century, Louis Farrakhan is regarded by many people as a somewhat frightening figure because of his outspokenness and militancy. Further, his position as leader of the Nation of Islam renders him suspect in the eyes of some because of instances of Islamic terrorism, including the September 11, 2001, attack on the United States. Do you believe that this characterization of Farrakhan is fair? Do you believe that it is "possible to separate 'the message from the messenger'"?

4. Farrakhan called for members of his audience to support black institutions such as newspapers, businesses, and cultural figures. Do you believe that it is possible for the black community to solve problems of unemployment and poverty by the establishment of and support for exclusively black organizations?

5. What do you think Elijah Muhammad, Stokely Carmichael, or Malcolm X would have thought of the Million Man March and its pledge? For help, see Malcolm X's "After the Bombing," Stokely Carmichael's "Black Power," and the FBI Report on Elijah Muhammad.

Document Text

Louis Farrakhan's Million Man March Pledge

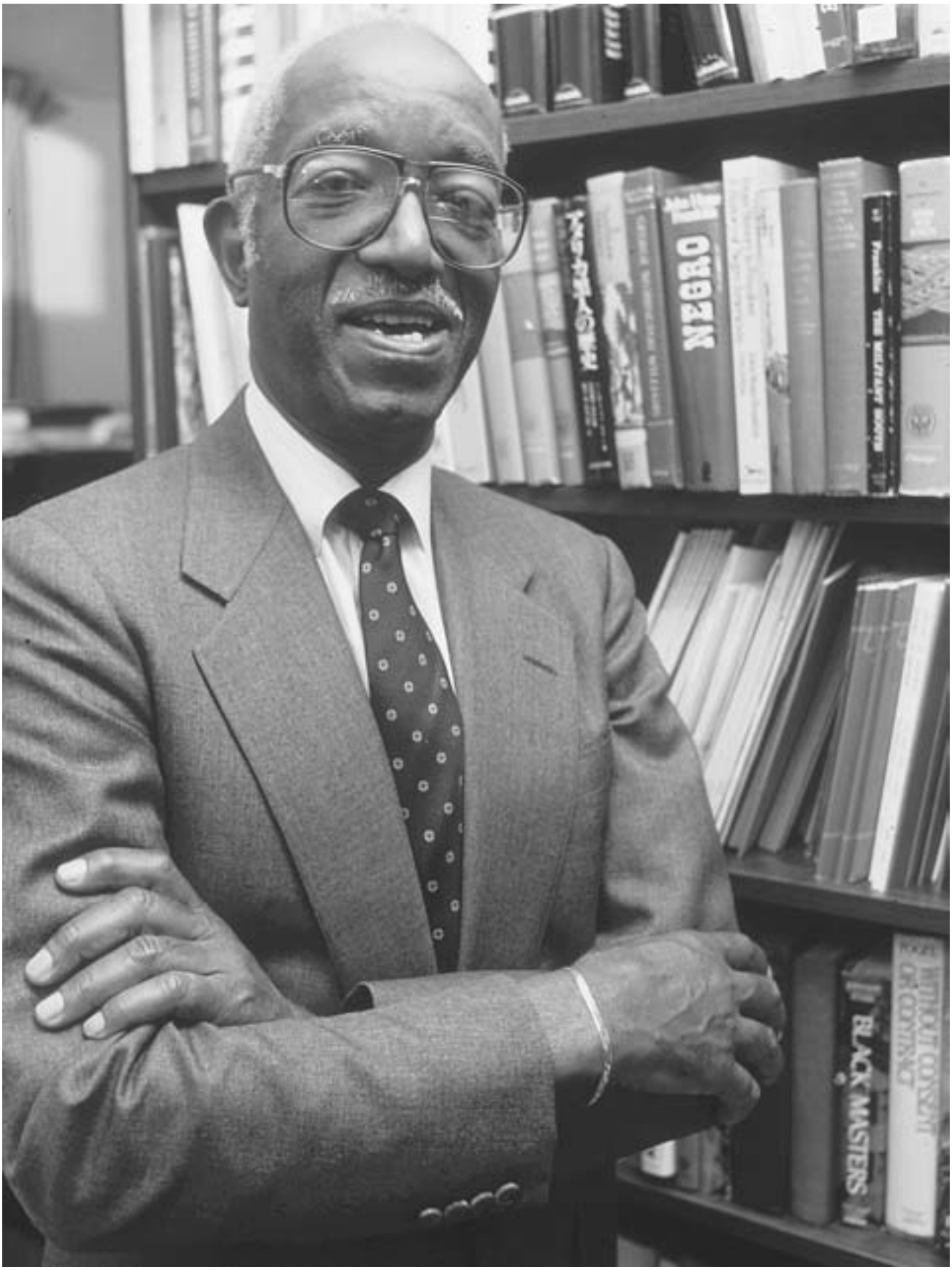
I pledge that from this day forward I will strive to love my brother as I love myself. I, from this day forward, will strive to improve myself spiritually, morally, mentally, socially, politically and economically for the benefit of myself, my family and my people. I pledge that I will strive to build business, build houses, build hospitals, build factories and enter into international trade for the good of myself, my family and my people.

I pledge that from this day forward I will never raise my hand with a knife or a gun to beat, cut, or shoot any member of my family or any human being except in self-defense. I pledge from this day forward I will never abuse my wife by striking her, disrespecting her, for she is the mother of my children and the producer of my future. I pledge that from this day forward I will never engage in the abuse of children, little boys or little girls for sexual gratification. For I will let them grow in peace to be strong men and women for the future of our people.

I will never again use the "B word" to describe any female. But particularly my own black sister. I pledge from this day forward that I will not poison my body with drugs or that which is destructive to my health and my well-being. I pledge from this day forward I will support black newspapers, black radio, black television. I will support black artists who clean up their acts to show respect for themselves and respect for their people and respect for the ears of the human family. I will do all of this so help me god.

Glossary

B word	bitch



John Hope Franklin (AP/Wide World Photos)

One America in the 21st Century

1998

"America's greatest promise in the 21st century lies in our ability to harness the strength of our racial diversity."

Overview

On September 18, 1998, the panel that carried out President Bill Clinton's Initiative on Race released its final report, *One America in the 21st Century*. Earlier, on June 13, 1997, Clinton had issued Executive Order 13050, which charged the panel with investigating the state of American race relations at the end of the twentieth century. The directive asked the panel to advise him "on matters of race and racial reconciliation," to "promote a constructive national dialogue to confront and work through challenging issues that surround race," and to "identify, develop, and implement solutions to problems in areas in which race has a substantial impact, such as education, economic opportunity, housing, health care, and the administration of justice." To carry out these tasks, he called on seven distinguished experts led by the panel's chairman, the historian John Hope Franklin. For some fifteen months the members of the panel traveled throughout the United States, conducting town hall meetings and public forums and talking with people about their experiences regarding race. The excerpt reproduced here is the executive summary from their final report.

Context

In 1905, W. E. B. Du Bois, one of the leading voices of what would become the Harlem Renaissance, wrote in *The Souls of Black Folk* that "the problem of the Twentieth Century is the problem of the color-line." Nearly a century later, the persistence of the "color-line" was manifest to many Americans, including President Bill Clinton.

Clinton was not the first president to march up to the color line and try to breach it. In the 1930s, Franklin D. Roosevelt gathered an informal group of African American advisers that came to the called the Black Cabinet. Led by such figures as Mary McLeod Bethune, this group kept the president abreast of developments and concerns in the black community in the later years of the Great Depression. In 1946, in the aftermath of World War II, Roosevelt's successor, Harry S. Truman, issued an executive order that formed the Committee on Civil Rights. The committee's report, *To Secure These Rights*, was delivered to the president on October 29, 1947. Among the concrete outcomes of Truman's initiative were two executive orders dated July 26, 1948. Executive Order 9980 desegregated the federal workforce, and Executive Order 9981 desegregated the armed forces.

Much work, though, remained to be done, particularly because Truman's 1948 civil rights legislation proposals were blocked in Congress by recalcitrant southern legislators and later, near the end of his second term, Truman was distracted by the Korean War. Racism and segregation remained widespread into the 1960s, prompting a civil rights movement that was arguably the most significant campaign for social change in the nation's history. In a climate of considerable racial unrest, President Lyndon B. Johnson invited more than two thousand five hundred participants to the White House Conference on Civil Rights, which met on June 1 2, 1966. The conference was contentious. The Student Nonviolent Coordinating Committee, a leading civil rights organization, boycotted the event, and many black leaders were disturbed by the findings of the recently published Moynihan Report. This document, prepared by Assistant Secretary of Labor Daniel Patrick Moynihan, seemed to attribute problems in the black community to a "pathology" that was undermining the black family. Nevertheless, the conference issued a final report, *To Fulfill These Rights*, an allusion to the unfinished work of the Truman committee. The report suggested ways to overcome the economic, social, and legal problems that resulted from racial discrimination.

Although Johnson had successfully achieved long-sought sweeping civil rights legislation in 1964 and 1965, the mid-1960s were nevertheless a racial cauldron. Riots erupted in major U.S. cities, including Detroit and Newark. The militant Black Panther Party was formed in late 1966. Demands for "Black Power" were replacing the peaceful calls for racial harmony coming from Martin Luther King, Jr. Further, the war in Vietnam was becoming a major distraction for Johnson, and the war's cost, both economic and political, was undermining his "Great Society" domestic agenda. In this climate, on July 28, 1967, Johnson formed the National Advisory Commission on Civil Disorders, informally known as the Kerner Commission after its chairman, Governor Otto Kerner of Illinois. In 1968 the commission

Time Line

1946

- **December 5**
  President Harry Truman issues Executive Order 9808, forming the President's Committee on Civil Rights.

1947

- **October 29**
  The Committee on Civil Rights delivers its report, *To Secure These Rights*, to President Truman.

1948

- **July 26**
  President Truman issues Executive Order 9980 desegregating the federal workforce and Executive Order 9981 desegregating the armed forces.

1960

- **May 6**
  President Dwight D. Eisenhower signs the Civil Rights Act of 1960 into law.

1964

- **July 2**
  President Lyndon Johnson signs the Civil Rights Act of 1964 into law.

1966

- **June 1**
  President Johnson convenes the two-day White House Conference on Civil Rights, which later issues a report, *To Fulfill These Rights*.

1967

- **July 28**
  President Johnson forms the National Advisory Commission on Civil Disorders, often called the Kerner Commission.

1968

- **February 29**
  The Kerner Commission releases its final report.

1993

- **January 20**
  Bill Clinton is inaugurated as the nation's forty-second president.

issued its final report, and despite the moderate political makeup of the commission, it laid the problems of poverty and urban despair at the feet of white racism: "Our nation is moving toward two societies, one black, one white separate and unequal." With regard to the ghetto, the commission concluded: "White institutions created it, white institutions maintain it, and white society condones it." The commission also stated that "white racism is essentially responsible for the explosive mixture that has been accumulating in our cities since the end of World War II." Nothing came of the report, however. Johnson continued to be absorbed by the highly unpopular war in Vietnam, and that year he announced that he would not run for reelection. A weary Johnson was angered that the commission did not sufficiently recognize his civil rights accomplishments which had also included ending the filibuster of the Civil Rights Act of 1960 as Senate majority leader and that his legacy would be Vietnam, not, for example, the Civil Rights Act of 1964. Johnson was convinced that the urban rioting was the work of agitators and Communists. His successor in office, Richard M. Nixon, ran on a platform of law and order, pushing initiatives for civil rights and racial reconciliation to the back burner, though he did support desegregation and affirmative action.

When Bill Clinton assumed the presidency in 1993, the position of African Americans was mixed. On the one hand, the barriers of segregation had been breached in government. In the previous two decades the number of black elected officials nationwide had risen from about three thousand five hundred to over eight thousand. Mississippi, long considered a bastion of segregation and discrimination, had the highest number of black elected officials of any state in the Union by the end of Clinton's presidency. In 1992 voters in Illinois elected the nation's first black woman to the U.S. Senate. The U.S. House of Representatives had forty black members, and black mayors were at the helm of such major cities as Atlanta, New York, Detroit, New Orleans, and Birmingham.

Progress on the economic front was slower. When Clinton took office in 1993, the median annual income for blacks was just over $21,000, but for whites it was nearly $39,000. The poverty rate among blacks was double that of the nation at large. An economic divide appeared in the black community as more and more blacks were moving decisively into the middle class while a permanent underclass seemed to remain trapped in poverty. During the Clinton administration, a conservative Supreme Court issued decisions that weakened the "affirmative action" programs that courts and legislatures had designed to help counteract the effects of past discrimination. Clinton himself backed a 1996 welfare reform bill the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that, in the view of many, adversely affected African Americans, given the persistent poverty found in many black communities.

Other disparities existed as well. Whites were twice as likely as blacks to have a bachelor's degree. Black men were six times more likely than white men to be imprisoned at some point in their lives, and their sentences tended to be

longer. While blacks were about 13 percent of the population, they made up 30 percent of federal offenders. Bill Clinton inherited these and other disparities when he assumed office in January 1993. He had won the election in part because of strong support among African Americans. Although he came from Arkansas, a state that had played an infamous role in the racial tensions of the 1950s notably the violence that surrounded the integration of Little Rock Central High School he had shown a commitment to racial equality early in his political career. As state attorney general, and later during several terms as governor, he appointed numerous blacks (including many women) to government positions. Eighty percent of African American voters cast their ballots for him in the 1992 presidential election; that figure rose to 84 percent in 1996.

Racial tensions, though, continued to percolate. In March 1991 the infamous Rodney King incident took place in Los Angeles. King, driving while intoxicated, was involved in a high-speed chase with Los Angeles police and California Highway Patrol officers in pursuit. When the officers were finally able to pull him over and drag him from his car, they Tasered him and beat him with batons actions that a bystander caught on a videotape that was repeatedly played on news broadcasts. Later, the officers would testify that King was hostile and possibly on drugs and that they were merely trying to bring him under control. The dramatic videotape, however, led many to conclude that the officers were guilty of police brutality. In 1992, during the campaign season that led to Clinton's election, a jury acquitted the four officers involved in the incident of charges that they had used excessive force. The verdict touched off riots in Los Angeles that led to over fifty deaths, nearly two thousand four hundred injuries, damage to more than three thousand businesses, and property damage of nearly a billion dollars.

Thus, despite some progress toward a more racially harmonious society, Clinton perceived that the struggle was ongoing. He forecast the Initiative on Race in his 1997 inaugural address when he said, "The challenge of our past remains the challenge of our future will we be one nation, one people, with one common destiny, or not? Will we all come together, or come apart?" He went on to say that "the divide of race has been America's constant curse" but also said that "our rich texture of racial, religious, and political diversity will be a godsend in the 21st century. Great rewards will come to those who can live together, learn together, work together, forge new ties that bind together." With these goals in mind, he launched the Initiative on Race in 1997.

About the Author

As chairman of the panel, the principal author of *One America in the 21st Century* was the historian John Hope Franklin. Franklin was born on January 2, 1915, in Rentiesville, Oklahoma. He was named after John Hope, one of the founders (in 1905) of the assertive black rights organization known as the Niagara Movement. He and his parents were survivors of the infamous Tulsa, Oklahoma, riot of 1921. After graduating from Fisk University in Nashville in 1935 and earning a doctorate in history from Harvard University in 1941, Franklin tried to offer his services to the military during World War II but was rejected because he was black. Instead, he began his teaching career at Fisk, then in North Carolina at St. Augustine's College and North Carolina College. Beginning in 1947 he taught at Howard University, but he left in 1956 to chair the history department at Brooklyn College. In 1964 he joined the faculty at the University of Chicago, where he remained until 1982. The following year he accepted a professorship at Duke University, and although he "retired" in 1985, he continued to teach legal history at the Duke University law school until 1992. Meanwhile, during the 1950s, Franklin was part of the team of researchers who worked with the attorney and future Supreme Court justice Thurgood Marshall to provide the sociological background material that contributed to the Court's decision ending racial segregation in schools in *Brown v. Board of Education* (1954).

Franklin was tireless in his profession as an editor of the *Journal of Negro History* and as a speaker, writer, and member of various professional organizations and government delegations and commissions, such as the National Council on the Humanities. Among his major publications were *The Emancipation Proclamation*, *The Militant South*, *The Free Negro in North Carolina*, *Reconstruction after the Civil War*, *A Southern Odyssey: Travelers in the Antebellum North*, *From Slavery to Freedom: A History of African-Americans*, and *The Color Line: Legacy for the Twenty-first Century*. Franklin died on March 25, 2009.

Other members of the president's panel included Linda Chavez-Thompson, the executive vice president of the American Federation of Labor Congress of Industrial Organizations and, since 1997, the vice chairperson of the Democratic National Committee. Suzan D. Johnson Cook

Time Line

1996

- **August 22** Clinton signs the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

1997

- **June 13** Clinton issues Executive Order 13050, launching the President's Initiative on Race.

1998

- **September 18** President Clinton's Initiative on Race releases its final report, *One America in the 21st Century*.

was a pastor at the Bronx Christian Fellowship in New York; she has since come to be known as "Dr. Sujay" and has been described as a combination of Oprah Winfrey and the evangelist Billy Graham. Thomas H. Kean was a former Republican governor of New Jersey and at the time was president of Drew University. He became more widely known after the terrorist attacks of September 11, 2001, when he was appointed chairman of the National Commission on Terrorist Attacks upon the United States, more commonly called the 9/11 Commission. Angela E. Oh was an attorney from Los Angeles and came to attention as the spokesperson for the Korean American community during the Los Angeles riot of 1992. Bob Thomas at the time was an executive vice president at Republic Industries, but in 1992 he had been president and chief executive officer of Nissan Motor Corporation U.S.A. and played a lead role in establishing the Nissan Foundation, which provided community development grants in Los Angeles after the 1992 riot. Finally, William F. Winter was a former Democratic governor of Mississippi, best known for the Mississippi Education Reform Act, which, among other things, established kindergartens in the state's public schools. The William Winter Institute for Racial Reconciliation at the University of Mississippi is named in his honor.

Explanation and Analysis of the Document

The portion of the document excerpted here is the executive summary. This type of synopsis is often included in government and business reports to provide readers with a snapshot of the document as a whole. It calls attention to the high points without going into specific detail. Readers can locate topics of interest in the executive summary, then go to the body of the report for details and supporting data.

◆ Introduction

The summary begins with a quotation from the president. The day after he had issued the executive order launching the Initiative on Race, he gave the commencement address at the University of California at San Diego. He used the opportunity to publicize the initiative and to rally public support for it. The text then goes on to outline the goals of the initiative. What is noteworthy is that unlike similar reports in the past, this report promises to focus less on overt racism and more on diversity, the notion that the United States, a "multiracial democracy," is a diverse mixture of racial and ethnic groups and that the nation is stronger for it. Thus, the emphasis is less on assigning blame for racial problems than on finding new ways to ensure "racial inclusion."

The introduction then sums up the facts surrounding the Initiative on Race, referring to the president's original executive order and listing the panel's membership. The panel, then, was "tasked with examining race, racism, and the potential for racial reconciliation in America using a process of study, constructive dialogue, and action." The operating procedure is briefly summarized. For fifteen months, the panel "canvassed the country," holding meetings on college campuses and with church, business, Indian, and other leaders that focused on such issues as civil rights enforcement, education, poverty, employment, housing, stereotyping, the administration of justice, health care, and immigration. The panel points out that it had no authority to commit federal resources, and it acknowledges that it could not provide a "definitive analysis of the state of race relations in America today." The mission was to record findings and impressions and to recommend ways to implement positive change.

◆ "Chapter One—Searching for Common Ground"

As the title suggests, the purpose of the first chapter, as summarized in the executive summary, is to emphasize the shared goals and aspirations of all Americans: equality, fairness, freedom, housing, education, health care, and decent employment. Reference is made to *Pathways to One America in the 21st Century: Promising Practices for Racial Reconciliation*, a reference guide the panel produced in 1999. *Promising Practices* highlighted 124 community-based and national organizations and projects that worked toward the improvement of racial and ethnic relationships. These programs all met the panel's criteria of promoting racially inclusive collaboration, educating on racial issues, fostering civic engagement, and generally encouraging racial harmony. The panel emphasizes the need for "strong leadership in the corporate, religious, and youth sectors of our society."

◆ "Chapter Two—Struggling with the Legacy of Race and Color"

The executive summary notes that the second chapter focuses on the historical record, the way that "each minority group shares a common history of legally mandated or socially and economically imposed subordination." The panel emphasizes that racial progress can be made only if all Americans understand this historical legacy. The panel also makes clear that its investigation included not just African Americans but also Native Americans, Latinos, Asians and Pacific Islanders, and white Americans who, because of their ethnicity, might continue to face discrimination.

The summary states that the report pays particular attention to the issue of affirmative action, that is, to programs that go beyond equal opportunity to encourage positive efforts to recruit members of racial minorities in business, academia, the government, and so forth. Affirmative action became government policy during the presidential administrations of John F. Kennedy and Lyndon B. Johnson in the 1960s but was widely contested as "reverse discrimination" from the 1970s onward. The subject remained highly controversial during the Clinton years, for in the eyes of some observers, it created a "quota" system for hiring minorities and sometimes appeared to place white candidates for the same jobs at a disadvantage or to favor some minorities (such as blacks and Latinos) over others (notably Asian Americans). In a 1996 case, *Hopwood v. University of Texas Law School*, the U.S. Fifth Circuit Court of Appeals invalidated an affirmative action admissions program at the law

A shopping mall burns in the second day of rioting in Los Angeles, after four police officers were acquitted for the beating of Rodney King. (AP/Wide World Photos)

school, holding that a "diverse" student body was not a compelling state interest. Then in 1996, California voters approved Proposition 209, which abolished all forms of affirmative action; the state of Washington followed suit in 1998. Thus, affirmative action and questions about its fundamental fairness and race neutrality were on the minds of policy makers during these years. The panel asserts that "properly constructed" affirmative action programs have played a major role in reducing discrimination over the past two decades and attributes the controversy to a "lack of knowledge and understanding about the genesis and consequences of racial discrimination."

◆ "Chapter Three—The Changing Face of America"

In recent years, the emphasis in discussions of race has been less on the legacy of white racism and more on the concept of diversity, that is, the more positive notion that a nation's diverse ethnic and racial makeup can strengthen it by ensuring inclusion of differing viewpoints and experiences in business decisions, education, and other arenas. The summary calls attention to the changing ethnic makeup of America and to predictions that in the year 2050 the nation's demographics would be considerably different than they were at the end of the twentieth century. As intermarriage becomes more common, states the summary, concepts of "black" and "white" are eroding, since more and more children are of mixed race. The panel also emphasizes that attention must be given to the needs of less visible minorities, such as Native Americans and Pacific Islanders.

◆ "Chapter Four—Bridging the Gap"

The summary notes that Chapter Four points to some of the specific findings and recommendations to emerge from the panel's investigations. Key areas of focus include civil rights enforcement (including enforcement of laws against racially motivated "hate crimes") and education. With reference to education, the panel cites the need to implement the administration's Comprehensive Indian Education Policy, launched the previous year. The panel goes on to outline goals in other areas, including antipoverty initiatives (for example, job training, raising the minimum wage, providing assistance to small businesses), improvements in access to affordable housing (by, for instance, providing funds for community revitalization), stereotyping, and law enforcement. With regard to law enforcement, the panel calls attention to racial profiling that is, the use of race to help identify likely criminals and disparities in drug law enforcement. For example, many observers at the time believed that by imposing longer sentences for users of

Essential Quotes

"America's greatest promise in the 21st century lies in our ability to harness the strength of our racial diversity. The greatest challenge facing Americans is to accept and take pride in defining ourselves as a multiracial democracy."

(Introduction)

"Our Nation still struggles with the impact of its past policies, practices, and attitudes based on racial differences. Race and ethnicity still have profound impacts on the extent to which a person is fully included in American society and provided the equal opportunity and equal protection promised to all Americans."

("Chapter Two—Struggling with the Legacy of Race and Color")

"The discussion of race in this country is no longer a discussion between and about blacks and whites. Increasingly, conversations about race must include all Americans."

("Chapter Three— The Changing Face of America")

"The creation of a President's Council for One America speaks to the need for a long-term strategy dedicated to building on the vision of one America."

("Chapter Five—Forging a New Future")

crack cocaine, the court system was unfairly targeting African Americans. Further areas of concern here include health care and immigration.

- **"Chapter Five—Forging a New Future"**

Chapter Five looks forward. The summary draws attention to the President's Council for One America, again shifting the focus away from assigning blame for past actions and focusing on a future, more united America; the council was formed essentially to continue the work of the panel by exploring long-term solutions to racial problems and to make public policy recommendations. The summary then notes that the report calls for comprehensive multimedia educational programs about race, community leadership, and leadership among youth. The summary also promises that Chapter Five will touch on a miscellaneous group of ancillary issues, such as environmental justice (for example, the issue of whether minorities are relegated to the most environmentally distressed areas of cities), police misconduct, and stereotyping in the media. It concludes with a promise to list ten suggestions "on how Americans can help to build on the momentum that will lead our Nation into the 21st century as one America."

Audience

The audience for *One America in the 21st Century* was the nation at large. Clinton believed that it was time for the nation to have a dialogue on race, and his Initiative on Race was a major part of that dialogue. His goal was to provoke thought about ongoing racial barriers and, more important, thought about how to dismantle those barriers. Given his long commitment to civil rights and equality of opportunity going back to his days as attorney general and governor of Arkansas, he also wanted to reassure the African American

community that he remained committed to their goals and aspirations. By assembling a panel that was balanced along racial, gender, political, and sectional lines, he hoped to involve all Americans in the discussion. To that end, numerous ancillary documents, including discussion and teaching guides such as the *One America Dialogue Guide*, were published along with the report and remain available. These documents are intended for use not only by educators but also by any group or organization formed with the goal of promoting discussion of racial issues. Oddly, the report itself was not published in book form until 2008.

Impact

Although he had been reelected as president in 1996, Clinton knew that his legacy was being tarnished because of the scandals that surrounded him, some of them dating from before his presidency. During the investigation surrounding these allegations, Clinton lied under oath about an improper sexual relationship he had had with Monica Lewinsky, a White House intern. Eventually, this evasion led to impeachment proceedings in 1998 1999, culminating in Clinton's acquittal by the U.S. Senate on charges of perjury and obstruction of justice. Even Clinton's supporters were willing to admit that his race initiative and *One America in the 21st Century* were partly intended to shift the focus away from his personal failings, refurbish his image, and create a more positive legacy.

The question, then, is whether he succeeded. In the eyes of many observers, the race initiative was a noble effort but one that had few if any concrete outcomes. Some observers, in reacting to the report, argued that it was motivated primarily by politics. Clinton, a Democrat, launched the effort during his second term, when the U.S. Congress had come under Republican control. Thus, there was little likelihood that any specific legislation would emerge from the undertaking, so Clinton faced little political risk by putting forward the initiative when he did. Others criticized the effort for failing to create an overarching strategy for dealing with racial problems, particularly at a time when the very concept of "race" in America was in flux, especially because of immigration, legal and illegal, from Mexico and Central America. Still others observed that the initiative was undermined by lack of a clear need; then by tactical miscues, lack of focus, public meetings whose purpose was unclear; and finally by the Lewinsky scandal, which drowned out the race initiative in the media. Others criti-

Questions for Further Study

1. Author Toni Morrison famously referred to Bill Clinton as the nation's "first black president." Clinton, of course, is white. What do you think Morrison meant by this characterization? Do you think that there is some element of truth to it? What might President Barack Obama think of this characterization, particularly since his major Democratic opponent in his run for the presidency was Bill Clinton's wife, Hillary Rodham Clinton?

2. What good do you think programs such as Clinton's Initiative on Race do? Can they lead to substantial discussion and progress, or are they a type of political theater? Explain.

3. Compare *One America in the 21st Century* with *To Secure These Rights*, produced in 1947 under the administration of President Harry Truman. Do the documents share similar concerns? How was each document a product of its time?

4. What role, if any, do you believe politics played in the Initiative on Race? Do you believe that the political context of the Initiative on Race and of *One America in the 21st Century* was important?

5. Compare this document and its goals with U.S. Supreme Court Justice Clarence Thomas's Concurrence/Dissent in *Grutter v. Bollinger*, issued in 2003. What do you think the panel that prepared *One America in the 21st Century* thought of Thomas's views? How do the two documents represent somewhat polar views of race in America?

6. Read this document in conjunction with the U.S. Senate Resolution Apologizing for the Enslavement and Racial Segregation of African Americans, passed in 2009. To what extent do you think the Senate's apology helped carry out the goals of the Initiative on Race?

cized the initiative for vagueness and timidity. Despite these criticisms, many of Clinton's supporters contended that race had not been seriously discussed for a generation and that the initiative shifted the discussion in a positive direction, from white racism to the less volatile issue of racial and cultural diversity in America.

See also *To Secure These Rights* (1947); Executive Order 9981 (1948); *Brown v. Board of Education* (1954); Civil Rights Act of 1964; Moynihan Report (1965); Kerner Commission Report Summary (1968).

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Michael J. O'Neal

Document Text

One America in the 21st Century

Today, I ask the American people to join me in a great national effort to perfect the promise of America for this new time as we seek to build our more perfect union.... That is the unfinished work of our time, to lift the burden of race and redeem the promise of America.

President Clinton, June 14, 1997

America's greatest promise in the 21st century lies in our ability to harness the strength of our racial diversity. The greatest challenge facing Americans is to accept and take pride in defining ourselves as a multiracial democracy. At the end of the 20th century, America has emerged as the worldwide symbol of opportunity and freedom through leadership that constantly strives to give meaning to democracy's fundamental principles. These principles justice, opportunity, equality, and racial inclusion must continue to guide the planning for our future.

On June 13, 1997, President William Jefferson Clinton issued Executive Order No. 13050 (the "Executive Order"), which created the Initiative on Race (the "Initiative") and authorized the creation of an Advisory Board to advise the President on how to build one America for the 21st century. The Board, consisting of Dr. John Hope Franklin (chairman), Linda Chavez-Thompson, Reverend Dr. Suzan D. Johnson Cook, Thomas H. Kean, Angela E. Oh, Bob Thomas, and William F. Winter, was tasked with examining race, racism, and the potential for racial reconciliation in America using a process of study, constructive dialogue, and action.

Board members have spent the last 15 months seeking ways to build a more united and just America. They have canvassed the country meeting with and listening to Americans who revealed how race and racism have impacted their lives. Board meetings focused on the role race plays in civil rights enforcement, education, poverty, employment, housing, stereotyping, the administration of justice, health care, and immigration. Members have convened forums with leaders from the religious and corporate sectors.

This Report, a culmination of the Board's efforts, is not a definitive analysis of the state of race relations in America today. Board members had no independent authority to commit Federal resources to a particular problem, community, or organization. Rather, this Report is an account of the Board's experiences and impressions and includes all of the recommendations for action submitted by the Board to the President following its formal meetings, Many have already been implemented or are awaiting congressional action.

Chapter One—Searching for Common Ground

Throughout the year, the Board heard stories and shared experiences that reinforced its belief that we are a country whose citizens are more united than divided. All too often, however, racial differences and discrimination obstruct our ability to move beyond race and color to recognize our common values and goals. Common values include the thirst for freedom, desire for equal opportunity, and a belief in fairness and justice; collective goals are securing a decent affordable home, a quality education, and a job that pays decent wages. All people, regardless of race, want financial and personal security, adequate and available health care, and children who are healthy and well-educated. Chapter One discusses these shared goals and values and also describes how the Initiative used dialogue as a tool for finding common ground. Through One America Conversations, the Campus Week of Dialogue, Statewide Days of Dialogue, tribal leaders meetings, and the *One America Dialogue Guide*, the Initiative was able to spark dialogue across the country. The chapter also points to the importance of recruiting a cadre of leaders to provide strong leadership in the corporate, religious, and youth sectors of our society and provides examples of Promising Practices.

Chapter Two—Struggling with the Legacy of Race and Color

Chapter Two confronts the legacy of race in this country and in so doing, answers the question of whether race matters in America. Our Nation still

struggles with the impact of its past policies, practices, and attitudes based on racial differences. Race and ethnicity still have profound impacts on the extent to which a person is fully included in American society and provided the equal opportunity and equal protection promised to all Americans. All of these characteristics continue to affect an individual's opportunity to receive an education, acquire the skills necessary to maintain a good job, have access to adequate health care, and receive equal justice under the law.

Americans must improve their understanding of the history of race in this country and the effect this history has on the way many minorities and people of color are treated today. Each minority group shares a common history of legally mandated and/or socially and economically imposed subordination to white European-Americans and their descendants. In this chapter, the experiences of American Indians and Alaska Natives, African Americans, Latinos, Asian Pacific Americans, and white immigrants are highlighted.

The lesson of this chapter is that the absence of both knowledge and understanding about the role race has played in our collective history continues to make it difficult to find solutions that will improve race relations, eliminate disparities, and create equal opportunities in all areas of American life. This absence also contributes to conflicting views on race and racial progress held by Americans of color and white Americans.

This is especially relevant in the context of race-conscious affirmative action programs. Lack of knowledge and understanding about the genesis and consequences of racial discrimination in America often make it difficult to discuss affirmative action remedies productively. It also obscures the significant progress made in the last two decades in eliminating racial disparities in the workplace and in educational institutions through the use of properly constructed affirmative action strategies.

Chapter Three—The Changing Face of America

In Chapter Three, the Board examines the changing face of America. The discussion of race in this country is no longer a discussion between and about blacks and whites. Increasingly, conversations about race must include all Americans, including, but not limited to, Hispanics, American Indians and Alaska Natives, and Asian Pacific Americans. Statistics show that by the year 2050, the population in the United States will be approximately 53 percent white, 25 percent Hispanic, 14 percent black, 8 percent Asian Pacific American, and 1 percent American Indian and Alaska Native. This represents a significant shift from our current demographics of 73 percent white, 12 percent black, 11 percent Hispanic, 4 percent Asian Pacific American, and 1 percent American Indian and Alaska Native.

Further complicating the discussions of race is the increasing amount of interracial marriages. Americans are marrying persons of a different race at consistently high rates. U.S. Census data show that 31 percent of native-born Hispanic husbands and wives, between ages 25 and 34, have white spouses. In the native-born Asian Pacific American category, 36 percent of the men and 45 percent of the women marry white spouses.

The complexities, challenges, and opportunities that arise from our growing diversity point to the need for a new language, one that accurately reflects this diversity. Our dialogue must reflect the steps being taken to close the gap in data reporting on America's less visible racial groups American Indians, Alaska Natives, Native Hawaiians, and all of the subgroups of Asian Pacific Americans and Hispanics.

Chapter Four—Bridging the Gap

Chapter Four summarizes key facts and background information that emerged from each of the Board's formal meetings and the recommendations made to the President on civil rights enforcement, education, economic opportunity, stereotypes, criminal justice, health care, and the immigrant experience. The data show that although minorities and people of color have made progress in terms of the indicators used to measure quality of life, persistent barriers to their full inclusion in American society remain.

In the area of civil rights enforcement, the Board made the following recommendations:

- Strengthen civil rights enforcement.
- Improve data collection on racial and ethnic discrimination.
- Strengthen laws and enforcement against hate crimes.

Two of the early Board meetings focused on the role of education in helping to overcome racial disparities. These meetings stressed the importance of educating children in high-quality, integrated schools, where they have the opportunity to learn about and from each other. These meetings served as the basis for the following recommendations:

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• Enhance early childhood learning.
• Strengthen teacher preparation and equity.
• Promote school construction.
• Promote movement from K 12 to higher education.
• Promote the benefits of diversity in K 12 and higher education.
• Provide education and skills training to overcome increasing income inequality that negatively affects the immigrant population.
• Implement the Comprehensive Indian Education Policy.

The Board analyzed the issue of economic opportunity through formal meetings on employment and poverty. Information gathered showed that a substantial amount of disparity remains between the economic prosperity of whites and most minority groups. Also, the Board found clear evidence of active forms of discrimination in employment, pay, housing, and consumer and credit markets. The Board made the following recommendations for correcting these disparities:

• Examine income inequality.
• Support supplements for Small Business Administration programs.
• Use the current economic boom to provide necessary job training and to increase the minimum wage.
• Evaluate anti-poverty program effectiveness.
• Provide a higher minimum wage for low-wage workers and their families.
• Improve racial data collection.
• Evaluate the effectiveness of job-training programs designed to reach minority and immigrant communities.
• Commission a study to examine American Indian economic development.
• Support the right of working people to engage in collective bargaining.

