

The Political Discourse of Slavery in Late Eighteenth Century America

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I. Introduction

In examining the political discourse and politics of the Founding period one of the single biggest failures, if not the biggest, was the failure to resolve the issue of slavery. The continuation of that institution in light of the Enlightenment principles articulated in the Declaration of Independence, the Articles of Confederation, even the Constitution that tolerated it, and other documents struck even some commentators of the time as a form of brazen hypocrisy. But even without the explicit principles of the Revolution, etc. the presence of chattel slavery, and the slave trade that made the commodification of human beings possible, would have been objectionable. One did not have to subscribe to the principles of the Enlightenment to recognize the perfidy of slavery.

In this essay I want to explore what was an anomaly concerning slavery in the 18th Century thought in the United States. My argument is that although there was a defensive case made by some southern delegates to the Convention of 1787 for slavery and acquiescence on the part of some northern delegates on the issue, the overwhelming weight or center of gravity of principled argument of the period was opposed to slavery on numerous grounds. To be sure, at the Constitutional Convention there were arguments about sectional interests and claims that the Constitution was a political and not a moral document.¹ But these were not moral, principled arguments making the case for the defensibility of slavery such as will be found later in Calhoun and Fitzhugh. My approach will be to triangulate, so to speak, the discussion of slavery in 18th Century thought (at least up to 1790 or so, the period of ratification) by examining the arguments of (1) Locke and Montesquieu; (2) four of the key leading voices of the Founding period; and (3) the everyday political discourse as reflected in the political pamphlets and sermons of the time.

The latter is particularly important. First, the thinking found there, particularly from 1750 to 1790, reflects the extent to which opposition to slavery was growing. Second, the delegates to the Convention were fond of referring to the genius of the people.¹ The latter is a reference to the mores, dispositions and inclinations of a culture or people. The examination of the arguments against slavery in the Founding period shows the extent to which the delegates to the Convention may have misread the genius they believed was one foundation of the Constitution they were crafting.²

II. Montesquieu, Locke and Slavery

Arguably the two most influential European thinkers on American political thinking of the time were Montesquieu and Locke. Locke's writings clearly show up not only in the Declaration of Independence but on much popular writing about republican politics and religious tolerance as well. Similarly, Montesquieu's arguments about the separation of powers, the nature of republicanism, and the relation between politics and mores figure prominently in the Convention and in the subsequent debates between the Federalists and Antifederalists. This is not to say that their writings were accepted in toto or even uniformly understood. But even where their positions were modified, they helped set the terms of the debate. This is not to deny the importance of people such as Harrington, Sydney, Milton, Hume and others. But Locke and Montesquieu were so widely recognized that their positions on particular issues weighed heavily.

A. Montesquieu

To understand Montesquieu's account and criticism of slavery it is important to recognize two different senses in which he uses the term nature. One sense of the term refers to

those things that make up ultimate reality, so to speak, referring to the natural order of things in the world. Hence, human beings are by nature embodied beings. Montesquieu also uses the term to refer to what might be called the essence of a set of arrangements or state of affairs. Hence, he describes certain characteristics of various types of government (e.g. monarchy) as being natural to that state of affairs or in the nature of that state of affairs. Interestingly, this leaves open the possibility that what is unnatural to a specific state of affairs can be at odds with the natural order of things. As we will see, this is in a sense true of slavery and constitutes part of Montesquieu's criticism not only of slavery but of governments that promote it.

Montesquieu begins his account of slavery in Book 15 of The Spirit of the Laws by condemning it in no uncertain terms.³ In the opening paragraph of the chapter he says,

Slavery in its proper sense is the establishment of a right which makes one man so much the owner of another that he is the absolute master of his life and his goods. It is not good by its nature; it is useful neither to the master nor to the slave: not to the slave because he can do nothing from virtue; not to the master, because he contracts all sorts of bad habits from his slaves, because he imperceptively grows accustomed to failing in all the moral virtues, because he grows proud, cruel, harsh, ...voluptuous and cruel.⁴

Hence, it is an indicator of the corruption of moral character of both the slave and the slave holder.

