



SLAVERY AND THE AMERICAN FOUNDING

*Should 1619 replace 1776 as
America's founding year?*

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America's Founders, Christianity, and Slavery¹

The New York Times's "1619 Project" is a series of articles published in 2019 to mark the 400th anniversary of the first enslaved Africans to arrive in what became the United States. Jake Silverstein's introduction to the series claims that slavery is:

...sometimes referred to as the country's original sin, but it is more than that: It is the country's very origin.

Out of slavery—and the anti-black racism it required—grew nearly everything that has truly made America exceptional: its economic might, its industrial power, its electoral system, its diet and popular music, the inequities of its public health and education, its astonishing penchant for violence, its income inequality, the example it sets for the world as a land of freedom and equality, its slang, its legal system and the endemic racial fears and hatreds that continue to plague it to this day. The seeds of all that were planted long before

our official birth date, in 1776, when the men known as our founders formally declared independence from Britain.²

These are powerful claims. Is it really the case that slavery explains "nearly everything that has truly made America exceptional?" If so, does it make sense to argue that America had a Christian founding?

Mark Galli, editor of the influential magazine *Christianity Today*, asked a version of the last question in a Fourth of July editorial: "Can we in any way, shape, or form say that America was founded on Christian principles when its very existence and prosperity were set on a foundation of unimaginable cruelty to millions of other human beings?" He answered this question with a resounding "No!"³ The foundation of which he speaks is the oppression of Native Americans and African Americans. I address only the issue of slavery in this essay.

Contemporary American Christians tend to think of sin in an individualistic manner, that

is, something committed by a particular man or woman. But the Old Testament prophets recognized that nations, like individuals, sin. Throughout church history, most Christians have accepted this view. For example, in his 1789 call for prayer, George Washington urged citizens "to unite in most humbly offering our prayers and supplications to the great Lord and Ruler of Nations and beseech him to pardon our *national* and other transgressions" (emphasis added).⁴ If Washington was right, and I believe he was, then Americans must be open to recognizing and seeking forgiveness for our country's sins.

America clearly and indisputably sinned against African Americans. Some of America's founders participated in this sin, but they also did much to remedy this evil. This essay acknowledges the evil of slavery in America, but it also explains that many founders were coming to oppose it. Moreover, they passed a host of laws that they believed would put this vile institution on the road to extinction.

1 An earlier version of this essay, entitled "Slavery and the American Founding," was published in *Chronicles*. Available at: <https://www.chroniclesmagazine.org/slavery-and-the-american-founding>

2 Available at: <https://www.nytimes.com/interactive/2019/12/20/magazine/1619-intro.html> (accessed June 15, 2020).

3 Mark Galli, "A Great and Terrible Nation," *Christianity Today*, July 3, 2018, available at: <https://www.christianitytoday.com/ct/2018/july-web-only/july-4-christian-nation-great-terrible-galli.html> (accessed July 7, 2018).

4 Daniel L. Dreisbach and Mark David Hall, *The Sacred Rights of Conscience: Selected Readings on Religious Liberty and Church-State Relations in the American Founding* (Indianapolis: Liberty Fund Press, 2009), 454.

American Slavery in Context

Slavery dates back to the dawn of human history. It has been practiced in every region, and although it is currently illegal in almost every country, scholars and activists estimate that there are as many as 46,000,000 enslaved people today.⁵

Slavery existed in America well before 1619 because Native Americans enslaved other Native Americans. The first enslaved Africans were brought to North America in 1619, but there were already enslaved Africans elsewhere in the New World. Indeed, even the “1619 Project” recognizes that of the 12.5 million Africans kidnapped from their home countries and brought to North and South America, only 400,000 of them,

about 3.2 percent, came to what we now call the United States.⁶ Most were taken to the Caribbean or Brazil. To be clear, 400,000 stolen humans are 400,000 too many; my point is simply that American colonists were not uniquely evil — they were participating in a practice that was widespread around the globe.

Great Britain’s North American colonies were not unusual in permitting slavery. What was unique is that when Massachusetts Captain James Smith kidnapped two West Africans and brought them to Boston in 1645, the General Court considered charging him with “man-stealing” (Exodus 21:16). The Court decided not to try Captain Smith because his offense took place

outside of the court’s jurisdiction, but it ordered the two men to be freed and returned them to Africa at the colony’s expense.⁷

The Puritans prohibited slavery except in the case of “lawful captives taken in just wars, and such strangers as willingly sell themselves, or are sold to us.”⁸ They eventually followed Jamestown in permitting enslaved Africans in New England, but slavery was never widespread in the region. In 1700, enslaved Africans accounted for 1.7 percent of New England’s population.⁹ Even so, in that same year, the Puritan minister Samuel Sewall published the first anti-slavery tract in British North America: *The Selling of Joseph: A Memorial*.