The U.S. Department of Housing and Urban Development convened a meeting for the Board on race and housing. Active forms of racial discrimination continue to plague our housing markets. According to current statistics, blacks and Hispanics are likely to be discriminated against roughly half of the time that they go to look for a home or apartment. The recommendations for addressing the disparities in the area of housing follow;

• Continue to use testing to develop evidence of continuing discrimination.
• Highlight housing integration efforts.
• Support the increase and targeting of Federal funds for urban revitalization.
• Support community development corporations.
• Promote American Indian access to affordable housing.

In one meeting, the Board addressed the issues surrounding negative racial stereotypes, which are the core elements of discrimination and racial division. Stereotypes influence how people of different races and ethnicities view and treat each other. The Board's recommendations on stereotypes, which follow, focus on using both public and private institutions and individuals to challenge policymakers and institutional leaders to examine the role stereotypes play in policy development, institutional practices, and our view of our own racial identity:

• Hold a Presidential event to discuss stereotypes.
• Institutionalize the Administration's promotion of racial dialogue.
• Convene a high-level meeting on the problem of racial stereotypes with leaders from the media.

At the Board meeting on race, crime, and the administration of justice, experts explained how racial disparities and prejudices affect the way in which minorities are treated by the criminal system. Examples of this phenomenon can be found in the use of racial profiling in law enforcement and in the differences in the rates of arrest, conviction, and sentencing between whites and minorities and people of color. These discoveries led to the following recommendations:

• Expand data collection and analysis.
• Consider restricting the use of racial profiling.
• Eliminate racial stereotypes and diversify law enforcement.
• Reduce or eliminate drug sentencing disparities.
• Promote comprehensive efforts to keep young people out of the criminal justice system.
• Continue to enhance community policing and related strategies.
• Support initiatives that improve access to courts.
• Support American Indian law enforcement.

The U.S. Department of Health and Human Services sponsored a meeting on race and health for the Board. Disparities in the treatment of whites and minorities and people of color by the health care system can be attributed to disparities in employment, income, and wealth. The Board made the following recommendations as a result of information received at this meeting:

• Continue advocating for broad-based expansions in health insurance coverage.
• Continue advocacy of increased health care access for underserved groups.

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• Continue pushing Congress for full funding of the Race and Ethnic Health Disparities Initiatives.

• Increase funding for existing programs targeted to under served and minority populations.

• Enhance financial and regulatory mechanisms to promote culturally competent care.

• Emphasize the importance of cultural competence to institutions training health care providers.

The Carnegie Endowment for International Peace and the Georgetown University Law Center jointly sponsored a meeting for the Board that explored immigration and race. Evidence showed that race is the source of a fundamental rift in American society that affects immigrants and their experiences with discrimination. The Board issued the following recommendations as a result of the information it received in this meeting:

• Strongly enforce anti-discrimination measures on behalf of every racial and ethnic minority group.

• Back programs that would promote a clear understanding of the rights and duties of citizenship.

• Support immigrant-inclusion initiatives.

Chapter Five—Forging a New Future

Chapter Five calls for the continuation of the Initiative to complete the work already begun. The following elements are the most critical in developing a meaningful long-term strategy to advance race relations in the 21st century:

• A President's Council for One America. This year's effort has been vital in laying the foundation for the larger task that lies ahead. The creation of a President's Council for One America speaks to the need for a long-term strategy dedicated to building on the vision of one America. Its main function would be to coordinate and monitor the implementation of policies designed to increase opportunity and eliminate racial disparities.

• A public education program using a multimedia approach. A public education program could assist in keeping the American public informed on the facts about race in America, pay tribute to the different racial and ethnic backgrounds of Americans, and emphasize and highlight the common values we share as a racially diverse Nation.

• A Presidential "call to action" of leaders from all sectors of our society. A call to action should come from the President to leaders in State and local government and private sector organizations to address the racial and ethnic divides in their communities. Public/private partnerships can demonstrate leadership by working collaboratively to make racial reconciliation a reality in all communities across America.

• A focus on youth. Young Americans are this Nation's greatest hope for realizing the goal of one America. Young people must be engaged in efforts to bridge racial divides and promote racial reconciliation. Organizations and groups that encourage the development of youth leaders must be supported.

This chapter also includes a brief discussion of other critical issues, such as environmental justice, media and stereotyping, and police misconduct, that the Advisory Board believes deserve further dialogue. Among these issues is affirmative action, which the Board believes remains an important tool among many for overcoming racial discrimination and promoting the benefits of diversity in education, employment, and other contexts.

Chapter Five concludes with the 10 suggestions on how Americans can help to build on the momentum that will lead our Nation into the 21st century as one America.

Glossary

affirmative action	any program that takes positive steps to increase the representation of minority groups in employment, college admissions, and the like
collective bargaining	negotiation between an employer and a labor union
hate crimes	crimes that are motivated by animus against a particular group, such as African Americans, gays, or women
K–12	kindergarten through twelfth grade
racial profiling	in law enforcement, the practice of singling out members of a racial (or ethnic) group for closer scrutiny, based on the belief that such people are more likely to commit crimes

Clarence Thomas (AP/Wide World Photos)

Clarence Thomas's Concurrence/Dissent in *Grutter v. Bollinger*

2003

"The Constitution abhors classifications based on race."

Overview

In 2003 the U.S. Supreme Court decided *Grutter v. Bollinger*, with the majority opinion sanctioning the use of affirmative action in higher education. Justice Clarence Thomas wrote a separate opinion, concurring in part and dissenting in part from the Court's judgment, in order to emphasize his view that government consideration of race for any purpose is unconstitutional. The case involved a challenge to the constitutionality of the University of Michigan Law School's admission policies, under which the race of any applicant from a historically disadvantaged minority group was considered a "plus" factor in the evaluation of that applicant. The plaintiff, an unsuccessful white applicant, sued the law school, alleging that its use of such affirmative action in admissions violated the Constitution's equal protection clause. The Court upheld the law school's admission program, holding that institutions of higher education may consider an applicant's race as one of many factors in a holistic, individualized assessment of each applicant in an effort to compose a diverse student body. Justice Thomas concurred in the majority's reasoning that affirmative action programs should be viewed with suspicion, but he dissented from the Court's holding that the law school's admission program passed such heightened judicial scrutiny.

Context

The first contemporary reference to affirmative action was made on March 6, 1961, when President John F. Kennedy issued Executive Order 10925. That order mandated that government contractors "take affirmative action" to ensure that their hiring and employment practices became free of racial bias. On September 24, 1965, President Lyndon B. Johnson issued Executive Order 11246, which superseded President Kennedy's order. Among other conditions, Johnson's order required that government contractors set concrete goals in their hiring of minorities, create specific measures to reach those goals, and report their progress in reaching those goals to the federal government. In essence, Johnson's order adopted the theory that civil rights laws prohibiting discrimination alone were not enough to remedy racial discrimination.

Initially, the concept of affirmative action received widespread support from both conservatives and liberals, as evidenced by President Richard Nixon's implementation of the "Philadelphia Order," a program designed by Arthur Fletcher, an African American Republican who eventually earned the distinction of being called "the father of affirmative action." The Philadelphia Order created a test program that specified required goals and timetables in the hiring and retention of minorities by craft unions and the construction industry in Philadelphia. The plan was later used a national model for federal contractors. President Nixon recalled in his memoirs his belief that affirmative action was justified, stating:

> A good job is as basic and important a civil right as a good education.… I felt that [affirmative action] was both necessary and right. We would not impose quotas, but would require federal contractors to show affirmative action to meet the goals of increasing minority employment.

On June 28, 1978, the U.S. Supreme Court issued its first decision analyzing the constitutionality of a racial classification benefiting minorities. In *Regents of the University of California v. Bakke* (1978), the Court held that the separate admissions program for minorities at the School of Medicine of the University of California, Davis, which set aside sixteen out of one hundred places for minority students, unfairly discriminated against the plaintiff, a white applicant whom the university had denied admission despite his having scored significantly higher on admissions tests than some admitted minority applicants. In a split opinion, the Court found that the medical school's admissions plan was unconstitutional as implemented because it amounted to a rigid quota. However, the Court noted that race could be a permissible consideration in higher education admissions in some circumstances.

The Court's rejection of strict race-based quotas in *Bakke* triggered an aggressive campaign by conservatives to eliminate affirmative action programs, which they characterized as "reverse discrimination" against white Ameri-

Time Line

1961

- **March 6**
  President John F. Kennedy issues Executive Order 10925, requiring that government contractors "take affirmative action" to ensure that their hiring and employment practices become free of racial bias.

1965

- **September 24**
  President Lyndon B. Johnson issues Executive Order 11246, requiring that federal contractors set goals in their hiring of minorities, create measures to reach those goals, and report their progress in reaching those goals.

1967

- **October 13**
  President Johnson issues Executive Order 11375 to amend Executive Order 11246 to include affirmative action for women.

1969

- In light of persistent discrimination, the administration of President Richard Nixon adopts the Philadelphia Plan, a test program specifying required goals and timetables in the hiring and retention of minorities by craft unions and the construction industry in the city of Philadelphia.

1970

- **February 3**
  President Nixon issues Labor Department Order No. 4, the "Philadelphia Order," extending the concept of the Philadelphia Plan to many contractors doing business with the federal government.

1971

- Order No. 4 is revised to include affirmative action for women.

1973

- The Nixon administration issues a memorandum titled "Permissible Goals and Timetables in State and Local Government Employment Practices," distinguishing between permissible affirmative action goals and timetables and impermissible racial quotas.

cans. The split among the justices in *Bakke* foreshadowed the difficulties the Court would face over the next two decades in developing a coherent constitutional framework for analyzing racial classifications intended to ameliorate the effects of past discrimination or to ensure diversity.

Just a year after *Bakke*, the Supreme Court upheld a different affirmative action plan. In *United Steelworkers of America v. Weber* (1979), an employer adopted an affirmative action plan to remedy racial imbalance in the workforce resulting from past discrimination. Prior to the affirmative action plan, the employer had hired as skilled "craft workers" only those persons who previously had such experience. Because African Americans had long been excluded from craft unions, very few African Americans had the necessary credentials, and therefore very few were eligible to be hired under the employer's policy. To remedy the racial imbalance, the employer had adopted a plan under which it would hire from the ranks of its own lower-skilled workers; it established a training program for those workers and required that at least half of new trainees be African American until such time as the percentage of African American skilled craft workers approximated the percentage of African Americans in the local labor force. The Court ruled that the plan did not impermissibly discriminate against white employees. The Court held that measures taken to remedy a conspicuous racial imbalance that exists owing to past discrimination are permissible if they are temporary and do not "unnecessarily trammel the interests" of white employees or present an absolute bar to their advancement.

In 1989 in *City of Richmond v. J. A. Croson Co.*, on the other hand, the Court held that a program setting aside a portion of the city's construction funds for minority-owned firms was not "narrowly tailored" to serve a "compelling governmental interest" and was therefore unconstitutional under the equal protection clause of the Fourteenth Amendment. In *Croson*, a majority of the Court held for the first time that affirmative action programs designed to aid racial minorities were subject to the same high degree of judicial skepticism "strict scrutiny" under the Fourteenth Amendment's equal protection clause as government action intended to injure racial minorities. The next year, however, in *Metro Broadcasting, Inc. v. Federal Communications Commission* (1990), the Supreme Court distinguished federal affirmative action programs from those adopted by a state, holding that such federal programs were subject to a lesser degree of judicial skepticism, known as "intermediate scrutiny." Among other reasons, the Court believed that the special constitutional role of Congress in enforcing the post Civil War constitutional amendments (the Thirteenth, Fourteenth, and Fifteenth Amendments) justified a greater degree of judicial deference to congressional remedies for racial inequality than was appropriate for state action in the area.

Yet the Court's tolerance for federal affirmative action programs proved to be short lived. In 1995 in *Adarand Constructors, Inc. v. Peña*, the Court reversed the *Metro Broadcasting* decision and held that "federal racial classifications, like those of a State, must serve a compelling gov-

ernmental interest, and must be narrowly tailored to further that interest." Applying this heightened standard, the Court struck down a federal affirmative action program that provided a financial incentive to contractors who employed subcontracting firms owned by members of historically disadvantaged minority groups.

In *Adarand*, Justice Thomas agreed with the Court's decision striking down the federal affirmative action program but wrote a separate concurring opinion to express his belief that laws designed to benefit a historically oppressed racial group are as morally and constitutionally troubling as laws designed to subjugate such a group. The reasoning employed by Justice Thomas in his *Adarand* concurrence challenged both the constitutionality and moral underpinnings of government-sponsored affirmative action programs. *Adarand* was the last major Supreme Court case prior to *Grutter v. Bollinger* to assess the permissibility of race-conscious government action intended to correct racial imbalances or achieve racial diversity.

Coincident with *Grutter*, on June 23, 2003, the Court decided *Gratz v. Bollinger*, declaring unconstitutional the University of Michigan's undergraduate admissions program, which awarded additional admissions points based upon an applicant's membership in an underrepresented minority group. In *Grutter v. Bollinger*, the Court would address a constitutional challenge to the University of Michigan Law School's admission program, which considered an applicant's race as one of many factors in an individualized assessment of each applicant in order to create a diverse student body. As Justice Sandra Day O'Connor's majority opinion notes, the law school's admissions policy aimed to "focus on academic ability coupled with a flexible assessment of applicants' talents, experiences, and potential 'to contribute to the learning of those around them.'" In addition to considering numerical factors such as each applicant's Law School Admission Test scores and undergraduate grade point average, the law school also considered a variety of "'soft' variables," such as the applicant's personal essay, recommendation letters, and areas of undergraduate study.

The policy also directed admissions officers to consider what contribution an applicant could make to the diversity of the law school's student body. While the policy directed consideration of the "many possible bases for diversity admissions," it also reaffirmed the law school's long-standing commitment to "racial and ethnic diversity with special reference to the inclusion of students from groups which have been historically discriminated against, like African-Americans, Hispanics and Native Americans, who without this commitment might not be represented in our student body in meaningful numbers." The law school's policy did not employ quotas or seek a predefined number of such students in each entering class. It did, however, seek to enroll a "critical mass" of students from underrepresented minority groups in order to ensure "their ability to make unique contributions to the character of the Law School" and to avoid racial isolation.

A rejected white applicant sued the law school. She alleged that the law school's consideration of race, even

Time Line

1978

- **June 28**
  The Supreme Court decides *Regents of the University of California v. Bakke*, declaring illegal the admissions program of the School of Medicine of the University of California, Davis, which set aside a specified number of spaces for minority students.

1979

- **June 27**
  The Supreme Court decides *United Steelworkers of America v. Weber*, upholding an employer's affirmative action policies designed to remedy a conspicuous racial imbalance in the employer's workforce resulting from past discrimination against minorities.

1989

- **January 23**
  The Supreme Court decides *City of Richmond v. J. A. Croson Co.*, declaring unconstitutional a city program designating a portion of the city's construction funds for minority-owned firms.
- **June**
  President George H. W. Bush appoints Clarence Thomas to the U.S. Court of Appeals for the District of Columbia Circuit.

1990

- **June 27**
  The Supreme Court decides *Metro Broadcasting, Inc. v. Federal Communications Commission*, holding that although state affirmative action programs are presumptively unconstitutional under the 1989 *Croson* ruling, federal affirmative action programs should be evaluated under a less stringent standard and may be constitutional.

1991

- **July 1**
  President Bush nominates Thomas to the Supreme Court to replace the retiring justice Thurgood Marshall.

Time Line

1991

- **October 15**
  The U.S. Senate, by a vote of fifty-two to forty-eight, confirms Thomas as the second African American Supreme Court justice in history.

1995

- **June 12**
  The Supreme Court decides *Adarand Constructors, Inc. v. Peña*, reversing *Metro Broadcasting* and holding that both federal and state race-conscious action, whether designed to aid or injure minorities, is presumptively unconstitutional.

1996

- **November 5**
  California voters narrowly approve Proposition 209, which prohibits state affirmative action programs in employment, education, and contracting.

2003

- **June 23**
  The Supreme Court decides *Gratz v. Bollinger*, declaring unconstitutional the points-based system of affirmative action of the University of Michigan's undergraduate admissions program; the Court also decides *Grutter v. Bollinger*, upholding the more holistic consideration of race in the University of Michigan Law School's admission program, with Thomas issuing a separate opinion to both concur and dissent.

2007

- **June 28**
  In *Parents Involved in Community Schools v. Seattle School District No. 1*, the Supreme Court strikes down two school districts' attempts to prevent resegregation of public schools by considering students' race in making school assignments.

though it did not amount to a rigid quota, violated various civil rights statutes and the Fourteenth Amendment's equal protection clause, which provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws."

The Supreme Court, in Justice O'Connor's majority opinion, upheld the law school's admission policy. The Court applied its most stringent standard of review, known as strict scrutiny, which requires that the use of race be justified by a "compelling governmental interest" and that the means used to further that interest be "narrowly tailored," with no "less restrictive means" apparent. The Court held that the law school's judgment that a diverse student body provides educational benefits to all students was entitled to judicial respect, and the Court agreed that consideration of race in order to achieve a diverse student body served a compelling governmental interest. The Court reasoned that substantial educational benefits flow from a diverse student body. Diversity, the opinion states, quoting the district court, "promotes 'cross-racial understanding,' helps to break down racial stereotypes, and 'enables [students] to better understand persons of different races.' These benefits are 'important and laudable,' because 'classroom discussion is livelier, more spirited, and simply more enlightening and interesting' when the students have 'the greatest possible variety of backgrounds.'" The Court also held that the law school's limited consideration of race as a "plus" factor in an individualized, holistic, flexible assessment of each candidate was narrowly tailored to achieving these interests. The Court cautioned, however, that it believed that in twenty-five years, consideration of race in admissions even in the limited fashion approved in *Grutter* should no longer be necessary to achieve racial diversity. In a separate opinion, Thomas agreed with some of the majority's opinions, but in the main he rejected the view that race consciousness in the law school's admissions policy was constitutional.

About the Author

Clarence Thomas, the second African American justice of the U.S. Supreme Court, was born in Pin Point, Georgia, in 1948. Thomas's mother raised him and his two siblings, Myers and Emma, after their father abandoned the family. Pin Point was an impoverished community; the town lacked a sewage system and paved roads. When Thomas was seven years old, a fire destroyed the family's Pin Point home, and Thomas's mother sent the future justice and his younger brother to live with their maternal grandparents, Myers and Christine Anderson, in Savannah, Georgia.

The Andersons provided what many African Americans considered a middle-class upbringing for the Thomas brothers. That did not shield the young Clarence from being put to work by his self-made grandfather, who often woke the child at 3 AM to help with his fuel business and to complete household chores. The Andersons paid for their grandson's private school education at the all-black elementary school run by Saint Benedict the Moor Catholic Church in Savannah.

Thomas distinguished himself as an exceptional student at Saint Benedict, despite feeling that he did not fit in with the middle-class African American children there. For example, he still had a Creole-based Gullah accent, a result of the time he had spent with his grandfather on the coasts of South Carolina and Georgia. Some classmates nicknamed Thomas "ABC: America's Blackest Child" because of his full lips, coarse hair, and dark skin. Nonetheless, as one of his biographers has noted, Thomas was a "legend" in the black Catholic community, serving as an altar boy and volunteering at Mass and also as a recruiter for Saint Benedict at area elementary schools.

After two years at the Catholic all-black Saint Pius X High School, Thomas enrolled at Saint John Vianney Minor Seminary, an exclusive virtually all-white school on an island six miles from Savannah. Thomas wanted to become the first African American priest in Savannah; he was one of only two African American seminarians during the 1964 school year. Thomas excelled at the seminary, despite feeling alienated there by some of the white seminarians.

Upon graduating from Saint John Vianney in 1967, Thomas enrolled at Conception Seminary in northwest Missouri. Thomas spent only one year in Missouri owing to both the fundamental changes that occurred within the Catholic Church during the 1960s and the racial turmoil of the times. On April 4, 1968, a fellow seminarian, upon hearing that Martin Luther King, Jr., had been shot, used an epithet to state that he hoped King died. Disturbed by the racial tension at Conception, Thomas left Missouri for the College of the Holy Cross in Worcester, Massachusetts.

At Holy Cross, Thomas helped to form the school's first Black Student Union, immersed himself in the speeches of Malcolm X, grew his hair out into an Afro, and daily donned what many of his classmates considered a Black Panther style outfit: army fatigues, leather jacket, and a beret. During his senior year at Holy Cross, he became less enthused with protesting and being what he considered "drunk with anger." He instead focused on putting his education to use as a civil rights lawyer in Savannah.

During his senior year at Holy Cross, Thomas decided to next attend Yale Law School. While at Yale, he worked hard to distinguish himself. During his summer of law school, he worked at one of the most prominent civil rights law firms in Georgia. Thomas impressed the partners at the Georgia firm, who offered him a position, but he declined, focusing on obtaining a job in private practice. However, he eventually instead accepted a position with the attorney general of Missouri, John C. Danforth. Thomas worked as an assistant attorney general under Danforth, primarily handling tax matters. After Danforth's election to the U.S. Senate, Thomas soon moved to Washington, D.C., to work as a legislative assistant in his office.

In 1981, President Ronald Reagan appointed Thomas as the assistant secretary of education for the Office of Civil Rights in the U.S. Department of Education and subsequently appointed him chairman of the U.S. Equal Employment Opportunity Commission. In June 1989, President George H. W. Bush appointed Thomas to the U.S. Court of Appeals for the District of Columbia Circuit. On July 1, 1991, following Justice Thurgood Marshall's announcement of his retirement, President Bush nominated Thomas to the Supreme Court of the United States. After a contentious hearing, the Senate confirmed his nomination by a vote of fifty-two to forty-eight, the narrowest margin in favor of a Supreme Court nominee in over a century. With his appointment, Thomas became the second African American Supreme Court justice in history. Upon joining the Court, he immediately aligned himself with its most conservative members. Justice Thomas regularly voted to strike down affirmative action programs, to limit the right to reproductive freedom, and to narrow the scope of federal civil rights laws, such as the Voting Rights Act of 1965.

Explanation and Analysis of the Document

Justice Thomas, joined by Justice Antonin Scalia, both concurred with and dissented from the Court's ruling. Thomas's opinion adheres to his view that the government cannot take account of race under any circumstances unless pressing emergency circumstances (such as national security) are at stake. For Thomas, "our Constitution is color-blind" a quote taken from Justice John Marshall Harlan's dissent in the landmark 1896 case *Plessy v. Ferguson*, which established the "separate but equal" doctrine forbidding governmental consideration of race in nearly all circumstances, whether intended to harm or help historically oppressed groups.

In the introductory paragraphs of his opinion, Thomas announces his position. He begins with a quotation from an address delivered by the abolitionist Frederick Douglass in 1865, entitled "What the Black Man Wants." In that speech Douglass says: "If the negro cannot stand on his own legs, let him fall also. All I ask is, give him a chance to stand on his own legs!" With this quotation, Thomas makes clear that he opposes affirmative action programs. Such programs, he reasons, are benevolent, but they are also condescending and unconstitutional: "The majority upholds the Law School's racial discrimination not by interpreting the people's Constitution, but by responding to a faddish slogan of the cognoscenti." After expressing agreement with some incidental conclusions in the majority opinion, he launches into his dissent.

In Part I of his opinion, Thomas argues that none of the law school's proffered reasons could justify its use of race in admissions. Under the existing case law, he contends, governmental consideration of race is permitted only when done in the interest of national security or to remedy past discrimination for which the government is responsible. Consideration of race for the purpose of achieving a diverse student body is not permissible because, in his view, "diversity" is not a "compelling governmental interest." He declares, quoting his own concurrence in *Adarand Constructors, Inc. v. Peña*, that racial classifications, regardless of the purposes for which they are utilized, "ultimately have a destructive impact on the individual and our society."

Barbara Grutter and Jennifer Gratz, two of the plaintiffs in the University of Michigan affirmative action cases
(AP/Wide World Photos)

In Part II, Thomas iterates that achieving racial diversity for its own sake cannot be a compelling governmental interest. He argues, rather, that consideration of race in law school admissions should be permitted only if it furthers some other goal, such as the putative educational benefits that a more diverse learning environment provides a stated goal of the school. However, Thomas asserts, the law school failed to try other race-neutral alternatives, such as changing its admissions criteria across the board, to achieve the same educational benefits asserted to flow from racial diversity.

Thomas argues in Part III that admissions programs that try to ensure diversity do not meet the "compelling governmental interest" requirement because the goal of law school diversity is not a pressing public necessity. He contends, in fact, that states do not have a compelling interest in operating state-run law schools at all because operating law schools is not a "pressing public necessity" and that it therefore follows that they cannot have a compelling interest in running an elite law school where high admissions requirements result in the lack of diversity that the law school is concerned with. The only possible compelling interest a state could have in this field, he argues, would be in the training of its citizens to become lawyers within the state. The University of Michigan Law School, however, as an elite law school, trains relatively few Michigan citizens, and relatively few of its graduates remain in Michigan to practice law.

In Part IV, Justice Thomas asserts that Justice O'Connor's majority opinion erroneously applied the governing legal standards in deciding the case. Specifically, Thomas contends that the law school's admissions program is not "narrowly tailored" to achieve its educational interest. Under the Court's precedents, he writes, governmental consideration of race is permitted only when it is the single method of achieving a compelling goal. Thomas argues that

Essential Quotes

"The majority upholds the Law School's racial discrimination not by interpreting the people's Constitution, but by responding to a faddish slogan of the cognoscenti."

(Introduction)

"The Constitution abhors classifications based on race, not only because those classifications can harm favored races or are based on illegitimate motives, but also because every time the government places citizens on racial registers and makes race relevant to the provision of burdens or benefits, it demeans us all."

(Part I)

such is not the case in *Grutter*. Among other possibilities, he believes that if the law school were to adopt "different admissions methods, such as accepting all students who meet minimum qualifications" perhaps using lower Law School Admission Test and grade-point-average thresholds "the Law School could achieve its vision of the racially aesthetic student body without the use of racial discrimination." The majority opinion did not require the law school to explore such possibilities because it deferred to the school's judgment that its present admissions program was necessary, doing so in view of the educational autonomy grounded in the First Amendment that has traditionally been granted to institutions of higher education. Thomas argues, however, that First Amendment notions of academic freedom do not lessen the scrutiny that courts should apply when assessing whether a state university's race-conscious action violates the equal protection clause.

In Part V of his opinion Thomas criticizes the law school's use of highly selective admissions criteria, primarily the Law School Admissions Test (LSAT). He argues that no law school is required to use the LSAT as its primary admissions criterion, but having decided to do so, a law school must be aware of the racially disproportionate results in LSAT scores. Thus, having determined to rely heavily on the LSAT, Thomas states, the law school "must accept the constitutional burdens that come with this decision." The law school, he states, should not be permitted to employ an admissions device that will cause a racial imbalance and then seek to correct that imbalance through consideration of race in the admissions process.

Thomas contests the idea that affirmative action is beneficial to racial minorities in Part VI. To the contrary, such programs, he writes once more quoting his *Adarand* concurrence are a form of discrimination that "engender[s] attitudes of superiority or, alternatively, provoke[s] resentment among those who believe that they have been wronged by the government's use of race," and they also "stamp minorities with a badge of inferiority and may cause them to develop dependencies or to adopt an attitude that they are 'entitled' to preferences." Justice Thomas here expands upon the "stigma" he believed is imposed on racial minorities by affirmative action in university admissions:

> The majority of blacks are admitted to the Law School because of discrimination, and because of this policy all are tarred as undeserving.... When blacks take positions in the highest places of government, industry, or academia, it is an open question today whether their skin color played a part in their advancement. The question itself is the stigma because either racial discrimination did play a role, in which case the person may be deemed "otherwise unqualified," or it did not, in which case asking the question itself unfairly marks those blacks who would succeed without discrimination.

Finally, in Part VII of his opinion, Thomas states that he agrees with the majority opinion on two points. First, he agrees that law schools may not distinguish between different groups of underrepresented minorities in admissions. Second, he agrees with the majority's remark that any consideration of race in admissions by state-run law schools would be illegal in twenty-five years, as he believes them to be illegal currently.

Justice Thomas's opinion in *Grutter* is grounded in his view that the Fourteenth Amendment's equal protection clause, both textually and as a matter of the framers' original intent, presumptively forbids all government considera-

tion of race, regardless of whether the government is acting to aid or injure historically oppressed groups. Other justices have criticized this view for focusing on formal equal treatment rather than or in addition to issues of substantive equality. Justices and legal scholars supporting substantive equality have argued that equal protection sometimes permits differential treatment to account for unequal circumstances and that the framers of the equal protection clause themselves engaged in a form of race-conscious "affirmative action," through the variety of measures directly and solely aimed at aiding free blacks after the Civil War.

Audience

Supreme Court opinions are addressed to the parties affected by the judgment, such as private or governmental litigants whose conduct is found to be illegal or unconstitutional. Supreme Court opinions are also addressed to the lower courts, where they either affirm the lower courts' judgments in the case at hand or reverse them by clarifying, modifying, or overruling earlier cases or adopting a new interpretation of the Constitution or a federal statute. Separate concurring or dissenting opinions, such as Justice Thomas's in *Grutter*, are not part of the Court's ruling and, as such, are not controlling law. Such opinions, therefore, are most directly addressed to the other justices on the Supreme Court, as intended to explain areas of disagreement. Perhaps more important, dissenting opinions are also addressed to a much larger audience of lower-court judges, lawyers, academics, and the general public to explain why the dissenting justice believes the Court's holding to be incorrect and to convince this larger audience that the dissenting justice's view is correct. Among this audience may be individuals who could contribute in the future, as litigants, lawyers, or justices, to the reversal of the opinion in question.

Impact

Justice Thomas's opinion in *Grutter* has been the subject of wide discussion in subsequent cases and legal scholarship regarding racial equality, diversity, and affirmative action. His view that the Constitution forbids the government from considering race under any circumstance was embraced by a plurality of the Court in *Parents Involved in Community Schools v. Seattle School District No. 1* (2007). In that case, the Court severely constrained the ability of school districts to consider race in making student assignments in order to prevent incidental resegregation of public schools. Meanwhile, legal scholars have engaged in debate over the views expressed by Thomas in his *Grutter* opinion. Some have noted that his "color-blind" position is inconsistent with his professed commitment to interpreting

Questions for Further Study

1. Compare this document with A. Leon Higginbotham: "An Open Letter to Justice Clarence Thomas from a Federal Judicial Colleague." Higginbotham was highly skeptical of Thomas's appointment to the Supreme Court, arguing that the new justice might set back the cause of civil rights. Do you think that Thomas confirmed Higginbotham's fears with his decision in *Grutter v. Bollinger*?

2. What is your opinion of the type of race-based admissions policy that was the bone of contention in this case? Do you believe such a policy is fair? Would you agree with Thomas that such a policy potentially stigmatizes African Americans?

3. Thomas uses quotations from the abolitionist Frederick Douglass and Justice John Marshall Harlan's dissent in the 1896 case *Plessy v. Ferguson*, which created the legal basis for Jim Crow segregation. What did Thomas gain from using these figures and their words in buttressing his argument?

4. Both the entry and the document make reference to the 1978 case *Regents of the University of California v. Bakke*. How did the outcome of *Grutter v. Bollinger* differ from that of *Bakke*? What might have changed in the social and legal environment to account for any difference?

5. The word *diversity* is often used in academic, business, and other environments to refer to the notion that all student bodies, workplaces, and the like benefit from the presence of people of various races and ethnicities. Do you believe this is true? How would you respond to the argument that historically black colleges lack racial diversity?

the Constitution according to the original intent of its drafters, because the very drafters of the equal protection clause enacted race-conscious laws to aid newly freed African Americans after the Civil War. Others have argued that while governmental color blindness in all circumstances might be a laudable ideal, it is not a practical solution in a society yet shaped by racial inequalities. As of early 2010, Thomas's view of the equal protection clause as forbidding the government from engaging in affirmative action to achieve or maintain diversity had not yet commanded the agreement of a majority of his colleagues on the Supreme Court.

See also Fourteenth Amendment to the U.S. Constitution (1868); *Plessy v. Ferguson* (1896); Anita Hill's Opening Statement at the Senate Confirmation Hearing of Clarence Thomas (1991); A. Leon Higginbotham: "An Open Letter to Justice Clarence Thomas from a Federal Judicial Colleague" (1992).

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William M. Carter, Jr.

Clarence Thomas's Concurrence/Dissent in *Grutter v. Bollinger*

Justice Thomas, with whom Justice Scalia joins as to Parts I VII, concurring in part and dissenting in part.

Frederick Douglass, speaking to a group of abolitionists almost 140 years ago, delivered a message lost on today's majority:

"[I]n regard to the colored people, there is always more that is benevolent, I perceive, than just, manifested towards us. What I ask for the negro is not benevolence, not pity, not sympathy, but simply *justice*. The American people have always been anxious to know what they shall do with us.... I have had but one answer from the beginning. Do nothing with us! Your doing with us has already played the mischief with us. Do nothing with us! If the apples will not remain on the tree of their own strength, if they are worm-eaten at the core, if they are early ripe and disposed to fall, let them fall! ... And if the negro cannot stand on his own legs, let him fall also. All I ask is, give him a chance to stand on his own legs! Let him alone! ... [Y]our interference is doing him positive injury." What the Black Man Wants: An Address Delivered in Boston, Massachusetts, on 26 January 1865, reprinted in 4 The Frederick Douglass Papers 59, 68 (J. Blassingame & J. McKivigan eds. 1991) (emphasis in original).

Like Douglass, I believe blacks can achieve in every avenue of American life without the meddling of university administrators. Because I wish to see all students succeed whatever their color, I share, in some respect, the sympathies of those who sponsor the type of discrimination advanced by the University of Michigan Law School (Law School). The Constitution does not, however, tolerate institutional devotion to the status quo in admissions policies when such devotion ripens into racial discrimination. Nor does the Constitution countenance the unprecedented deference the Court gives to the Law School, an approach inconsistent with the very concept of "strict scrutiny."

No one would argue that a university could set up a lower general admission standard and then impose heightened requirements only on black applicants. Similarly, a university may not maintain a high admission standard and grant exemptions to favored races. The Law School, of its own choosing, and for its own purposes, maintains an exclusionary admissions system that it knows produces racially disproportionate results. Racial discrimination is not a permissible solution to the self-inflicted wounds of this elitist admissions policy.

The majority upholds the Law School's racial discrimination not by interpreting the people's Constitution, but by responding to a faddish slogan of the cognoscenti. Nevertheless, I concur in part in the Court's opinion. First, I agree with the Court insofar as its decision, which approves of only one racial classification, confirms that further use of race in admissions remains unlawful. Second, I agree with the Court's holding that racial discrimination in higher education admissions will be illegal in 25 years. See *ante*, at 31 (stating that racial discrimination will no longer be narrowly tailored, or "necessary to further" a compelling state interest, in 25 years). I respectfully dissent from the remainder of the Court's opinion and the judgment, however, because I believe that the Law School's current use of race violates the Equal Protection Clause and that the Constitution means the same thing today as it will in 300 months.

I

The majority agrees that the Law School's racial discrimination should be subjected to strict scrutiny. *Ante*, at 14. Before applying that standard to this case, I will briefly revisit the Court's treatment of racial classifications.

The strict scrutiny standard that the Court purports to apply in this case was first enunciated in *Korematsu v. United States* (1944). There the Court held that "[p]ressing public necessity may sometimes justify the existence of [racial discrimination]; racial antagonism never can." *Id.*, at 216. This standard of "pressing public necessity" has more frequently been termed "compelling governmental interest," see, *e.g.*, *Regents of Univ. of Cal. v. Bakke*, 299 (1978) (opinion of Powell, J.). A majority of the Court has validated only two circumstances where "pressing public necessity" or a "compelling state interest" can possibly justify racial discrimination by state actors. First, the lesson of *Korematsu* is that national security constitutes a "pressing public necessity," though the govern-

ment's use of race to advance that objective must be narrowly tailored. Second, the Court has recognized as a compelling state interest a government's effort to remedy past discrimination for which it is responsible. *Richmond v. J. A. Croson Co.*, 504 (1989).