Given this description of slavery, the typical justifications offered in defense of slavery, including those offered by Roman jurists, don't stand up to critical examination on Montesquieu's account. The first defense is that the right of conquest bequeaths to the victor a right to the life of the vanquished. In fact, not only is this inconsistent with reason, it is contrary to the practices of combatants through history. "Except in the case of necessity, it is false that killing in war is permissible; but when a man has made another his slave, it cannot be said that he had of necessity to kill him, since he did not do so. The only right that war can give over

captives is that they may be imprisoned so that they can no longer harm. Murdering in cold blood by soldiers after the heat of the action is condemned by all nations of the world.⁵

What Montesquieu says about slavery here follows directly from his earlier arguments about war and free societies. The issue of war is important in this context, as it was sometimes asserted that one justification for slavery issued from the right of conquest. Having conquered the enemy, this argument goes, the victors have a total right to the lives of the vanquished. Because this total right includes the right to take the life of the vanquished, the victors are justified in transforming their right over life and death into the right of servitude.

But this argument is fallacious from top to bottom, on Montesquieu's account. The only justification for war, he argues in Book 10, is self defense. That right may be pre-emptive; but pre-emptive attacks must be directed at the enemy who threatens a country with destruction.

Therefore the right of war derives from necessity and from a strict justice. If those who direct the conscience or the councils of princes do not hold to these, all is lost; and when the right is based on arbitrary principles of glory, of propriety, or utility, tides of blood will inundate the earth.⁶ In self defense one has the right to kill those who threaten you, but once victory is achieved and the enemy no longer poses a threat, the conqueror no longer has the right to kill, because it is no longer for him a case of natural defense and of his own preservation.⁷

Reducing the vanquished to servitude may be justified to preserve one's victory. But this makes it the byproduct or means to victory; it is not the end or purpose of victory. Hence, it is clear that once the conquest is made, the conqueror no longer has the right to kill, because it is no longer for him a case of national defense and his own preservation.⁸ Those who would draw from conquest the right of slavery have drawn an arbitrary, and therefore not rational, conclusion. They have assumed among the conquerors a right, I do not know which one, of

killing; this has made them draw consequences as terrible as the principle and establish maxims that the conquerors themselves, when they had the slightest sense, never adopted . . . From the right to kill during conquest, political men have drawn the right to reduce to servitude, but the consequence is as ill founded as the principle...the purpose of conquest is preservation; servitude is never the purpose of conquest,....⁹

Even when servitude is necessary to maintain conquest, argues Montesquieu, the victor is obligated to plan and construct it in such a fashion as it should be eliminated at some point in the future. In this case, it is against the nature of the thing for this servitude to be eternal. It must be possible for the enslaved people to become subjects. Slavery is accidental to conquest... Thus, the conqueror who reduces a people to servitude, should always reserve for himself means (and these means are innumerable) for allowing them to leave it.¹⁰ Hence, even in the extraordinary event that servitude is necessary, eventual emancipation is one of the goals.

The argument denying the legitimacy of slavery based on war is particularly pertinent in the case of slavery in 18th Century America. Those few attempts at justifying slavery base their justifications either on scripture or on the claim that the right of life and death over the conquered has been transferred to Europeans by the victors of wars conducted between African nations. The questionable status of such a right of transfer goes right to the heart of the matter. If no such right of life and death exists in the first place, then there is no sense in which a non-existent right could be transferred to a third party.

Just as the justification for slavery based on conquest falls before critical scrutiny, so does the argument based on the alienation of one's liberty. It is not true that a freeman can sell himself.¹¹ Here Montesquieu's argument is based on two points. First, slavery cannot be justified by the idea of a contract (the slave selling him/herself) because in the case of slavery

nothing like a contract can be said to exist. A contract would assume a sale or exchange of goods. In slavery one individual (the master) gets everything and the other individual (the slave) gets nothing in return. No real exchange takes place, and therefore no contract can be said to exist. But there is a further argument against the idea of selling oneself into slavery that goes beyond the non-contractual basis of slavery. There is a sense in which one's liberty is not just one's own. The liberty of each citizen is part of the public liberty. This status in a popular state is also a part of sovereignty.¹² One's liberty, then, is not something that is at one's disposal only. Moreover, To sell one's status as a citizen is an act of such extravagance that one cannot suppose that a man would do it.¹³ As such, slavery is inconsistent with the very idea of civil law, the kind of civil law that Europeans are so very proud of and that, from the European perspective, distinguishes Europe as an allegedly superior culture. If liberty has a price for the one who buys it, it is priceless for the one who sells it. Civil law, which has permitted the division of goods among men, could not have put among those goods some of the men who are to take part in the division. Civil law, which makes restitution in contracts that contain some injury, cannot keep from making restitution for an agreement that contains the most enormous of injuries.¹⁴