What does the Bible say?

Any discussion of Christianity and slavery must acknowledge that the Bible seems to permit the institution. In the Old Testament, slavery is treated as an acceptable practice (e.g., Exodus 20:10; 21:1-32), although

distinct limits are placed upon how Jewish slaves were to be treated, redeemed, and eventually freed (Leviticus 25). Although Israelites were permitted to purchase foreigners as slaves (Leviticus 25:44-46), Deuteronomy 23:15-

16 prohibits God’s people from returning slaves who escape from their foreign masters.

Abolitionists also pointed to biblical passages that seem to condemn slavery. As noted, some Puritans

5 See: <https://www.inverse.com/article/31386-countries-with-the-most-slaves?fbclid=IwAR2VF1uulriC50f85t6KslhOJR3G-72zEni1bR0aTvtmqha68YTXzVArM> (accessed June 15, 2020).

6 Nikole Hannah-Jones, “Our democracy’s founding ideals were false when they were written,” August 14, 2019. Available at: <https://www.nytimes.com/interactive/2019/08/14/magazine/black-history-american-democracy.html> (accessed June 18, 2020).

7 Michael P. Winship, *Hot Protestants: A History of Puritanism in England and America* (New Haven: Yale University Press, 2018), 167-68.

8 Dreisbach and Hall, *Sacred Rights*, 92-93.

9 Wendy Warren, *New England Bound* (New York: Liveright, 2016), 10.

argued that the African slave trade violated the biblical prohibition against “man-stealing” (Exodus 21:16). At a more foundational level, Genesis 1:27 states that all humans are created in the image of God. Christian leaders have long taught that this means, among other things, that all humans must be treated with dignity and respect. Although it might be possible for a slave owner to treat an enslaved person in this manner, in practice slavery seldom leads to such results. Accordingly, it follows that this institution should be abolished.

In the late 18th and early 19th centuries, some “scientific” racists

taught that blacks and whites were separate races. Orthodox Christians had very little patience with these arguments as they believed that all humans descended from one couple — Adam and Eve. In addition to Genesis, opponents of the multiple origins theory often cited Acts 17:26: “And [God] hath made of one blood all nations of men for to dwell on all the face of the earth, and hath determined the times before appointed, and the bounds of their habitation.” Popular as well was Galatians 3:28: “There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for ye are all one in Christ Jesus.”

It seems obvious to most 21st century Christians that slavery, at least as practiced in America, is unbiblical. I agree. But historical humility requires us to see that the Bible does not clearly and unequivocally condemn slavery. That some founders did not actively oppose the institution or free their own slaves does not mean that they were not Christians or that they did not accept the Bible as the authoritative Word of God.

The Founders and Slavery

Let’s turn now to what America’s founders said and did about slavery. We should perhaps first note that the vast majority of white Americans never owned a slave.¹⁰ Civic leaders tended to be wealthier than the average American and so were more likely to own slaves. Of the 56 men to sign the Declaration, 41 were slave owners at some point in their lives. But only 25 of the 55 delegates to the Constitutional Convention ever owned an enslaved person. I discuss the anti-slavery activity of founders who never owned slaves below, but I’ll begin

with the hard cases — founders who owned other human beings.

No founder defended slavery as a positive good, and even many slave owners were coming to oppose the institution. For instance, John Dickinson, “Penman of the Revolution” and framer of the Constitution, was at one time the largest slave owner in Delaware. He conditionally freed his slaves in 1777 and manumitted (freed) them completely in 1786.¹¹ James Wilson of Pennsylvania, on the other hand, only owned one slave who served as

a household servant. He voluntarily freed him in 1794.¹²

John Jay, the nation’s first chief justice, owned several slaves, but manumitted them all. When serving in New York’s constitutional convention of 1777, he attempted but failed to ban slavery in the state. Jay later helped found and served as president of the New York Manumission Society. (Other members of this society included Alexander Hamilton, Noah Webster, Egbert Benson (a member of the first federal Congress), and

10 And not all slaves were owned by white Americans — some free African Americans and Native Americans owned slaves as well. According to the 1790 census, there were 697,681 slaves and 3,929,214 white Americans. Available at: <https://www2.census.gov/prod2/decennial/documents/1790m-02.pdf> (accessed August 20, 2020). Like any sensible person, I find the idea that one person can “own” another to be abhorrent, but it would be anachronistic to pretend that enslaved persons were not considered to be the property of their masters in this era.