The contours of "pressing public necessity" can be further discerned from those interests the Court has rejected as bases for racial discrimination. For example, *Wygant v. Jackson Bd. of Ed.*, (1986), found unconstitutional a collective-bargaining agreement between a school board and a teachers' union that favored certain minority races. The school board defended the policy on the grounds that minority teachers provided "role models" for minority students and that a racially "diverse" faculty would improve the education of all students. See Brief for Respondents, O. T. 1984, No. 84 1340, pp. 27 28; 476 U. S., at 315 (Stevens, J., dissenting) ("[A]n integrated faculty will be able to provide benefits to the student body that could not be provided by an all-white, or nearly all-white faculty"). Nevertheless, the Court found that the use of race violated the Equal Protection Clause, deeming both asserted state interests insufficiently compelling. *Id.*, at 275 276 (plurality opinion); *id.*, at 295 (White, J., concurring in judgment) ("None of the interests asserted by the [school board] … justify this racially discriminatory layoff policy").

An even greater governmental interest involves the sensitive role of courts in child custody determinations. In *Palmore v. Sidoti*, (1984), the Court held that even the best interests of a child did not constitute a compelling state interest that would allow a state court to award custody to the father because the mother was in a mixed-race marriage. *Id.*, at 433 (finding the interest "substantial" but holding the custody decision could not be based on the race of the mother's new husband).

Finally, the Court has rejected an interest in remedying general societal discrimination as a justification for race discrimination. See *Wygant*, *supra*, at 276 (plurality opinion); *Croson*, 488 U.S., at 496 498 (plurality opinion); *id.*, at 520 521 (Scalia, J., concurring in judgment). "Societal discrimination, without more, is too amorphous a basis for imposing a racially classified remedy" because a "court could uphold remedies that are ageless in their reach into the past, and timeless in their ability to affect the future." *Wygant*, *supra*, at 276 (plurality opinion). But see *Gratz v. Bollinger*, *ante*, (Ginsburg, J., dissenting).

Where the Court has accepted only national security, and rejected even the best interests of a child, as a justification for racial discrimination, I conclude that only those measures the State must take to provide a bulwark against anarchy, or to prevent violence, will constitute a "pressing public necessity." Cf. *Lee v. Washington*, 334 (1968) (*per curiam*) (Black, J., concurring) (indicating that protecting prisoners from violence might justify narrowly tailored racial discrimination); *Croson*, *supra*, at 521 (Scalia, J., concurring in judgment) ("At least where state or local action is at issue, only a social emergency rising to the level of imminent danger to life and limb … can justify [racial discrimination]").

The Constitution abhors classifications based on race, not only because those classifications can harm favored races or are based on illegitimate motives, but also because every time the government places citizens on racial registers and makes race relevant to the provision of burdens or benefits, it demeans us all. "Purchased at the price of immeasurable human suffering, the equal protection principle reflects our Nation's understanding that such classifications ultimately have a destructive impact on the individual and our society." *Adarand Construction, Inc. v. Peña*, 240 (1995) (Thomas, J., concurring in part and concurring in judgment).

II

Unlike the majority, I seek to define with precision the interest being asserted by the Law School before determining whether that interest is so compelling as to justify racial discrimination. The Law School maintains that it wishes to obtain "educational benefits that flow from student body diversity," Brief for Respondents Bollinger et al. 14. This statement must be evaluated carefully, because it implies that both "diversity" and "educational benefits" are components of the Law School's compelling state interest. Additionally, the Law School's refusal to entertain certain changes in its admissions process and status indicates that the compelling state interest it seeks to validate is actually broader than might appear at first glance.

Undoubtedly there are other ways to "better" the education of law students aside from ensuring that the student body contains a "critical mass" of underrepresented minority students. Attaining "diversity," whatever it means, is the mechanism by which the Law School obtains educational benefits, not an end of itself. The Law School, however, apparently believes that only a racially mixed student body can lead to the educational benefits it seeks. How, then, is the Law School's inter-

est in these allegedly unique educational "benefits" *not* simply the forbidden interest in "racial balancing," *ante*, at 17, that the majority expressly rejects?

A distinction between these two ideas (unique educational benefits based on racial aesthetics and race for its own sake) is purely sophistic so much so that the majority uses them interchangeably. Compare *ante*, at 16 ("[T]he Law School has a compelling interest in attaining a diverse student body"), with *ante*, at 21 (referring to the "compelling interest in securing the *educational benefits* of a diverse student body" (emphasis added)). The Law School's argument, as facile as it is, can only be understood in one way: Classroom aesthetics yields educational benefits, racially discriminatory admissions policies are required to achieve the right racial mix, and therefore the policies are required to achieve the educational benefits. It is the *educational benefits* that are the end, or allegedly compelling state interest, not "diversity." But see *ante*, at 20 (citing the need for "openness and integrity of the educational institutions that provide [legal] training" without reference to any consequential educational benefits).

One must also consider the Law School's refusal to entertain changes to its current admissions system that might produce the same educational benefits. The Law School adamantly disclaims any race-neutral alternative that would reduce "academic selectivity," which would in turn "require the Law School to become a very different institution, and to sacrifice a core part of its educational mission." Brief for Respondents Bollinger et al. 33 36. In other words, the Law School seeks to improve marginally the education it offers without sacrificing too much of its exclusivity and elite status.

The proffered interest that the majority vindicates today, then, is not simply "diversity." Instead the Court upholds the use of racial discrimination as a tool to advance the Law School's interest in offering a marginally superior education while maintaining an elite institution. Unless each constituent part of this state interest is of pressing public necessity, the Law School's use of race is unconstitutional. I find each of them to fall far short of this standard.

III

◆ A

A close reading of the Court's opinion reveals that all of its legal work is done through one conclusory statement: The Law School has a "compelling interest in securing the educational benefits of a diverse student body." *Ante*, at 21. No serious effort is made to explain how these benefits fit with the state interests the Court has recognized (or rejected) as compelling, see Part I, supra, or to place any theoretical constraints on an enterprising Court's desire to discover still more justifications for racial discrimination. In the absence of any explanation, one might expect the Court to fall back on the judicial policy of *stare decisis*. But the Court eschews even this weak defense of its holding, shunning an analysis of the extent to which Justice Powell's opinion in *Regents of Univ. of Cal. v. Bakke*, (1978), is binding, *ante*, at 13, in favor of an unfounded wholesale adoption of it.

Justice Powell's opinion in *Bakke* and the Court's decision today rest on the fundamentally flawed proposition that racial discrimination can be contextualized so that a goal, such as classroom aesthetics, can be compelling in one context but not in another. This "we know it when we see it" approach to evaluating state interests is not capable of judicial application. Today, the Court insists on radically expanding the range of permissible uses of race to something as trivial (by comparison) as the assembling of a law school class. I can only presume that the majority's failure to justify its decision by reference to any principle arises from the absence of any such principle. See Part VI, *infra*.

◆ B

Under the proper standard, there is no pressing public necessity in maintaining a public law school at all and, it follows, certainly not an elite law school. Likewise, marginal improvements in legal education do not qualify as a compelling state interest.

1. While legal education at a public university may be good policy or otherwise laudable, it is obviously not a pressing public necessity when the correct legal standard is applied. Additionally, circumstantial evidence as to whether a state activity is of pressing public necessity can be obtained by asking whether all States feel compelled to engage in that activity. Evidence that States, in general, engage in a certain activity by no means demonstrates that the activity constitutes a pressing public necessity, given the expansive role of government in today's society. The fact that some fraction of the States reject a particular enterprise, however, creates a presumption that the enterprise itself is not a compelling state interest. In this sense, the absence of a public, American Bar Association (ABA) accredited, law school in Alaska, Delaware, Massachusetts, New Hampshire, and

Rhode Island, see ABA LSAC Official Guide to ABA-Approved Law Schools (W. Margolis, B. Gordon, J. Puskarz, & D. Rosenlieb, eds. 2004) (hereinafter ABA LSAC Guide), provides further evidence that Michigan's maintenance of the Law School does not constitute a compelling state interest.

2. As the foregoing makes clear, Michigan has no compelling interest in having a law school at all, much less an *elite* one. Still, even assuming that a State may, under appropriate circumstances, demonstrate a cognizable interest in having an elite law school, Michigan has failed to do so here.

This Court has limited the scope of equal protection review to interests and activities that occur within that State's jurisdiction. The Court held in *Missouri ex rel. Gaines v. Canada*, (1938), that Missouri could not satisfy the demands of "separate but equal" by paying for legal training of blacks at neighboring state law schools, while maintaining a segregated law school within the State. The equal protection "obligation is imposed by the Constitution upon the States severally as governmental entities each responsible for its own laws establishing the rights and duties of persons within its borders. It is an obligation the burden of which cannot be cast by one State upon another, and no State can be excused from performance *by what another State may do or fail to do*. That separate responsibility of each State within its own sphere is of the essence of statehood maintained under our dual system." *Id.*, at 350 (emphasis added).

The Equal Protection Clause, as interpreted by the Court in *Gaines*, does not permit States to justify racial discrimination on the basis of what the rest of the Nation "may do or fail to do." The only interests that can satisfy the Equal Protection Clause's demands are those found within a State's jurisdiction.

The only cognizable state interests vindicated by operating a public law school are, therefore, the education of that State's citizens and the training of that State's lawyers. James Campbell's address at the opening of the Law Department at the University of Michigan on October 3, 1859, makes this clear:

"It not only concerns *the State* that every one should have all reasonable facilities for preparing himself for any honest position in life to which he may aspire, but it also concerns *the community* that the Law should be taught and understood.... There is not an office *in the State* in which serious legal inquiries may not frequently arise.... In all these matters, public and private rights are constantly involved and discussed, and ignorance of the Law has frequently led to results deplorable and alarming.... [I]n the history of *this State*, in more than one instance, that ignorance has led to unlawful violence, and the shedding of innocent blood." E. Brown, Legal Education at Michigan 1859 1959, pp. 404 406 (1959) (emphasis added).

The Law School today, however, does precious little training of those attorneys who will serve the citizens of Michigan. In 2002, graduates of the University of Michigan Law School made up less than 6% of applicants to the Michigan bar, Michigan Lawyers Weekly, available at http://www.michiganlawyersweekly.com / barpassers0202.cfm, barpassers0702.cfm (all Internet materials as visited June 13, 2003, and available in Clerk of Court's case file), even though the Law School's graduates constitute nearly 30% of all law students graduating in Michigan.

Ibid. Less than 16% of the Law School's graduating class elects to stay in Michigan after law school. ABA LSAC Guide 427. Thus, while a mere 27% of the Law School's 2002 entering class are from Michigan, see University of Michigan Law School Website, available at http://www.law.umich.edu/prospectivestudents/Admissions/index.htm, only half of these, it appears, will stay in Michigan.

In sum, the Law School trains few Michigan residents and overwhelmingly serves students, who, as lawyers, leave the State of Michigan. By contrast, Michigan's other public law school, Wayne State University Law School, sends 88% of its graduates on to serve the people of Michigan. ABA LSAC Guide 775. It does not take a social scientist to conclude that it is precisely the Law School's status as an elite institution that causes it to be a way-station for the rest of the country's lawyers, rather than a training ground for those who will remain in Michigan. The Law School's decision to be an elite institution does little to advance the welfare of the people of Michigan or any cognizable interest of the State of Michigan.

Again, the fact that few States choose to maintain elite law schools raises a strong inference that there is nothing compelling about elite status. Arguably, only the public law schools of the University of Texas, the University of California, Berkeley (Boalt Hall), and the University of Virginia maintain the same reputation for excellence as the Law School. Two of these States, Texas and California, are so large that they could reasonably be expected to provide elite legal training at a separate law school to students who will, in fact, stay in the State and provide legal services to its citizens. And these two schools far outshine the Law School in producing in-state lawyers. The University of Texas, for example, sends over three-

fourths of its graduates on to work in the State of Texas, vindicating the State's interest (compelling or not) in training Texas' lawyers. *Id.*, at 691.

3. Finally, even if the Law School's racial tinkering produces tangible educational benefits, a marginal improvement in legal education cannot justify racial discrimination where the Law School has no compelling interest in either its existence or in its current educational and admissions policies.

IV

The interest in remaining elite and exclusive that the majority thinks so obviously critical requires the use of admissions "standards" that, in turn, create the Law School's "need" to discriminate on the basis of race. The Court validates these admissions standards by concluding that alternatives that would require "a dramatic sacrifice of … the academic quality of all admitted students," *ante*, at 27, need not be considered before racial discrimination can be employed. In the majority's view, such methods are not required by the "narrow tailoring" prong of strict scrutiny because that inquiry demands, in this context, that any race-neutral alternative work "'about as well.'" *Ante*, at 26 27 (quoting *Wygant*, 476 U.S., at 280, n. 6). The majority errs, however, because race-neutral alternatives must only be "workable," *ante*, at 27, and do "about as well" *in vindicating the compelling state interest*. The Court never explicitly holds that the Law School's desire to retain the status quo in "academic selectivity" is itself a compelling state interest, and, as I have demonstrated, it is not. See Part III B, *supra*. Therefore, the Law School should be forced to choose between its classroom aesthetic and its exclusionary admissions system it cannot have it both ways.

With the adoption of different admissions methods, such as accepting all students who meet minimum qualifications, see Brief for United States as *Amicus Curiae* 13 14, the Law School could achieve its vision of the racially aesthetic student body without the use of racial discrimination. The Law School concedes this, but the Court holds, implicitly and under the guise of narrow tailoring, that the Law School has a compelling state interest in doing what it wants to do. I cannot agree. First, under strict scrutiny, the Law School's assessment of the benefits of racial discrimination and devotion to the admissions status quo are not entitled to any sort of deference, grounded in the First Amendment or anywhere else. Second, even if its "academic selectivity" must be maintained at all costs along with racial discrimination, the Court ignores the fact that other top law schools have succeeded in meeting their aesthetic demands without racial discrimination.

◆ A

The Court bases its unprecedented deference to the Law School a deference antithetical to strict scrutiny on an idea of "educational autonomy" grounded in the First Amendment. *Ante*, at 17. In my view, there is no basis for a right of public universities to do what would otherwise violate the Equal Protection Clause.

The constitutionalization of "academic freedom" began with the concurring opinion of Justice Frankfurter in *Sweezy v. New Hampshire*, (1957). Sweezy, a Marxist economist, was investigated by the Attorney General of New Hampshire on suspicion of being a subversive. The prosecution sought, *inter alia*, the contents of a lecture Sweezy had given at the University of New Hampshire. The Court held that the investigation violated due process. *Id.*, at 254.

Justice Frankfurter went further, however, reasoning that the First Amendment created a right of academic freedom that prohibited the investigation. *Id.*, at 256 267 (opinion concurring in result). Much of the rhetoric in Justice Frankfurter's opinion was devoted to the personal right of Sweezy to free speech. See, *e.g.*, *id.*, at 265 ("For a citizen to be made to forgo even a part of so basic a liberty as his political autonomy, the subordinating interest of the State must be compelling"). Still, claiming that the United States Reports "need not be burdened with proof," Justice Frankfurter also asserted that a "free society" depends on "free universities" and "[t]his means the exclusion of governmental intervention in the intellectual life of a university." *Id.*, at 262. According to Justice Frankfurter: "[I]t is the business of a university to provide that atmosphere which is most conducive to speculation, experiment and creation. It is an atmosphere in which there prevail 'the four essential freedoms' of a university to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.'" *Id.*, at 263 (citation omitted).

In my view, "[i]t is the business" of this Court to explain itself when it cites provisions of the Constitution to invent new doctrines including the idea that the First Amendment authorizes a public university to do what would otherwise violate the Equal Protection Clause. The majority fails in its summary effort to prove this point. The only source for the Court's con-

clusion that public universities are entitled to deference even within the confines of strict scrutiny is Justice Powell's opinion in *Bakke*. Justice Powell, for his part, relied only on Justice Frankfurter's opinion in *Sweezy* and the Court's decision in *Keyishian v. Board of Regents of Univ. of State of N. Y.*, (1967), to support his view that the First Amendment somehow protected a public university's use of race in admissions. *Bakke*, 438 U.S., at 312. *Keyishian* provides no answer to the question whether the Fourteenth Amendment's restrictions are relaxed when applied to public universities. In that case, the Court held that state statutes and regulations designed to prevent the "appointment or retention of 'subversive' persons in state employment," 385 U.S., at 592, violated the First Amendment for vagueness. The statutes covered all public employees and were not invalidated only as applied to university faculty members, although the Court appeared sympathetic to the notion of academic freedom, calling it a "special concern of the First Amendment." *Id.*, at 603. Again, however, the Court did not relax any independent constitutional restrictions on public universities.

I doubt that when Justice Frankfurter spoke of governmental intrusions into the independence of universities, he was thinking of the Constitution's ban on racial discrimination. The majority's broad deference to both the Law School's judgment that racial aesthetics leads to educational benefits and its stubborn refusal to alter the status quo in admissions methods finds no basis in the Constitution or decisions of this Court.

◆ B

1. The Court's deference to the Law School's conclusion that its racial experimentation leads to educational benefits will, if adhered to, have serious collateral consequences. The Court relies heavily on social science evidence to justify its deference. See *ante*, at 18 20; but see also Rothman, Lipset, & Nevitte, Racial Diversity Reconsidered, 151 Public Interest 25 (2003) (finding that the racial mix of a student body produced by racial discrimination of the type practiced by the Law School in fact hinders students' perception of academic quality). The Court never acknowledges, however, the growing evidence that racial (and other sorts) of heterogeneity actually impairs learning among black students. See, *e.g.*, Flowers & Pascarella, Cognitive Effects of College Racial Composition on African American Students After 3 Years of College, 40 J. of College Student Development 669, 674 (1999) (concluding that black students experience superior cognitive development at Historically Black Colleges (HBCs) and that, even among blacks, "a substantial diversity moderates the cognitive effects of attending an HBC"); Allen, The Color of Success: African-American College Student Outcomes at Predominantly White and Historically Black Public Colleges and Universities, 62 Harv. Educ. Rev. 26, 35 (1992) (finding that black students attending HBCs report higher academic achievement than those attending predominantly white colleges).

At oral argument in *Gratz v. Bollinger*, *ante*, counsel for respondents stated that "most every single one of [the HBCs] do have diverse student bodies." Tr. of Oral Arg. in No. 02 516, p. 52. What precisely counsel meant by "diverse" is indeterminate, but it is reported that in 2000 at Morehouse College, one of the most distinguished HBC's in the Nation, only 0.1% of the student body was white, and only 0.2% was Hispanic. College Admissions Data Handbook 2002 2003, p. 613 (43d ed. 2002) (hereinafter College Admissions Data Handbook). And at Mississippi Valley State University, a public HBC, only 1.1% of the freshman class in 2001 was white. *Id.*, at 603. If there is a "critical mass" of whites at these institutions, then "critical mass" is indeed a very small proportion.

The majority grants deference to the Law School's "assessment that diversity will, in fact, yield educational benefits," *ante*, at 16. It follows, therefore, that an HBC's assessment that racial homogeneity will yield educational benefits would similarly be given deference. An HBC's rejection of white applicants in order to maintain racial homogeneity seems permissible, therefore, under the majority's view of the Equal Protection Clause. But see *United States v. Fordice*, 748 (1992) (Thomas, J., concurring) ("Obviously, a State cannot maintain … traditions by closing particular institutions, historically white or historically black, to particular racial groups"). Contained within today's majority opinion is the seed of a new constitutional justification for a concept I thought long and rightly rejected racial segregation.

2. Moreover one would think, in light of the Court's decision in *United States v. Virginia*, (1996), that before being given license to use racial discrimination, the Law School would be required to radically reshape its admissions process, even to the point of sacrificing some elements of its character. In *Virginia*, a majority of the Court, without a word about academic freedom, accepted the all-male Virginia Military Institute's (VMI) representation that some changes in its "adversative" method of education would be

required with the admission of women, *id.*, at 540, but did not defer to VMI's judgment that these changes would be too great. Instead, the Court concluded that they were "manageable." *Id.*, at 551, n. 19. That case involved sex discrimination, which is subjected to intermediate, not strict, scrutiny. *Id.*, at 533; *Craig v. Boren*, 197 (1976). So in *Virginia*, where the standard of review dictated that greater flexibility be granted to VMI's educational policies than the Law School deserves here, this Court gave no deference. Apparently where the status quo being defended is that of the elite establishment here the Law School rather than a less fashionable Southern military institution, the Court will defer without serious inquiry and without regard to the applicable legal standard.

◆ C

Virginia is also notable for the fact that the Court relied on the "experience" of formerly single-sex institutions, such as the service academies, to conclude that admission of women to VMI would be "manageable." 518 U.S., at 544 545. Today, however, the majority ignores the "experience" of those institutions that have been forced to abandon explicit racial discrimination in admissions.

The sky has not fallen at Boalt Hall at the University of California, Berkeley, for example. Prior to Proposition 209's adoption of Cal. Const., Art. 1, §31(a), which bars the State from "grant[ing] preferential treatment … on the basis of race … in the operation of … public education," Boalt Hall enrolled 20 blacks and 28 Hispanics in its first-year class for 1996. In 2002, without deploying express racial discrimination in admissions, Boalt's entering class enrolled 14 blacks and 36 Hispanics. University of California Law and Medical School Enrollments, available at http://www.ucop.edu/acadadv/datamgmt/lawmed/law-enrolls-eth2.html. Total underrepresented minority student enrollment at Boalt Hall now exceeds 1996 levels. Apparently the Law School cannot be counted on to be as resourceful. The Court is willfully blind to the very real experience in California and elsewhere, which raises the inference that institutions with "reputation[s] for excellence," *ante*, at 16, 26, rivaling the Law School's have satisfied their sense of mission without resorting to prohibited racial discrimination.

V

Putting aside the absence of any legal support for the majority's reflexive deference, there is much to be said for the view that the use of tests and other measures to "predict" academic performance is a poor substitute for a system that gives every applicant a chance to prove he can succeed in the study of law. The rallying cry that in the absence of racial discrimination in admissions there would be a true meritocracy ignores the fact that the entire process is poisoned by numerous exceptions to "merit." For example, in the national debate on racial discrimination in higher education admissions, much has been made of the fact that elite institutions utilize a so-called "legacy" preference to give the children of alumni an advantage in admissions. This, and other, exceptions to a "true" meritocracy give the lie to protestations that merit admissions are in fact the order of the day at the Nation's universities. The Equal Protection Clause does not, however, prohibit the use of unseemly legacy preferences or many other kinds of arbitrary admissions procedures. What the Equal Protection Clause does prohibit are classifications made on the basis of race. So while legacy preferences can stand under the Constitution, racial discrimination cannot. I will not twist the Constitution to invalidate legacy preferences or otherwise impose my vision of higher education admissions on the Nation. The majority should similarly stay its impulse to validate faddish racial discrimination the Constitution clearly forbids.

In any event, there is nothing ancient, honorable, or constitutionally protected about "selective" admissions. The University of Michigan should be well aware that alternative methods have historically been used for the admission of students, for it brought to this country the German certificate system in the late 19th century. See H. Wechsler, The Qualified Student 16 39 (1977) (hereinafter Qualified Student). Under this system, a secondary school was certified by a university so that any graduate who completed the course offered by the school was offered admission to the university. The certification regime supplemented, and later virtually replaced (at least in the Midwest), the prior regime of rigorous subject-matter entrance examinations. *Id.*, at 57 58. The facially race-neutral "percent plans" now used in Texas, California, and Florida, see *ante*, at 28, are in many ways the descendents of the certificate system.

Certification was replaced by selective admissions in the beginning of the 20th century, as universities sought to exercise more control over the composition of their student bodies. Since its inception, selective admissions has been the vehicle for racial, ethnic, and religious tinkering and experimentation by uni-

versity administrators. The initial driving force for the relocation of the selective function from the high school to the universities was the same desire to select racial winners and losers that the Law School exhibits today. Columbia, Harvard, and others infamously determined that they had "too many" Jews, just as today the Law School argues it would have "too many" whites if it could not discriminate in its admissions process. See Qualified Student 155 168 (Columbia); H. Broun & G. Britt, Christians Only: A Study in Prejudice 53 54 (1931) (Harvard).

Columbia employed intelligence tests precisely because Jewish applicants, who were predominantly immigrants, scored worse on such tests. Thus, Columbia could claim (falsely) that "'[w]e have not eliminated boys because they were Jews and do not propose to do so. We have honestly attempted to eliminate the lowest grade of applicant [through the use of intelligence testing] and it turns out that a good many of the low grade men are New York City Jews.'" Letter from Herbert E. Hawkes, dean of Columbia College, to E. B. Wilson, June 16, 1922 (reprinted in Qualified Student 160 161). In other words, the tests were adopted with full knowledge of their disparate impact. Cf. *DeFunis v. Odegaard*, 335 (1974) (*per curiam*) (Douglas, J., dissenting).

Similarly no modern law school can claim ignorance of the poor performance of blacks, relatively speaking, on the Law School Admissions Test (LSAT). Nevertheless, law schools continue to use the test and then attempt to "correct" for black underperformance by using racial discrimination in admissions so as to obtain their aesthetic student body. The Law School's continued adherence to measures it knows produce racially skewed results is not entitled to deference by this Court. See Part IV, *supra*. The Law School itself admits that the test is imperfect, as it must, given that it regularly admits students who score at or below 150 (the national median) on the test. See App. 156 203 (showing that, between 1995 and 2000, the Law School admitted 37 students 27 of whom were black; 31 of whom were "underrepresented minorities" with LSAT scores of 150 or lower). And the Law School's *amici* cannot seem to agree on the fundamental question whether the test itself is useful. Compare Brief for Law School Admission Council as *Amicus Curiae* 12 ("LSAT scores … are an effective predictor of students' performance in law school") with Brief for Harvard Black Law Students Association et al. as *Amici Curiae* 27 ("Whether [the LSAT] measure[s] objective merit.… is certainly questionable").

Having decided to use the LSAT, the Law School must accept the constitutional burdens that come with this decision. The Law School may freely continue to employ the LSAT and other allegedly merit-based standards in whatever fashion it likes. What the Equal Protection Clause forbids, but the Court today allows, is the use of these standards hand-in-hand with racial discrimination. An infinite variety of admissions methods are available to the Law School. Considering all of the radical thinking that has historically occurred at this country's universities, the Law School's intractable approach toward admissions is striking.

The Court will not even deign to make the Law School try other methods, however, preferring instead to grant a 25-year license to violate the Constitution. And the same Court that had the courage to order the desegregation of all public schools in the South now fears, on the basis of platitudes rather than principle, to force the Law School to abandon a decidedly imperfect admissions regime that provides the basis for racial discrimination.

VI

The absence of any articulated legal principle supporting the majority's principal holding suggests another rationale. I believe what lies beneath the Court's decision today are the benighted notions that one can tell when racial discrimination benefits (rather than hurts) minority groups, see *Adarand*, 515 U.S., at 239 (Scalia, J., concurring in part and concurring in judgment), and that racial discrimination is necessary to remedy general societal ills. This Court's precedents supposedly settled both issues, but clearly the majority still cannot commit to the principle that racial classifications are *per se* harmful and that almost no amount of benefit in the eye of the beholder can justify such classifications.

Putting aside what I take to be the Court's implicit rejection of *Adarand*'s holding that beneficial and burdensome racial classifications are equally invalid, I must contest the notion that the Law School's discrimination benefits those admitted as a result of it. The Court spends considerable time discussing the impressive display of *amicus* support for the Law School in this case from all corners of society. *Ante*, at 18 19. But nowhere in any of the filings in this Court is any evidence that the purported "beneficiaries" of this racial discrimination prove themselves by performing at (or even near) the same level as those

students who receive no preferences. Cf. Thernstrom & Thernstrom, Reflections on the Shape of the River, 46 UCLA L. Rev. 1583, 1605 1608 (1999) (discussing the failure of defenders of racial discrimination in admissions to consider the fact that its "beneficiaries" are underperforming in the classroom).

The silence in this case is deafening to those of us who view higher education's purpose as imparting knowledge and skills to students, rather than a communal, rubber-stamp, credentialing process. The Law School is not looking for those students who, despite a lower LSAT score or undergraduate grade point average, will succeed in the study of law. The Law School seeks only a façade it is sufficient that the class looks right, even if it does not perform right.

The Law School tantalizes unprepared students with the promise of a University of Michigan degree and all of the opportunities that it offers. These overmatched students take the bait, only to find that they cannot succeed in the cauldron of competition. And this mismatch crisis is not restricted to elite institutions. See T. Sowell, Race and Culture 176 177 (1994) ("Even if most minority students are able to meet the normal standards at the 'average' range of colleges and universities, the systematic mismatching of minority students begun at the top can mean that such students are generally overmatched throughout all levels of higher education"). Indeed, to cover the tracks of the aestheticists, this cruel farce of racial discrimination must continue in selection for the Michigan Law Review, see University of Michigan Law School Student Handbook 2002 2003, pp. 39 40 (noting the presence of a "diversity plan" for admission to the review), and in hiring at law firms and for judicial clerkships until the "beneficiaries" are no longer tolerated. While these students may graduate with law degrees, there is no evidence that they have received a qualitatively better legal education (or become better lawyers) than if they had gone to a less "elite" law school for which they were better prepared. And the aestheticists will never address the real problems facing "underrepresented minorities," instead continuing their social experiments on other people's children.

Beyond the harm the Law School's racial discrimination visits upon its test subjects, no social science has disproved the notion that this discrimination "engender[s] attitudes of superiority or, alternatively, provoke[s] resentment among those who believe that they have been wronged by the government's use of race." *Adarand*, 515 U.S., at 241 (Thomas, J., concurring in part and concurring in judgment). "These programs stamp minorities with a badge of inferiority and may cause them to develop dependencies or to adopt an attitude that they are 'entitled' to preferences." *Ibid*.

It is uncontested that each year, the Law School admits a handful of blacks who would be admitted in the absence of racial discrimination. See Brief for Respondents Bollinger et al. 6. Who can differentiate between those who belong and those who do not? The majority of blacks are admitted to the Law School because of discrimination, and because of this policy all are tarred as undeserving. This problem of stigma does not depend on determinacy as to whether those stigmatized are actually the "beneficiaries" of racial discrimination. When blacks take positions in the highest places of government, industry, or academia, it is an open question today whether their skin color played a part in their advancement. The question itself is the stigma because either racial discrimination did play a role, in which case the person may be deemed "otherwise unqualified," or it did not, in which case asking the question itself unfairly marks those blacks who would succeed without discrimination. Is this what the Court means by "visibly open"? *Ante*, at 20.

Finally, the Court's disturbing reference to the importance of the country's law schools as training grounds meant to cultivate "a set of leaders with legitimacy in the eyes of the citizenry," *ibid.*, through the use of racial discrimination deserves discussion. As noted earlier, the Court has soundly rejected the remedying of societal discrimination as a justification for governmental use of race. *Wygant*, 476 U.S., at 276 (plurality opinion); *Croson*, 488 U.S., at 497 (plurality opinion); *id.*, at 520 521 (Scalia, J., concurring in judgment). For those who believe that every racial disproportionality in our society is caused by some kind of racial discrimination, there can be no distinction between remedying societal discrimination and erasing racial disproportionalities in the country's leadership caste. And if the lack of proportional racial representation among our leaders is not caused by societal discrimination, then "fixing" it is even less of a pressing public necessity.

The Court's civics lesson presents yet another example of judicial selection of a theory of political representation based on skin color an endeavor I have previously rejected. See *Holder v. Hall*, 899 (1994) (Thomas, J., concurring in judgment). The majority appears to believe that broader utopian goals justify the Law School's use of race, but "[t]he Equal

Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized." *DeFunis*, 416 U.S., at 342 (Douglas, J., dissenting).

VII.

As the foregoing makes clear, I believe the Court's opinion to be, in most respects, erroneous. I do, however, find two points on which I agree.

◆ A

First, I note that the issue of unconstitutional racial discrimination among the groups the Law School prefers is not presented in this case, because petitioner has never argued that the Law School engages in such a practice, and the Law School maintains that it does not. See Brief for Respondents Bollinger et al. 32, n. 50, and 6 7, n. 7. I join the Court's opinion insofar as it confirms that this type of racial discrimination remains unlawful. *Ante*, at 13 15. Under today's decision, it is still the case that racial discrimination that does not help a university to enroll an unspecified number, or "critical mass," of underrepresented minority students is unconstitutional. Thus, the Law School may not discriminate in admissions between similarly situated blacks and Hispanics, or between whites and Asians. This is so because preferring black to Hispanic applicants, for instance, does nothing to further the interest recognized by the majority today. Indeed, the majority describes such racial balancing as "patently unconstitutional." *Ante*, at 17. Like the Court, *ante*, at 24, I express no opinion as to whether the Law School's current admissions program runs afoul of this prohibition.

◆ B

The Court also holds that racial discrimination in admissions should be given another 25 years before it is deemed no longer narrowly tailored to the Law School's fabricated compelling state interest. *Ante*, at 30. While I agree that in 25 years the practices of the Law School will be illegal, they are, for the reasons I have given, illegal now. The majority does not and cannot rest its time limitation on any evidence that the gap in credentials between black and white students is shrinking or will be gone in that timeframe. In recent years there has been virtually no change, for example, in the proportion of law school applicants with LSAT scores of 165 and higher who are black. In 1993 blacks constituted 1.1% of law school applicants in that score range, though they represented 11.1% of all applicants. Law School Admission Council, National Statistical Report (1994) (hereinafter LSAC Statistical Report). In 2000 the comparable numbers were 1.0% and 11.3% LSAC Statistical Report (2001). No one can seriously contend, and the Court does not, that the racial gap in academic credentials will disappear in 25 years. Nor is the Court's holding that racial discrimination will be unconstitutional in 25 years made contingent on the gap closing in that time.

Indeed, the very existence of racial discrimination of the type practiced by the Law School may impede the narrowing of the LSAT testing gap. An applicant's LSAT score can improve dramatically with preparation, but such preparation is a cost, and there must be sufficient benefits attached to an improved score to justify additional study. Whites scoring between 163 and 167 on the LSAT are routinely rejected by the Law School, and thus whites aspiring to admission at the Law School have every incentive to improve their score to levels above that range. See App. 199 (showing that in 2000, 209 out of 422 white applicants were rejected in this scoring range). Blacks, on the other hand, are nearly guaranteed admission if they score above 155. *Id.*, at 198 (showing that 63 out of 77 black applicants are accepted with LSAT scores above 155). As admission prospects approach certainty, there is no incentive for the black applicant to continue to prepare for the LSAT once he is reasonably assured of achieving the requisite score. It is far from certain that the LSAT test-taker's behavior is responsive to the Law School's admissions policies. Nevertheless, the possibility remains that this racial discrimination will help fulfill the bigot's prophecy about black underperformance just as it confirms the conspiracy theorist's belief that "institutional racism" is at fault for every racial disparity in our society.

I therefore can understand the imposition of a 25-year time limit only as a holding that the deference the Court pays to the Law School's educational judgments and refusal to change its admissions policies will itself expire. At that point these policies will clearly have failed to "'eliminat[e] the [perceived] need for any racial or ethnic'" discrimination because the academic credentials gap will still be there. *Ante*, at 30 (quoting Nathanson & Bartnika, The Constitutionality of Preferential Treatment for Minority Applicants to Professional Schools, 58 Chicago Bar Rec. 282, 293 (May June 1977)). The Court defines this time limit in terms of narrow tai-

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loring, see *ante*, at 30, but I believe this arises from its refusal to define rigorously the broad state interest vindicated today. Cf. Part II, *supra*. With these observations, I join the last sentence of Part III of the opinion of the Court.