The significance of Montesquieu's claims here is hard to overstate. He had, in effect, denied the consistency of slavery with either natural law or the very concept of civil law. As such there is neither legal nor moral justification for slavery; it is inimicable to the very idea of law, natural and civil both. The question that thus emerges, is, if slavery is not explainable by appeal to natural or civil law, what could in fact explain it. What are the *real* bases for its existence? Montesquieu identifies three bases of the genuine origin of the >right= of slavery: prejudice, self-deception that comes with the perversion of religion, and despotism, including the

tyranny of poorly constructed laws.

Montesquieu offers as an example of the first the Spanish treatment of Americans (i.e., Native Americans). The enslavement of indigenous Americans was a consequence merely of the fact that their customs, their diet, the way they cut their beards, etc., were treated as crimes by the Spanish. The irrational prejudice that those who are different must be evil or inferior is one of the more common motivations for slavery. Such prejudice is antithetical to the reasoned principles of enlightenment to which Montesquieu appeals. His comment on this criminalization of cultural difference is quick and to the point, even if overly optimistic: Knowledge makes men gentle, and reason inclines toward humanity; only prejudices cause these to be renounced.¹⁵

The origin of slavery in the alleged desire to spread the word of God similarly comes in for criticism and sarcasm. It was this way of thinking that encouraged the destroyers of mankind in their crimes. On this idea, they founded the right of making so many people slaves; for these brigands, who absolutely wanted to be both brigands and Christians, were very devout.¹⁶

If the traditional justifications are irrational and incoherent and the modern ones the result of prejudice and self-deception, what *are* the genuine roots of slavery? To put it in Montesquieu's terms, given the fact that slavery is antithetical to human nature, what are the kinds of social and political arrangements in which it is a >natural= consequence. It is certainly not to be found in those forms of government that are properly constituted. Recalling that Montesquieu, consistent with tradition, makes a distinction between monarchy, aristocracy and democracy on the one hand and their despotic perversions on the other, he says,

But in monarchical government, where it is sovereignly important neither to beat

down nor debase human nature, there must be no slaves. In democracy, where everyone is equal, and in aristocracy, where the laws should put their effort into making everyone as equal as the nature of government can permit, slaves are contrary to the spirit of the constitution; they serve only to give citizens a power and a luxury they should not have.¹⁷

Slavery is >natural= to despotic forms of government; there it is consistent with the mores of tyranny. But it is at odds with properly constituted forms of government.

This is particularly true in modern Europe. The technological and intellectual progress of Europe, along with its commercial circumstances, has made slavery unnecessary and superfluous. AThere is no work so arduous that one cannot adjust it to the strength of the one who does it, provided that reason and not avarice regulates it. With the convenience of machines invented or applied by art, one can replace the forced labor that elsewhere is done by slaves. The mines of the Turks, in the Province of Tiarasura (Romania) were richer than those in Hungary, but they did not produce as much because the imagination of the Turks never went beyond the brawn of slaves.©¹⁸

Against the character of human nature, incompatible with the proper constitution of the public sphere, and inconsistent with modern, commercial society, what can possibly be the explanation for the existence of slavery. There are two explanations, both of which point to the existence of public corruption. The first is under conditions of despotism. AIn despotic countries, where one is already in political slavery, civil slavery is more bearable than elsewhere. Each one there should be satisfied to have his sustenance and his life. Thus, the condition of the slave is scarcely more burdensome than the condition of the subject...In every despotic government, it is very easy to sell oneself; there political slavery more or less annihilates civil liberty.©¹⁹