11 On Dickinson, see my essay, “John Dickinson: Friend of Conscience,” available at: <http://www.libertylawsite.org/2018/07/17/john-dickinson-friend-of-conscience/> (accessed July 18, 2018).

12 Mark David Hall, *The Political and Legal Philosophy of James Wilson* (Columbia: University of Missouri Press, 1997), 30.

governors George Clinton and Daniel Tompkins.) In 1799, when serving as governor of New York, Jay signed a law gradually abolishing slavery in the state.¹³

Benjamin Franklin was a member of the five-person committee that drafted the Declaration of Independence. He owned a handful of slaves who worked as household servants between 1735 and 1781. Through the influence of the Quaker Anthony Benezet and other abolitionists, he came to oppose slavery and freed the last of his “servants” in 1781. He joined the Philadelphia-based Society for Promoting the Abolition of Slavery and the Relief of Negroes Unlawfully Held in Bondage in 1785 and became its president in 1787. In 1790, he signed a petition which was sent to Congress requesting that slavery be abolished throughout the United States.¹⁴

Benjamin Rush, an important but neglected founder, graduated from the College of New Jersey (now Princeton), apprenticed as a doctor, and then went to Scotland to study medicine at the University of Edinburgh. Upon his return to America in 1768, he published an essay against slavery entitled, “An Address to the Inhabitants of the British Settlements in America, upon Slave-Keeping.” Among other things, he acknowledged that slavery is a national sin:

*Remember that national crimes require national punishments, and without declaring what punishment awaits this evil, you may venture to assure them that it cannot pass with impunity, unless God shall cease to be just or merciful.*¹⁵

Rush later served in the Continental Congress and was a signer of the Declaration of Independence. In 1788, he was a leader in Pennsylvania’s ratification convention, where he supported the Constitution. Despite his pamphlet condemning slavery, Rush purchased a slave named William Grubber in 1776. He still owned the slave when he joined the Pennsylvania Abolition Society in 1784, although he finally freed him in 1794. Why would Rush, an early and vocal opponent of slavery, purchase a slave? Perhaps he thought Grubber, whom he purchased as a boy, would be better off under his care.

To their credit, the slave-owning founders discussed thus far freed their slaves. Some slave-owning founders criticized the institution, but did not free their slaves. George Washington, for instance, wrote in a letter to Robert Morris that “there is not a man living who wishes more sincerely than I do, to see a plan adopted for the abolition of it [slavery].”¹⁶ Similarly, James Madison lamented that “[w]e have

seen the mere distinction of color made in the most enlightened period of time, a ground for the most oppressive dominion ever exercised by man over man.”¹⁷ Another great Virginian, Patrick Henry, wrote to a Quaker who had freed his slaves asking:

*Is it not amazing that at a time when the rights of humanity are defined and understood with precision, in a country, above all others fond of liberty, that in such an age and in such a country, we find men professing a religion the most humane, mild, gentle, and generous, adopting a principle [slavery] as repugnant to humanity, as it is inconsistent with the Bible, and destructive to liberty?*¹⁸

Of these three, only Washington freed his slaves, albeit after his death.¹⁹ If the founders were troubled by slavery, why did many slave-owners not free their slaves? In some cases, state laws made it difficult to do so. In others, slave owners were indebted and so could not free their “property” before satisfying creditors. But the main reason was likely that slave owners enjoyed the benefits of slavery so much that they rationalized their participation in it.

13 Arthur Zilversmit, *The First Emancipation: The Abolition of Slavery in the North* (Chicago: University of Chicago Press, 1967), 167.

14 Gordon S. Wood, *The Americanization of Benjamin Franklin* (New York: Penguin Press, 2004), 226-29.

15 Rush, “An Address” (Boston: John Boyles, 1773), 30.

16 George Washington: A Collection, ed. W.B. Allen (Indianapolis: Liberty Classics, 1988), 319.

17 Quoted in Thomas West, *Vindicating the Founders: Race, Sex, Class, and Justice in the Origins of America* (Lanham: Rowman and Littlefield, 1997), 5.

18 Quoted in Thomas Kidd, *God of Liberty: A Religious History of the American Revolution* (New York: Basic Books, 2010), 147.