For the immediate future, however, the majority has placed its *imprimatur* on a practice that can only weaken the principle of equality embodied in the Declaration of Independence and the Equal Protection Clause. "Our Constitution is color-blind, and neither knows nor tolerates classes among citizens." *Plessy v. Ferguson*, 559 (1896) (Harlan, J., dissenting). It has been nearly 140 years since Frederick Douglass asked the intellectual ancestors of the Law School to "[d]o nothing with us!" and the Nation adopted the Fourteenth Amendment. Now we must wait another 25 years to see this principle of equality vindicated. I therefore respectfully dissent from the remainder of the Court's opinion and the judgment.

Glossary

Amicus Curiae	Latin for "friend of the court," referring to briefs submitted by outside parties or groups in support of one position or the other
Equal Protection Clause	the section of the Fourteenth Amendment to the Constitution that states that "no state shall … deny to any person within its jurisdiction the equal protection of the laws"
Frederick Douglass	the preeminent nineteenth-century American abolitionist and former slave
inter alia	Latin for "among other things"
intermediate scrutiny	a legal test that requires a law or policy to further an important government interest in a way that is substantially related to that interest
Justice Frankfurter	Felix Frankfurter, a twentieth-century justice who was an advocate of judicial restraint
Justice Powell	Lewis Franklin Powell, a twentieth-century justice known as a moderate
per curiam	referring to a decision issued "by the court" rather than a particular justice or group of justices
stare decisis	Latin for "to abide by decided cases," referring to the principle of following judicial precedent
strict scrutiny	a test applied by the courts to a law or policy requiring the government to show a compelling interest in the regulation and that the regulation is narrowly tailored to achieve that interest

Senator Barack Obama speaks about race at a news conference in Philadelphia. (AP/Wide World Photos)

Barack Obama: "A More Perfect Union"

2008

"I can no more disown [Reverend Wright] than I can my white grandmother."

Overview

On March 18, 2008, Barack Obama, then running for the Democratic Party presidential nomination, delivered a speech at the National Constitution Center in Philadelphia, Pennsylvania. He opened his speech by quoting the first line of the U.S. Constitution: "We the people of the United States, in order to form a more perfect union," giving the speech its informal title. In the eyes of many political observers, the speech may have been one of the most important Obama delivered during the campaign, and some even argue that the speech put him over the top in winning the nomination and the presidency later that year.

The speech was significant because issues of race were beginning to swirl around the candidate, who went on to become the nation's first black president. In particular, questions were being raised about Obama's association with a Chicago pastor, the Reverend Jeremiah Wright, who was on record as having made comments from the pulpit that were extremely critical of the United States and that could themselves be regarded as racist or at best, highly incendiary. Further, there was a perception among some observers that in the quest for the nomination, Obama's opponents were "playing the race card" by insinuating that a black candidate was ultimately unelectable. Under mounting pressure, Obama needed to respond to the Wright controversy. Accordingly, in his speech he addressed issues of race and inequality in America and discussed head-on such issues as "white resentment" and "black anger." The speech was widely publicized, and numerous politicians, media commentators, academics, and members of the public responded to it. Obama's supporters argued that the speech was a thoughtful examination of the issue of race in America; his opponents, while conceding that the speech was memorable, continued to question the candidate's association with the Reverend Wright, which in turn, they said, raised questions about Obama's loyalties and judgment.

Context

Barack Obama, then the junior U.S. senator from Illinois, announced his candidacy for president of the United States on February 10, 2007. He had attracted national attention by delivering the keynote address at the Democratic National Convention in 2004, and he quickly emerged as the first African American candidate in the nation's history who had a realistic chance of being elected. Although numerous Democrats entered the race, Obama's chief opponent was Hillary Rodham Clinton, then a U.S. senator from New York and the wife of former president Bill Clinton. Because she had long been in the public eye as first lady and senator, Clinton was widely regarded as the presumptive Democratic nominee, but many of her opponents and some voters were put off because, they argued, she seemed to feel entitled to the nomination. What emerged was a hotly contested race, with the candidates trading wins in primaries and caucuses. Obama tended to perform better in caucus states that is, in states that do not select a candidate in a primary election but rather in a party meeting. Clinton, in contrast, tended to do better in primary election states. Thus, Obama won the early Iowa caucus, while Clinton won the first primary in New Hampshire. With some exceptions, this pattern continued throughout the contest.

The issue of race hovered in the background, with some bloggers and others questioning whether Obama, the son of a Kenyan man and a white American woman, had even been born in the United States (a requirement for the office of president). Some were put off by his middle name, Hussein, and maintained that he was a secret Muslim. (Hussein was the last name of the Iraqi dictator whom U.S.-led forces deposed in the war that began in 2003.) These were fringe views, but the issue of race moved to the forefront of the campaign in February and March 2008 as the South Carolina primary approached. After Iowa, New Hampshire, and a caucus in Nevada, South Carolina would be the first contested state with a large black population (nearly 29 percent). On January 26, Obama won by a two-to-one margin, carrying some 90 percent of the state's black vote. But in response, Bill Clinton, campaigning for his wife, seemed to dismiss the Obama victory by noting that the Reverend Jesse Jackson, an unsuccessful African American candidate for the Democratic nomination in 1984 and 1988, had won South Carolina both times. The implication of his remark seemed to be that South Caroli-

Time Line

1961

- **August 4**
  Barack Obama is born in Honolulu, Hawaii.

1972

- The Reverend Jeremiah Wright is appointed pastor of the Trinity United Church of Christ.

1988

- Obama joins the Trinity United Church of Christ.

2001

- **September 16**
  Wright delivers a sermon, "The Day of Jerusalem's Fall," in which he states that through the terrorist attacks on the United States on September 11, the "chickens have come home to roost."

2003

- **April 13**
  Wright delivers his "Confusing God and Government" sermon, in which he says, "God damn America."

2007

- **February 10**
  Obama declares his candidacy for the Democratic Party nomination for president.

2008

- **March**
  Sermons delivered by Wright, Obama's pastor, begin to come under media scrutiny.
- **March 18**
  Obama delivers his "A More Perfect Union" speech in Philadelphia.
- **June**
  Obama becomes the presumptive Democratic Party nominee for president.
- **November 4**
  Obama is elected as the forty-fourth president of the United States.

na would vote for any black candidate, regardless of his or her electability or positions on the issues.

Also during the run-up to the South Carolina primary, Senator Clinton made remarks on a radio show that some listeners interpreted as disparaging to the accomplishments of Martin Luther King, Jr., in the creation of the civil rights legislation of the 1960s. Racial divides continued in future contests. On March 11, for example, Obama won Mississippi, garnering 90 percent of the black vote while Clinton won 70 percent of the white vote. Another minor controversy arose when Geraldine Ferraro, the Democratic vice presidential candidate in 1984 and a Clinton supporter, remarked publicly that Obama was a major presidential candidate only because he was a black man. Ferraro tried to clarify her remark by suggesting that Obama's racial heritage made him a new and exciting phenomenon in American politics and that the press was treating him with kid gloves in contrast to Clinton, whom, Ferraro said, the press was brutalizing. Ultimately, Obama pulled ahead and in early June was able to claim the lead in delegates to the Democratic National Convention and thus the nomination.

Perhaps the most significant controversy with racial implications was that surrounding Obama's association with the Reverend Jeremiah Wright, the fiery, defiant pastor of the Trinity United Church of Christ in Chicago. Wright had been Obama's pastor for twenty years. He had officiated at the marriage of Obama and his wife, Michelle, and had baptized their two daughters. One of Wright's sermons was the source of the phrase "audacity of hope," which Obama used as the title of a memoir. But in March 2008 videos of some of Wright's sermons surfaced, and for weeks snippets were played on television news and commentary programs. Many Americans took offense at comments such as this one:

> The government gives them [African Americans] the drugs, builds bigger prisons, passes a three-strike law and then wants us to sing "God Bless America." No, no, no, God damn America, that's in the Bible for killing innocent people. God damn America for treating our citizens as less than human. God damn America for as long as she acts like she is God and she is supreme.

Likewise this remark was provoking:

> We bombed Hiroshima, we bombed Nagasaki, and we nuked far more than the thousands in New York and the Pentagon, and we never batted an eye. We have supported state terrorism against the Palestinians and black South Africans, and now we are indignant because the stuff we have done overseas is now brought right back to our own front yards. America's chickens are coming home to roost.

The second remark was made shortly after the September 11, 2001, terrorist attacks on the United States and seemed to suggest that the United States got what it deserved. In

other sermons, Wright accused the U.S. government of lying to its citizens. He cited, for example, the Japanese attack on Pearl Harbor, which dragged the United States into World War II in 1941, and claimed that government officials, including the president, knew about the impending attack. He maintained that the government had infected African American men with syphilis during the infamous Tuskegee experiments of the 1950s. (In fact, the experiments withheld treatment from men who already had the disease.) He also asserted that the government caused the HIV/AIDS epidemic in order to control the black population. He referred to the nation as the "United States of KKK," a reference to the white supremacist group, the Ku Klux Klan.

At first Obama tried to ignore the controversy. Then he tried to dismiss it by saying that Wright was like the "crazy old uncle" found in every family who says things designed to provoke but whom everyone ignores. He also stated that he was not at the church when these and other inflammatory comments were made. Some observers suggested that this position was not credible that a person could not attend a church for twenty years and not know of the pastor's views. They maintained that Obama would have shown better judgment the kind of judgment required from a president if he had withdrawn from the church. Compounding the problem was Obama's loose association in Chicago with William Ayers, a political extremist and founder of the radical Weather Underground Organization, or Weathermen, who had been involved in the bombing of public buildings during the Vietnam era.

As the controversy raged, Obama and his campaign advisers decided that the candidate had to address the matter head-on. Wright had been a member of the candidate's African American Religious Leadership Committee, but on March 14 the campaign announced that Wright had been removed from the committee. Meanwhile, Obama denounced Wright's remarks. Nevertheless, it was widely felt that his denunciations were not forceful enough and that he had to make a major address on the subject. Obama's usual practice (and the practice of most candidates for high office) was to have a speechwriter develop such a speech. In this instance, though, Obama wrote the speech himself, working on it late into the night of March 17 18. He chose the National Constitution Center in Philadelphia as the venue, thus attempting to place the speech symbolically in the context of American history.

About the Author

Barack Obama was born on August 4, 1961, in Honolulu, Hawaii. His father, Barack Obama, Sr., was Kenyan; his mother, Ann Dunham, was a white woman from Kansas. His parents were separated when he was two years old, and they divorced in early 1964. After Dunham remarried, to an Indonesian, Obama lived and attended school in Jakarta, Indonesia, before returning to Honolulu to live with his maternal grandparents at age ten. After graduating from high school, he attended Occidental College in Los Angeles and then transferred to Columbia University in New York City, where he earned a bachelor's degree in 1983. He worked for four years in New York before moving to Chicago to head the Developing Communities Project, an agency that provided job training, tutoring, and other community services. In 1988 he entered Harvard Law School, becoming editor of the prestigious *Harvard Law Review* and graduating in 1991. He returned to Chicago, and until 1996 he worked for a civil rights litigation law firm and for various community service organizations. He also taught constitutional law at the University of Chicago from 1992 to 2004.

Obama's political career began in 1996, when he was elected to the Illinois Senate; he was reelected in 1998 and 2002. In 2004 he delivered the keynote address at the Democratic National Convention, elevating his profile on the national stage. That year, too, he won election to the U.S. Senate with 70 percent of the vote. In 2008, after a contentious and closely fought race against Hillary Rodham Clinton, he won his party's nomination for president, and in November of that year he and his vice presidential candidate, Joe Biden, defeated the Republican ticket of John McCain and Sarah Palin. He took the oath of office on January 20, 2009.

In the early days of his presidency, Obama was highly popular with the electorate and enjoyed soaring approval ratings; his election to the presidency was regarded as a historic event and was widely seen as a rejection of the policies of his predecessor, George W. Bush. Throughout the first year of his presidency, however, Obama faced numerous thorny issues: a severe economic recession, high unemployment, ongoing wars in Iraq and Afghanistan, challenging energy policies, and the continued threat of terrorism. Democrats enjoyed strong majorities in both houses of Congress and were thus able to pass a controversial multibillion-dollar economic stimulus bill. On March 23, 2010, President Obama signed a landmark health-reform bill into law. By 2010 the president's job approval rating had fallen sharply, but one bright spot was his winning the Nobel Peace Prize for 2009.

Explanation and Analysis of the Document

Obama's "A More Perfect Union" speech offers reflections on the issue of race as it has played out historically in the United States. The candidate addresses the Reverend Wright controversy and reflects on his own experiences as a black man living in the United States, and he uses the speech to urge Americans to put aside racial division for the good of all Americans.

◆ The Nation's Narrative and His Own

In the opening paragraphs, Obama makes explicit reference to the U.S. Constitution. He opens the speech by quoting the first line of the Constitution and then refers to the Constitutional Convention of 1787 that produced the document. He notes, however, that the work of the Constitution remains unfinished, for "it was stained by this

nation's original sin of slavery." He alludes to the framers' disagreement about slavery and its decision to defer the issue of slavery for twenty years. Article 1, Section 9 of the Constitution states: "The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight." In fact, the United States abolished the importation of slaves, but not slavery itself, in 1808. The candidate's key point is that the Constitution was an imperfect document that had to be perfected over time by those willing to "narrow that gap between the promise of our ideals and the reality of their time." Obama then turns briefly to his personal story. He mentions the hope of his campaign to bring unity to the American people and provides details that suggest that his knowledge of America, white and black, rich and poor, is a product of his own diverse background. He calls it "my own American story" and notes that "in no other country on Earth is my story even possible." Shortly after, he suggests that he resisted the temptation to build a campaign based on race and expresses pride in his ability to forge coalitions of blacks and whites in a state such as South Carolina, with its large black population.

◆ Reverend Jeremiah Wright

The next portion of the speech tackles the issue of Obama's association with Wright. He notes that racial polarization had not been an issue in the campaign so far, but, in the following paragraph, he observes that the issue had taken a "divisive turn." He acknowledges that some observers regarded his candidacy as an "exercise in affirmative action," an effort on the part of white liberals to "purchase racial reconciliation on the cheap." He then turns to the Wright controversy and reminds listeners that he condemned Wright's comments. He uses a rhetorical question-and-answer device that is common in his speeches: "Did I know? … Of course." He concedes that he had heard Wright express views with which he disagrees. He makes clear his rejection of Wright's statements, noting that they were not simply statements against racial injustice but that they represented a "distorted" view of America, emphasizing what is wrong without giving due credit to what is right. He characterizes Wright's comments as "divisive."

Obama then launches into a partial defense of Wright. He suggests that the comments that were being replayed in the media are only part of the story. He goes on to emphasize the good that Wright had done, including his service in the U.S. Marine Corps. He also gives white America some insight into black churches and how the exuberance of the congregation forged a unity that linked the African American experience with the Christian Bible: "Trinity embodies the black community in its entirety the doctor and the welfare mom, the model student and the former gang-banger. Like other black churches, Trinity's services are full of raucous laughter and sometimes bawdy humor. They are full of dancing, clapping, screaming and shouting." The implication is that Wright and his church could not be judged by the same standards as one might use to judge a supposedly more sober church whose members were predominantly white. He goes on to describe his personal relationship with Wright, thereby producing one of the most oft-quoted statements in the speech: "I can no more disown him than I can disown the black community."

◆ A Conversation about Race

The speech takes a turn when Obama suggests that the politically expedient thing to do would be to simply ignore the broader issue of race and hope that it disappeared. It would be easy, he says, to dismiss Wright as a "crank or a demagogue," just as it would be easy to dismiss the comments made by former vice presidential candidate Geraldine Ferraro as indicative of racism. Earlier that month, Ferraro, a Clinton supporter, had told a California newspaper: "If Obama was a white man, he would not be in this position. And if he was a woman of any color, he would not be in this position. He happens to be very lucky to be who he is. And the country is caught up in the concept." Obama goes on to suggest that the controversy offers the nation an opportunity to have a conversation about "complexities of race in this country that we've never really worked through a part of our union that we have yet to perfect." Using a quotation from William Faulkner's novel *Requiem for a Nun*, he argues that many of the injustices that African Americans had suffered historically were still part of the African American mind-set. He enumerates some of them: slavery, Jim Crow laws, segregated schools, inferior education even after the Supreme Court case *Brown v. Board of Education* desegregated public education in 1954, legalized discrimination such as the inability to get home loans or to join labor unions, the lack of basic services in black neighborhoods, violence, "blight," and "neglect."

◆ Anger and Resentment Find Voice

With these injustices as a historical backdrop, Obama returns to Reverend Wright, stating, "This is the reality in which Reverend Wright and other African-Americans of his generation grew up." He argues, then, that people such as Wright inevitably would carry with them vestiges of anger and resentment and that anger sometimes "finds voice" in the pulpit. The anger is not always productive, he says, but it is real and cannot be dismissed or wished away. Obama at this point notes that the white community, too, sometimes feels anger and resentment over such issues as the loss of jobs, stagnant wages, immigration, or the lack of opportunity. At this point, Obama's speech begins to resemble a campaign speech as he uses the opportunity to promote a traditional Democratic agenda, particularly by railing against "economic policies that favor the few over the many." He refers to the Reagan Coalition, that is, the alliance of traditional Republicans and moderate Democrats that swept the Republican Ronald Reagan into the White House in 1980. In light of the lingering animosity and differences between significant portions of the nation's black and white communities, Obama concludes that the nation has reached a racial "stalemate."

◆ Racial Division

Addressing his black audience, Obama urges the African American community to embrace "the burdens of our past without becoming victims of our past" and to bind its grievances to the "aspirations of all Americans" for a better life. He argues that African Americans have to take responsibility for their own actions and their own families, noting that this was a doctrine that Reverend Wright preached. Distilling his thoughts to characterize the essence of his disagreement with Wright, Obama states that Wright "spoke as if our society was static" and as if all Americans are "still irrevocably bound to a tragic past." He notes that the "genius" of America is the possibility for change.

Obama next turns to his white audience to urge members of that audience to acknowledge the legitimate grievances of the African American community. Turning to scripture, he urges all Americans to be their brother's keepers and calls for an end to cynicism and division. He notes that race is too often treated as a "spectacle" and cites as an example the "OJ trial." This is a reference to the trial of O. J. Simpson, the black former football star who in 1995 was acquitted of the 1994 murder of his former wife and an acquaintance after a highly publicized trial; reactions to the not-guilty verdict tended to polarize along racial lines, with many African Americans applauding it and white Americans condemning it. He also makes reference to Hurricane Katrina, a deadly storm that flooded the Gulf Coast in 2005 and that raised racial conflict because of its devastating impact on black neighborhoods in and around New Orleans, Louisiana. He argues that Americans could continue to focus on racial division but repeatedly urges his listeners to say "Not this time." Again he goes into campaign mode by outlining a political agenda and referring to the war in Iraq, which, he says, "never should've been waged."

◆ The Quest for a More Perfect Union

Obama draws toward his conclusion by referencing one of the major themes of his campaign, "hope." The Union, he says, "may never be perfect, but generation after generation has shown that it can always be perfected." He concludes with a common technique used in speeches of this type. He tells the story of a woman named Ashley who was a campaign organizer in South Carolina. He details the hardships of Ashley's life and links Ashley's story to his own campaign for health care reform, economic growth, opposition to the war in Iraq, and the like. He concludes by stating that the reason he was running for president was to help people like Ashley. In the final paragraph, he comes full circle to refer to the nation's founders and the ongoing quest for a more perfect union.

Audience

Although Obama was addressing an audience at the National Constitution Center in Philadelphia, his speech was clearly directed at all of America, in an effort to quell the controversy spawned by his association with the Rev-

Rev. Jeremiah Wright (AP/Wide World Photos)

erend Jeremiah Wright. Coming as it did in the middle of the primary election season, the address was also a campaign speech designed to allay the fears of some Americans that Obama was sympathetic to Wright's more inflammatory views. The speech, which was broadcast live on television, was widely reported on and publicized. On the popular Web site YouTube, a video of the speech had 1.2 million hits within twenty-four hours and 4.5 million hits by the end of March 2008. A Pew Research Center poll showed that 85 percent of Americans knew something about the speech and that 54 percent claimed to know a lot about it.

Impact

As might be expected, reactions to "A More Perfect Union" were divided along political lines. Democrats and liberals almost overwhelmingly praised the speech, and while many Republicans and conservatives conceded that the speech was thoughtful and well delivered, they continued to question the candidate's judgment in remaining associated with a pastor who held such incendiary views. Polling organizations, including network news organizations, conducted numerous surveys on the electorate's reaction to the speech, asking such questions as whether people believed that Obama shared Wright's views (most said they did not), whether the speech would influence their voting decisions, and whether the speech effectively ended the controversy. And since the speech was made in

Essential Quotes

"The church contains in full the kindness and cruelty, the fierce intelligence and the shocking ignorance, the struggles and successes, the love and yes, the bitterness and bias that make up the black experience in America."

(Reverend Jeremiah Wright)

"I can no more disown him than I can disown the black community. I can no more disown him than I can my white grandmother."

(Reverend Jeremiah Wright)

"The fact is that the comments that have been made and the issues that have surfaced over the last few weeks reflect the complexities of race in this country that we've never really worked through—a part of our union that we have yet to perfect."

(A Conversation about Race)

"For the men and women of Reverend Wright's generation, the memories of humiliation and doubt and fear have not gone away; nor has the anger and the bitterness of those years."

(Anger and Resentment Find Voice)

"And yet, to wish away the resentments of white Americans, to label them as misguided or even racist, without recognizing they are grounded in legitimate concerns—this too widens the racial divide, and blocks the path to understanding."

(Anger and Resentment Find Voice)

"The profound mistake of Reverend Wright's sermons is not that he spoke about racism in our society. It's that he spoke as if our society was static; as if no progress has been made; as if this country—a country that has made it possible for one of his own members to run for the highest office in the land … is still irrevocably bound to a tragic past."

(Racial Division)

the middle of an election campaign, pollsters wanted to know what effect it had on the contest between Obama and Clinton. The speech demonstrated the growing power of the Internet and social media such as Facebook in politics, with millions of people watching recordings of the speech and sending them as a link to others.

Virtually every newspaper, editorialist, and commentator weighed in on the speech. At one end of the political spectrum, the generally liberal *New York Times* wrote that

> Mr. Obama's eloquent speech should end the debate over his ties to Mr. Wright since there is nothing to suggest that he would carry religion into government. But he did not stop there. He put Mr. Wright, his beliefs and the reaction to them into the larger context of race relations with an honesty seldom heard in public life.

In contrast, the conservative editorialist Charles Krauthammer, writing in the *Washington Post*, called the speech a "brilliant fraud" and "little more than an elegantly crafted, brilliantly sophistic justification" for Obama's association with Wright. He concluded his editorial column by saying:

> This contextual analysis of Wright's venom, this extenuation of black hate speech as a product of white racism, is not new. It's the Jesse Jackson politics of racial grievance, expressed in Ivy League diction and Harvard Law nuance. That's why the speech made so many liberal commentators swoon: It bathed them in racial guilt while flattering their intellectual pretensions.

It would not be unfair to say that Obama's speeches, including this one, were a vessel into which people poured their own political views and aspirations, though much the same could be said of any political candidate.

See also Peter Williams, Jr.'s "Oration on the Abolition of the Slave Trade" (1808); *Brown v. Board of Education* (1954); *Final Report of the Tuskegee Syphilis Study Ad Hoc Advisory Panel* (1973); Barack Obama's Inaugural Address (2009).

Further Reading

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Questions for Further Study

1. What political developments during his presidential campaign prompted Barack Obama to make this speech at this particular time?

2. Many people believe that Obama's longstanding association with the Reverend Jeremiah Wright in some way disqualified him to be president—that he should have shown better judgment in ending the association. In his speech, Obama offers a defense of Wright while rejecting Wright's more inflammatory comments. What is your position on this issue? Do you think that most candidates for high office have associations in their past that might raise questions and doubts in the minds of voters?

3. A theme that runs through Obama's speech is that of forging "a more perfect union." What is the origin of this phrase? What do you think the phrase meant to Obama in his speech? In what sense is the United States of America an ongoing project?

4. Obama suggests that he wants the nation to have a conversation about race. In this regard, compare his speech with *One America in the 21st Century*, the report issued by President Bill Clinton's Initiative on Race in 1999. To what extent did the latter document initiate a conversation about race? Do you believe that the nation needs to have such a conversation, or do you believe that the nation is constantly talking about race?

5. What effect do you think this speech had on the outcome of the 2008 presidential election? Do you find Obama's arguments convincing?

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Michael J O'Neal

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Barack Obama: "A More Perfect Union"

"We the people, in order to form a more perfect union."

Two hundred and twenty one years ago, in a hall that still stands across the street, a group of men gathered and, with these simple words, launched America's improbable experiment in democracy. Farmers and scholars; statesmen and patriots who had traveled across an ocean to escape tyranny and persecution finally made real their declaration of independence at a Philadelphia convention that lasted through the spring of 1787.

The document they produced was eventually signed but ultimately unfinished. It was stained by this nation's original sin of slavery, a question that divided the colonies and brought the convention to a stalemate until the founders chose to allow the slave trade to continue for at least twenty more years, and to leave any final resolution to future generations.

Of course, the answer to the slavery question was already embedded within our Constitution a Constitution that had at its very core the ideal of equal citizenship under the law; a Constitution that promised its people liberty, and justice, and a union that could be and should be perfected over time.

And yet words on a parchment would not be enough to deliver slaves from bondage, or provide men and women of every color and creed their full rights and obligations as citizens of the United States. What would be needed were Americans in successive generations who were willing to do their part through protests and struggle, on the streets and in the courts, through a civil war and civil disobedience and always at great risk to narrow that gap between the promise of our ideals and the reality of their time.

This was one of the tasks we set forth at the beginning of this campaign to continue the long march of those who came before us, a march for a more just, more equal, more free, more caring and more prosperous America. I chose to run for the presidency at this moment in history because I believe deeply that we cannot solve the challenges of our time unless we solve them together unless we perfect our union by understanding that we may have different stories, but we hold common hopes; that we may not look the same and we may not have come from the same place, but we all want to move in the same direction towards a better future for our children and our grandchildren.

This belief comes from my unyielding faith in the decency and generosity of the American people. But it also comes from my own American story.

I am the son of a black man from Kenya and a white woman from Kansas. I was raised with the help of a white grandfather who survived a Depression to serve in Patton's Army during World War II and a white grandmother who worked on a bomber assembly line at Fort Leavenworth while he was overseas. I've gone to some of the best schools in America and lived in one of the world's poorest nations. I am married to a black American who carries within her the blood of slaves and slaveowners an inheritance we pass on to our two precious daughters. I have brothers, sisters, nieces, nephews, uncles and cousins, of every race and every hue, scattered across three continents, and for as long as I live, I will never forget that in no other country on Earth is my story even possible.

It's a story that hasn't made me the most conventional candidate. But it is a story that has seared into my genetic makeup the idea that this nation is more than the sum of its parts that out of many, we are truly one.

Throughout the first year of this campaign, against all predictions to the contrary, we saw how hungry the American people were for this message of unity. Despite the temptation to view my candidacy through a purely racial lens, we won commanding victories in states with some of the whitest populations in the country. In South Carolina, where the Confederate Flag still flies, we built a powerful coalition of African Americans and white Americans.

This is not to say that race has not been an issue in the campaign. At various stages in the campaign, some commentators have deemed me either "too black" or "not black enough." We saw racial tensions bubble to the surface during the week before the South Carolina primary. The press has scoured every exit poll for the latest evidence of racial polarization, not just in terms of white and black, but black and brown as well.

And yet, it has only been in the last couple of weeks that the discussion of race in this campaign has taken a particularly divisive turn.

Document Text

On one end of the spectrum, we've heard the implication that my candidacy is somehow an exercise in affirmative action; that it's based solely on the desire of wide-eyed liberals to purchase racial reconciliation on the cheap. On the other end, we've heard my former pastor, Reverend Jeremiah Wright, use incendiary language to express views that have the potential not only to widen the racial divide, but views that denigrate both the greatness and the goodness of our nation; that rightly offend white and black alike.

I have already condemned, in unequivocal terms, the statements of Reverend Wright that have caused such controversy. For some, nagging questions remain. Did I know him to be an occasionally fierce critic of American domestic and foreign policy? Of course. Did I ever hear him make remarks that could be considered controversial while I sat in church? Yes. Did I strongly disagree with many of his political views? Absolutely — just as I'm sure many of you have heard remarks from your pastors, priests, or rabbis with which you strongly disagreed.

But the remarks that have caused this recent firestorm weren't simply controversial. They weren't simply a religious leader's effort to speak out against perceived injustice. Instead, they expressed a profoundly distorted view of this country — a view that sees white racism as endemic, and that elevates what is wrong with America above all that we know is right with America; a view that sees the conflicts in the Middle East as rooted primarily in the actions of stalwart allies like Israel, instead of emanating from the perverse and hateful ideologies of radical Islam.

As such, Reverend Wright's comments were not only wrong but divisive, divisive at a time when we need unity; racially charged at a time when we need to come together to solve a set of monumental problems — two wars, a terrorist threat, a falling economy, a chronic health care crisis and potentially devastating climate change; problems that are neither black or white or Latino or Asian, but rather problems that confront us all.

Given my background, my politics, and my professed values and ideals, there will no doubt be those for whom my statements of condemnation are not enough. Why associate myself with Reverend Wright in the first place, they may ask? Why not join another church? And I confess that if all that I knew of Reverend Wright were the snippets of those sermons that have run in an endless loop on the television and You Tube, or if Trinity United Church of Christ conformed to the caricatures being peddled by some commentators, there is no doubt that I would react in much the same way

But the truth is, that isn't all that I know of the man. The man I met more than twenty years ago is a man who helped introduce me to my Christian faith, a man who spoke to me about our obligations to love one another; to care for the sick and lift up the poor. He is a man who served his country as a U.S. Marine; who has studied and lectured at some of the finest universities and seminaries in the country, and who for over thirty years led a church that serves the community by doing God's work here on Earth — by housing the homeless, ministering to the needy, providing day care services and scholarships and prison ministries, and reaching out to those suffering from HIV/AIDS.

In my first book, *Dreams from My Father*, I described the experience of my first service at Trinity:

> People began to shout, to rise from their seats and clap and cry out, a forceful wind carrying the reverend's voice up into the rafters.… And in that single note — hope! — I heard something else; at the foot of that cross, inside the thousands of churches across the city, I imagined the stories of ordinary black people merging with the stories of David and Goliath, Moses and Pharaoh, the Christians in the lion's den, Ezekiel's field of dry bones. Those stories — of survival, and freedom, and hope — became our story, my story; the blood that had spilled was our blood, the tears our tears; until this black church, on this bright day, seemed once more a vessel carrying the story of a people into future generations and into a larger world. Our trials and triumphs became at once unique and universal, black and more than black; in chronicling our journey, the stories and songs gave us a means to reclaim memories that we didn't need to feel shame about … memories that all people might study and cherish — and with which we could start to rebuild.

That has been my experience at Trinity. Like other predominantly black churches across the country, Trinity embodies the black community in its entirety — the doctor and the welfare mom, the model student and the former gang-banger. Like other black churches, Trinity's services are full of raucous laughter and sometimes bawdy humor. They are full of dancing, clapping, screaming and shouting that may seem jarring to the untrained ear. The church con-

Document Text

tains in full the kindness and cruelty, the fierce intelligence and the shocking ignorance, the struggles and successes, the love and yes, the bitterness and bias that make up the black experience in America.

And this helps explain, perhaps, my relationship with Reverend Wright. As imperfect as he may be, he has been like family to me. He strengthened my faith, officiated my wedding, and baptized my children. Not once in my conversations with him have I heard him talk about any ethnic group in derogatory terms, or treat whites with whom he interacted with anything but courtesy and respect. He contains within him the contradictions — the good and the bad — of the community that he has served diligently for so many years.

I can no more disown him than I can disown the black community. I can no more disown him than I can my white grandmother — a woman who helped raise me, a woman who sacrificed again and again for me, a woman who loves me as much as she loves anything in this world, but a woman who once confessed her fear of black men who passed by her on the street, and who on more than one occasion has uttered racial or ethnic stereotypes that made me cringe.

These people are a part of me. And they are a part of America, this country that I love.

Some will see this as an attempt to justify or excuse comments that are simply inexcusable. I can assure you it is not. I suppose the politically safe thing would be to move on from this episode and just hope that it fades into the woodwork. We can dismiss Reverend Wright as a crank or a demagogue, just as some have dismissed Geraldine Ferraro, in the aftermath of her recent statements, as harboring some deep-seated racial bias.

But race is an issue that I believe this nation cannot afford to ignore right now. We would be making the same mistake that Reverend Wright made in his offending sermons about America — to simplify and stereotype and amplify the negative to the point that it distorts reality.

The fact is that the comments that have been made and the issues that have surfaced over the last few weeks reflect the complexities of race in this country that we've never really worked through — a part of our union that we have yet to perfect. And if we walk away now, if we simply retreat into our respective corners, we will never be able to come together and solve challenges like health care, or education, or the need to find good jobs for every American.

Understanding this reality requires a reminder of how we arrived at this point. As William Faulkner once wrote, "The past isn't dead and buried. In fact, it isn't even past." We do not need to recite here the history of racial injustice in this country. But we do need to remind ourselves that so many of the disparities that exist in the African-American community today can be directly traced to inequalities passed on from an earlier generation that suffered under the brutal legacy of slavery and Jim Crow.

Segregated schools were, and are, inferior schools; we still haven't fixed them, fifty years after *Brown v. Board of Education*, and the inferior education they provided, then and now, helps explain the pervasive achievement gap between today's black and white students.

Legalized discrimination — where blacks were prevented, often through violence, from owning property, or loans were not granted to African-American business owners, or black homeowners could not access FHA mortgages, or blacks were excluded from unions, or the police force, or fire departments — meant that black families could not amass any meaningful wealth to bequeath to future generations. That history helps explain the wealth and income gap between black and white, and the concentrated pockets of poverty that persists in so many of today's urban and rural communities.

A lack of economic opportunity among black men, and the shame and frustration that came from not being able to provide for one's family, contributed to the erosion of black families — a problem that welfare policies for many years may have worsened. And the lack of basic services in so many urban black neighborhoods — parks for kids to play in, police walking the beat, regular garbage pick-up and building code enforcement — all helped create a cycle of violence, blight and neglect that continue to haunt us.

This is the reality in which Reverend Wright and other African-Americans of his generation grew up. They came of age in the late fifties and early sixties, a time when segregation was still the law of the land and opportunity was systematically constricted. What's remarkable is not how many failed in the face of discrimination, but rather how many men and women overcame the odds; how many were able to make a way out of no way for those like me who would come after them.

But for all those who scratched and clawed their way to get a piece of the American Dream, there were many who didn't make it — those who were ultimately defeated, in one way or another, by discrimi-

nation. That legacy of defeat was passed on to future generations those young men and increasingly young women who we see standing on street corners or languishing in our prisons, without hope or prospects for the future. Even for those blacks who did make it, questions of race, and racism, continue to define their worldview in fundamental ways. For the men and women of Reverend Wright's generation, the memories of humiliation and doubt and fear have not gone away; nor has the anger and the bitterness of those years. That anger may not get expressed in public, in front of white co-workers or white friends. But it does find voice in the barbershop or around the kitchen table. At times, that anger is exploited by politicians, to gin up votes along racial lines, or to make up for a politician's own failings.

And occasionally it finds voice in the church on Sunday morning, in the pulpit and in the pews. The fact that so many people are surprised to hear that anger in some of Reverend Wright's sermons simply reminds us of the old truism that the most segregated hour in American life occurs on Sunday morning. That anger is not always productive; indeed, all too often it distracts attention from solving real problems; it keeps us from squarely facing our own complicity in our condition, and prevents the African-American community from forging the alliances it needs to bring about real change. But the anger is real; it is powerful; and to simply wish it away, to condemn it without understanding its roots, only serves to widen the chasm of misunderstanding that exists between the races.