It *may* be the case, on Montesquieu=s reading, that there are times that the climate can

encourage slavery. But even in these circumstances the climate must be combined with the irrationality of political despotism. There are countries where the heat enervates the body and weakens the courage so much that men come to perform an arduous duty only from fear of chastisement; slavery there runs less counter to reason, and as the master is as cowardly before his prince as his slave is before him, civil slavery is again accompanied by political slavery.²⁰ But even here the existence of slavery is a lack of the existence of imagination in properly framing laws: I do not know if my spirit or my heart dictates this point. Perhaps there is no climate on earth where one could not engage freemen to work. Because the laws were badly made, lazy men appeared; because these men were lazy, they were enslaved.²¹ So objectionable and indefensible is the practice of slavery that Montesquieu portrays its only defense in sarcastic terms. In Chapter Five, Book 15, he addresses the question of African slavery. He approaches the issue with dripping sarcasm saying, If I had to defend the right we had of making Negroes slaves, here is what I would say... and then lists nine reasons. Each appeals so obviously to a prejudice or non-sequitur as to reduce argument to ridicule. I will here cite only some of the more obvious examples:

Those concerned are black from head to toe, and they have such flat noses that it is impossible to feel sorry for them.

One cannot get into one's mind that God, who is a very wise being, should have put a soul, above all a good soul, into a body that was entirely black....

One can judge the color of the skin by the color of the hair, which among the Egyptians, who are the best philosophers in the world, was of such consequence that they had all red-haired men who fell into their hands put to death.

It is impossible for us to assume that these people are men because if we assumed they were men one would begin to believe that we ourselves are not Christians.

Petty spirits exaggerate too much the injustice done to the Africans. For if it were as they say, would it not have occurred to the princes of Europe who make so many useless arguments with one another, to make a general one in favor of

mercy and pity.²²

The irony and sarcasm of these statements are so obvious that it is hard to know where to begin. The first two 'Justifications' are blatant appeals to outright prejudice. In addition, the idea that injustice would have motivated most princes to do what is right must have had any reader of the time rolling in the aisles. For, if I may be so boring as to point it out, the one thing that virtually all Enlightenment thinkers could agree upon was the absence of good judgement and virtue among Europe's monarchs.

The irony of Montesquieu's remarks here was not lost on writers of the time. In commenting on the inconsistency of North Americans' claims concerning the universal rights of man versus their treatment of Africans, Thomas Day asks rhetorically, 'Or do you choose to make use of that argument, which the great Montesquieu has thrown out as the severest ridicule, that they are black, and you are white; that you have lank, long hair, while theirs is short and woolly?'²³ Similarly, Soame Jenys, emphasizing the inconsistency of the practice of slavery with Christianity cites Montesquieu: 'We must suppose them not to be Men or a suspicion would follow that we are not Christians.'²⁴ And finally, so well known a figure as Benjamin Rush,

making a similar point in enumerating the so-called justifications for slavery, disparages any argument based on common prejudice, saying that 'Montesquieu, in his spirit of the Laws, treats this argument with the ridicule it deserves.'²⁵

B. Locke and Slavery

In some respects John Locke's position on slavery is a somewhat harder case. In his public actions he supported legislation guaranteeing North Carolina colonists the maintenance of

slavery. In addition, he engaged in commercial activities that involved both slave trading and the ownership of colonial plantations that depended on slave labor. Moreover, later in his life he held positions as Secretary to the Council of Trade and Plantations and as Commissioner of the Board of Trade. In both capacities he regularly interacted with merchants, investors, etc., who were engaged either in slave trade or in commercial activity dependent upon slave trade. Hence, there can be little question that in terms of his personal attitude he saw little wrong with the institution of slavery.

However, the question of Locke's personal failings on this issue is in some respects separate from the question of what his writings, which were more well-known to American colonists than Locke's personal life, say about the matter and in what respects his position in those writings is reflected in American thinking. Hence, more important for our purposes is what he says about the matter and in what respects his position in those writings is reflected in American thinking. As we shall see, much of American thought will reflect the anti-slavery argument that appears in Locke's Two Treatises.