19 West, *Vindicating the Founders*, 10-14.

Slavery and the Nation's Organic Laws

According to Peter Kolchin, one of the best students of American slavery, "The United States was the first country to take significant (although ultimately limited) action against the peculiar

institution [i.e., slavery]."²⁰ In the late 18th century, America's civic leaders passed a series of laws at the national and state levels that they hoped would put slavery on the road to extinction. Let's begin by considering three

key documents from this era: the Declaration of Independence (1776), the Northwest Ordinance (1787, 1789), and the Constitution of the United States (1788).²¹

Declaration of Independence

The Continental Congress voted for independence on July 2, 1776, and on July 4, 1776, the body approved the Declaration of Independence. This document was intended to justify America's break from Great Britain to the world. Most relevant for the debate over slavery is the stirring proclamation that:

*We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.*²²

The Declaration of Independence was a political document with

multiple purposes. But throughout history, Americans have appealed to the principles articulated in it for a variety of purposes, including opposing slavery.

According to the "1619 Project," "The white men who drafted those words [in the Declaration] did not believe them to be true for the hundreds of thousands of black people in their midst."²³ Similarly, Jemar Tisby asserts that few "political leaders assumed the noble words of the Declaration applied to the enslaved."²⁴ It is certainly the case that the Declaration did not immediately free any slaves, but many of its authors were troubled by the institution. Four of the members of the committee charged with drafting the Declaration went on to

play important roles in opposing the institution. I have already discussed Franklin and will turn shortly to Roger Sherman and John Adams. But let's begin with its primary drafter, Thomas Jefferson. The Sage of Monticello never freed his slaves, but he did more to oppose slavery than is often realized. Indeed, his draft of the Declaration condemned King George because

he has waged cruel war against human nature itself, violating its most sacred rights of life & liberty in the persons of a distant people who never offended him, captivating & carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither [and]

20 Peter Kolchin, *American Slavery: 1619-1877* (New York: Hill and Wang, 1993), 76.

21 The United States Code begins with four "Organic Laws." These are the three documents listed above and the Articles of Confederation (1781). An organic law is a basic, foundational law, as opposed to a regular statute.

22 Bruce Frohnen, *The American Republic* (Indianapolis: Liberty Fund Press, 2002), 189.

23 Available at: <https://www.nytimes.com/interactive/2019/12/20/magazine/1619-intro.html> (accessed August 15, 2020).

24 Jemar Tisby, *The Color of Compromise: The Truth About the American Church's Complicity in Racism* (Grand Rapids: Zondervan, 2019), 42. 25 Available at: <https://www.loc.gov/exhibits/declara/ruffdrft.html> (accessed August 15, 2020).

determined to keep open a market where MEN should be bought & sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce . . .²⁵

This provision was eventually removed at the insistence of delegates from the deep south, but there is no question that Jefferson was troubled by slavery. The year after he penned the Declaration, he drafted a bill that would have banned the importation of slaves into Virginia.²⁶ In 1785, he wrote *Notes on the State of Virginia*, a work the historian Kevin Gutzman calls “the most influential antislavery book of his age.”²⁷ In it, Jefferson observed with respect to slavery:

Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? That they are not to be violated but with his wrath? Indeed, I tremble for my country when I reflect that God is just: that his justice cannot sleep for ever: that considering numbers,

*nature and natural means only, a revolution of the wheel of fortune, an exchange of situation, is among possible events: that it may become probable by supernatural interference! The Almighty has no attribute which can take side with us in such a contest.*²⁸

Jefferson recognized that slavery was unjust, but in the same work he contended that emancipation was not a viable solution because of “deep-rooted prejudices entertained by the whites; ten thousand recollections by the blacks of the injuries they have sustained; new provocations; the real distinctions nature has made . . .”²⁹ He was convinced that simply manumitting slaves would lead to constant fighting between African Americans and white Americans, if not a race war.³⁰ Instead, he proposed to free slaves and then ship them “to such place as the circumstances of the time should render most proper.” He drafted a bill to achieve this result in Virginia, but it did not become law.³¹

In an 1820 letter, Jefferson reiterated his support for “gradual emancipation and expatriation” (emphasis original). The notion that

freed slaves should be “colonized” elsewhere was surprisingly popular among southern leaders, but it was never a realistic possibility. Jefferson likely recognized this fact, which may be why in the same letter he observed that being a slave owner was similar to holding a “wolf by the ears, we can neither hold him, nor safely let him go. Justice is on one scale, and self-preservation on the other.”³² Jefferson understood that slavery was wrong, but feared the consequences of emancipating enslaved African Americans. We may rightly criticize his inability to envision ways in which slavery might be ended peacefully, but we should acknowledge the actions he took to oppose the peculiar institution.

The Declaration of Independence was regularly appealed to by opponents of slavery. Indeed, within a few months of its publication, the African American preacher Lemuel Haynes wrote a pamphlet condemning slavery that begins by quoting the Declaration’s powerful claim: “We hold these truths to be self-evident that all men are created equal.” Later, relying on the authority of Acts 17:26, he argued that “liberty is equally as precious to a black man, as it is to a white one, and bondage equally

25 Available at: <https://www.loc.gov/exhibits/declara/ruffdrft.html> (accessed August 15, 2020).

26 Available at: <https://founders.archives.gov/documents/Jefferson/01-02-02-0019> (accessed August 15, 2020). This bill did not pass in 1777, but Virginia banned the importation of slaves the next year.