In fact, a similar anger exists within segments of the white community. Most working- and middle-class white Americans don't feel that they have been particularly privileged by their race. Their experience is the immigrant experience as far as they're concerned, no one's handed them anything, they've built it from scratch. They've worked hard all their lives, many times only to see their jobs shipped overseas or their pension dumped after a lifetime of labor. They are anxious about their futures, and feel their dreams slipping away; in an era of stagnant wages and global competition, opportunity comes to be seen as a zero sum game, in which your dreams come at my expense. So when they are told to bus their children to a school across town; when they hear that an African American is getting an advantage in landing a good job or a spot in a good college because of an injustice that they themselves never committed; when they're told that their fears about crime in urban neighborhoods are somehow prejudiced, resentment builds over time.

Like the anger within the black community, these resentments aren't always expressed in polite company. But they have helped shape the political landscape for at least a generation. Anger over welfare and affirmative action helped forge the Reagan Coalition. Politicians routinely exploited fears of crime for their own electoral ends. Talk show hosts and conservative commentators built entire careers unmasking bogus claims of racism while dismissing legitimate discussions of racial injustice and inequality as mere political correctness or reverse racism.

Just as black anger often proved counterproductive, so have these white resentments distracted attention from the real culprits of the middle class squeeze a corporate culture rife with inside dealing, questionable accounting practices, and short-term greed; a Washington dominated by lobbyists and special interests; economic policies that favor the few over the many. And yet, to wish away the resentments of white Americans, to label them as misguided or even racist, without recognizing they are grounded in legitimate concerns this too widens the racial divide, and blocks the path to understanding.

This is where we are right now. It's a racial stalemate we've been stuck in for years. Contrary to the claims of some of my critics, black and white, I have never been so naive as to believe that we can get beyond our racial divisions in a single election cycle, or with a single candidacy particularly a candidacy as imperfect as my own.

But I have asserted a firm conviction a conviction rooted in my faith in God and my faith in the American people that working together we can move beyond some of our old racial wounds, and that in fact we have no choice if we are to continue on the path of a more perfect union.

For the African-American community, that path means embracing the burdens of our past without becoming victims of our past. It means continuing to insist on a full measure of justice in every aspect of American life. But it also means binding our particular grievances for better health care, and better schools, and better jobs to the larger aspirations of all Americans the white woman struggling to break the glass ceiling, the white man whose been laid off, the immigrant trying to feed his family. And it means taking full responsibility for own lives by demanding more from our fathers, and spending more time with our children, and reading to them, and teaching them that while they may face challenges and discrimination in their own lives, they must never suc-

Document Text

cumb to despair or cynicism; they must always believe that they can write their own destiny.

Ironically, this quintessentially American — and yes, conservative — notion of self-help found frequent expression in Reverend Wright's sermons. But what my former pastor too often failed to understand is that embarking on a program of self-help also requires a belief that society can change.

The profound mistake of Reverend Wright's sermons is not that he spoke about racism in our society. It's that he spoke as if our society was static; as if no progress has been made; as if this country — a country that has made it possible for one of his own members to run for the highest office in the land and build a coalition of white and black; Latino and Asian, rich and poor, young and old — is still irrevocably bound to a tragic past. But what we know — what we have seen — is that America can change. That is the true genius of this nation. What we have already achieved gives us hope — the audacity to hope — for what we can and must achieve tomorrow.

In the white community, the path to a more perfect union means acknowledging that what ails the African-American community does not just exist in the minds of black people; that the legacy of discrimination — and current incidents of discrimination, while less overt than in the past — are real and must be addressed. Not just with words, but with deeds — by investing in our schools and our communities; by enforcing our civil rights laws and ensuring fairness in our criminal justice system; by providing this generation with ladders of opportunity that were unavailable for previous generations. It requires all Americans to realize that your dreams do not have to come at the expense of my dreams; that investing in the health, welfare, and education of black and brown and white children will ultimately help all of America prosper.

In the end, then, what is called for is nothing more, and nothing less, than what all the world's great religions demand — that we do unto others as we would have them do unto us. Let us be our brother's keeper, Scripture tells us. Let us be our sister's keeper. Let us find that common stake we all have in one another, and let our politics reflect that spirit as well.

For we have a choice in this country. We can accept a politics that breeds division, and conflict, and cynicism. We can tackle race only as spectacle — as we did in the OJ trial — or in the wake of tragedy, as we did in the aftermath of Katrina — or as fodder for the nightly news. We can play Reverend Wright's sermons on every channel, every day and talk about them from now until the election, and make the only question in this campaign whether or not the American people think that I somehow believe or sympathize with his most offensive words. We can pounce on some gaffe by a Hillary supporter as evidence that she's playing the race card, or we can speculate on whether white men will all flock to John McCain in the general election regardless of his policies.

We can do that.

But if we do, I can tell you that in the next election, we'll be talking about some other distraction. And then another one. And then another one. And nothing will change.

That is one option. Or, at this moment, in this election, we can come together and say, "Not this time." This time we want to talk about the crumbling schools that are stealing the future of black children and white children and Asian children and Hispanic children and Native American children. This time we want to reject the cynicism that tells us that these kids can't learn; that those kids who don't look like us are somebody else's problem. The children of America are not those kids, they are our kids, and we will not let them fall behind in a 21st century economy. Not this time.

This time we want to talk about how the lines in the Emergency Room are filled with whites and blacks and Hispanics who do not have health care; who don't have the power on their own to overcome the special interests in Washington, but who can take them on if we do it together.

This time we want to talk about the shuttered mills that once provided a decent life for men and women of every race, and the homes for sale that once belonged to Americans from every religion, every region, every walk of life. This time we want to talk about the fact that the real problem is not that someone who doesn't look like you might take your job; it's that the corporation you work for will ship it overseas for nothing more than a profit.

This time we want to talk about the men and women of every color and creed who serve together, and fight together, and bleed together under the same proud flag. We want to talk about how to bring them home from a war that never should've been authorized and never should've been waged, and we want to talk about how we'll show our patriotism by caring for them, and their families, and giving them the benefits they have earned.

I would not be running for President if I didn't believe with all my heart that this is what the vast majority of Americans want for this country. This

Document Text

union may never be perfect, but generation after generation has shown that it can always be perfected. And today, whenever I find myself feeling doubtful or cynical about this possibility, what gives me the most hope is the next generation the young people whose attitudes and beliefs and openness to change have already made history in this election.

There is one story in particularly that I'd like to leave you with today a story I told when I had the great honor of speaking on Dr. King's birthday at his home church, Ebenezer Baptist, in Atlanta.

There is a young, twenty-three year old white woman named Ashley Baia who organized for our campaign in Florence, South Carolina. She had been working to organize a mostly African-American community since the beginning of this campaign, and one day she was at a roundtable discussion where everyone went around telling their story and why they were there.

And Ashley said that when she was nine years old, her mother got cancer. And because she had to miss days of work, she was let go and lost her health care. They had to file for bankruptcy, and that's when Ashley decided that she had to do something to help her mom.

She knew that food was one of their most expensive costs, and so Ashley convinced her mother that what she really liked and really wanted to eat more than anything else was mustard and relish sandwiches. Because that was the cheapest way to eat.

She did this for a year until her mom got better, and she told everyone at the roundtable that the reason she joined our campaign was so that she could help the millions of other children in the country who want and need to help their parents too.

Now Ashley might have made a different choice. Perhaps somebody told her along the way that the source of her mother's problems were blacks who were on welfare and too lazy to work, or Hispanics who were coming into the country illegally. But she didn't. She sought out allies in her fight against injustice.

Anyway, Ashley finishes her story and then goes around the room and asks everyone else why they're supporting the campaign. They all have different stories and reasons. Many bring up a specific issue. And finally they come to this elderly black man who's been sitting there quietly the entire time. And Ashley asks him why he's there. And he does not bring up a specific issue. He does not say health care or the economy. He does not say education or the war. He does not say that he was there because of Barack Obama. He simply says to everyone in the room, "I am here because of Ashley."

Glossary

Brown v. Board of Education	the landmark 1954 U.S. Supreme Court case that struck down racial segregation in education
Depression	the Great Depression of the 1930s
FHA	Federal Housing Administration, a federal agency that provides insurance on loans made to home purchasers
Geraldine Ferraro	a U.S. congressional representative and the first woman to run for vice president on the ticket of a major party (the Democratic Party), in 1984
Hillary	Hillary Rodham Clinton, Obama's chief opponent for the 2008 Democratic presidential nomination
Jim Crow	the informal name given to the legal and social systems that kept African Americans in a subservient position in the late nineteenth and early twentieth centuries
John McCain	the Arizona senator who was Obama's Republican opponent in the 2008 presidential election
Katrina	a hurricane that struck the Gulf Coast in 2005
OJ trial	the highly publicized and racially divisive murder trial of the former football star and actor O. J. Simpson in 1995

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"I'm here because of Ashley." By itself, that single moment of recognition between that young white girl and that old black man is not enough. It is not enough to give health care to the sick, or jobs to the jobless, or education to our children

But it is where we start. It is where our union grows stronger. And as so many generations have come to realize over the course of the two-hundred and twenty one years since a band of patriots signed that document in Philadelphia, that is where the perfection begins.

Glossary

Patton	General George Patton, an outspoken and highly effective military commander in Europe during World War II
Philadelphia convention	the Constitutional Convention at which the U.S. Constitution was written
Reagan Coalition	the coalition of Republican, independent, and Democratic voters that supported the presidency of Ronald Reagan in the 1980s
war that never should've been authorized	the war in Iraq, which began in 2003
We the people …	the opening line of the U.S. Constitution
William Faulkner	a Nobel Prize–winning American novelist and short-story writer; the quotation is from *Requiem for a Nun*.

President Barack Obama (lower center) waves as he gives his inaugural address at the U.S. Capitol in Washington, D.C. (AP/Wide World Photos)

Barack Obama's Inaugural Address

2009

"The world has changed, and we must change with it."

Overview

As he stood in the brittle winter sunshine on the west portico of the Capitol on January 20, 2009, Barack Obama gave the most anticipated political speech of the first decade of the twenty-first century. Obama delivered his inaugural address before a crowd of 1.8 million people, more than had ever before seen a president take the oath of office. Obama created such excitement partly because, as the first African American president, his election proved, as he himself had declared on election night in November 2008, that "America is a place where all things are possible." He had inspired millions of Americans with his eloquence and his promise to bring "change" at a time when an economic collapse was devastating individual lives and when American forces remained engaged in two long and controversial wars. In his first speech as president, Obama offered the American people hope that the nation would meet these serious challenges, but he stated frankly that success would not come easily or "in a short span of time." He asked his fellow citizens to join him in "a new era of responsibility" and to draw on the values of the past to "begin again the work of remaking America."

Context

The interval between Obama's election on November 4, 2008, and his inauguration on January 20, 2009, was a time of enormous anticipation. Obama's election was an event that many people could hardly believe the presidential victory of an African American whose own father could not have obtained service at segregated lunch counters or hotels in the United States. Millions of people were eager to witness an unprecedented event to be "a part of history" and to celebrate the vitality of American democracy when he took the presidential oath. Indeed, many Americans counted the days until the beginning of Obama's presidency, especially since they expected a sharp change from the current administration. President George W. Bush's approval ratings had fallen to less than 30 percent; people had lost confidence in his leadership, especially in his handling of the economy. Obama promised not only new policies but also new politics an end to the usual partisan divisions, as he would reach out across ideological, cultural, and racial divisions.

Anticipation mixed with anxiety, however, when the weeks between the election and the inauguration brought frightening economic developments. What only months earlier had seemed primarily to be problems in the mortgage and banking industries had become a global economic crisis. The stock market dropped by more than 17 percent; some corporations, including General Motors, faced bankruptcy; hundreds of thousands of workers lost their jobs each week; and ordinary Americans saw their retirement and college-savings accounts severely depleted. Federal aid to banks and businesses could not slow the contraction of the economy, and statements by President Bush and other high government officials could not stop the plunging of consumer confidence. As the inauguration neared, Obama as president-elect revealed some of his plans to restore prosperity, including a major economic stimulus program and new regulations for financial markets. As Americans continued hearing the worst financial news since the Great Depression of the 1930s, they awaited the new president and hoped that Obama could indeed bring change.

The speech that Obama gave on inauguration day was a collaborative effort with his chief speechwriter, Jon Favreau. Just twenty-seven years old, Favreau had worked for Obama during the campaign and had drafted some of his most important speeches. He studied Obama's writings and speech patterns carefully, and he read previous inaugural addresses. After Obama explained what he wanted to say in his inaugural speech, Favreau wrote the first draft, and Obama and Favreau then took turns editing and revising. Some words may be Obama's and others his speechwriter's. The ideas and the vision are the president's.

About the Author

Barack Obama was born in Honolulu on August 4, 1961, and spent most of his youth in Hawaii. His father, who came to the United States from Kenya, left the family when Obama was two years old and eventually returned to

Time Line

1990

- **February 6**
  Obama is elected editor of the *Harvard Law Review*, becoming the first African American to hold that position in the publication's 104-year history.

1996

- **November 5**
  Obama wins the first of three terms in the Illinois Senate.

2002

- **October 2**
  Speaking in Chicago, Obama declares that he opposes war with Iraq.

2004

- **July 27**
  At the Democratic National Convention in Boston, at which John Kerry is nominated for president, Obama gives the keynote address, which gains him national attention.
- **November 2**
  Obama is elected to the U.S. Senate from Illinois.

2007

- **February 10**
  Obama announces his candidacy for the presidency in Springfield, Illinois.

2008

- **June 3**
  Speaking after the conclusion of the last primaries and caucuses, Obama asserts that he has enough delegates to win the Democratic presidential nomination over Hillary Rodham Clinton.
- **August 28**
  In a speech at Invesco Field in Denver, Colorado, Obama accepts the Democratic nomination for president.
- **November 4**
  Over the Republican John McCain, Obama is elected the forty-fourth president of the United States.

2009

- **January 20**
  President Obama delivers his inaugural address.

the country of his birth; Obama's parents divorced in 1964. His mother, Stanley Ann Dunham, later married Lolo Soetoro, an Indonesian who was studying at the University of Hawaii. In 1967 the family moved to Jakarta, Indonesia, and Obama became familiar with the nation's culture and society. For the first time, he saw widespread want and deprivation, as beggars "seemed to be everywhere, . . . some without arms, others without feet," as he described it in *Dreams from My Father*. He later said that living in Indonesia made him "more mindful of . . . the ways that fate can determine the lives of young children, so that one ends up being fabulously wealthy and another ends up being extremely poor." His mother supplemented his formal schooling with tutorials in African American history. She also made him get up at 4 AM five days a week to take English lessons before going to school.

In 1971 Obama returned to Hawaii, where he lived with his maternal grandparents and attended the Punahou School, an elite private academy that allowed him, as he later explained, to make contacts that "would last a lifetime." During the Christmas season, his mother and father joined him for an extended visit. This two-week family reunion provided Obama with his only memories of his father; Obama did not see his father again before an automobile accident in Kenya took his life in 1982.

Like many adolescents, Obama, who went by the name of "Barry," engaged in what he called "a fitful interior struggle" to establish his own identity. Complicating his efforts were the permanent absence of his father and the return of his mother to Indonesia for several years to do fieldwork for her graduate degree in anthropology. Obama learned from friends, grandparents, and the books he read most evenings in his room. Yet the role models he discovered and the advice he received provided limited help, as he was the son of an African father and a white mother who was living in a state where most people were Asian Americans or Pacific Islanders. "I was trying to raise myself to be a black man in America," Obama wrote, but "no one around me seemed to know exactly what that meant." Obama eventually wrote *Dreams from My Father: A Story of Race and Inheritance* (1995) as a candid and poignant account of his efforts to understand himself and the world around him.

Obama became politically active while he attended Occidental College, in Los Angeles. He participated in demonstrations against the South African practice of apartheid. He engaged in lengthy discussions with friends about politics, learned that he had a talent for public speaking, and became "Barack" instead of "Barry." In 1981, after two years at Occidental, he transferred to Columbia University, where he earned a bachelor's degree in political science in 1983.

After working for two years in New York, Obama became a community organizer in Chicago in 1985. He found that helping African American residents in the poor neighborhoods of Chicago's South Side on projects such as asbestos removal from apartment buildings or improving city services was "the best education I ever received." As he later wrote in *The Audacity of Hope*, community organizing "deepened my resolve to lead a public life, . . . fortified my

racial identity, and confirmed my belief in the capacity of ordinary people to do extraordinary things."

Concluding that he needed additional training to do his work more effectively, Obama enrolled in Harvard Law School. In 1990 he was elected editor of the *Harvard Law Review*, becoming the first African American to hold that position. After graduating in 1991, Obama moved back to Chicago and, the following year, married Michelle Robinson, also a graduate of Harvard Law. He worked for a law firm that took on many civil rights cases, and he also taught constitutional law at the University of Chicago Law School.

In 1996 Obama won the first of two consecutive terms in the Illinois Senate, representing a district in Hyde Park on Chicago's South Side. He suffered a defeat at the polls in 2000, when he challenged the incumbent Democrat Bobby Rush for a seat in the U.S. Congress. Obama regained his seat in the Illinois Senate in 2002. During that campaign, he spoke out against going to war with Iraq, maintaining that such a conflict would "fan the flames" of opposition to the United States in the Middle East and "strengthen the recruitment arm of al Qaeda," the terrorist organization responsible for the attacks of September 11, 2001. Obama announced his candidacy for the U.S. Senate shortly after returning to the state senate. He won the Democratic nomination by a wide margin in the March 2004 Illinois primary, and his candidacy gained a boost when he gave the keynote address at the Democratic National Convention on July 27, 2004. In November, Obama won election to the Senate by the widest margin in Illinois history.

In the Senate, Obama served on the Foreign Relations Committee and sponsored ethics reform legislation, but he soon began considering a run for the presidency. He declared his candidacy on February 10, 2007, in Springfield, Illinois, conceding that there was "a certain presumptuousness a certain audacity to this announcement." While he admitted that he had not "spent a lot of time learning the ways of Washington," he insisted that he had "been there long enough to know that the ways of Washington must change." During most of 2007, polls showed that Obama was far behind the front-runner for the Democratic nomination, Senator Hillary Rodham Clinton of New York. Obama, however, campaigned tirelessly, built an extensive and remarkably effective campaign organization, raised large amounts of money from small donors by relying on the Internet, and emphasized that he stood for "change," especially the ending of the war in Iraq. Obama surged into the lead for the nomination with a victory in the Iowa caucuses in early January 2008 but then narrowly lost to Clinton in the first primary in New Hampshire. He regained the advantage in a cluster of primaries that all occurred on February 5, or "Super Tuesday." At the end of the primaries and caucuses on June 3, Obama claimed that he had enough delegates to win the nomination. Clinton suspended her campaign four days later, ensuring that Obama would be the Democrats' choice for president when the party held its national convention in Denver at the end of August.

Polls indicated that the race between Obama and the Republican nominee, Senator John McCain of Arizona, was close until mid-September, when McCain asserted, "The fundamentals of our economy are strong." That statement was made as the financial difficulties that had troubled the U.S. economy for more than a year worsened so dramatically that President George W. Bush sought emergency legislation to provide $700 billion in aid to ailing banks and investment firms. As the economy weakened, Obama's message of change resonated with more voters. On November 4, Obama was elected the nation's forty-fourth president, winning overwhelmingly with 52.9 percent of the popular vote and 365 electoral votes.

Explanation and Analysis of the Document

After thanking President Bush, Obama quickly introduces the two main themes of his address. The first is that America faces a crisis, one brought about by a faltering economy and two wars. The second is that enduring national principles and values would enable the nation to meet the challenges it faces. Obama maintains that leaders in high office, like himself, as well as the American people must together take responsibility for weathering the "gathering clouds and raging storms." On a day of celebration, the new president's speech is sober, purposeful, and resolute.

In matter-of-fact language the new president sketches the causes of the crisis. He declares that the United States "is at war against a far-reaching network of violence and hatred." His wording suggests that the primary enemy is the terrorist organization al Qaeda. Also implicit in his statement is the view that the war in Iraq is a diversion from the battle against terrorism, a position he took throughout his campaign for president. He blames the "badly weakened" economy both on individual "greed and irresponsibility" and on "collective failure to make hard choices" and "prepare . . . for a new age." He links the symptoms of economic recession mortgage foreclosures, unemployment, and business closings to longer-term problems, such as expensive health care, ineffective schools, and wasteful and dangerous energy consumption. By doing so, he implies that restoring economic health requires major reforms to address these larger problems.

Obama maintains that the American people can overcome the grim realities of crisis, but he offers a frank assessment of the work ahead; he tells his fellow citizens to expect economic problems to deepen and persist. He also understands that the most corrosive effects of an economic recession can be psychological. People lose hope both for themselves and for their children. The results, he explains, are "a sapping of confidence" and "a nagging fear" that "the next generation" must settle for less. Obama tries to reassure his fellow citizens that better times are ahead, but he does so in spare, temperate language. The current challenges, he asserts, "will not be met easily or in a short span of time. But know this America: They will be met."

In the next section of his address, Obama situates contemporary problems in the broad sweep of American history. He believes that a presidential inauguration is an impor-

A man holds a sign advertising the closing sale at Circuit City in Pontiac, Michigan, in December 2008.
(AP/Wide World Photos)

tant symbolic occasion, when Americans reaffirm their "enduring spirit" and continue the journey of earlier generations. Obama reminds his fellow citizens that the United States remains a great nation, but "greatness is never a given. It must be earned." He thus asks the American people to continue the work of "the risk-takers, the doers, the makers of things." Some of the people who have contributed to national greatness are the celebrated heroes of the Revolutionary War (such as at Concord, Massachusetts), the Civil War (at Gettysburg, Pennsylvania), World War II (at Normandy, France), and the Vietnam War (at Khe Sanh). Others, such as factory workers, slaves, farmers, and immigrants, never gained individual recognition but still "carried us up the long rugged path towards prosperity and freedom." While the economy might have stalled or shrunk, "our capacity remains undiminished." To renew their strength, the American people must no longer tolerate the practices "that for far too long have strangled our politics." Politics as usual will not suffice, a judgment that he believes voters confirmed in the November election. The nation's "time of standing pat, of protecting narrow interests and putting off unpleasant decisions . . . has surely passed," he affirms.

In what may be the most significant section of his address, Obama asserts that it is time to "begin again the work of remaking America" in profoundly new ways. He favors projects that will rebuild the nation's infrastructure and that will create new jobs. Even more important, though, is his desire to "lay a new foundation for growth" of the economy. The speech provides a few indications as to how he proposes to do so during his presidency. As important as roads and bridges are the digital lines essential to electronic communication and commerce. The reference to restoring "science to its rightful place" foreshadows his decision in early March to lift restrictions on stem-cell research in the hope that such work could yield dramatic improvements in the treatment of disease. Obama also pledges to "transform" schools and colleges so that they, too, could contribute to a new age of economic growth. Achieving these goals could bring about one of the greatest periods of reform in U.S. history.

Obama tries to forestall criticism from those "who suggest that our system cannot tolerate too many big plans." He maintains that such critics do not appreciate what Americans have accomplished at times "when imagination is joined to common purpose." He also insists that his election shows that voters have repudiated the cynics' "stale political arguments that have consumed us for so long." In short, Obama maintains that change both in national objectives and in how Americans achieve them is essential to economic recovery.

The new president concludes his discussion of the economic crisis by examining the roles of government and the market in restoring prosperity. There are echoes of Ronald Reagan in Obama's words. Taking office in January 1981 at a time of severe economic problems, Reagan declared in his first inaugural address that government was the reason for the nation's economic difficulties and that he was determined to make government work. Although his views about the government's powers and responsibilities are far different from Reagan's, Obama agrees with his predecessor that in a time of economic crisis, government must work and must be accountable. As was Reagan's, his goal is to "restore the vital trust between a people and their government," albeit in different ways. Also as did Reagan, Obama lauds the nation's market economy for its ability "to generate wealth and expand freedom." Yet Obama deviates sharply from the agendas of Reagan and George W. Bush when he calls for stronger government regulation of markets and businesses. In the year before Obama's election, several large banks and other financial institutions failed, with inadequate government oversight having contributed to their problems. In addition, some people lost their life savings after unscrupulous investment managers defrauded them while federal regulators ignored warnings of suspicious activity. Obama states what many Americans already understood all too well: "This crisis has reminded us that without a watchful eye, the market can spin out of control."

Turning to international affairs, Obama embraces principles different from those that prevailed during the Bush administration to guide his approach to protecting the nation's security. He rejects "as false the choice between our safety and our ideals," promising not to compromise the latter "for expedience sake." These statements indirectly criticize the Bush administration for weakening civil liberties in efforts to prevent another terrorist attack like that of September 11, 2001. Referring to earlier generations that had faced the challenges of world war and cold war, Obama explains that they understood that "power alone cannot protect us, nor does it entitle us to do as we please." Again, there

is unmistakable criticism of the preceding administration for launching military action against Iraq in 2003 despite the objections of many allied and friendly nations and for deprecating the leaders and nations who expressed their disagreements. Obama reiterates what had been a major promise of his campaign that "we will begin to responsibly leave Iraq to its people and forge a hard-earned peace in Afghanistan." He affirms that he will work with allies and former adversaries to lessen the dangers of nuclear war and global warming. He offers friendship to "each nation and every man, woman and child who seeks a future of peace and dignity." And in perhaps the sharpest criticism of his predecessor, he declares, "We are ready to lead once more."

Leadership, according to Obama, also requires staunch defense of "our way of life." In words that elicited vigorous applause from his audience at the Capitol, Obama promises fortitude against terrorists who slaughter innocents: "Our spirit is stronger," he states confidently, "and we will defeat you." Finding hope in the increased strength and unity that Americans experienced after the nation's dark chapters of "civil war and segregation," Obama envisions a similar transformation on a global scale. "The old hatreds shall someday pass," he declares hopefully. "Our common humanity shall reveal itself," and "a new era of peace" shall begin. Yet he knows that such sweeping change can occur only incrementally and only if America changes along with the rest of the world. Accordingly, he offers "the Muslim world . . . a new way forward, based on mutual interest and mutual respect." He also pledges new cooperation with the people of poor nations, because "we can no longer afford indifference to the suffering outside our borders, nor can we consume the world's resources without regard to effect."

As he honors those Americans who have worn the uniform of their country, Obama returns to the theme that traditional values will enable Americans to meet contemporary challenges. He praises "the fallen heroes who lie in Arlington" National Cemetery and the "guardians of our liberty" stationed in Afghanistan and Iraq for their "willingness to find meaning in something greater than themselves." He maintains that their "spirit of service . . . must inhabit us all" and that it "will define a generation." Along with service, Obama hails traditional values "honesty and hard work, courage and fair play, tolerance and curiosity, loyalty and patriotism" that have accounted for progress throughout American history. He calls for "a new era of responsibility" in which the American people accept obligations to themselves, their country, and the world. His words recall those of John F. Kennedy, who in his inaugural address forty-eight years earlier made a summons to service a stirring challenge to better the world: "Ask not what your country can do for you," Kennedy told his fellow Americans. "Ask what you can do for your country."

In connecting service to the extension of liberty, Obama makes his only reference to being the nation's first African American president. He notes that people of every race and faith have gathered on the mall that stretches from the Capitol to the Lincoln Memorial to join in a celebration of liberty. A measure of the nation's achievement is that only two generations earlier, because of racial segregation, Obama's father would not have been able to obtain service at some local restaurants. Now his son can "stand before you to take a most sacred oath."

Obama closes with a reference to a desperate moment in the Revolutionary War, perhaps revealing how serious he considers the crisis faced by Americans at the beginning of his presidency. British troops occupied New York City, the Continental army had lost a series of battles, and American soldiers left for home as their enlistments expired during the winter cold of December 1776. General George Washington appealed to the virtue and spirit of those who remained, ordering them to cross the icy waters of the Delaware River and leading them to critical victories in New Jersey at Trenton and Princeton. Obama asks that Americans once more rely on their "hope and virtue" during a far different "winter of . . . hardship." Steadfast adherence to the values of the past, he insists, will enable the American people to deliver "to future generations" the "great gift of freedom" that their predecessors have bequeathed to them.

Audience

Obama spoke to the biggest crowd ever to witness a presidential inauguration an estimated 1.8 million people. Thirty-eight million more Americans watched Obama's speech on television, slightly below the record of forty-two million viewers for Ronald Reagan's first inaugural in 1981. Millions more saw Obama's address on the Internet, however, which was not possible when Reagan took the oath of office. Tens of millions of people around the world also viewed Obama's address, either on the Internet or on television. There were crowds near public televisions in world capitals such as Paris and Mexico City, in U.S. military bases in Afghanistan and Iraq, and in Kisumu, Kenya, capital of the province where Obama's father was born. For his first speech as president, Obama truly had a global audience, perhaps the largest ever to hear an inaugural address.

Impact

Americans usually remember inaugural addresses for two reasons. Either they contain language that has a timeless eloquence, or they chart new courses for the nation at times of exceptional promise or peril. Often those two reasons coincide. Abraham Lincoln asked the American people in his second inaugural address, at the end of the Civil War in 1865, to "to bind up the nation's wounds," "with malice toward none, with charity for all." Franklin D. Roosevelt, in his first inaugural address, told his fellow citizens during the worst days of the Great Depression in 1933 that "the only thing we have to fear is fear itself" and then promised a "program of action" that became the New Deal. John F. Kennedy, determined to meet the challenges of the cold war, proclaimed that the United States would "pay any price, bear any burden, meet any hardship, support any

Essential Quotes

"Today I say to you that the challenges we face are real. They are serious and they are many. They will not be met easily or in a short span of time. But know this America: They will be met."

(Paragraph 7)

"Starting today, we must pick ourselves up, dust ourselves off, and begin again the work of remaking America."

(Paragraph 12)

"What the cynics fail to understand is that the ground has shifted beneath them, that the stale political arguments that have consumed us for so long no longer apply."

(Paragraph 14)

"And so, to all other peoples and governments who are watching today, from the grandest capitals to the small village where my father was born, know that America is a friend of each nation, and every man, woman and child who seeks a future of peace and dignity. And we are ready to lead once more."

(Paragraph 18)

"We will not apologize for our way of life, nor will we waver in its defense. And for those who seek to advance their aims by inducing terror and slaughtering innocents, we say to you now that our spirit is stronger and cannot be broken—you cannot outlast us, and we will defeat you."

(Paragraph 21)

"The world has changed, and we must change with it."

(Paragraph 25)

"What is required of us now is a new era of responsibility—a recognition on the part of every American that we have duties to ourselves, our nation and the world, duties that we do not grudgingly accept, but rather seize gladly, firm in the knowledge that there is nothing so satisfying to the spirit, so defining of our character, than giving our all to a difficult task."

(Paragraph 30)

friend, oppose any foe to assure the survival and the success of liberty."

Obama's address does not contain what one former presidential speechwriter, William Safire, calls a "quotable quote," a sentence or phrase as striking as Lincoln's, Roosevelt's, or Kennedy's. Some commentators have suggested that the absence of soaring language may have been intentional. Obama may have wished to emphasize the sobering realities of an economic recession whose magnitude and severity could still not be fully understood when he began his presidency. Plain, direct, and unadorned language may have suited his purpose, and yet in such prose there is still a simple eloquence.

A more important measure of the impact of an inaugural address is how well it maps the route the president follows. Early indications are that Obama does indeed intend to strive for the sweeping reforms he suggested in his speech. As the president's chief of staff, Rahm Emanuel, explained in an interview, there are opportunities in crisis to bring about reforms that would not be possible in normal circumstances. In his first weeks as president, Obama secured the passage of major economic stimulus legislation, which included funds to begin laying the new foundation he envisions for future growth. He has also outlined ambitious programs for education and health-care reform. The ultimate importance of Obama's inaugural address will depend in large measure on what he achieves in office. The most memorable inaugural addresses have usually been given by those presidents who have had highly successful administrations.

See also Barack Obama: "A More Perfect Union" (2008); Barack Obama's Address to the NAACP Centennial Convention (2009).

Further Reading

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Questions for Further Study

1. "Change" was an important theme of Barack Obama's campaign for the presidency in 2008. In what ways is Obama's inaugural address a message of change? Which domestic or foreign policies does he suggest he would alter? What new approaches does he propose to such issues as energy production and consumption, health-care quality and cost, and education? To what extent does he promise continuity—that he would deal with national issues according to long-standing traditions, values, or ideals?

2. Most recent presidents have hoped that their inaugural address would be inspirational—that it would appeal to the high ambitions and best values of the American people. Do you think that President Obama's address is inspirational? Explain how Obama's ideas and the words he uses to express them account for your conclusion.

3. Has Obama's inaugural address been a reliable guide to his presidency? Did he include in his speech the main issues he would address and programs he would propose after becoming president? Does his address fail to mention any important action that he took after becoming president? If so, why do you think that he chose not to discuss that action in his inaugural address?

4. President Obama said that he delivered his inaugural address, as had some other presidents, "amidst gathering clouds and raging storms." Compare his address to one of the following: President Abraham Lincoln's second inaugural address (1865), President Franklin D. Roosevelt's first inaugural address (1933), or President Ronald Reagan's first inaugural address (1981). What were the "gathering clouds and raging storms" when the president you chose was speaking? How did that president propose to weather the storms? Are there any major similarities or differences between that president's inaugural address and Obama's?

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Chester Pach

Document Text

Barack Obama's Inaugural Address

My fellow citizens: I stand here today humbled by the task before us, grateful for the trust you have bestowed, mindful of the sacrifices borne by our ancestors.

I thank President Bush for his service to our nation as well as the generosity and cooperation he has shown throughout this transition.

Forty-four Americans have now taken the presidential oath. The words have been spoken during rising tides of prosperity and the still waters of peace. Yet, every so often the oath is taken amidst gathering clouds and raging storms. At these moments, America has carried on not simply because of the skill or vision of those in high office, but because We the People have remained faithful to the ideals of our forbears, and true to our founding documents.

So it has been. So it must be with this generation of Americans.

That we are in the midst of crisis is now well understood. Our nation is at war against a far-reaching network of violence and hatred. Our economy is badly weakened, a consequence of greed and irresponsibility on the part of some but also our collective failure to make hard choices and prepare the nation for a new age.

Homes have been lost, jobs shed, businesses shuttered. Our health care is too costly, our schools fail too many, and each day brings further evidence that the ways we use energy strengthen our adversaries and threaten our planet.

These are the indicators of crisis, subject to data and statistics. Less measurable, but no less profound, is a sapping of confidence across our land; a nagging fear that America's decline is inevitable, that the next generation must lower its sights.

Today I say to you that the challenges we face are real, they are serious and they are many. They will not be met easily or in a short span of time. But know this America: They will be met.

On this day, we gather because we have chosen hope over fear, unity of purpose over conflict and discord. On this day, we come to proclaim an end to the petty grievances and false promises, the recriminations and worn-out dogmas that for far too long have strangled our politics.

We remain a young nation, but in the words of Scripture, the time has come to set aside childish things. The time has come to reaffirm our enduring spirit; to choose our better history; to carry forward that precious gift, that noble idea, passed on from generation to generation: the God-given promise that all are equal, all are free, and all deserve a chance to pursue their full measure of happiness.

In reaffirming the greatness of our nation, we understand that greatness is never a given. It must be earned. Our journey has never been one of shortcuts or settling for less. It has not been the path for the faint-hearted, for those who prefer leisure over work, or seek only the pleasures of riches and fame. Rather, it has been the risk-takers, the doers, the makers of things — some celebrated, but more often men and women obscure in their labor — who have carried us up the long, rugged path towards prosperity and freedom.

For us, they packed up their few worldly possessions and traveled across oceans in search of a new life. For us, they toiled in sweatshops and settled the West, endured the lash of the whip and plowed the hard earth. For us, they fought and died in places like Concord and Gettysburg; Normandy and Khe Sahn.

Time and again these men and women struggled and sacrificed and worked till their hands were raw so that we might live a better life. They saw America as bigger than the sum of our individual ambitions; greater than all the differences of birth or wealth or faction.

This is the journey we continue today. We remain the most prosperous, powerful nation on Earth. Our workers are no less productive than when this crisis began. Our minds are no less inventive, our goods and services no less needed than they were last week or last month or last year. Our capacity remains undiminished. But our time of standing pat, of protecting narrow interests and putting off unpleasant decisions — that time has surely passed.

Starting today, we must pick ourselves up, dust ourselves off, and begin again the work of remaking America. For everywhere we look, there is work to be done.