Locke's first argument against slavery, directed against Filmer and Hobbes, is based on the idea that human beings have an inalienable right to freedom from absolute, arbitrary power. To be subject to such power is what places one's life in jeopardy and hence leaves one in a state of war vis a vis those who exercise that power. It is, then, the very opposite of legitimate government. Locke is adamant that no one has the authority to bargain themselves into such a situation. This freedom from absolute, arbitrary power, is so necessary to, and closely conjoined with a man's preservation, that he cannot part with it, but by what forfeits his preservation and life together. For a man, not having the power of his own life, cannot, by compact, or his own consent, enslave himself to anyone, nor put himself under the absolute

arbitrary power of another, to take away his life as he pleases.²⁶

Locke also rejects those arguments that justify slavery by an appeal to scripture. Locke dismisses such accounts with the claim that the condition to which people sold themselves was only to drudgery, not to slavery. For, it is evident, the person sold was not under the absolute, arbitrary despotical power... the master of such a servant was so far from having an arbitrary power over his life, that he could not, at pleasure, so much as maim him, but the loss of an eye, or tooth, set him free.²⁷

Locke's discussion of slavery in the Second Treatise focuses on the rejection of the right of slavery based on conquest. Because, on Locke's account, rule can only be established by consent, conquest by aggression cannot legitimately establish one man's rule over another. That the aggressor, who puts himself into the state of war with another, and unjustly invades another man's right, can, by such an unjust war never come to have a right over the conquered, will easily be agreed by all men, who will not think, that robbers and pirates have a right of empire over whomsoever they have force enough to master.²⁸ The only ground upon which slavery can be justified, on Locke's account, is in the case of conquest in a just war, i.e., a war conducted against those who have committed an injustice by themselves engaging in aggression against others. But even here, there are substantial limitations to the scope and reach of that power.

First, for our purposes, the conqueror gets no authority over the subjects of those rulers who are culpable in the commission of aggression unless the former are actively engaged in the commission of injustice themselves. This follows from the logic of Locke's that individuals can only transfer to those in authority the right to act justly. A sovereign who acts unjustly by definition cannot be acting in the name of his/her citizens without their overt support. A...I say

then the conqueror gets no power but only over those, who have actually assisted, concerned, or consented to that unjust force, that is used against them. For the people having given to their governors no power to do an unjust thing, such as to make an unjust war (for they never had such a power themselves) they ought not to be charged, as guilty of the violence and injustice that is committed in an unjust war, any further than they actually abet it....²⁹ It might be the case that in practice conquerors don't make this distinction. But that does not change what is right in determining who is culpable in the case of an unjust war.

The second restriction concerns the authority, or lack thereof, over the families of those guilty of aggression. While the conquerors in a war of self-defense may have absolute power over the lives of those, who by an unjust war have forfeited them, he receives no right over the progeny or family of such culprits: because the miscarriages of the father are no faults of the children, and they may be rational and peaceable, notwithstanding the brutishness of and injustice of the father; the father by his miscarriages and violence can forfeit but his own life, but involves not his children in guilt and destruction. Equally important, is the fact that the guilty person's actions do not lead to the forfeiture of his possessions. His goods, which nature, that willeth the preservation of all mankind as much as is possible, hath made to belong to the children to keep them from perishing, do still continue to belong to his children.³⁰ While it is true that the conqueror has some claim to reparations, that must be balanced by the equally just claim that the culprit's children and family have. If the maintenance of the latter is jeopardized by the claims of the conqueror, the conqueror's claims that are subject to limitation.

The implication that flows from Locke's political writings, the writings with which North Americans would have been most familiar, is that there are only very limited justifications for temporary forms of slavery. Slavery is justified only in those cases in which a defensive war

or self-preservation has been conducted. It is temporary, i.e., acceptable only as long as the enemy represents a threat. It cannot be extended to the enemy's family, nor does it give the victor the right over the conquered's property. Chattel slavery in the Western hemisphere fails to meet every one of these restrictions.