27 “Reclaiming 1619,” available at: <https://lawliberty.org/reclaiming-1619/> (accessed August 15, 2020); and Gutzman, *Thomas Jefferson – Revolutionary: A Radical’s Struggle to Remake America* (New York: St. Martin’s Press, 2017), 125-173.

28 *The Portable Thomas Jefferson*, ed. Merrill D. Peterson (New York: Penguin Books, 1975), 215.

29 *The Portable Thomas Jefferson*, 186.

30 A possibility that may have been validated, at least in Jefferson’s mind, by the Haitian Revolution of 1791-1804. Gutzman, *Thomas Jefferson*, 155-56.

31 *The Portable Thomas Jefferson*, 186

32 Thomas Jefferson to John Holmes, April 22, 1820, in *The Portable Thomas Jefferson*, 568.

as intolerable to the one as it is to the other.”³³ Haynes’s pamphlet was not published in his lifetime, but many other anti-slavery tracts were. They regularly appealed to the Declaration.

Sometime after his election in 1860, Abraham Lincoln penned a private set of reflections on the relationship between the Declaration and the Constitution. He observed that the Declaration articulated the principles upon which America was founded, and that the Constitution was intended to bring these principles into effect. Lincoln

concluded his thoughts by using Proverbs 25:11, “A word fitly spoken is like apples of gold in pictures of silver,” to compare the two:

The assertion of that principle, at that time, was the word, “fitly spoken” which has proved an “apple of gold” to us [the principles of the Declaration]. The Union, and the Constitution, are the picture of silver, subsequently framed around it. The picture was made, not to conceal, or destroy the apple; but to adorn, and preserve it. The

*picture was made for the apple—not the apple for the picture.*³⁴

Lincoln’s Emancipation Proclamation (1863) and his support of the 13th Amendment (1865) did much to help the nation realize the promises of the Declaration. But that is getting ahead of the story.

The Northwest Ordinance

The Confederation Congress is often described as an ineffectual body, but it passed one of the most important laws in American history — the Northwest Ordinance. This statute provided a process for creating states out of the territory historians call the Old Northwest (Ohio, Michigan, Indiana, Wisconsin, and Illinois). It stipulated that new states would enter the union on an equal footing with earlier states, protected religious liberty, and prohibited slavery.

The Northwest Ordinance’s anti-slavery provision was authored by none other than Thomas

Jefferson. Jefferson headed the congressional committee that initially considered what would become of the territory. In 1784, it issued a “Report of a Plan of Government for the Western Territory” in Jefferson’s handwriting. Among the committee’s proposals was that “after the year 1800 of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said states.”³⁵

Jefferson’s committee report was incorporated into the Land Ordinance of 1785, which was, in

turn, the basis for the Northwest Ordinance (1787). Like the report, the Ordinance stated that there “shall be neither slavery nor involuntary servitude in the said territory.”³⁶ Unlike his report, this provision was effective immediately. As we shall see in the next section, this Ordinance played an important role in convincing anti-slavery delegates to the Constitutional Convention to support the proposed Constitution. In 1789, the first federal Congress reauthorized the Northwest Ordinance.

33 Quoted in Kidd, *God of Liberty*, 148.

34 Available here: <https://quod.lib.umich.edu/l/lincoln/lincoln4/1:264?rgn=div1;view=fulltext> (accessed June 15, 2020).

35 Available at: https://avalon.law.yale.edu/18th_century/jeffrep1.asp (accessed August 10, 2020).

36 Available at: https://avalon.law.yale.edu/18th_century/nworder.asp (accessed August 10, 2020).

The United States Constitution

The Constitutional Convention met in Philadelphia during the summer of 1787. Formally convened to amend the Articles of Confederation, the delegates instead drafted and proposed an entirely new constitution. In this section, I consider only the Convention's approach to slavery.