The state of our economy calls for action: bold and swift. And we will act not only to create new jobs but to lay a new foundation for growth.

Document Text

We will build the roads and bridges, the electric grids and digital lines that feed our commerce and bind us together.

We will restore science to its rightful place and wield technology's wonders to raise health care's quality and lower its costs. We will harness the sun and the winds and the soil to fuel our cars and run our factories. And we will transform our schools and colleges and universities to meet the demands of a new age.

All this we can do. All this we will do.

Now, there are some who question the scale of our ambitions, who suggest that our system cannot tolerate too many big plans. Their memories are short, for they have forgotten what this country has already done, what free men and women can achieve when imagination is joined to common purpose and necessity to courage.

What the cynics fail to understand is that the ground has shifted beneath them, that the stale political arguments that have consumed us for so long, no longer apply.

The question we ask today is not whether our government is too big or too small, but whether it works, whether it helps families find jobs at a decent wage, care they can afford, a retirement that is dignified. Where the answer is yes, we intend to move forward. Where the answer is no, programs will end.

And those of us who manage the public's knowledge will be held to account, to spend wisely, reform bad habits, and do our business in the light of day, because only then can we restore the vital trust between a people and their government.

Nor is the question before us whether the market is a force for good or ill. Its power to generate wealth and expand freedom is unmatched. But this crisis has reminded us that without a watchful eye, the market can spin out of control. The nation cannot prosper long when it favors only the prosperous.

The success of our economy has always depended not just on the size of our gross domestic product, but on the reach of our prosperity; on the ability to extend opportunity to every willing heart not out of charity, but because it is the surest route to our common good.

As for our common defense, we reject as false the choice between our safety and our ideals. Our founding fathers faced with perils that we can scarcely imagine, drafted a charter to assure the rule of law and the rights of man, a charter expanded by the blood of generations.Those ideals still light the world, and we will not give them up for expedience's sake.

And so, to all other peoples and governments who are watching today, from the grandest capitals to the small village where my father was born: know that America is a friend of each nation and every man, woman and child who seeks a future of peace and dignity, and we are ready to lead once more.

Recall that earlier generations faced down fascism and communism not just with missiles and tanks, but with the sturdy alliances and enduring convictions. They understood that our power alone cannot protect us, nor does it entitle us to do as we please. Instead, they knew that our power grows through its prudent use. Our security emanates from the justness of our cause; the force of our example; the tempering qualities of humility and restraint.

We are the keepers of this legacy, guided by these principles once more, we can meet those new threats that demand even greater effort, even greater cooperation and understanding between nations. We'll begin to responsibly leave Iraq to its people and forge a hard-earned peace in Afghanistan.

With old friends and former foes, we'll work tirelessly to lessen the nuclear threat and roll back the specter of a warming planet. We will not apologize for our way of life nor will we waver in its defense.

And for those who seek to advance their aims by inducing terror and slaughtering innocents, we say to you now that, "Our spirit is stronger and cannot be broken. You cannot outlast us, and we will defeat you."

For we know that our patchwork heritage is a strength, not a weakness. We are a nation of Christians and Muslims, Jews and Hindus, and nonbelievers. We are shaped by every language and culture, drawn from every end of this Earth. And because we have tasted the bitter swill of civil war and segregation and emerged from that dark chapter stronger and more united, we cannot help but believe that the old hatreds shall someday pass; that the lines of tribe shall soon dissolve; that as the world grows smaller, our common humanity shall reveal itself; and that America must play its role in ushering in a new era of peace.

To the Muslim world, we seek a new way forward, based on mutual interest and mutual respect. To those leaders around the globe who seek to sow conflict or blame their society's ills on the West, know that your people will judge you on what you can build, not what you destroy.

To those who cling to power through corruption and deceit and the silencing of dissent, know that you are on the wrong side of history, but that we will extend a hand if you are willing to unclench your fist.

Document Text

To the people of poor nations, we pledge to work alongside you to make your farms flourish and let clean waters flow; to nourish starved bodies and feed hungry minds. And to those nations like ours that enjoy relative plenty, we say we can no longer afford indifference to the suffering outside our borders, nor can we consume the world's resources without regard to effect. For the world has changed, and we must change with it.

As we consider the road that unfolds before us, we remember with humble gratitude those brave Americans who, at this very hour, patrol far-off deserts and distant mountains. They have something to tell us, just as the fallen heroes who lie in Arlington whisper through the ages.

We honor them not only because they are guardians of our liberty, but because they embody the spirit of service: a willingness to find meaning in something greater than themselves. And yet, at this moment, a moment that will define a generation, it is precisely this spirit that must inhabit us all. For as much as government can do and must do, it is ultimately the faith and determination of the American people upon which this nation relies.

It is the kindness to take in a stranger when the levees break; the selflessness of workers who would rather cut their hours than see a friend lose their job which sees us through our darkest hours. It is the firefighter's courage to storm a stairway filled with smoke, but also a parent's willingness to nurture a child, that finally decides our fate.

Our challenges may be new, the instruments with which we meet them may be new, but those values upon which our success depends, honesty and hard work, courage and fair play, tolerance and curiosity, loyalty and patriotism these things are old.

These things are true. They have been the quiet force of progress throughout our history. What is demanded then is a return to these truths. What is required of us now is a new era of responsibility a recognition, on the part of every American, that we have duties to ourselves, our nation and the world, duties that we do not grudgingly accept but rather seize gladly, firm in the knowledge that there is nothing so satisfying to the spirit, so defining of our character than giving our all to a difficult task.

This is the price and the promise of citizenship. This is the source of our confidence: the knowledge that God calls on us to shape an uncertain destiny. This is the meaning of our liberty and our creed, why men and women and children of every race and every faith can join in celebration across this magnificent mall. And why a man whose father less than 60 years ago might not have been served at a local restaurant can now stand before you to take a most sacred oath.

So let us mark this day in remembrance of who we are and how far we have traveled.

In the year of America's birth, in the coldest of months, a small band of patriots huddled by nine campfires on the shores of an icy river. The capital was abandoned. The enemy was advancing. The snow was stained with blood. At a moment when the outcome of our revolution was most in doubt, the father of our nation ordered these words be read to the people:

Glossary

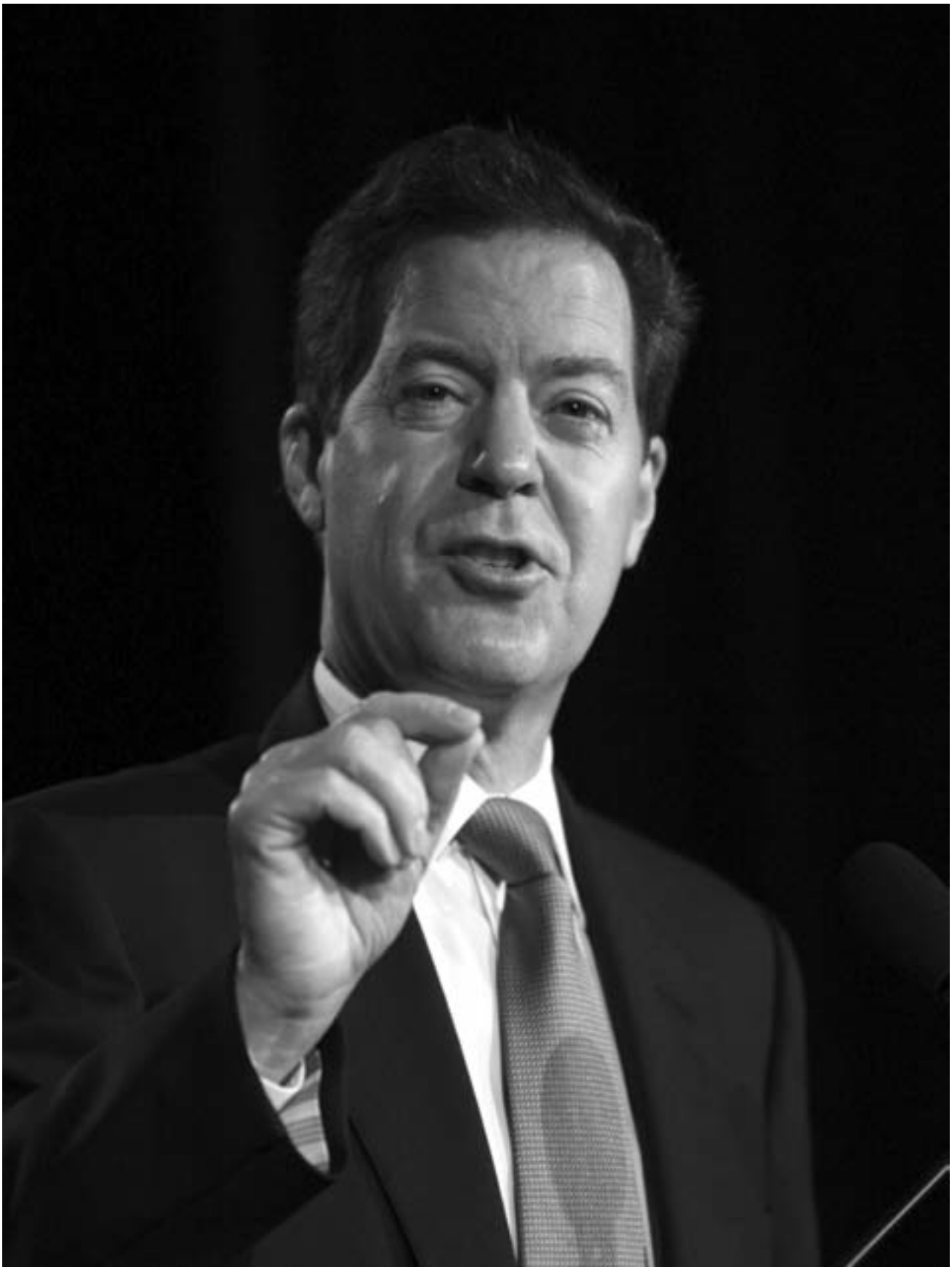
Concord	town in Massachusetts where local militia fought regular troops of the British army on April 19, 1775, the first day of fighting during the Revolutionary War
creed	a set of religious beliefs or philosophical principles
dogma	a belief or principle considered true and not subject to change or contradiction
Gettysburg	site in Pennsylvania of a critical battle that occurred on July 1–3, 1863, during the Civil War
gross domestic product	a monetary measure of the goods and services that a nation produces within its borders each year
Khe Sanh	site in South Vietnam of a U.S. Marine Corps base that came under prolonged siege during the enemy's Tet Offensive in 1968 during the Vietnam War
Normandy	region where Allied troops landed during the D-day operations of June 6, 1944, to liberate France from Nazi occupation during World War II

Document Text

"Let it be told to the future world that in the depth of winter, when nothing but hope and virtue could survive, that the city and the country, alarmed at one common danger, came forth to meet it."

America, in the face of our common dangers, in this winter of our hardship, let us remember these timeless words; with hope and virtue, let us brave once more the icy currents, and endure what storms may come; let it be said by our children's children that when we were tested we refused to let this journey end, that we did not turn back nor did we falter; and with eyes fixed on the horizon and God's grace upon us, we carried forth that great gift of freedom and delivered it safely to future generations.

Thank you. God bless you. And God bless the United States of America.



Senator Sam Brownback, the Republican sponsor of the resolution apologizing for slavery (AP/Wide World Photos)

U.S. Senate Resolution Apologizing for the Enslavement and Racial Segregation of African Americans

2009

"The Congress acknowledges the fundamental injustice, cruelty, brutality, and inhumanity of slavery and Jim Crow laws."

Overview

On June 18, 2009, the U.S. Senate passed a resolution apologizing for slavery and racial segregation, including the "Jim Crow" laws that underpinned the nation's division along racial lines from the end of Reconstruction to the 1960s. The resolution was concurrent within Congress, meaning that the same resolution was passed by the U.S. House of Representatives. The resolution reviews the tragic history of slavery and racial segregation and asserts that a federal apology for past injustices committed against African Americans can be a way to help the nation bind its racial wounds. Notably, the resolution sidesteps calls for monetary reparations to be paid to the descendants of slaves. The resolution is nonbinding, meaning that it does not have the force of law; as phrased in the eighteenth and final clause, it is a "sense of the Congress" resolution that expresses a sentiment about something but has no legal effect. For this reason, it was not necessary for the Senate to forward the resolution to the president for his signature. While many political observers believed that such an apology was long overdue and welcomed it, others found it to be "too little, too late" and asserted that its only value was symbolic. Moreover, the apology renewed the contentious debate over the issue of reparations that is, monetary payments to atone for past wrongs for the descendants of slaves.

Context

As the turn of the third millennium approached and arrived, governments and other institutions throughout the world were prompted to look back on their histories and make amends to those peoples they had wronged in the past. The twentieth century had been torn by two destructive world wars, followed by half a century of a brutally expensive cold war that sometimes threatened nuclear annihilation. Aside from the prolonged tension, the cold war precipitated flare-ups of conflict throughout the world as the democratic West and the Communist Soviet bloc vied for influence most dramatically in Korea and in Vietnam, for example. The cold war ultimately ended with the demise of the Soviet Union, while the era of colonialism drew to a close through such momentous events as the withdrawal of the French from Algeria and from Southeast Asia and India's gaining independence from British rule. Nations throughout Africa as well as in Asia became independent in the 1950s and 1960s. Meanwhile, nations and global organizations devoted attention to resolving conflict at societal levels. The United Nations crafted the Universal Declaration of Human Rights in 1948, largely in response to the genocides of World War II. In the United States, Supreme Court decisions led by *Brown v. Board of Education of Topeka* in 1954 and pivotal legislation such as the Civil Rights Act of 1964 eliminated at least some of the worst vestiges of racial segregation. In 1994, South Africa was freed from the grip of apartheid. In this climate, states and institutions reviewed their histories and strove to make at least symbolic amends for past injustices and abuses.

Many societal apologies were issued by religious institutions. For example, the Southern Baptist Convention apologized to African Americans for its past support of slavery and segregation; the Evangelical Lutheran Church in America apologized to Jews for the anti-Semitism of Lutheranism's founder, Martin Luther; and the United Methodist Church apologized to American Indians for a brutal massacre led by a Methodist preacher during the Civil War. On Easter Sunday in 1996, a coalition of Christians began what was called the Reconciliation Walk, an effort to retrace the original route of the First Crusade, begun nine hundred years earlier, and to apologize for the atrocities committed against Muslims and Jews throughout the Crusades the two-hundred-year period of intermittent warfare waged as European Christians conquered and tried to hold the Holy Land in and around Jerusalem.

The Catholic Church came to apologize for a wide range of past abuses. In 1992 the church apologized for its persecution of Galileo Galilei, the seventeenth-century Italian scientist who challenged the traditional belief that the earth was the center of the universe and for his trouble was accused of heresy and sentenced to house arrest. In 1998 the church issued "We Remember: A Reflection on the Shoah," recognizing that too many Catholics remained silent and did nothing in the face of the Nazi Holocaust of World War II, during which six million Jews lost their lives. (*Shoah* is the Hebrew word for the Holocaust.) An ongoing

Time Line

1988

- **August 10**
  The Civil Liberties Act of 1988, granting reparations to survivors among the Japanese Americans interned in camps during World War II, is enacted.

1997

- **June 13**
  President Bill Clinton issues Executive Order 13050, launching the Initiative on Race.

1998

- **September 18**
  The Initiative on Race releases its final report, *One America in the 21st Century*.

2005

- **June 13**
  The U.S. Senate passes a resolution apologizing for its failure to enact antilynching legislation.

2007

- **February 24**
  The Virginia legislature passes a resolution expressing "profound regret" for slavery.
- **March 27**
  The Maryland legislature passes a resolution expressing "profound regret" for slavery.
- **April 8**
  The North Carolina Senate passes a resolution apologizing for slavery.
- **April 11**
  The North Carolina House of Representatives passes an apology similar to that of the Senate.
- **May 31**
  The Alabama governor Bob Riley signs a legislative resolution apologizing for slavery.

2008

- **January 7**
  The New Jersey legislature passes a resolutin apologizing for slavery.
- **March 26**
  The Florida legislature apologizes for its role in slavery.

debate concerns the failure of Pope Pius XII to speak out more forcefully against the Nazis; at the time he faced genuine fear of Nazi reprisals that could have made matters worse. Then, in 2000, the church confessed to past errors and sins in a document titled "Memory and Reconciliation: The Church and the Faults of the Past." The document was vague in specifying what those faults were, but it hinted at such abuses as the persecution of accused witches, the Cathars (a schismatic French sect), and other heretics in the Inquisition. In 2010, Pope Benedict XVI apologized to Irish Catholics for sexual abuse that had been committed by priests in the past, and Catholic apologies for sexual misconduct have recently been reported by the national news media on a regular basis.

Meanwhile, numerous nations apologized to others for histories of conquest and colonialism. In 1990 the Japanese emperor Akihito expressed regret for the colonization of Korea from 1910 until 1945; the Japanese prime minister Toshiki Kaifu went further and extended apologies to Korea. In 2002 Prime Minister Helen Clark issued a formal apology for the role New Zealand had played in its sometimes tragic colonial administration of Samoa. In 2000 the German president Johannes Rau, addressing the Israeli Knesset (the parliament), apologized to Jews for the Nazi-era Holocaust. Then, in 2004, Germany apologized for a colonial-era crackdown that killed sixty-five thousand ethnic Hereros in Namibia. In 2008 Italy agreed to pay the equivalent of $5 billion to Libya to compensate the African nation for injustices suffered when it was an Italian colony. In 2008 the government of Australia offered a formal apology to the nation's Aborigines, singling out the "stolen generation" of native children forcibly removed from their families. As a matter of course, not all nations have participated in this trend. France has consistently refused to apologize to Algeria for its 132 years of colonial rule, and Great Britain has resisted pleas for an apology to its former colony of India. The Canadian prime minister Stephen Harper caused controversy with a remark that his nation has no history of colonialism, but he later implicitly recanted this remark when he offered an apology to Canada's First Nations the term favored in Canada to refer to indigenous peoples in 2008.

In the United States, some effort was made to apologize for past wrongs. In 1988, Congress passed the Civil Liberties Act, which apologized for the internment of nearly one hundred and twenty thousand Japanese Americans in camps during World War II and provided a payment of $20,000 in reparations to each survivor. Then, in 1993, President Bill Clinton signed Public Law 103-150, called the Apology Resolution, whose purpose was "to acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States." In 2005 the U.S. Senate passed a resolution "apologizing to the victims of lynching and the descendants of those victims for the failure of the Senate to enact anti-lynching legislation" in the early decades of the twentieth century. Also in 2005 a joint resolution was introduced in Congress "to acknowl-

edge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States." The resolution would finally be passed by the Senate in October 2009.

Yet the U.S. government had never offered an apology for slavery. In 2003, President George W. Bush traveled to the African nation of Senegal, and in a speech on July 8 at Gorée Island, one of the most significant centers of the Atlantic slave trade, he acknowledged the evils of slavery and slavery's damaging legacy. In 1997 President Clinton launched his Initiative on Race, which resulted in the 1998 report *One America in the 21st Century*. Although this document was not an official apology, its recognition of the historical ills of slavery and segregation represented an acknowledgment of the government's role in perpetuating slavery and the Jim Crow laws of the late nineteenth and early twentieth centuries. In the meantime, some legislators were advocating an official apology. The Michigan Democratic representative John Conyers, Jr., an African American who began serving in the House in 1965, had tried since 1989 to pass a bill that would create a commission to study slavery's impact and possible remedies, including reparations. The white U.S. congressman Tony Hall, an Ohio Democrat, proposed an apology in 1997. Little, though, came of these efforts.

A breakthrough occurred in 2007 when the Virginia legislature passed a resolution expressing "profound regret" for slavery. Several other states followed suit: That year the Maryland legislature passed a similar resolution, followed by North Carolina and Alabama. In 2008 New Jersey and Florida, too, passed legislative resolutions apologizing for slavery. These various apologies, perhaps in combination with the election of the nation's first black president, Barack Obama, spurred the federal legislature to action, and both houses of Congress soon introduced resolutions. On July 29, 2008, the House of Representatives passed its resolution, which had been sponsored chiefly by Steve Cohen, a Tennessee Democrat, along with 120 others. The chief backers of the identical Senate resolution were Senator Tom Harkin of Iowa, a Democrat, and Senator Sam Brownback of Kansas, a Republican. Expectations were that the Senate would pass its resolution in 2008, but those hopes were overly optimistic. Finally, the Senate housed in a Capitol built in part by slaves unanimously approved the resolution on June 18, 2009. In this way the federal government's apology for slavery and segregation became a joint resolution.

Time Line

2008

- **July 29**
  The U.S. House of Representatives passes a resolution apologizing for slavery and Jim Crow segregation.

2009

- **June 18**
  The U.S. Senate passes a resolution, identical to the House's resolution of 2008, apologizing for slavery and Jim Crow segregation.
- **October 7**
  The Senate passes a resolution apologizing to Native Americans for "official depredations and ill-conceived policies by the United States Government."

About the Author

With the federal apology, as with most congressional legislation, it is difficult to determine who composed the words that wound up on paper for the legislature's consideration. Typically, the sponsors of bills and resolutions the representatives or senators who introduce the legislation are regarded as their authors, though staff members typically do the actual writing. Among the resolution's backers, three figures stand out. The first is the sponsor of the resolution in the House of Representatives, Steve Cohen. Stephen Cohen was born in Memphis, Tennessee, in 1949. He graduated from Vanderbilt University in 1971 and then earned a law degree at Memphis State University (now the University of Memphis) in 1973. He began his political career as a member of the state's constitutional convention. In 1982 he was elected to the Tennessee General Assembly as a senator, a position he held for twenty-four years. In 1996 he ran for a U.S. House seat, but his bid was unsuccessful. Ten years later, in 2006, he was elected as the state's first Jewish congressman, the first Jew to represent a majority black district, and one of Congress's few white legislators representing a majority black district.

In the Senate, the Democratic sponsor of the resolution was Tom Harkin of Iowa. Thomas Harkin was born in Cumming, Iowa, in 1939. After graduating from Iowa State University in 1962, he served for five years as a U.S. Navy pilot. He completed his law degree at the Catholic University of America in 1972. His political career began in 1974, when he was elected to the House of Representatives, a position he held until 1985; that year he became a U.S. senator, and he went on to win reelection in the next four contests, to be slated to serve through 2014. In 1992 he entered the primary race for president and won early contests in Iowa, Idaho, and Minnesota. His candidacy stalled, however, and he was the first to drop out of the race and give his support to Clinton. That year and in 2004 he was on the short list for the vice president's slot on the Democratic ticket.

The Senate Republican who sponsored the resolution was Sam Brownback of Kansas. (It is customary, whenever possible, for congressional legislation to have cosponsors, one Democrat and one Republican.) Samuel Brownback was born in Garnett, Kansas, in 1956. After graduating from Kansas State University and receiving a law degree from the University of Kansas in 1982, he practiced as an

attorney before entering politics as the state's secretary of agriculture in 1986. In 1996 he won election to the U.S. Senate (in a special election to fill the seat of Senator Bob Dole, who was running for president). He won a full term in 1998, and in 2004 he was reelected with 69 percent of the vote. In 2007 he launched a brief bid for the Republican nomination for president. For 2010, he announced that he would not run for reelection to the Senate but would instead run for governor of Kansas.

Explanation and Analysis of the Document

Like many such resolutions, this one begins with a long list of "whereas" clauses. In effect, these clauses form a preamble that outlines the justification for the resolution. The resolution begins by acknowledging that the United States has become a "symbol of democracy and freedom" in the world and that African Americans are an important part of the nation's legacy. It then goes on to note the historical fact that from 1619 to 1865, millions of African Americans were enslaved. Beginning with the fourth clause, the document touches on the evils of slavery. Slaves were "brutalized, humiliated, dehumanized, and subjected to the indignity of being stripped of their names and heritage." With regard to names, most slaves were given the names of their masters, and in the twentieth century, numerous black activists, such as Malcolm X born Malcolm Little, who changed his surname to X to represent his lost African name have rejected the names they were born with as "slave names." The resolution additionally notes that slave families were torn apart because members were sold separately. The result of slavery was "visceral racism" that is, a kind of automatic racism about which people did not even think that was "enmeshed in the social fabric" of the nation. The institution of slavery did not fully end until after the Emancipation Proclamation, the end of the Civil War, and the passage of the Thirteenth Amendment to the U.S. Constitution.

Beginning with the eighth clause, the document turns to the residual effects of the slave system. The eighth clause refers to Reconstruction, the period from the end of the Civil War until 1877 when the rebellious southern states were readmitted to the Union, federal troops in the South protected newly freed slaves, and in many states blacks were elected to state and federal office. The document recognizes that the gains made by African Americans during that period were fleeting. The former Confederacy resisted Reconstruction; the Ku Klux Klan began its reign of terror, with white supremacists lynching hundreds of blacks for the slimmest of reasons or no reason at all; blacks were routinely denied their right to vote by poll taxes, literacy tests, and the general obstinacy of office-holding whites; and Black Codes restricted the movements of African Americans and forced them into employment, such as sharecropping, that was little better than slavery.

The ninth clause refers to "de jure racial segregation," where *de jure* is a Latin phrase used in legal writing to refer to something accomplished "by law" or by state action. In this regard, the document refers to Jim Crow legislation, as the social and legal system that kept blacks in subservient positions was informally called. The name *Jim Crow* comes from a popular nineteenth-century minstrel-show character. Clause 9 also uses the phrase "separate and unequal," an allusion to the Supreme Court's landmark decision in 1896 in *Plessy v. Ferguson*. This case, brought as a challenge to segregated railcars in Louisiana, established the "separate but equal" doctrine that would entrench legal segregation for another half century. Through the 1950s and 1960s, the Supreme Court and Congress were able to dismantle Jim Crow through, for example, *Brown v. Board of Education* (1954), which overturned *Plessy*, and the Civil Rights Act of 1964 but vestiges of discrimination persisted. As the resolution asserts, African Americans have continued to suffer "enormous damage and loss" under the social patterns established through the centuries of slavery and Jim Crow, and the nation should not forget these historical ills.

Beginning with the fourteenth clause, the resolution makes reference to specific current events. In 2003 President George W. Bush visited the African nation of Senegal and, speaking at Gorée Island, one of the most notorious centers of the Atlantic slave trade, acknowledged the unfortunate legacy of slavery and expressed hope that its evils could in time be overcome. Reference is also made to President Bill Clinton's dialogue on race a reference to the Initiative on Race, launched by the president by executive order in 1997 and culminating in the 1998 report *One America in the 21st Century*.

The resolution then begins to build toward a conclusion. The sixteenth clause acknowledges that nothing can erase the nation's history of slavery and its effects. However, that clause expresses the hope that recognition of past injustices and a formal apology can help "bind the wounds of the Nation that are rooted in slavery." In apologizing, the U.S. government can honor the endurance and history of African Americans as well as all other Americans. The seventeenth clause notes that various state legislatures, including those of Virginia, Maryland, Alabama, North Carolina, and Florida, have passed resolutions apologizing or expressing "profound regret" for slavery and that similar resolutions were under consideration in other states.

Having established the historical record, the resolution turns from "whereas" to "be it resolved." The core of the resolution is the actual, formal apology for "the fundamental injustice, cruelty, brutality, and inhumanity of slavery and Jim Crow laws," presented in the eighteenth and final clause. Apology is made to all African Americans, many of whose ancestors were slaves. Additionally, drawing on language from the Declaration of Independence, the resolution expresses a commitment to "the principle that all people are created equal and endowed with inalienable rights to life, liberty, and the pursuit of happiness."

The resolution ends with a formal disclaimer. It states first that nothing in the resolution "authorizes or supports any claim against the United States." This means that the Senate was not explicitly or implicitly acknowledging any

right to reparations on the part of African Americans. A fear was that an acknowledgment of culpability would lead to renewed and increased demands for monetary or other forms of reparations and that the resolution, with its acknowledgment of guilt, would serve as a prominent exhibit in such demands. The second part of the disclaimer notes that the resolution in no way "serves as a settlement of any claim against the United States."

Audience

An apology to African Americans on the part of the federal government was regarded by some as long overdue. The Senate, along with the House of Representatives, arguably hoped that with the election of Barack Obama as president, the resolution could help usher in a period of racial reconciliation. In this sense, the audience was the entire nation. Clearly, African Americans, to whom the government was apologizing, were the primary focus of the intended audience. All of the major sponsors of the resolution were white, so one hope was certainly that African Americans could take some satisfaction in official recognition of past wrongs on the part of largely white legislators. The resolution also had an international audience; as other nations were recognizing the ill effects of past actions, sentiment was growing that the United States should do so as well.

Impact

As with most official apologies to groups that have been victimized, the nature of the impact lies in the eye of the beholder. The Senate resolution is almost exclusively symbolic, as it has no legal force, nor does it propose any concrete action. Certainly many African Americans were gratified that the federal government finally recognized its culpability for slavery and Jim Crow. But many observers regarded the apology as a flimsy manifestation of "white guilt." According to this view, issuing the apology allowed some to buy racial reconciliation on the cheap, while the apology did nothing to change history, nor did it do anything to alter the position of American Americans in modern society. Thus for some, the apology was merely a gesture, an act of political theater, or a manifestation of what has been called "political correctness" the notion that there are certain "correct" opinions to be held as much for show as for substance.

The Senate's apology did have one important effect, in that it renewed the debate about reparations for African Americans particularly because the resolution evades the notion that it supports calls for reparations. To some observers, the apology seems to outright reject any prospect of reparations. To other observers, though, the apology is vague on this issue and leaves open the possibility of reparations sometime in the future. For example, Senator Roland Burris, an Illinois Democrat, stated on the Senate floor that the "disclaimer in no way would eliminate future

President George W. Bush tours the slave house on Gorée Island, Senegal, in 2003. (AP/Wide World Photos)

actions that may be brought before this body that may deal with reparations."

The reparations movement can be said to have begun during the Civil War, when General William Tecumseh Sherman issued Special Field Order No. 15, which promised forty acres and a mule to free blacks in the Sea Islands around Charleston, South Carolina. Sherman's order, while initially providing a refuge for freedpeople, ultimately had little effect, for much of the land was reclaimed by white owners, and many of the blacks who had settled on the land were eventually removed by the army and the Freedmen's Bureau. Although in 1893 Henry McNeal Turner organized a convention that called for remedies for African Americans, including reparations which he calculated to be $49 billion the movement for reparations died during the Jim Crow era.

Such demands, however, have been renewed in recent years by such figures as Representative John Conyers, Jr., of Michigan; the Nation of Islam leader Louis Farrakhan; and the Green Party presidential candidate Ralph Nader. Additionally, various organizations, such as the American Bar Association, have called for congressional investigations into the issue of reparations. According to polls taken early in the 2000s, just over half of African Americans supported some sort of cash reparations, as did about one in ten whites. One of the arguments that has been made in support of reparations in addition to the obvious one that slavery and its aftermath were gross injustices that deprived African Americans of the ability to accumulate wealth is that the government provided reparations to Japanese Americans for their internment in World War II, and African Americans are no less deserving. The response has been that the World War II internment was the direct result of federal mandate, but slavery was conducted by private individuals.

Some efforts have been made to calculate just how much the United States would owe the descendants of slaves. One estimate, based on payment for some 222 million hours of forced labor, compounded at 6 percent, would lead to a total of $97 trillion dollars, money that the government, of course, does not have. Even more modest proposals have

Essential Quotes

"Whereas Africans forced into slavery were brutalized, humiliated, dehumanized, and subjected to the indignity of being stripped of their names and heritage."

(Clause 4)

"Whereas the system of de jure racial segregation known as 'Jim Crow', which arose in certain parts of the United States after the Civil War to create separate and unequal societies for Whites and African-Americans, was a direct result of the racism against people of African descent that was engendered by slavery."

(Clause 9)

"Whereas an apology for centuries of brutal dehumanization and injustices cannot erase the past, but confession of the wrongs committed and a formal apology to African-Americans will help bind the wounds of the Nation that are rooted in slavery and can speed racial healing and reconciliation."

(Clause 16)

"The Congress acknowledges the fundamental injustice, cruelty, brutality, and inhumanity of slavery and Jim Crow laws."

(Clause 18)

"Nothing in this resolution authorizes or supports any claim against the United States; or serves as a settlement of any claim against the United States."

(Clause 18)

led to estimates that reparations would cost Americans not of African descent tens of thousands of dollars apiece. Numerous other objections to reparations have been made: that the government has provided implicit reparations through a range of government welfare-type programs and affirmative action programs that benefit African Americans; that it would be difficult, if not impossible, to determine who would have a valid claim to descent from a slave; that some African Americans themselves owned slaves; that the majority of whites in the South and the vast majority in the North were not slave owners; that slavery in America could not have existed without the complicity of African and Muslim slave traders; that many thousands of whites died in the Civil War, leaving their descendants bereft, in part to end slavery; that millions of immigrants to the United States arrived long after slavery ended and thus should not be obligated to make any sacrifices; and that far from contributing to America's accumulated wealth, slavery was most prevalent in the nation's poorest states while those states where slavery ended early, such as Massachusetts, New York, and Pennsylvania, became the nation's richest states. Thus, the Senate's apology inadvertently or perhaps deliberately

renewed the long-simmering debate over the question of what America owes, if anything, to the descendants of slaves and what, if anything, can ever be done to atone for the evils of slavery and Jim Crow.

See also Slavery Clauses in the U.S. Constitution (1787); Thirteenth Amendment to the U.S. Constitution (1865); William T. Sherman's Special Field Order No. 15 (1865); Black Code of Mississippi (1865); *Plessy v. Ferguson* (1896); *Brown v. Board of Education* (1954); Civil Rights Act of 1964; *One America in the 21st Century* (1998).

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Michael J. O'Neal

Questions for Further Study

1. Why do you think it took so long for a U.S. government body to apologize for slavery and segregation?

2. What is your reaction to the Senate's apology? Do you regard it as something that can lead to racial reconciliation? Or do you see it as an empty gesture?

3. What is your position with regard to reparations for African American descendants of slavery? What arguments support the view that reparations should be paid? What are the arguments against reparations?

4. In recent years there have been many such apologies for colonialism, imperialism, genocide, and other ills and abuses of the past. What accounts for these many apologies from governments and other institutions? Do you think these apologies accomplish anything?

5. Representative Steve Cohen, a sponsor of the concurrent apology in the U.S. House of Representatives, was involved in a close 2008 reelection race in his Tennessee district, which is a majority black district. Do you think that political considerations may have motivated his sponsorship of the apology? Why or why not?

U.S. Senate Resolution Apologizing for the Enslavement and Racial Segregation of African Americans

Concurrent Resolution

Apologizing for the enslavement and racial segregation of African-Americans.