III. Prominent Leaders of the Founding Period

If the writings of men such as Locke and Montesquieu are distinctively anti-slavery, the sentiments and beliefs of many of the most influential leaders of the time similarly range from unsympathetic to slavery to overtly critical of the institution. This is not to say that these individuals were necessarily committed to the idea of social equality. As is well known, Jefferson, to name one, expressed serious doubts about the intellectual and creative ability of Africans, although to be fair there is some indication he was willing to revise his prejudices about such issues. But the issue of social inequality notwithstanding, many of the most prominent voices of the period indicate their objections to the practice of slavery in the colonies.

It should also not be suggested that the views expressed by those whom we will discuss excuse their inaction. While some of the more prominent public figures (Benjamin Rush, to name one) were active in trying to eliminate both the slave trade and slavery, others either tolerated the continuation of it or saw its continuation as the price to be paid for Union. Marvin Meyer has summed up the contradiction as follows:

The problem of slavery demanded a kind of political genius and daring and conviction beyond the capacity even of Madison and Jefferson, and their great generation of Virginia planters. They made a revolution and founded a new society on republican principles of freedom and equality. They detested the idea of slavery in any form. The American republic, they believed, could not endure permanently half slave and half free. At the same time, they acknowledged the

presence of the peculiar institution as a tragic legacy of history, and managed to live at ease in their private world of slaves and masters. Their hopes for abolition were checked by the constant fear that any attack on slavery would throw the South into a fatal race war and destroy the Union.³¹

While Meyer captures the ambivalence that characterized those whose ideas we are about to examine, I think it is not accurate to describe the problem as beyond their genius. Indeed, it is part of the mystery of this situation that the beliefs of the individuals we are about to examine are so clear on this issue, that the failure to act comes not from a question of imagination at all.

Before proceeding, I should explain my choice of those political actors whose ideas we will be examining. We will be examining the ideas of Benjamin Franklin, George Washington, Thomas Jefferson and James Madison. They are not selected because they necessarily represent the strongest opposition to slavery. Indeed, a case can be made that such individuals as Benjamin Rush, John Jay, and even Gouverneur Morris were much clearer in their opposition than some of those whom we will discuss. What determines my choice here is that the four individuals selected are, arguably, taken together the four most strategic political actors of the Founding period. Franklin, the elder statesman. Washington, the war hero and first president. Jefferson, the young intellectual force behind the Declaration of Independence. And Madison, the motivating force behind the Constitution. With perhaps the exception of Hamilton, it is difficult to imagine four political actors of the time who, taken together, could have exerted more influence on any issue in the U.S.

Finally, I focus primarily on the sentiments of the figures selected as they are expressed up to about 1800. Hence, I do not take into account, for example, Madison's proposals for emancipation in his later life. The reason for this is that I am interested primarily the climate of opinion that existed during that period that is conventionally identified with the Founding and the

period leading up to it.

A. Benjamin Franklin

One of the longstanding opponents of slavery was Franklin. His early writings on the subject focus primarily on the inefficiency of slavery. ³²It is an ill-grounded opinion that, by labor of slaves, America may possibly vie in cheapness of manufactures with Britain. The labour of slaves can never be so cheap as the labor of workingmen is in Britain.³² Later in his life, however, Franklin became involved in efforts for the religious conversion of Africans and subsequently, influenced apparently by Quakers such as Anthony Benezet, led opposition to slavery on moral grounds. In a letter to Benezet dated August 1772, Franklin writes ³³I have made a little extract of yours of April 27, of the number of slaves imported and perishing with some close remarks on the hypocrisy of this country (England) which encourages such a detestable commerce by laws for promoting the Guinea trade... I am glad to hear that the disposition against keeping Negroes grows more general in North America. Several pieces have been lately printed here against the practice, and I hope in time it will be taken into consideration and suppressed by the legislative. Your labors have already attended with great effects. I hope, therefore, you and your friends will be encouraged to proceed.³³ What is significant about Franklin's change of heart is his endorsement here of the Quaker effort. Led by John Woolman and Anthony Benezet, Quakers in Pennsylvania and North Carolina were making a concerted effort to legally abolish slavery on humanitarian and moral grounds, and not just on the grounds of economic efficiency.