Twenty-five of the fifty-five delegates to the Constitutional Convention owned slaves, but some of these men—including George Mason, Luther Martin, Rufus King, James Madison, Gouverneur Morris, and John Dickinson—criticized the institution during the debates.³⁷ The Morris family had owned slaves for years, but Gouverneur Morris opposed the practice. As a delegate to New York's constitutional convention of 1777, he moved to abolish slavery because "[t]he rights of human nature and our religion loudly call upon us to dispense the blessings of freedom to all mankind."³⁸ His motion failed. At the Convention, he declared

slavery to be "a nefarious institution . . . the curse of heaven on the States where it prevailed."³⁹

Maryland's Luther Martin, himself a slave owner, proposed allowing Congress to prohibit or tax the importation of slaves because the institution was "inconsistent with the principles of the revolution and dishonorable to the American character."⁴⁰ John Rutledge of South Carolina responded to Martin with a remarkable assertion that "religion and humanity had nothing to do with this question—interest alone is the governing principle with nations. The true question at present is whether the southern states shall or shall not be parties to the Union."⁴¹ Connecticut's Oliver Ellsworth was unwilling to concede Rutledge's relativistic premise, but he was prepared to reject Martin's proposal because the "morality or wisdom of slavery are considerations belonging to the States themselves." Finally, Charles Pinckney concluded this brief

exchange by restating Rutledge's point from the perspective of his state: "South Carolina can never receive the plan if it prohibits the slave trade."⁴²

Pinckney's comment ended the debate on August 21. The next day, Connecticut's Roger Sherman opened the Convention by suggesting that the delegates leave the clause prohibiting Congress from banning the importation of slaves for 20 years "as it stands":

He disapproved of the slave trade: yet as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, & as it was expedient to have as few objections as possible to the proposed scheme of Government, he thought it best to leave the matter as we find it. He observed that the abolition of slavery seemed to be going on in the U.S. & that the good sense of the several States would probably by degrees complete it.⁴³

37 Richard Beeman, Plain, *Honest Men: The Making of the American Constitution* (New York: Random House, 2009), 308–36; Max Farrand, *The Records of the Federal Convention of 1787* (New Haven: Yale University Press, 1937), 2: 219, 364, 370, 417, 372.

38 Quoted in Gary L. Gregg II and Mark David Hall, *America's Forgotten Founders*, 2nd (Wilmington: ISI Books, 2012), 56.

39 Max Farrand, *Records*, 2: 220, 221; 1: 201, 586–587; 2: 220–221, 374, 416–417

40 Max Farrand, *Records*, 2: 364.

41 Farrand, *Records*, 2: 364.

42 Farrand, *Records*, 2: 364.

43 Farrand, *Records*, 2: 370.

The issue was not resolved that day, but eventually the delegates agreed to let Congress tax imported slaves up to ten dollars per person and ban the trade as early as 1808.

Many delegates opposed slavery, but they calculated that proposing a constitution that would not be ratified by southern states would do little to end the institution. One reason they were willing to compromise on the importation of slaves is that only three states — North Carolina, South Carolina, and Georgia — still permitted it; the others prohibited it as a matter of state law. But more significantly, many of the delegates were convinced that states would voluntarily abolish slavery. By the summer of 1787, six states had passed gradual manumission acts or ended slavery through judicial decisions.⁴⁴

The hope that slavery was on the road to extinction was stoked when the Confederation Congress enacted the Northwest Ordinance on July 13, 1787. Opponents of slavery were confident that as the nation expanded and new free states were admitted on equal terms with existing states, that the power of the few remaining slave

states would be diminished. Oliver Ellsworth captured this sentiment well when he observed in the Convention that slavery, “in time, will not be a speck in our country.”⁴⁵

There is no question that the delegates in Philadelphia were aware of the Northwest Ordinance as three of them, William Few, William Pierce, and William Blount, took a break from the Constitutional Convention to attend the Confederation Congress, which was then meeting in New York City. Their visit provided a quorum that allowed the body to pass the Ordinance. Blount returned to Philadelphia on August 7 and the Ordinance is mentioned twice in Convention documents and debates.⁴⁶

Politics is the art of the possible. Banning slavery was never a realistic option at the time of the Convention, but many delegates desired to at least prohibit the importation of slaves. Yet South Carolina’s Charles Pinckney was undoubtedly correct when he stated that his home state would never ratify a constitution that banned the slave trade or, by extension, slavery.⁴⁷ Indeed, a constitution that banned slavery would not have been ratified

by any southern state, and thus would not have been ratified. Perhaps the northern states should have simply gone their own way, leaving the southern states to form some version of what later became the Confederacy. It is hard to imagine that this alternative would have been better for slaves in the American south.