1. Whereas during the history of the Nation, the United States has grown into a symbol of democracy and freedom around the world;

2. Whereas the legacy of African-Americans is interwoven with the very fabric of the democracy and freedom of the United States;

3. Whereas millions of Africans and their descendants were enslaved in the United States and the 13 American colonies from 1619 through 1865;

4. Whereas Africans forced into slavery were brutalized, humiliated, dehumanized, and subjected to the indignity of being stripped of their names and heritage;

5. Whereas many enslaved families were torn apart after family members were sold separately;

6. Whereas the system of slavery and the visceral racism against people of African descent upon which it depended became enmeshed in the social fabric of the United States;

7. Whereas slavery was not officially abolished until the ratification of the 13th amendment to the Constitution of the United States in 1865, after the end of the Civil War;

8. Whereas after emancipation from 246 years of slavery, African-Americans soon saw the fleeting political, social, and economic gains they made during Reconstruction eviscerated by virulent racism, lynchings, disenfranchisement, Black Codes, and racial segregation laws that imposed a rigid system of officially sanctioned racial segregation in virtually all areas of life;

9. Whereas the system of de jure racial segregation known as "Jim Crow," which arose in certain parts of the United States after the Civil War to create separate and unequal societies for Whites and African-Americans, was a direct result of the racism against people of African descent that was engendered by slavery;

10. Whereas the system of Jim Crow laws officially existed until the 1960s a century after the official end of slavery in the United States until Congress took action to end it, but the vestiges of Jim Crow continue to this day;

11. Whereas African-Americans continue to suffer from the consequences of slavery and Jim Crow laws long after both systems were formally abolished through enormous damage and loss, both tangible and intangible, including the loss of human dignity and liberty;

12. Whereas the story of the enslavement and de jure segregation of African-Americans and the dehumanizing atrocities committed against them should not be purged from or minimized in the telling of the history of the United States;

13. Whereas those African-Americans who suffered under slavery and Jim Crow laws, and their descendants, exemplify the strength of the human character and provide a model of courage, commitment, and perseverance;

14. Whereas on July 8, 2003, during a trip to Gorée Island, Senegal, a former slave port, President George W. Bush acknowledged the continuing legacy of slavery in life in the United States and the need to confront that legacy, when he stated that slavery "was … one of the greatest crimes of history.… The racial bigotry fed by slavery did not end with slavery or with segregation. And many of the issues that still trouble America have roots in the bitter experience of other times. But however long the journey, our destiny is set: liberty and justice for all";

15. Whereas President Bill Clinton also acknowledged the deep-seated problems caused by the continuing legacy of racism against African-Americans that began with slavery, when he initiated a national dialogue about race;

16. Whereas an apology for centuries of brutal dehumanization and injustices cannot erase the past, but confession of the wrongs committed and a formal apology to African-Americans will help bind the wounds of the Nation that are rooted in slavery and can speed racial healing and reconciliation and help the people of the United States understand the past and honor the history of all people of the United States;

17. Whereas the legislatures of the Commonwealth of Virginia and the States of Alabama, Florida, Maryland, and North Carolina have taken the lead in adopting resolutions officially expressing appropriate remorse for slavery, and other State legislatures are considering similar resolutions; and

Document Text

18. Whereas it is important for the people of the United States, who legally recognized slavery through the Constitution and the laws of the United States, to make a formal apology for slavery and for its successor, Jim Crow, so they can move forward and seek reconciliation, justice, and harmony for all people of the United States: Now, therefore, be it

a. Resolved by the Senate (the House of Representatives concurring), That the sense of the Congress is the following:

(i) APOLOGY FOR THE ENSLAVEMENT AND SEGREGATION OF AFRICAN-AMERICANS The Congress

(1) acknowledges the fundamental injustice, cruelty, brutality, and inhumanity of slavery and Jim Crow laws;

(2) apologizes to African-Americans on behalf of the people of the United States, for the wrongs committed against them and their ancestors who suffered under slavery and Jim Crow laws; and

(3) expresses its recommitment to the principle that all people are created equal and endowed with inalienable rights to life, liberty, and the pursuit of happiness, and calls on all people of the United States to work toward eliminating racial prejudices, injustices, and discrimination from our society.

(ii) DISCLAIMER Nothing in this resolution

(1) authorizes or supports any claim against the United States; or

(2) serves as a settlement of any claim against the United States.

Passed the Senate June 18, 2009.

Attest:

NANCY ERICKSON,

Secretary.

Glossary

Black Codes	nineteenth-century local and state laws that limited the civil rights and liberties of African Americans
de jure	Latin for "by law"
Jim Crow	the informal name given to the legal and social systems that kept African Americans in a subservient position in the late nineteenth and early twentieth centuries
national dialogue about race	a reference to President Bill Clinton's 1998 Initiative on Race
Reconstruction	the period after the Civil War when the rebellious states of the Confederacy were readmitted to the Union

President Barack Obama speaks during the 100th anniversary convention of the NAACP, July 16, 2009, in New York. (AP/Wide World Photos)

Barack Obama's Address to the NAACP Centennial Convention

2009

"If we are to be true to our past, then we also have to seize our own future, each and every day."

Overview

On July 16, 2009, President Barack Obama delivered a speech at the New York Hilton to participants attending "100 Years Bold Dreams, Big Victories," the 2009 annual convention of the National Association for the Advancement of Colored People (NAACP). He spoke for forty-five minutes to several thousand attendees. Obama used the one-hundred-year anniversary of the NAACP as an opportunity to review the history of the civil rights movement to date and to lay out what he saw as the next steps for fulfilling the organization's mission. He described changes in law and public policy as the result of the efforts of individuals committed to the ideals of equal rights and justice, some whose contributions are well documented and others whose sacrifices are largely unknown. While acknowledging that racism still existed, Obama asserted that its impact was less strongly felt than at any other time in U.S. history. He continued his "big tent" approach to change: that bettering conditions for all Americans would result in improvements for African Americans. He argued that the path forward would be one in which government action would continue to be consequential but where personal responsibility was the essential component. With approaches that shared elements of politician and preacher, President Obama called for a sense of hope and urgency and a renewed commitment to social justice in improving the nation.

Context

The NAACP is the oldest and most influential civil rights organization in the United States. It was formed in 1909 as an outgrowth of the Niagara Movement to fight the lynching of blacks. Founders of the NAACP included the activist, scholar, and editor W. E. B. Du Bois; the Jewish physician and civil rights advocate Henry Moskowitz; the suffragist, activist, writer, and Socialist Party member Mary White Ovington; the future editor and owner of *The Nation* Oswald Garrison Villard; the southern-born Socialist, journalist, and labor reformer William E. Walling; and the antilynching champion, women's rights advocate, and journalist Ida B. Wells. The association's mission is "to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination."

The NAACP played a major role in every significant civil rights issue in the past century. During the 1930s it led the campaign for federal legislation against lynching, and although such a bill was never passed, the NAACP was able to pressure the government into taking its first steps in defending the rights of African Americans. The organization's Legal Defense and Education Fund sought equal justice in the court system, and from 1935 to the 1950s it backed lawsuits that led to landmark Supreme Court rulings outlawing segregation, notably the 1954 decision in *Brown v. Board of Education of Topeka*, which struck down segregated schools. The NAACP's recent history, however, had been marred by weakened numbers and funding crises: In 2007 it laid off more than a third of its staff because of a budget shortfall; at the time of the speech, the organization had two hundred fifty thousand members compared with eight hundred thousand at its strongest point in 1964.

Despite a remarkably consistent record every U.S. president since Warren Harding had spoken to an annual convention of the NAACP President Barack Obama's address was eagerly anticipated. This would be a celebration of African Americans' aspirations, a promise of things to come, and a marked departure from the contentious relationship the NAACP had had under Obama's predecessor, George W. Bush.

The speech raises four substantial barriers to black success: economics, insufficient health care, high incarceration rates, and the HIV/AIDS epidemic. About a year before Obama's election, a severe economic recession began to unfold in the United States. The recession hit African Americans harder than it did other segments of the population, particularly since African Americans' economic circumstances were already troublesome. For example, at the end of 2008 the unemployment rate for African Americans was 11.5 percent; for Hispanics it was 8.9 percent; for whites it was just 6.3 percent. And while unemployment was growing for all groups, it was growing faster among African Americans. Thus, during 2008 the unemployment rate for whites grew by 2.1 percentage points, while the unemployment rate for African Americans grew by 2.9 percentage points. In

Time Line

1909

- **February 12**
  A multiracial group of activists forms the National Association for the Advancement of Colored People in New York City.

1954

- **May 17**
  In *Brown v. Board of Education of Topeka*, the U.S. Supreme Court strikes down segregation in schools, overturning decisions upholding segregation, including *Plessy v. Ferguson*, which established the "separate but equal" doctrine in 1896.

2004

- **May 17**
  Bill Cosby's "pound cake" speech to the NAACP at the fiftieth anniversary of *Brown vs. Board of Education* criticizes lax parenting and emphasizes the importance of the family in bettering African American society.

2008

- **March 18**
  Barack Obama gives a major speech on race in America, responding to the controversy engendered by publicized remarks made by his pastor, Reverend Jeremiah Wright.
- **June 3**
  Obama clinches the nomination to become the Democratic Party's presidential candidate.
- **November 4**
  Obama is elected president, beating his Republican opponent, Senator John McCain.

2009

- **January 20**
  Obama is inaugurated president of the United States.
- **July 16**
  Obama delivers his address to the NAACP Centennial Convention.

terms of income, the weekly earnings of African Americans stood at $554.99 in the third quarter of 2008, compared with $696.33 for whites. Throughout the first decade of the twenty-first century, the family income of African Americans declined; in 2005 the median black family earned only 60.2 percent of the median white family's income, and by the end of 2008 white family income stood at a median of $55,530, while that of African American families was $34,218. At the same time the poverty rate among African Americans increased from 19.3 percent in 2001 to 24.4 percent in 2007. Also in 2007, more than 75 percent of whites owned their own homes; in contrast, just over 47 percent of African Americans were homeowners.

Similar disparities existed in other areas. With regard to health care, for example, in 2007, 19.2 percent of African Americans lacked health insurance; in contrast, 10.4 percent of whites were without health insurance. Yet African Americans faced an increased likelihood of contracting serious diseases. To cite just one example, according to the Centers for Disease Control and Prevention, 26.5 percent of black men suffered from hypertension compared with 17.4 percent of whites of the same age. Additionally, the impact of HIV and AIDS on African Americans was disproportionate: In a 2007 Centers for Disease Control and Prevention survey, blacks accounted for 51 percent of new HIV/AIDS diagnoses and 48 percent of people living with HIV/AIDS.

With regard to imprisonment, an adult African American man was about 7.4 times more likely to be incarcerated than his white counterpart (though that figure is actually lower in states regarded as conservative and higher in states regarded as progressive). The issue, though, is whether the justice system is biased or whether the crime rate among blacks is actually higher. The famed comedian Bill Cosby had taken up this issue in a May 2004 speech to the NAACP in commemoration of the fiftieth anniversary of the *Brown v. Board of Education* decision. The speech came to be known as the "pound cake" speech because of these lines:

> These are people going around stealing Coca-Cola. People getting shot in the back of the head over a piece of pound cake and then we run out and we are outraged, [saying,] "The cops shouldn't have shot him." What the hell was he doing with the pound cake in his hand?

Cosby's message was one of personal responsibility in a speech that was sharply critical of school dropouts, teenage pregnancy, poor language skills, and criminality in the black underclass.

Education was yet another arena in which African Americans were struggling to catch up. The controversial No Child Left Behind Act had been instigated by President Bill Clinton and signed into law by President George W. Bush in 2002. The act aspired to narrow the achievement gap between African American and white students while raising achievement for all subgroups. While the achievement gap between African American and white students is

difficult to measure, most indicators confirm its magnitude: In 2004, for example, white students averaged 22 to 29 percentage points higher than black students on reading and math assessments on the National Assessment of Educational Progress (commonly known as "the nation's report card").

This was the context in which Obama addressed the NAACP. In a February 2009 press conference, NAACP president Benjamin T. Jealous pressed the Obama administration and Congress to spend more on education, establish a nine-month moratorium on mortgage foreclosures, and ensure that the stimulus package the president's response to the economic recession was distributed equitably. But another contextual issue hovered in the background. During Obama's campaign for the presidency, many of his idealistic supporters looked on him as a potential "postracial" president, one whose racial heritage would help put the difficult and contentious issues of race behind the nation, at least in part. While Obama and his Republican presidential opponent, Senator John McCain, purposely avoided race as an issue, numerous pundits, bloggers, and others focused on the topic of race and racial politics. Even in the African American community, some argued that Obama was not "black enough" as did Ta-Nehisi Coates in *Time* magazine or that throughout his career he had "sold out" to be accepted by the white political establishment. Some black commentators warned that Obama had so thoroughly adapted to Caucasian culture that he would not look out for African American interests. On the other hand, some critics speculated that many of Obama's white supporters were motivated, at least in part, by white guilt. They believed, so this line of reasoning went, that they could demonstrate that the United States is not a racist country by electing a black president. Speculations about voters' motivations cannot be confirmed or denied, but they suggest that in addressing the nation's most venerable civil rights organization, the president needed to establish his credentials as one concerned about civil rights and the welfare of black Americans.

About the Author

Barack Obama was born on August 4, 1961, in Honolulu, Hawaii. His father, Barack Obama, Sr., was Kenyan; his white mother, Ann Dunham, was from Kansas. When Barack was two years old, his parents separated, and two years later they divorced. Dunham remarried, to an Indonesian, and Obama lived and attended school in Jakarta, Indonesia, before returning to Honolulu to live with his maternal grandparents at age ten.

After graduating from high school, Obama enrolled at Occidental College in California, but he transferred to New York's Columbia University, where he earned a bachelor's degree in 1983. For four years he worked in New York City and then moved to Chicago to head the Developing Communities Project, an agency that provided job training, tutoring, and other community services to black urban neighborhoods. In 1988 he entered Harvard Law School, becoming editor of the prestigious *Harvard Law Review* and graduating in 1991. After returning to Chicago, he worked until 1996 for a civil rights litigation law firm and for various community service organizations. Additionally, he taught constitutional law at the University of Chicago from 1992 to 2004.

Obama's political career began in 1996, when he was first elected to the Illinois Senate. He elevated his profile on the national stage in 2004, when he delivered the keynote address at the Democratic National Convention. That same year he won election to the U.S. Senate with 70 percent of the vote. In 2008, after a contentious and closely fought primary race against Hillary Rodham Clinton, Obama won his party's nomination for U.S. president. He and his vice presidential running mate, Joe Biden, defeated the Republican ticket of John McCain and Sarah Palin in the November elections. Obama took the oath of office on January 20, 2009.

Early in his presidency, Obama's popularity and approval ratings were high; his election to the office of the president was regarded as an event of historic proportions and was widely viewed as a repudiation of the policies of his predecessor, George W. Bush. Throughout the first year of his presidency, though, Obama faced numerous stubborn issues: a severe economic downturn, soaring unemployment, ongoing conflicts in Afghanistan and Iraq, and the continued threat of terrorism against the United States. With the backing of strong Democratic majorities in both houses of Congress, he was able to pass a controversial multibillion-dollar economic stimulus bill in 2009; Congress was also hammering out the details of a hotly debated health care reform bill. But by early 2010 the president's job approval rating had fallen sharply. One high point was his winning the Nobel Peace Prize for 2009, and a strong majority of Americans gave the president high marks for his immediate response to the devastating earthquake in Haiti on January 12, 2010. However, the election of Republican Scott Brown of Massachusetts to the U.S. Senate seat left vacant by the death of Democrat Edward Kennedy posed more problems for Obama: It signaled the end of the Democratic Party's sixty-vote supermajority in the Senate and seriously threatened the president's planned overhaul of the American health care system. Obama is the author of two books: *Dreams from My Father: A Story of Race and Inheritance*, an autobiography first published in 1995; and *The Audacity of Hope: Thoughts on Reclaiming the American Dream*, a 2006 book in which he lays out his political vision.

Explanation and Analysis of the Document

In the opening of his centennial speech, Obama comments on the origins of the NAACP in 1909, commemorating the success of the organization and its support for civil rights activists. When the Niagara Movement formed in 1905, its members, he states, "understood that unjust laws needed to be overturned; that legislation needed to be

passed; and that Presidents needed to be pressured into action." He speaks of the courage of activists who risked their lives to demand an end to lynchings and Jim Crow segregation. He summons three iconic images of the civil rights movement: Freedom Rides, where civil rights activists boarded segregated trains and buses to test laws mandating segregation; lunch counter sit-ins, including the famous one that began in Greensboro, South Carolina, in February 1960, when black college students sat at a segregated lunch counter at a Woolworth's store; and the voter registration drives of the early 1960s. He reminds his listeners that those involved risked their lives to combat racism. Through struggle, he says, the nation moved from one in which "Jim Crow was a way of life" to one in which the segregation-ending Supreme Court case of *Brown v. Board of Education* (1954), the passage of the Civil Rights Act of 1964, and the passage of the Voting Rights Act of 1965 could all be celebrated. Visible markers of those victories, he notes, are found in black corporate chief executive officers and elected leaders. Obama builds toward the most extraordinary victory his election as president of the United States. "Because of them I stand here tonight," he states, "on the shoulders of giants. And I'm here to say thank you to those pioneers and thank you to the NAACP."

◆ "Many Barriers Still Remain"

"And yet," he says in transition, "too many barriers still remain." Among them, he refers to the disproportionate suffering of African Americans in the realm of economics, health care, the prison system, and HIV/AIDS. He argues that because these obstacles are different from the ones fought in the 1930s and 1940s by the team of NAACP lawyers led by Charles Hamilton Houston (who battled Jim Crow and laid the groundwork for the *Brown* Supreme Court victory, which was argued by the future justice Thurgood Marshall), the steps to overcome them must be different as well. While they demand a different approach, he calls for them to be met with the same sense of urgency and aspiration. Again, Obama describes that history of fighting for social justice as not unique to the African American experience but, at its core, the American spirit. He points to the NAACP's mission as fostering the American Dream for all: "All Americans. Of every race. Of every creed. From every region of the country. We want everybody to participate in the American Dream. That's what the NAACP is all about."

While prejudice and discrimination continue against African Americans, women, immigrants, and gays and the need for the NAACP's mission continues, "prejudice and discrimination … are not … the steepest barriers to opportunity today," according to Obama. He lists structural inequalities that demand action. He turns to policy changes advocated by his administration that will affect all Americans: economic changes to better the future of the working class; health care reform; energy reform; and financial reform. His solution for the suffering of black Americans is to better the lives of all Americans, a rising tide that will lift all ships.

◆ "Education is a Prerequisite for Success"

A little more than a third of the way through his speech, Obama turns to the issue of education, stating, "A world-class education is a prerequisite for success. There's no two ways about it." He recalls the focal role schools have played in civil rights struggles and notes that poor schooling serves as the ultimate barrier to betterment in both domestic and international arenas. He acknowledges the role of governmental leadership in improving "overcrowded classrooms, and crumbling schools, and corridors of shame" and stresses the importance of bipartisan solutions to educational inequities. Obama then highlights what he views as the unlikely collegiality of the civil rights activist Al Sharpton, the Democratic mayor of New York City Mike Bloomberg, and the former Republican speaker of the House of Representatives Newt Gingrich. All three men were linked by the Education Equality Project, a nonpartisan effort launched in 2008 with the stated goal of ensuring equality of educational opportunities for all American students.

As for policy steps his administration will take, about halfway through his speech Obama points to the push for increasing support for college students to graduate, a "Race to the Top" fund, and early-learning-program funding. He discusses innovation grant funding provided to governors on a competitive basis. None of these measures differs radically from his predecessors' national education policies: They continue the accountability model developed under President Bill Clinton and codified under President George W. Bush, albeit with a commitment of greater funding. For an example of educational successes, Obama draws attention to Geoffrey Canada's Harlem Children's Zone, a charter school experiment dedicated to improving the educational performance of black students in a ninety-seven-block section of New York City.

◆ "Your Destiny Is in Your Hands"

At this point in the speech, Obama switches from a discussion of government policy to an examination of the role personal responsibility plays in success. Regardless of the obstacles many African American youth face, he urges students, parents, and community members to maintain high expectations: "Your destiny is in your hands you cannot forget that. That's what we have to teach all of our children. No excuses." This message is one with a long history. It is found, for example, in the writings of both the Tuskegee Institute founder and black accommodationist Booker T. Washington and the ardent civil rights activist and editor of *The Crisis* W. E. B. Du Bois. More recently, it was a message espoused by entertainer Bill Cosby, whose 2004 "pound cake" speech was attacked by many members of the African American community. Coming from an African American who had just been elected president of the United States of America, however, the message found greater resonance.

Obama follows this message by telling his life story and that of his wife, Michelle. He emphasizes the role of a caring matriarch as the key element in avoiding a life of street gangs and drug addiction, insisting that those who would

follow that less honorable path are no less gifted or talented than he. He calls for the replacement of dreams of fame in music or sports with schooled professions. (LeBron refers to LeBron James, the star of the Cleveland Cavaliers basketball team; Lil Wayne, born Michael Dewayne Carter, Jr., is a prominent rap musician who has achieved multiplatinum sales and earned four Grammy Awards in 2009.) By example, Obama portrays the message that anyone, regardless of skin color or socioeconomic status, can aspire to become president of the United States a message that would have been summarily dismissed even one year earlier.

◆ **"Cape Coast Castle"**

Obama's conclusion links to the historic tone of the evening. He speaks of his visit to an African slave dungeon in Ghana and the indignities suffered by those held captive there. Then, he refers to the civil rights struggles fought in the United States as evidence of perseverance and courage. He describes this tradition of a fight for justice that is "American" rather than uniquely African American, citing the 1964 murders of James Chaney, Andrew Goodman, and Michael Schwerner in Mississippi. This was a notorious case in which Chaney, a twenty-one-year-old black civil rights worker; Goodman, a twenty-year-old white civil rights activist from New York; and Schwerner, a white organizer for the Congress of Racial Equality, traveled to Mississippi to register voters. They decided to investigate the burning of a black church and were arrested and later murdered by members of the Ku Klux Klan. The case served as the basis for several movies, including *Mississippi Burning*, released in 1988. Some of the conspirators were tried for depriving the three victims of their civil rights, but not for their murders. They received prison sentences, though none served more than six years. The case was reopened in 2005, when one of the ringleaders was tried and convicted of murder the first time the state of Mississippi had taken legal action in the case. Obama cites the example of the three slain men as an inspiring interethnic comingling of sacrifice and commitment that should inspire a postracial America, true to the vision that infused his presidential campaign.

He also mentions Emmett Till, a fourteen-year-old Chicago youth who was brutally murdered in Mississippi in 1955 for allegedly whistling at a white woman; and John Lewis, a U.S. congressional representative from Georgia who was active in the civil rights movement of the 1960s. Lewis played a prominent role in the Selma-to-Montgomery marches in Alabama in 1965, when he was severely beaten, and as the chairman of the Student Nonviolent Coordinating Committee in the 1960s. Obama uses these stories of courage to inspire hope and healing among a new generation of Americans so that the next hundred years of NAACP history reflects "the rising sun of a new day begun."

Audience

The immediate audience for President Obama's address was the NAACP and those who attended its Centennial Celebration, titled "Bold Dreams, Big Victories," held from July 11 to July 16, 2009, in New York City. The event also featured Obama's attorney general Eric Holder and many icons of the civil rights movement. Part policy speech, part history lesson, part personal testimony, the speech was the president's first to a predominantly black audience since taking office, though White House press secretary Robert Gibbs stated in the *New York Times*, "I think the first speech to black America … was the Inaugural Address." But any presidential pronouncement has a much broader audience, in this case the entire African American community and, indeed, all Americans. A substantial portion of the ultimate audience included nonblack Americans.

Impact

It is difficult to calculate the specific impact of Obama's 2009 speech before the NAACP. In terms of policy, it is in keeping with many themes of the early Obama administration: a focus on domestic issues aimed at bettering the lives of the poor and working class through health care reform; a continuation of previous administrations' education policies with their focus on accountability through testing; encouragement of charter schools and early childhood education (albeit differing from those policies with additional funding); and a revivification of the civil rights division of the Department of Justice. It suggests, however, a transition from legislative and policy efforts as the focal point of the civil rights struggle toward a "no excuses," "postracial" striving for success. That said, the issue of racism remains unavoidable: On the same day Obama delivered this speech, the renowned black scholar and Harvard University professor Henry Louis Gates, Jr., was arrested for disorderly conduct at his home, forcing Obama to confront the issue of racism once again. Gates was returning from a trip abroad to conduct genealogical research for an upcoming PBS broadcast. He had to break into his own house because he could not find his key, but a neighbor called the police thinking an intruder was on the grounds. When Gates refused to cooperate with the responding officer (who was white), he was arrested. Obama inserted himself into the debate that ensued when he stated publicly that the police had "acted stupidly" and, later, offered to mediate between Gates and the white police officer over a beer what came to be called the "beer summit." The incident suggested that issues of race remain close to the surface in American life and can erupt in the unlikeliest of places in this instance, Cambridge, Massachusetts, the home of Harvard University.

See also Booker T. Washington's Atlanta Exposition Address (1895); *Plessy v. Ferguson* (1896); Ida B. Wells-Barnett's "Lynch Law in America" (1900); W. E. B. Du Bois: *The Souls of Black Folk* (1903); Niagara Movement Declaration of Principles (1905); Charles Hamilton Houston's "Educational Inequalities Must Go!" (1935); *Brown v. Board of Education* (1954); Civil Rights Act of 1964; Barack Obama: "A More Perfect Union" (2008); Barack Obama's Inaugural Address (2009).

Essential Quotes

"Because ordinary people did such extraordinary things … because of their efforts I made a little trip to Springfield, Illinois, a couple years ago—where Lincoln once lived, and race riots once raged—and began the journey that has led me to be here tonight as the 44th President of the United States of America. Because of them I stand here tonight, on the shoulders of giants."

"I believe that overall, there probably has never been less discrimination in America than there is today. I think we can say that. But make no mistake: The pain of discrimination is still felt in America."

"Your destiny is in your hands—you cannot forget that. That's what we have to teach all of our children. No excuses."

"Our kids can't all aspire to be LeBron or Lil Wayne. I want them aspiring to be scientists and engineers—doctors and teachers—not just ballers and rappers. I want them aspiring to be a Supreme Court Justice. I want them aspiring to be the President of the United States of America. I want their horizons to be limitless."

"Yes, government must be a force for equality. But ultimately, if we are to be true to our past, then we also have to seize our own future, each and every day."

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Matt Karlsen

Questions for Further Study

1. According to Barack Obama, what are the chief barriers to black success? What did he propose doing to overcome those barriers?

2. What political considerations hovered in the background when Obama addressed the NAACP?

3. Do you agree with Obama when he stated, "I believe that overall, there probably has never been less discrimination in America than there is today."

4. Why do you think that membership in the NAACP has gone down dramatically, from eight hundred thousand in 1964 to two hundred fifty thousand when Obama spoke?

5. How do you think the members of the audience at the NAACP convention responded to Obama's speech? Would they have been pleased? Might any of the audience members have had reservations? Explain.

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Barack Obama's Address to the NAACP Centennial Convention

Thank you. What an extraordinary night, capping off an extraordinary week, capping off an extraordinary 100 years at the NAACP.

So Chairman Bond, Brother Justice, I am so grateful to all of you for being here. It's just good to be among friends.

It is an extraordinary honor to be here, in the city where the NAACP was formed, to mark its centennial. What we celebrate tonight is not simply the journey the NAACP has traveled, but the journey that we, as Americans, have traveled over the past 100 years.

It's a journey that takes us back to a time before most of us were born, long before the Voting Rights Act, and the Civil Rights Act, Brown v. Board of Education; back to an America just a generation past slavery. It was a time when Jim Crow was a way of life; when lynchings were all too common; when race riots were shaking cities across a segregated land.

It was in this America where an Atlanta scholar named W. E. B. Du Bois a man of towering intellect and a fierce passion for justice, sparked what became known as the Niagara movement; where reformers united, not by color, but by cause; where an association was born that would, as its charter says, promote equality and eradicate prejudice among citizens of the United States.

From the beginning, these founders understood how change would come just as King and all the civil rights giants did later. They understood that unjust laws needed to be overturned; that legislation needed to be passed; and that Presidents needed to be pressured into action. They knew that the stain of slavery and the sin of segregation had to be lifted in the courtroom, and in the legislature, and in the hearts and the minds of Americans.

They also knew that here, in America, change would have to come from the people. It would come from people protesting lynchings, rallying against violence, all those women who decided to walk instead of taking the bus, even though they were tired after a long day of doing somebody else's laundry, looking after somebody else's children. It would come from men and women of every age and faith, and every race and region taking Greyhounds on Freedom Rides; sitting down at Greensboro lunch counters; registering voters in rural Mississippi, knowing they would be harassed, knowing they would be beaten, knowing that some of them might never return.

Because of what they did, we are a more perfect union. Because Jim Crow laws were overturned, black CEOs today run Fortune 500 companies. Because civil rights laws were passed, black mayors, black governors, and members of Congress served in places where they might once have been able [sic] not just to vote but even take a sip of water. And because ordinary people did such extraordinary things, because they made the civil rights movement their own, even though there may not be a plaque or their names might not be in the history books, because of their efforts I made a little trip to Springfield, Illinois, a couple years ago where Lincoln once lived and race riots once raged and began the journey that has led me to be here tonight as the 44th President of the United States of America.

Because of them I stand here tonight, on the shoulders of giants. And I'm here to say thank you to those pioneers and thank you to the NAACP.

And yet, even as we celebrate the remarkable achievements of the past 100 years; even as we inherit extraordinary progress that cannot be denied; even as we marvel at the courage and determination of so many plain folk we know that too many barriers still remain.

We know that even as our economic crisis batters Americans of all races, African Americans are out of work more than just about anybody else a gap that's widening here in New York City, as a detailed report this week by Comptroller Bill Thompson laid out.

We know that even as spiraling health care costs crush families of all races, African Americans are more likely to suffer from a host of diseases but less likely to own health insurance than just about anybody else.

We know that even as we imprison more people of all races than any nation in the world, an African American child is roughly five times as likely as a white child to see the inside of a prison.

We know that even as the scourge of HIV/AIDS devastates nations abroad, particularly in Africa, it is devastating the African American community here at home with disproportionate force. We know these things.

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These are some of the barriers of our time. They're very different from the barriers faced by earlier generations. They're very different from the ones faced when fire hoses and dogs were being turned on young marchers; when Charles Hamilton Houston and a group of young Howard lawyers were dismantling segregation case by case across the land.

But what's required today, what's required to overcome today's barriers is the same as what was needed then. The same commitment. The same sense of urgency. The same sense of sacrifice. The same sense of community. The same willingness to do our part for ourselves and one another that has always defined America at its best and the African American experience at its best.

And so the question is, where do we direct our efforts? What steps do we take to overcome these barriers? How do we move forward in the next 100 years?

The first thing we need to do is make real the words of the NAACP charter and eradicate prejudice, bigotry, and discrimination among citizens of the United States. I understand there may be a temptation among some to think that discrimination is no longer a problem in 2009. And I believe that overall, there probably has never been less discrimination in America than there is today. I think we can say that.

But make no mistake: The pain of discrimination is still felt in America. By African American women paid less for doing the same work as colleagues of a different color and a different gender. By Latinos made to feel unwelcome in their own country. By Muslim Americans viewed with suspicion simply because they kneel down to pray to their God. By our gay brothers and sisters, still taunted, still attacked, still denied their rights.

On the 45th anniversary of the Civil Rights Act, discrimination cannot stand not on account of color or gender; how you worship or who you love. Prejudice has no place in the United States of America. That's what the NAACP stands for. That's what the NAACP will continue to fight for as long as it takes.

But we also know that prejudice and discrimination at least the most blatant types of prejudice and discrimination are not even the steepest barriers to opportunity today. The most difficult barriers include structural inequalities that our nation's legacy of discrimination has left behind; inequalities still plaguing too many communities and too often the object of national neglect.

These are barriers we are beginning to tear down one by one by rewarding work with an expanded tax credit; by making housing more affordable; by giving ex-offenders a second chance. These are barriers we're targeting through our White House Office on Urban Affairs, through programs like Promise Neighborhoods that builds on Geoffrey Canada's success with the Harlem Children's Zone, that foster a comprehensive approach to ending poverty by putting all children on a pathway to college, and giving them the schooling and after-school support that they need to get there.

I think all of us understand that our task of reducing these structural inequalities has been made more difficult by the state and structure of our broader economy; an economy that for the last decade has been fueled by a cycle of boom and bust; an economy where the rich got really, really rich, but ordinary folks didn't see their incomes or their wages go up; an economy built on credit cards, shady mortgage loans; an economy built not on a rock, but on sand.

That's why my administration is working so hard not only to create and save jobs in the short-term, not only to extend unemployment insurance and help for people who have lost their health care in this crisis, not just to stem the immediate economic wreckage, but to lay a new foundation for growth and prosperity that will put opportunity within the reach of not just African Americans, but all Americans. All Americans. Of every race. Of every creed. From every region of the country. We want everybody to participate in the American Dream. That's what the NAACP is all about.

Now, one pillar of this new foundation is health insurance for everybody. Health insurance reform that cuts costs and makes quality health coverage affordable for all, and it closes health care disparities in the process. Another pillar is energy reform that makes clean energy profitable, freeing America from the grip of foreign oil; putting young people to work upgrading low-income homes, weatherizing, and creating jobs that can't be outsourced. Another pillar is financial reform with consumer protections to crackdown on mortgage fraud and stop predatory lenders from targeting black and Latino communities all across the country.

All these things will make America stronger and more competitive. They will drive innovation, they will create jobs, they will provide families with more security. And yet, even if we do all that, the African American community will still fall behind in the United States and the United States will fall behind in the world unless we do a far better job than we have been doing of educating our sons and daughters.

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I hope you don't mind I want to go into a little detail here about education. In the 21st century when so many jobs will require a bachelor's degree or more, when countries that out-educate us today will out-compete us tomorrow a world-class education is a prerequisite for success.

There's no two ways about it. There's no way to avoid it. You know what I'm talking about. There's a reason the story of the civil rights movement was written in our schools. There's a reason Thurgood Marshall took up the cause of Linda Brown. There's a reason why the Little Rock Nine defied a governor and a mob. It's because there is no stronger weapon against inequality and no better path to opportunity than an education that can unlock a child's God-given potential.

And yet, more than half a century after Brown v. Board, the dream of a world-class education is still being deferred all across the country. African American students are lagging behind white classmates in reading and math an achievement gap that is growing in states that once led the way in the civil rights movement. Over half of all African American students are dropping out of school in some places. There are overcrowded classrooms, and crumbling schools, and corridors of shame in America filled with poor children not just black children, brown and white children as well.

The state of our schools is not an African American problem; it is an American problem. Because if black and brown children cannot compete, then America cannot compete. And let me say this, if Al Sharpton, Mike Bloomberg, and Newt Gingrich can agree that we need to solve the education problem, then that's something all of America can agree we can solve. Those guys came into my office. Just sitting in the Oval Office I kept on doing a double-take. So that's a sign of progress and it is a sign of the urgency of the education problem. All of us can agree that we need to offer every child in this country every child.

Got an "Amen corner" back there. Every child, every child in this country the best education the world has to offer from cradle through a career.

That's our responsibility as leaders. That's the responsibility of the United States of America. And we, all of us in government, have to work to do our part by not only offering more resources, but also demanding more reform. Because when it comes to education, we got to get past this whole paradigm, this outdated notion that somehow it's just money, or somehow it's just reform, but no money, and embrace what Dr. King called the "both-and" philosophy. We need more money and we need more reform.

When it comes to higher education we're making college and advanced training more affordable, and strengthening community colleges that are the gateway to so many with an initiative that will prepare students not only to earn a degree, but to find a job when they graduate; an initiative that will help us meet the goal I have set of leading the world in college degrees by 2020. We used to rank number one in college graduates. Now we are in the middle of the pack. And since we are seeing more and more African American and Latino youth in our population, if we are leaving them behind we cannot achieve our goal, and America will fall further behind and that is not a future that I accept and that is not a future that the NAACP is willing to accept.

We're creating a Race to the Top fund that will reward states and public school districts that adopt 21st century standards and assessments. We're creating incentives for states to promote excellent teachers and replace bad ones, because the job of a teacher is too important for us to accept anything less than the best.

We also have to explore innovative approaches such as those being pursued here in New York City; innovations like Bard High School Early College and Medgar Evers College Preparatory School that are challenging students to complete high school and earn a free associate's degree or college credit in just four years.

And we should raise the bar when it comes to early learning programs. It's not enough just to have a babysitter. We need our young people stimulated and engaged and involved. We need our folks involved in child development to understand the latest science. Today, some early learning programs are excellent. Some are mediocre. And some are wasting what studies show are by far a child's most formative years.

That's why I've issued a challenge to America's governors: If you match the success of states like Pennsylvania and develop an effective model for early learning; if you focus reform on standards and results in early learning programs; if you demonstrate how you will prepare the lowest income children to meet the highest standards of success then you can compete for an Early Learning Challenge Grant that will help prepare all our children to enter kindergarten all ready to learn.

So these are some of the laws we're passing. These are some of the policies we are enacting. We are busy in Washington. Folks in Congress are get-

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ting a little tuckered out. But I'm telling them I'm telling them we can't rest, we've got a lot of work to do. The American people are counting on us. These are some of the ways we're doing our part in government to overcome the inequities, the injustices, the barriers that still exist in our country.