In later years Franklin's opposition to slavery became even more visible with his election to the office of President of the Pennsylvania Society for Promoting the Abolition of

Slavery and the Relief of Free Negroes unlawfully held in Bondage. In AAn address to the Public@ dated November 9, 1789, Franklin describes slavery as Aan atrocious debasement of human nature@ that denies human beings the qualities that define them as a species. It is morally, intellectually and spiritually corrupting. As such, emancipation can=t simply be an isolated act; it will need to be an ongoing part of national policy: ATo instruct, to advise, to qualify those who have been restored to freedom, for the exercise and enjoyment of civil liberty; to promote in them the habits of industry; to furnish them with employments suited to their age, sex, talents and other circumstances; and to procure their children an education calculated for their future situation in life, - these are the great outlines of the annexed plan, which we have adopted, and which we conceive will essentially promote the public good, and the happiness of these our hitherto too much neglected fellow creatures.@³⁴

Franklin=s final public writings were also directed at slavery. His AMemorial to Congress@ in 1790 involved both religious and Enlightenment arguments against slavery and provoked a debate in Congress over the issue. Franklin=s last public paper was a parody of the arguments of Southern legislators trying to defend slavery. In that parody, he compares their arguments to those of North African Muslims justifying the slavery of Christians.³⁵

B. Jefferson

There is no small irony that the thought of the most articulate spokesman for the ideal of equality and the rights of human beings is marred by the ownership of slaves, at best a hesitancy and at worst a refusal to acknowledge the intellectual equality of Africans, and the personal scandal involving Sally Hemmings. Despite these personal shortcomings it is the case prior to the drafting of the Constitution, he made a strong argument in favor of the need for

emancipation. Whatever reservations he might have had regarding the intellectual abilities of Africans or the possibility of an integrated society, they did not prevent him from recognizing the injustice of slavery.³⁶

Jefferson's public career is marked by periodic public opposition to and criticism of slavery. One of his first acts as a member of the House of Burgesses was to introduce legislation allowing for the manumission of slaves in Virginia. The effort was defeated. Jefferson recounts the event as follows:

In 1769, I became a member of the legislature by the choice of the county in which I live and continued in that until it was closed by the revolution. I made one effort in that body for the permission of the emancipation of slaves, which was rejected; and indeed, during the regal government, nothing liberal could expect much success. Our minds were circumscribed within narrow limits by an habitual belief that it was our duty to be subordinate to the mother country in all matters of government, to direct our labors in subservience to her interests, and even to observe a bigoted intolerance for all religions but hers.³⁷

This effort was not an isolated instance. On subsequent occasions he attempted to make the issue a matter of public policy and record.³⁸

The reasons for Jefferson's opposition to slavery go right to the heart of his own views of republican politics. A genuine republic requires, of course, virtue on the part of its citizens. Slavery is the antithesis of virtue. First, it is morally degrading to both the person held in slavery and to the master. There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise in the most boisterous passions, the most incriminating despotism on the one part, and degrading submission on the other.³⁹

From this relationship of moral tyranny another subsequent evil arises. The constant exposure to the evil of slavery socializes the children of masters in the practice of despotism. It

Agives loose to the worst of passions, and thus nursed, educated and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities. The man must be a prodigy who can retain his manners and morals undepraved by such circumstances.⁴⁰ One implication here, one that Jefferson alludes to on other occasions as well, is that the longer one waits to address the issue, the more ingrained it will be in the character of those privileged by it. For one characteristic of despots surely is their belief in their own right to oppress others. Such a situation can only result in the moral bankruptcy of the privileged and the hostility of the oppressed. And with what execration should the statesman be loaded, who, permitting one half of the citizens to trample on the rights of the other, transforms those into despots, and these into enemies, destroys the morals of the one part and the amor patriae of the other. For if a slave can have a country in this world, it must be any other in preference to that in which he is born and to live and labour for another: in which he must lock up the faculties of his nature, contribute as far as depends on his individual endeavors to the evanishment of the human race, or entail his own miserable condition on the endless generations proceeding from him. With the morals of the people, their industry also is destroyed.⁴¹ Indeed, to put a fine point on it, Jefferson suggests that if it comes down to a question of conflict, God will surely be on the side of the Africans. For no Christian principles are on the side of slave holders.⁴²