The men who drafted the Constitution seem to have been ashamed of slavery, as suggested by the absence of that word “slave” and its cognates in the document. Indeed, James Madison “thought it wrong to admit in the Constitution the idea that there could be property in men.”⁴⁸ It was assumed that the institution would continue, as indicated by the Three-Fifths Compromise (five slaves were counted as three “persons” for the purposes of representation in the House of Representatives) and the Fugitive Slave Clause (which required the return of escaped slaves). More positively, as a result of another compromise, the delegates in Philadelphia agreed that Congress could ban the importation of slaves in 1808. At the urging of then-President Jefferson, Congress prohibited the importation of slaves as soon as it was constitutionally possible.⁴⁹

44 Zilversmit, *The First Emancipation*.

45 Farrand, *Records*, 2:371.

46 Beeman, *Plain, Honest Men*, 215–218; Farrand, *Records* 2:148, 439.

47 Farrand, *Records*, 2:364.

48 Farrand, *Records*, 2: 417.

49 Gutzman, *Thomas Jefferson*, 163.

Abolition in the States

Today, when Americans think of laws, we tend to focus on the national government. But prior to the early 20th century, a great deal of important legislation continued to be passed by the states. This is particularly true with respect to slavery. Constitutions, statutes, or judicial decisions were made in every state north of Maryland that provided for immediate or gradual emancipation, including Vermont (1777), Massachusetts (1780), Pennsylvania (1780), New Hampshire (1783), Rhode Island (1784), Connecticut (1784), New York (1799), and New Jersey (1804).⁵⁰ The historian Paul J. Polgar observes that between “1790 and 1810, the rate of growth of the free black population in the United States outpaced that of enslaved Americans, making the trend toward black freedom more noteworthy than the spread of chattel bondage.”⁵¹ Space constraints prevent me from discussing the manumission efforts in each of these states, but those in three of them are particularly noteworthy.

Pennsylvania

Pennsylvania was founded by the Quaker William Penn in 1681 as a haven for Quakers and other religious dissenters. Penn owned slaves and the colony

permitted slavery. But even as Penn founded his colony, some Quakers were condemning slavery, and many were doing so by the mid-18th century. Unfortunately for enslaved Africans, the Quakers lost power in the colony during the 1750s. Nevertheless, in 1780 a coalition of Quakers and other Christians were able to pass a gradual manumission act. This act is particularly noteworthy because the legislators explained that when they reflected on God’s deliverance from Great Britain,

We are unavoidably led to a serious and grateful sense of the manifold blessings which we have undeservedly received from the hand of that Being from whom every good and perfect gift cometh [James 1:17]. Impressed with these ideas, we conceive that it is our duty, and we rejoice that it is in our power to extend a portion of that freedom to others, which hath been extended to us; and a release from that state of thralldom to which we ourselves were tyrannically doomed, and from which we have now every prospect of being delivered. It is not for us to enquire why, in the creation of mankind, the

*inhabitants of the several parts of the earth were distinguished by a difference in feature or complexion. It is sufficient to know that all are the work of an Almighty Hand . . .*⁵²

One does not need to be a Christian to oppose slavery, but in America, virtually all abolitionists were motivated by their Christian convictions.

Connecticut

Roger Sherman was a member of the five-person committee charged with drafting the Declaration of Independence. He also helped draft and/or signed the Declaration and Resolves (1774), the Articles of Association (1774), the Declaration of Independence (1776), the Articles of Confederation (1777, 1778), the Constitution (1787), and the Bill of Rights (1789). According to David Brian Robertson, the “political synergy between Madison and Sherman . . . [at the Constitutional Convention] may have been necessary for the Constitution’s adoption.”⁵³

After America declared independence, many states revised their laws. Connecticut asked Roger Sherman and Richard Law to do so in 1783. They worked

50 Zilversmit, *The First Emancipation*.

51 Paul J. Polgar, *Standard Bearers of Equality: America’s First Abolition Movement* (Chapel Hill: University of North Carolina Press, 2019), 168.

52 *The First Laws of the Commonwealth of Pennsylvania*, ed. John D. Cushing (Wilmington: Michael Glazier, 1984), 282.

53 David Brian Robertson, “Madison’s Opponents and Constitutional Design,” *American Political Science Review*, 99 (May 2005): 225–243, 242.

on their project throughout the summer and fall, and the General Assembly reviewed their work, accepted, rejected, and amended their proposals, and approved the new state code in January of 1784. Among their revisions was an act to amend Connecticut's statute on slavery to manumit children born to slaves after March 1, 1784, when they reached the age of 25. In the same year the law was approved, Sherman published an essay defending the rights of Native Americans where he quoted Acts 17:26: "That God hath made of one blood, all nations of the earth, and hath determined the bounds of their habitation."⁵⁴

Connecticut's gradual emancipation act of 1784 did not immediately free any slaves, yet it sped the decline of slavery in the state. Between 1790 and 1800 the number of slaves

dropped from 2,764 to 951. Some slaves may have been shipped out of state; a practice the legislature prohibited in 1788 with respect to children entitled to freedom at age 25 and for all slaves in 1792.