But all these innovative programs and expanded opportunities will not, in and of themselves, make a difference if each of us, as parents and as community leaders, fail to do our part by encouraging excellence in our children. Government programs alone won't get our children to the Promised Land. We need a new mind set, a new set of attitudes because one of the most durable and destructive legacies of discrimination is the way we've internalized a sense of limitation; how so many in our community have come to expect so little from the world and from themselves.

We've got to say to our children, yes, if you're African American, the odds of growing up amid crime and gangs are higher. Yes, if you live in a poor neighborhood, you will face challenges that somebody in a wealthy suburb does not have to face. But that's not a reason to get bad grades. That's not a reason to cut class. That's not a reason to give up on your education and drop out of school. No one has written your destiny for you. Your destiny is in your hands you cannot forget that. That's what we have to teach all of our children. No excuses. No excuses.

You get that education; all those hardships will just make you stronger, better able to compete. Yes we can.

To parents: we can't tell our kids to do well in school and then fail to support them when they get home. You can't just contract out parenting. For our kids to excel, we have to accept our responsibility to help them learn. That means putting away the Xbox, putting our kids to bed at a reasonable hour. It means attending those parent-teacher conferences and reading to our children and helping them with their homework.

And by the way, it means we need to be there for our neighbor's sons and daughters. We need to go back to the time, back to the day when we parents saw somebody, saw some kid fooling around and it wasn't your child, but they'll whup you anyway. Or at least they'll tell your parents the parents will. You know. That's the meaning of community. That's how we can reclaim the strength and the determination and the hopefulness that helped us come so far; helped us make a way out of no way.

It also means pushing our children to set their sights a little bit higher. They might think they've got a pretty good jump shot or a pretty good flow, but our kids can't all aspire to be LeBron or Lil Wayne. I want them aspiring to be scientists and engineers, doctors and teachers not just ballers and rappers. I want them aspiring to be a Supreme Court Justice. I want them aspiring to be the President of the United States of America.

I want their horizons to be limitless. I don't tell them they can't do something. Don't feed our children with a sense that somehow because of their race that they cannot achieve.

Yes, government must be a force for opportunity. Yes, government must be a force for equality. But ultimately, if we are to be true to our past, then we also have to seize our own future, each and every day.

And that's what the NAACP is all about. The NAACP was not founded in search of a handout. The NAACP was not founded in search of favors. The NAACP was founded on a firm notion of justice; to cash the promissory note of America that says all of our children, all God's children, deserve a fair chance in the race of life.

It's a simple dream, and yet one that all too often has been denied and is still being denied to so many Americans. It's a painful thing, seeing that dream denied. I remember visiting a Chicago school in a rough neighborhood when I was a community organizer, and some of the children gathered 'round me. And I remember thinking how remarkable it was that all of these children seemed so full of hope, despite being born into poverty, despite being delivered, in some cases, into addiction, despite all the obstacles they were already facing you could see that spark in their eyes. They were the equal of children anywhere.

And I remember the principal of the school telling me that soon that sparkle would begin to dim, that things would begin to change; that soon, the laughter in their eyes would begin to fade; that soon, something would shut off inside, as it sunk in because kids are smarter than we give them credit for as it sunk in that their hopes would not come to pass. Not because they weren't smart enough, not because they weren't talented enough, not because of anything about them inherently, but because, by accident of birth, they had not received a fair chance in life.

I know what can happen to a child who doesn't have that chance. But I also know what can happen to a child that does. I was raised by a single mom. I didn't come from a lot of wealth. I got into my share of trouble as a child. My life could have easily taken a turn for the worse. When I drive through Harlem or I drive through the South Side of Chicago and I

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see young men on the corners, I say, there but for the grace of God go I. They're no less gifted than me. They're no less talented than me.

But I had some breaks. That mother of mine, she gave me love; she pushed me, she cared about my education; she took no lip; she taught me right from wrong. Because of her, I had a chance to make the most of my abilities. I had the chance to make the most of my opportunities. I had the chance to make the most of life.

The same story holds true for Michelle. The same story holds true for so many of you. And I want all the other Barack Obamas out there, and all the other Michelle Obamas out there, to have the same chance the chance that my mother gave me; that my education gave me; that the United States of America has given me. That's how our union will be perfected and our economy rebuilt. That is how America will move forward in the next 100 years.

And we will move forward. This I know for I know how far we have come. Some, you saw, last week in Ghana, Michelle and I took Malia and Sasha and my mother-in-law to Cape Coast Castle, in Ghana. Some of you may have been there. This is where captives were once imprisoned before being auctioned; where, across an ocean, so much of the African American experience began.

We went down into the dungeons where the captives were held. There was a church above one of the dungeons which tells you something about saying one thing and doing another. We walked through the "Door of No Return." I was reminded of all the pain and all the hardships, all the injustices and all the indignities on the voyage from slavery to freedom.

But I was reminded of something else. I was reminded that no matter how bitter the rod, how stony the road, we have always persevered. We have not faltered, nor have we grown weary. As Americans, we have demanded, and strived for, and shaped a better destiny. And that is what we are called on to do once more. NAACP, it will not be easy. It will take time. Doubts may rise and hopes may recede.

But if John Lewis could brave Billy clubs to cross a bridge, then I know young people today can do their part and lift up our community.

If Emmet Till's uncle, Mose Wright, could summon the courage to testify against the men who killed his nephew, I know we can be better fathers and better brothers and better mothers and sisters in our own families.

Glossary

Al Sharpton, Mike Bloomberg, and Newt Gingrich	respectively, a prominent civil rights activist, the Democratic mayor of New York City, and the former Republican speaker of the House of Representatives
Brown v. Board of Education	the landmark 1954 Supreme Court case that struck down school segregation
Chairman Bond	Julian Bond, a civil rights activist and chairman of the NAACP
Charles Hamilton Houston	the head of the NAACP's Legal Defense and Education Fund, which from 1935 to the 1950s backed lawsuits to end segregation
Emmett Till	a fourteen-year-old Chicago youth who was brutally murdered in Mississippi in 1955 for allegedly whistling at a white woman
Fortune 500 companies	the largest companies in America, according to *Fortune* magazine
Freedom Rides	civil rights protests that consisted of boarding segregated trains and buses to challenge segregation laws
Greensboro	a city in South Carolina, where black college students sat at a segregated lunch counter at a Woolworth's store, sparking the "sit-in" movement
Jim Crow	the informal name of the legal and social systems that kept blacks in subservient positions in the late nineteenth and early twentieth centuries

Document Text

If three civil rights workers in Mississippi black, white, Christian and Jew, city-born and country-bred could lay down their lives in freedom's cause, I know we can come together to face down the challenges of our own time. We can fix our schools, we can heal our sick, we can rescue our youth from violence and despair.

And 100 years from now, on the 200th anniversary of the NAACP, let it be said that this generation did its part; that we too ran the race; that full of faith that our dark past has taught us, full of the hope that the present has brought us, we faced, in our lives and all across this nation, the rising sun of a new day begun.

Thank you, God bless you. God bless the United States of America.

Glossary

John Lewis	a U.S. congressional representative from Georgia who played a prominent role in the Selma-to-Montgomery marches in Alabama in 1965
King	Dr. Martin Luther King, Jr.
LeBron	LeBron James, the star of the Cleveland Cavaliers basketball team
Lil Wayne	a prominent rap musician
Linda Brown	the plaintiff in *Brown v. Board of Education*
Little Rock Nine	the African American students who integrated Central High School in Little Rock, Arkansas, in 1957, sparking a confrontation with the state governor
Malia and Sasha	Barack Obama's daughters
Michelle	Barack Obama's wife and the first lady of the United States
three civil rights workers	James Chaney, Andrew Goodman, and Michael Schwerner, northern civil rights workers who were registering voters in Mississippi in 1964 when they were arrested and later murdered by members of the Ku Klux Klan
Thurgood Marshall	the first African American U.S. Supreme Court justice
walk instead of taking the bus	a reference to the Montgomery, Alabama, bus boycott of 1955–1956

The following activity guide corresponds to the National History Standards as published by the National Center for History in the schools. The documents in *Milestone Documents in African American History* relate to most, though not all, of the eras and standards found in the National History Standards.

Era 2: Colonization and Settlement (1585–1763)

Standard 1: Why the Americas attracted Europeans, why they brought enslaved Africans to their colonies, and how Europeans struggled for control of North America and the Caribbean

Focus Question: What factors converged in the New World to make slavery a viable institution?

- Ask students to think about this question: Why did African slavery turn out to be a more viable labor option than either Native Americans or indentured servants in the southern colonies? Have students create a T-chart that lists the pros and cons of using all three groups as a source of labor in the plantation economy of the South.
- John Rolfe, of the Jamestown colony in Virginia, provides the first official record of the coming of Africans to America in a letter to Sir Edwin Sandys, which forms part of the *Record of the Virginia Company of London*. In that letter, referring to the arrival of a Dutch man-of-war under the direction of "Captain Jope," he says only, "He brought not anything but 20 and odd Negroes, which the Governor and Cape Merchant bought for victuals (whereof he was in great need as he pretended) at the best and easiest rate they could." This mention seems quite unimportant, except that in this letter Rolfe also describes the establishment of new plantations and the division of land under a new system. Have students research the headright system of land distribution used in the colonies. Based on their understanding of the system, have students write an essay that explains how the headright system created a need for labor that resulted in the use of indentured servants and eventually slaves.

Standard 3: How the values and institutions of European economic life took root in the colonies and how slavery reshaped European and African life in the Americas

Focus Question: What role did religion play in the early resistance to the institution of slavery during the colonial period?

- Have students use John Woolman's essay *Some Considerations on the Keeping of Negroes* (1754) and "A Minute against Slavery, Addressed to Germantown Monthly Meeting" (1688) to create a list of arguments against slavery that emerged prior to the Declaration of Independence.
- After students research the Quakers in colonial America, have them create a Wiki where each student can add information that explains the Quaker impact on the origin and philosophy of passive resistance, or moral suasion, in the early abolitionist movement. What Quaker doctrines were brought to the movement? Entries on the Wiki should provide evidence of events, speeches, and other documentation as support.
- Ask students to read Virginia's Act XII: Negro Women's Children to Serve according to the Condition of the Mother (1662) and Virginia's Act III: Baptism Does Not Exempt Slaves from Bondage (1667). After the students summarize the main points of each act, have the class debate the role of religion in the creation of these legal rulings. What reasons did the colonial governments have for issuing these decrees? Were they really religious or were they economic decrees?
- How could religion be used to both support and refute slavery? Have students write a persuasive essay or present a persuasive speech supporting either side using information from the documents of this era as support.

Era 3: Revolution and the New Nation (1754–1820s)

Standard 1: The causes of the American Revolution, the ideas and interests involved in forging the Revolutionary movement, and the reasons for the American victory

Focus Question: In what ways were the ideas of the Declaration of Independence a contradiction to the realities of slavery?

- Just six months after the signing of the Declaration of Independence, Prince Hall and seven other African Americans petitioned the Massachusetts General Court (1777) to free all slaves. Ask students to read the petition and find examples in his petition of the ideas and principles used in the Declaration of Independence. Students should then create a poster that Hall might have used to promote his petition to the court.
- Conduct a class discussion about the content of Lord Dunmore's Proclamation of 1775. Ask students to speculate on the colonial reaction to it. Ask students to decide which colonies would have supported it and which would have opposed it. Finally, have students assess whether the Proclamation affected the intent of the Declaration of Independence one year later to deal with the issue of slavery.
- Lord Dunmore's Proclamation, among others, led to the formation of several black regiments in the British army, among them Dunmore's Ethiopian Regiment. Black Loyalists served in a variety of positions for the British during the Revolution. Have the students research the Black Loyalists and write a brief history of their service.

Standard 2: The impact of the American Revolution on politics, economy, and society

Focus Question: What effect did the American Revolution have on the abolition movement in the colonies?

- Ask students to read Pennsylvania's Act for the Gradual Abolition of Slavery (1780) and lead a discussion on how this was an important step in the growth of the abolitionist movement. Have students create a time line of dates when other American colonies abolished slavery and of other important legislation that encouraged the end of slavery as the United States added territories. The last item on the time line should be the Thirteenth Amendment (1865).
- Provide students with the text of Thomas Jefferson's *Notes on the State of Virginia* (1784) and Benjamin Banneker's Letter to Thomas Jefferson (1791). Tell students to think about whether Benjamin Banneker had read Jefferson's notes before he wrote to him regarding emancipation in 1791. Have students write a response from Jefferson to Banneker.

Standard 3: The institutions and practices of governments created during the Revolution and how they were revised between 1787 and 1815 to create the foundation of the American political system based on the U.S. Constitution and the Bill of Rights

Focus Question: How did the U.S. Constitution and the Bill of Rights address the issue of slavery in the new nation?

- Despite being created from the Northwest Ordinance of 1787, which banned slavery, Ohio's Black Code (1804) seemed to violate the spirit of the Ordinance as well as that of the Constitution and the Bill of Rights regarding free men. Have students research the provisions of the Northwest Ordinance and outline the examples of violations in the Black Code of Ohio to the spirit of that document and the Constitution and Bill of Rights.
- The Fugitive Slave Act was enacted by the U.S. Congress in 1793. Ask students to read it and write a letter to the editor in which they discuss the provisions in the Bill of Rights that would have been violated if they had been applied to slaves in 1793.
- The word *slavery* is not used in the Constitution (1787) until the addition of the Thirteenth Amendment in 1865. Slavery, however, is discussed in the text of the Constitution and in several of the amendments. Divide the class into small groups and have the groups compete to see which group can find the five instances where slavery shaped the content of the document without being mentioned by name.

Era 4: Expansion and Reform (1801–1861)

Standard 2: How the Industrial Revolution, increasing immigration, the rapid expansion of slavery, and the westward movement changed the lives of Americans and led toward regional tensions

Focus Question: How did slavery influence debate over sectionalism and states' rights?

- Ask students to read and compare the Fugitive Slave Act of 1793 with the Fugitive Slave Act of 1850. When they have finished, have the students create a Venn diagram to record their comparison. Then discuss as a class the role western expansion played in the changes between the two acts.
- Organize a class debate on the constitutional, political, and moral issues involved with ending the slave trade in 1808. Provide the students with Peter William's "Oration on the Abolition of the Slave Trade" (1808) and Solomon Northup's description of a slave auction in *Twelve Years a Slave* (1853) as starting points for gathering arguments for each side.

Standard 3: The extension, restriction, and reorganization of political democracy after 1800

Focus Question: How did the rapid growth of slavery after 1800 affect the lives of African Americans, both slave and free?

- Divide the class into groups and assign each group one of the documents of David Walker, William Wells Brown, John S. Rock, Henry Brown, Martin Delany, Frederick Douglass, or others. Have each group give a short multimedia presentation that summarizes each document. Then ask the students to consider the common themes found in the writings of African Americans prior to the Civil War. What are their goals, dreams, and complaints? Consider the audience for each document when comparing the themes. What differences can be found in these documents' approach to the issue of freedom for African Americans? Have each student summarize their conclusions in an essay.
- Ask students to read Harriet Jacob's *Incidents in the Life of a Slave Girl* (1861), an autobiographical account of her life, including her time as a fugitive slave living in the North. Have students choose an incident from the narrative and draw an illustration for that event. Remind students to write an appropriate caption.
- Have groups of students analyze the court cases *State v. Mann* (1830), *United States v. Amistad* (1841), *Prigg v. Pennsylvania* (1842), *Roberts v. City of Boston* (1850), and *Dred Scott v. Sandford* (1857), along with other cases found in research, to create a time line of decisions regarding slavery or the lives of African Americans between 1801 and 1861. Then ask the students to review the time line and determine how the courts helped or hindered the rights of African Americans during this time. What principles seemed to guide the judges and justices in these cases?

Standard 4: The sources and character of cultural, religious, and social reform movements in the antebellum period

Focus Question: What ideas and principles drove the abolition movement in the antebellum period?

- Have students assess the role of religion in the abolition movement by researching online and in these volumes and adding information that they find about churches, denominations, and religious leaders' role in the abolition movement to a class Wiki on the subject.
- After reading *The Confessions of Nat Turner* (1831), have students evaluate the impact of his slave rebellion by writing an 1831 newspaper editorial taking the position that he either helped or hurt the cause of abolition with his actions or his words.

Era 5: Civil War and Reconstruction (1850–1877)

Standard 1: The causes of the Civil War

Focus Question: Was slavery really the cause of the Civil War?

- Ask students to support the argument that John Brown's raid on the federal arsenal at Harpers Ferry, Virginia, was really the first salvo in the Civil War by reading it and other accounts of the raid and comparing it with the account of the only survivor of the trials and executions following the raid, Osborne P. Anderson, in *A Voice from Harper's Ferry* (1861). Then provide students with the lyrics of "The John Brown Song," (available at http:www.loc.gov/teachers/lyrical/songs/docs/john_brown_trans.pdf) Have students research the song's history and report on the impact of the song on the Civil War.
- Have students read the revised Virginia Slave Code from 1860. Lead a class discussion about the message sent to the federal government and to the supporters of the abolition movement in these revisions. Have students rank the revisions in order of importance to Virginians as they anticipated the coming of a crisis.

Standard 2: The course and character of the Civil War and its effects on the American people

Focus Question: How did the Civil War affect the lives of African Americans, both free and slave?

- Have students conduct research to provide examples of the contributions and participation by African Americans on the side of the Confederacy and the Union during the course of the war. Ask students to write a short story or a poem or create a comic book that tells the story of a heroic African American during the Civil War.
- Have students read Abraham Lincoln's Emancipation Proclamation (1863). On the computer, have students run the text of the document through Wordle (or a similar program) to create a word cloud that emphasizes the most important terms in the document. Then have students analyze the document, in an essay or poster, in terms of Lincoln's audience, timing, and purpose in issuing it.

Standard 3: How various Reconstruction plans succeeded or failed

Focus Question: Other than ending slavery, what did the period of Reconstruction achieve?

- Ask students to research the origin of the Ku Klux Klan. Instruct them to find out how the Ku Klux Klan arose and became a powerful source of intimidation in the South despite the passage of the Ku Klux Klan Act of 1871. Discuss with students the goals and provisions of the act. Have students speculate on why the legislation failed and what impact it had on the future of race relations.
- Assign one of the sections of the Black Code of Mississippi (1865) to groups of students. Ask the students to create a flier that could be used to educate African Americans in Mississippi on the rules to be instituted in that section. Remind students that literacy rates were very low and to be creative in designing the message. When all the fliers are completed, post them around the classroom and have student groups attempt to interpret them.
- Set up a mock committee hearing and have students reenact the testimony of the seven African American participants who testified in 1866 before the Joint Committee on Reconstruction on Atrocities in the South against Blacks. Some students can play the part of those testifying. and others can take the role of the committee members. Then conduct a class discussion using the following questions: What concerns did the seven African Americans who testified have about the state of southern society and the future of African Americans in the region? What did they propose for the direction of Reconstruction? What might have happened if their concerns had been addressed?
- Ask students to read and outline the major changes to the U.S. Constitution as listed in the Thirteenth, Fourteenth, and Fifteenth Amendments known collectively as the Reconstruction Amendments. Create a graphic organizer for students to list the provisions of each amendment and then have students review the amendments to establish the reason that they were not enforced for nearly a century. Have students record that information on the organizer.
- Have students read Henry McNeal Turner's Speech on His Expulsion from the Georgia Legislature (1868), George White's Farewell Address to Congress (1901), and Richard Harvey Cain's speech "All That We Ask Is Equal Laws, Equal Legislation, and Equal Rights" (1874). All were African American legislators during or immediately after Reconstruction. Then tell students to research the statistics on the number of African Americans who served in state legislatures and the U.S. Congress between 1865 and 1900. What problems did the trio foresee for post-Reconstruction America? How did their speeches reflect the frustration of the end of Reconstruction for African Americans? Ask students to write essays that address these questions and provide evidence of their statistical research within the essay.
- Review with the class the facts of the 1876 Supreme Court case *United States v. Cruikshank*. Ask students to read Chief Justice Morrison R. Waite's opinion of the Court. Help students define the concept of "dual citizenship." Discuss with

the class how it effectively blocked enforcement of the Fourteenth Amendment (1868). Then have students research the main provisions of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, which finally overturned this ruling. Have them explain how those two pieces of historic legislation ended the idea of dual citizenship.

Era 6: The Development of the Industrial United States (1870–1900)

Standard 2: Massive immigration after 1870 and how new social patterns, conflicts, and ideas of national unity developed amid growing cultural diversity

Focus Question: Did the new immigration after the Civil War help or hinder the efforts of African Americans to achieve economic and social parity?

- Have students compare and contrast the views of Booker T. Washington (in his Atlanta Exposition Address of 1895) and W. E. B. Du Bois (in "Of Mr. Booker T. Washington and Others," from *The Souls of Black Folk*, written in1903) on the path that African Americans should take toward gaining equality with whites in the United States. Organize a class debate that utilizes the words of the two African American leaders to argue whether economic or political rights should be fought for first and the ways in which to go about gaining parity with whites.
- Consider both sides of the "separate but equal" doctrine in the *Plessy v. Ferguson* (1896) Supreme Court case. Was the decision in *Plessy* inevitable once the Court backed away from vigorous federal implementation of the Fourteenth and Fifteenth Amendments in the case of *United States v. Cruikshank* (1873)? Have students read the opinion of the court for both cases. Ask students to write an essay that argues that the interpretation of the Fourteenth Amendment in *Cruikshank* can be seen in the *Plessy* decision.
- How did John E. Bruce believe that African Americans should strive to achieve equality? Contrast his view, as set forth in "Organized Resistance Is Our Best Remedy" (1889), with the ideas of the civil rights movement led by Martin Luther King, Jr., in the 1960s. Instruct students to read the Bruce speech and several of King's essays and speeches, including "Letter from Birmingham Jail" and "I Have a Dream." Have students create a chart that lists the principles and actions on which the two agreed and the points on which they differed. Then ask students to brainstorm the ways history might have changed if African Americans had chosen to follow Bruce's plan.

Standard 3: The rise of the American labor movement and how political issues reflected social and economic changes

Focus Question: How were African Americans included in the rising organized labor movement of the late 1800s?

- In his letter to the editor, "In the Lion's Mouth" (1891), John L. Moore of the Colored Farmers' National Alliance and Cooperative Union says that he believes that only the protected right to vote will help African Americans achieve equality. Ask students to read the letter. Then have them research the Populist and Progressive movements to find out if any of his proposals were included in the platforms of the two movements. How many of his proposals are part of today's electoral process?
- In his speech "The Present Relations of Labor and Capital" (1886), the African American newspaper editor and civil rights and labor organizer T. Thomas Fortune argued that class conflict, not strictly race, was the source of the African American struggle in the years after the Civil War. Why did he think that white racism and an exploitative economic system acted together to subjugate blacks? The speech was printed in his newspaper, the *New York Freeman*. Ask students to write a letter to the editor based on an assigned persona (labor organizer, robber baron, African American factory worker, African American sharecropper, or southern landowner, for example). Letters should take the point of view of the assigned persona and address directly the points of Fortune's speech.

Era 7: The Emergence of Modern America (1890–1930)

Standard 1: How Progressives and others addressed problems of industrial capitalism, urbanization, and political corruption

Focus Question: In what ways did the failure of the Progressive movement to address the needs of African Americans and other minorities lead to more racial tension in the United States in the 1920s?

- Ask students to define lynching and trace its legal history in the United States. Discuss with students the arguments of Ida B. Wells-Barnett, in "Lynch Law in America" (1900), and the NAACP, in *Thirty Years of Lynching* (1919), in their pleas to make lynching a crime.
- Have students prepare a written defense for the statement that African American women had the most difficult status in American society. Allow students to use the documents of Mary Church Terrell in "The Progress of Colored Women" (1898) and Alice Moore Dunbar-Nelson in "The Negro Woman and the Ballot" (1927) to support their position. What specific problems were unique to African American women? Have students post responses to an online discussion board created by the teacher and respond to the posts of other students.
- Ask students to determine why the Supreme Court case *Guinn v. United States* (1915) failed to improve voting rights for African Americans. Tell them to analyze the opinion to draw their conclusions. Discuss with students the various methods used by southern states to disenfranchise African American voters.

Standard 2: The changing role of the United States in world affairs through World War I

Focus Question: Why did World War I not result in any gains in the fight for equality for African American?

- Have students research the Brownsville raid of 1906. Then have students consult Theodore Roosevelt's Brownsville Legacy Special Message to the Senate (1906). Ask them to evaluate his message based on what was discovered in the research. Have them respond to the following questions in a classroom discussion: Does it appear that he got all sides of the story? Was he given accurate information? Did he have any reason to distort the facts? Do you think that the Brownsville raid had an impact on the decision to keep the military segregated in World War I?
- What arguments in Monroe Trotter's Protest to Woodrow Wilson (1914) could have been used to support desegregation during wartime to bolster mobilization efforts? Using Glogster or other online poster-making programs, have students create posters that could be used in a campaign to persuade Wilson to desegregate the federal government during World War I.

Standard 3: How the United States changed from the end of World War I to the eve of the Great Depression

Focus Question: Why were the 1920s a time of great change for African Americans despite the failure of the Progressive movement and World War I to further their cause of equality?

- Discuss with students the ongoing debate over the goals African Americans should focus on in their struggle for equality political or economic, segregation or integration, assimilation or maintenance of a distinct culture. Have students create a list of the principles that encompassed black nationalism and alternative movements that emerged in the early twentieth century. Instruct them to use the documents of W. E. B. Du Bois, Marcus Garvey, Cyril Briggs, the Niagara Movement, and William Pickens to compile the list of ideas on both sides of the debate.
- After they have created the list of principles, have students sort them into two categories based on whether the principle supports integration into white society or separatism (creation of a separate society).
- Ask students to decide which approach they think they would have supported during the 1920s and what they think different groups of Americans would have supported. Tell students to defend their decision using facts from the reading and other research.
- Ask students to draw or use UMapper to create an illustrated map of the Harlem described by James Weldon Johnson in his article "Harlem: The Culture Capital" (1925). Illustrations should include pictures of buildings, people, and artifacts that help describe the Harlem Renaissance.

Era 8: The Great Depression and World War II (1929–1945)

Standard 1: The causes of the Great Depression and how it affected American society

Focus Question: Did the severe economic downturn of the Great Depression lead to increased instances of racism in the United States?

- Have students review Chapter 2 of Haywood Patterson's book *Scottsboro Boy* (1950). Discuss instances of racial hostility that he witnessed during his trials. What role did racial prejudice play in the legal processes? Ask students to write a short newspaper article as if they had interviewed him in jail.
- Ask students why they think the NAACP chose to focus on educational inequality rather than political or economic inequality during the 1930s. Tell students to read Charles Hamilton Houston's "Educational Inequalities Must Go" (1935) and look for indications that the Great Depression might have played a role in the NAACP's decision.
- Invite students to create a cartoon or storybook presentation (hand drawn or using computer software) of the events surrounding Marian Anderson's 1939 Easter Sunday concert at the Lincoln Memorial in Washington, D.C., as recounted in her autobiography, *My Lord, What a Morning* (1956). Remind students to address how her treatment was representative of the times and the legal reasons that prevented her from performing at Constitution Hall.

Standard 2: How the New Deal addressed the Great Depression, transformed American federalism, and initiated the welfare state

Focus Question: Why can it be argued that the New Deal was not a "good deal" for African Americans?

- Have students make a list of the problems that John P. Davis saw, program by program, with the New Deal, in terms of its effect on African Americans, in "A Black Inventory of the New Deal" (1935).
- Next, instruct students to read Robert C. Weaver's essay "The New Deal and the Negro: A Look at the Facts" (1935) and make a list of the ways Weaver saw the New Deal helping the plight of African Americans.
- Finally, ask students to research statistics on poverty, homelessness, and unemployment for African Americans between 1933 and 1940. Then have students debate whether Davis or Weaver was most accurate in his assessment of the effect of the New Deal.

Standard 3: The causes and course of World War II, the character of the war at home and abroad, and its reshaping of the U.S. role in world affairs

Focus Question: What steps did minorities use to secure an end to segregation in the defense industries and the military during World War II?

- Have students read the union organizer A. Philip Randolph's 1941 article "Call to Negro America to March on Washington." Ask students to research Executive Order 8802, issued by President Franklin Roosevelt. Discuss whether the order was a satisfactory reason for the cancellation of the march on Washington, D.C., called for by Randolph. Discuss with students Randolph's role in the 1963 March on Washington.
- Ask students to write an essay about whether Mary McLeod Bethune's speech "What Does American Democracy Mean to Me?" is a good example of the frustration of African Americans regarding racial inequality and injustice in 1940. Remind students to draw on their knowledge of the Great Depression and the New Deal and its impact on minorities and women to support their essay and her points.

Era 9: Postwar United States (1945 to early 1970s)

Standard 3: Domestic policies after World War II

Focus Question: Did President Harry Truman improve the legacy of the New Deal in the area of minority rights?

- Have students outline the answers that the President's Commission on Civil Rights report *To Secure These Rights* (1947) provided to the four questions it posed for its investigation.
- Then have students decide which question from the civil rights report was addressed by President Truman's Executive Order 9981(1948) and discuss why the president chose this area to address first. Instruct students to research the history of segregation in the military to add to the understanding of this order.

Standard 4: The struggle for racial and gender equality and for the extension of civil liberties

Focus Question: What impact did the civil rights movement have on society in the 1950s and 1960s and beyond?

- Ask students to analyze what made the civil rights movement of the 1950s and 1960s different from prior attempts to achieve voting rights and end segregation. Students should focus their analysis on the goals, strategies, leadership, and support for the movement.
- Divide the class into groups to read the Supreme Court's decisions in *Sweatt v. Painter* (1950), *Brown v. Board of Education* (1954), *Bond v. Floyd* (1966), *South Carolina v. Katzenbach* (1966), and *Loving v. Virginia* (1967). Have each group present a short summary of each decision regarding civil rights. Discuss as a class what message the nearly unanimous decisions sent to those in southern states resisting the upholding of the Fourteenth and Fifteenth Amendments within their borders. Have a class discussion concerning why the decisions in these cases were not enough to force southern states to uphold the amendments.
- Have students read the Moynihan Report issued by the Department of Labor in 1965 and the Kerner Commission Report from 1968. What points do they both make? Where do they differ? Which was more accurate? Ask students to create a Venn diagram to log their answers to those questions. Then have students log on to an online discussion board set up by the teacher to respond to the following question: Was the Kerner Commission Report optimistic or pessimistic about the future of race relations and minority status in the United States? Assess its accuracy forty years later.
- Ask students to compare in an essay the themes in Martin Luther King, Jr.'s 1967 speech "Beyond Vietnam: A Time to Break the Silence" with his earlier works, such as the "Letter from Birmingham Jail" and "I Have a Dream" speech. Suggest that students look at the Kerner Commission Report to help formulate reasons for the change.
- Ask students to summarize the main provisions of the Civil Rights Act of 1964 and the points made by John F. Kennedy's in his Civil Rights Address of 1963. Then lead a class discussion about whether, if Kennedy had still been alive, he would have felt that the proposals in his Civil Rights Address had been achieved.
- Despite the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, some African Americans felt that the civil rights movement was too conservative and moved too slowly. Have students read Malcolm X's speech "After the Bombing" (1965) and Stokely Carmichael's "Black Power" (1966), along with Eldridge Cleaver's essay "Education and Revolution" (1969). Ask students to write a letter from one of the men to Martin Luther King, Jr., defending his point of view about the direction of the movement.

Era 10: Contemporary United States (1968 to the present)

Standard 2: Economic, social, and cultural developments in contemporary United States

Focus Question: What issues have been important to African Americans since the passage of the landmark civil rights legislation of the middle 1960s?

- Ask students to use Shirley Chisholm's speech "The Black Woman in Contemporary America" (1974) to decide whether she thought that African American women were part of the women's rights movement of the 1970s. Ask students to record their responses on a teacher-created online discussion board.
- Have students debate whether Angela Davis believed that African Americans in prison are political prisoners based on her comments in the essay "Political Prisoners, Prison, and Black Liberation" (1971). Remind each side that they must provide evidence from her essay in their arguments.
- Ask students to trace the message about race relations in the documents of these major African American political figures in each of the following decades: Thurgood Marshall (1970s), Jesse Jackson (1980s), and Colin Powell (1990s). Have students create a chart to organize the similarities and differences in their messages. Then have students research the progress made by African Americans in each decade in economic, political, educational, and social equality. Have them make charts and graphs to show the progress in numerical terms.
- Instruct students to conduct research into the life, career, and philosophy of Supreme Court Justice Clarence Thomas. Create a Wiki space for students to add information as they find it about him. Then have students use the Wiki information and his written opinion to determine why he dissented in the affirmative action case of *Grutter v. Bollinger* in 2003.
- African American athletes have been important figures in the ongoing quest for equality in the United States. Have students analyze the messages about race relations presented in Jesse Owens's *Blackthink: My Life as Black Man and White Man* (1970) and Jackie Robinson's *I Never Had It Made* (1972). Then have students create for each athlete a 30-second public service announcement for radio that expresses his message about race relations.
- In 2009, the first African American president, Barack Obama, was inaugurated. Ask students to read his speech "A More Perfect Union" (2008) and his Address to the NAACP Centennial Convention (2009). Then have students create a chart that identifies the issues regarding race as he sees them and examine his proposals to tackle each issue.

Correspondence

Essays, Reports, and Tracts

Manifestos, Petitions, and Proclamations

Legal Opinions

Roberts v. City of Boston (1850)
Dred Scott v. Sandford (1857)
United States v. Cruikshank (1876)
Civil Rights Cases (1883)
Plessy v. Ferguson (1896)
Guinn v. United States (1915)
Sweatt v. Painter (1950)
Brown v. Board of Education (1954)
South Carolina v. Katzenbach (1966)
Bond v. Floyd (1966)
Loving v. Virginia (1967)
Clay v. United States (1971)
Clarence Thomas's Concurrence/Dissent in *Grutter v. Bollinger* (2003)

Legislation
Virginia's Act XII: Negro Women's Children to Serve according to the Condition of the Mother (1662)
Virginia's Act III: Baptism Does Not Exempt Slaves from Bondage (1667)
Pennsylvania: An Act for the Gradual Abolition of Slavery (1780)
Slavery Clauses in the U.S. Constitution (1787)
Fugitive Slave Act of 1793
Ohio Black Code (1804)
Fugitive Slave Act of 1850
Virginia Slave Code (1860)
Black Code of Mississippi (1865)
Thirteenth Amendment to the U.S. Constitution (1865)
Fourteenth Amendment to the U.S. Constitution (1868)
Fifteenth Amendment to the U.S. Constitution (1870)
Ku Klux Klan Act (1871)
Act in Relation to the Organization of a Colored Regiment in the City of New York (1913)
Civil Rights Act of 1964
U.S. Senate Resolution Apologizing for the Enslavement and Racial Segregation of African Americans (2009)

Military Orders
War Department General Order 143 (1863)
William T. Sherman's Special Field Order No. 15 (1865)

Narratives
The Confessions of Nat Turner (1831)
Narrative of the Life of Henry Box Brown, Written by Himself (1851)
Twelve Years a Slave: Narrative of Solomon Northup (1853)
Harriet Jacobs's *Incidents in the Life of a Slave Girl* (1861)
Osborne P. Anderson: *A Voice from Harper's Ferry* (1861)
Haywood Patterson and Earl Conrad's *Scottsboro Boy* (1950)
Marian Anderson's *My Lord, What a Morning* (1956)
Jesse Owens's *Blackthink: My Life as Black Man and White Man* (1970)
Jackie Robinson's *I Never Had It Made* (1972)

Presidential/Executive Documents
Emancipation Proclamation (1863)
Theodore Roosevelt's Brownsville Legacy Special Message to the Senate (1906)
Executive Order 9981 (1948)
John F. Kennedy's Civil Rights Address (1963)
Barack Obama's Inaugural Address (2009)
Barack Obama's Address to the NAACP Centennial Convention (2009)

Speeches/Addresses

Testimony

Volume numbers are indicated before each page number. Bold page numbers indicate the primary entry about the topic.

C

D

H–I

J

K

L

M

N

O

P–Q

R

S

T

U

V

W–X–Y–Z