Massachusetts

Like Sherman, John Adams never owned a slave. And he also was a member of the five-person committee that drafted the Declaration of Independence. Adams is widely credited as the primary author of Massachusetts's 1780 constitution. This constitution remains in effect, making it the oldest written constitution in the world. Article I of its bill of rights echoes the Declaration of Independence:

All men are born free and equal, and have certain natural,

essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.⁵⁵

In 1781, a slave named Quok Walker sued for his freedom. His attorney, Levi Lincoln, contended that slavery was "contrary to the Bible and the declaration of rights in the Massachusetts constitution."⁵⁶ The state's Supreme Court of Judicature ruled that Walker was a free man. Later cases affirmed the ruling, and by 1790 the state reported that it had no more slaves.⁵⁷

Why Did Slavery Continue?

Many founders opposed slavery for biblical and moral reasons, but there were other reasons for thinking that slavery "in time, will not be a speck in our country."⁵⁸ In 1793, Noah Webster, already well known as an author of schoolbooks and later

famous for his dictionary, published *Effects of Slavery on Moral and Industry*.⁵⁹ He had no doubt that "freedom is the sacred right of every man whatever be his color," but rather than rely on "abstract rights," this essay argued against slavery on the grounds of "private

interest."⁶⁰ Drawing from world history and contemporary data, he contended that slavery simply is not an efficient or profitable institution. Among his arguments was that:

To labor solely for the benefit of other men, is repugnant

54 Mark David Hall, ed., *Collected Works of Roger Sherman* (Indianapolis: Liberty Fund Press, 2016), 321.

55 Dreisbach and Hall, *Sacred Rights*, 246.

56 Zilvermit, *The First Emancipation*, 114.

57 Zilvermit, *The First Emancipation*, 115.

58 Farrand, *Records*, 2: 371.

59 Daniel Webster, *Effects of Slavery on Moral and Industry* (Harford, 1793).

60 Webster, *Effects of Slavery*, 33, 5.

to every principle of the human heart. Men will not be industrious, nor is it the will of heaven that they should be, without a well founded expectation of enjoying the fruits of their labor.⁶¹

Moreover, enslaved people had every incentive to steal from their “masters” and escape from captivity.

Webster, a member of the Connecticut Society for the Promotion of Freedom, was hardly an objective observer. His treatise was intended to give practical reasons for rejecting slavery to citizens who were not

convinced that the institution was unjust or unbiblical. The degree to which slavery was profitable in 1793 is debatable. If it was unprofitable, especially in the north, that might help explain why northern states adopted gradual manumission laws and many owners voluntarily manumitted their slaves. Unfortunately, for enslaved Africans in the American south in the same year Webster published this treatise, another son of New England invented the machine that gave slavery a new lease on life.⁶²

Cotton producers had been using simple machines to separate

cotton seeds from cotton fibers for centuries, but these machines only worked well for long-staple cotton. Eli Whitney’s cotton gin was able to remove seeds from short-staple cotton, which made cotton production far more profitable. This, in turn, encouraged plantation owners to expand and increase production.

Unfortunately, they turned to slave labor for these tasks.⁶³ The number of slaves in the American south increased dramatically in the early 19th century, and so did support for slavery. By the 1830s, southern leaders were arguing for the first time that slavery was a positive good.⁶⁴

In Conclusion

Christians recognize that all humans are sinful. No serious student of the American founding should pretend that the founders — individually or collectively — were exempt from this reality. We don’t tend to think about nations as being capable of sinning, but we should. America sinned against African Americans, yet it makes little sense to conclude that America did not have a Christian founding because some founders owned

slaves and because they did not immediately abolish the institution. Many founders never owned slaves, some of those who did freed their slaves, and collectively they took multiple steps that they believed would put this vile institution on the road to extinction. And American Christians continued this fight in the 19th century. I turn to this battle in my next essay for the Standing For Freedom Center.

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⁶¹ Webster, *Effects of Slavery*, 22.

⁶² Joyce Appleby, *Inheriting the Revolution: The First Generation of Americans* (Cambridge: Harvard University Press, 2000), 235-250; Kolchin, *American Slavery*, 94-95.

⁶³ Constance Green, *Eli Whitney and the Birth of American Technology* (Boston: Brown and Company, 1956), 40-62.

⁶⁴ See, for instance, John C. Calhoun’s speech on February 6, 1837, in *Union and Liberty: The Political Philosophy of John C. Calhoun*, ed. Ross M. Lence (Indianapolis: Liberty Fund, 1992), 461-476.