C. James Madison

Madison's first expresses his aversion to slavery shortly after the Revolution. In a letter to Edmond Randolph, he says, "My wish is, if possible, to provide a decent and independent subsistence without encountering the difficulties which I foresee in that line. Another of my wishes is to depend as little as is possible on the labour of slaves."⁴³ Interestingly enough, his

position in the Convention is somewhat more damning in its estimation of the problems with slavery. In responding to the anti-democrats in the Convention such as Roger Sherman and Elbridge Gerry, Madison argues that the issue is not a question of limiting democracy so much properly constituting it. The latter consists of avoiding the arbitrary and abusive use of power, including the abusive use by the majority. His choice of an example of this abusive tyranny is interesting: AWe have seen the mere distinction of colour made in the most enlightened period of time, a ground of the most oppressive dominion ever exercised by man over man. What has been the source of those unjust laws complained of among ourselves? Has it not been the real or supposed interest of the major number? ... The lesson we are to draw from the whole is that where a majority are united by a common sentiment, and have an opportunity, the rights of the minor party become insecure.⁴⁴ It is not, of course, the only example of majority tyranny. And it is telling that when he repeats this argument about majority tyranny in the Federalist Papers, this specific reference to slavery as a form of majority tyranny is omitted. Nonetheless, it does signify his own critical posture towards slavery in the Convention. Later in the Convention, remarking on the postponement of the prohibition of the slave trade from 1800 to 1808, he says ATwenty years will produce all the mischief that can be apprehended from the liberty to import slaves. So long a term will be more dishonorable to the National character than to say nothing about it in the Constitution.⁴⁵

Madison=s critical position vis a vis slavery and the slave trade is reiterated in the debates over the Constitution. He tries to put a positive spin on the date of 1808 as the expiration date for the slave trade. But the language he uses to characterize the persistence of slavery and the trade reflects his opposition to it:

It were doubtless to be wished, that the power of prohibiting the importation of

slaves had not been postponed until the year 1808, or rather that it had been suffered to have immediate operation. But it is not difficult to account, either for this restriction on the general government, or for the manner in which the whole clause is expressed. It ought to be considered as a great point gained in favor of humanity, that a period of twenty years may terminate forever, within these states, a traffic which has so long and so loudly upbraided the barbarism of modern policy; that within that period, it will receive a considerable discouragement from the federal government, and may be totally abolished, by a concurrence of the few states which continue that unnatural traffic, in prohibitory example which has been given by so great a majority in the Union. Happy would it be for the unfortunate Africans, if an equal prospect lay before them of being redeemed from the oppressions of their European brethren.⁴⁶

Hence, he did recognize the injustice of the institution and favored its public elimination as early as possible. Unfortunately, Madison's public and private arguments against slavery notwithstanding, he blocked Benjamin Franklin's petition to abolish slavery in 1790. In all likelihood, Franklin's measure had little chance of passing and no doubt Madison was acting on strategic premises. Though the Constitution had been ratified, it still needed implementation, the effects process of which would take years.⁴⁷ But Madison's political calculations in favor of the safety of not rocking the boat, so to speak, aside, his personal objections to slavery were known.

D. Washington

Finally, even George Washington, despite an ambivalence regarding slavery, eventually came around to favoring the legal, systematic and gradual elimination of the institution, although at times his opposition to it seems based on practical rather than principled grounds, his claims to the contrary notwithstanding. Two things mark his position on the issue. First, his attitudes changed over time. Second, it is true that, particularly early in his life, his objection to slavery was often qualified by his own immediate economic interests or what he perceived to be the political necessities of the moment. Nonetheless, by the time of his death his writings and

actions reflect a commitment to, if not an enthusiasm for, the legal termination of slavery.

Washington's early ambivalence to abolition is reflected in his attitude toward the conscription of Africans as soldiers in the Revolution. He is, at first, opposed to the idea. However, he is eventually convinced, through the efforts of Alexander Hamilton and Lt. Colonel John Laurens of South Carolina, an opponent of slavery. Laurens, with Hamilton's encouragement, had devised a scheme for recruiting/enlisting Africans from South Carolina and Georgia. Washington's initial resistance to the idea comes despite the fact that African-Americans are already serving in the Continental Army, in some cases (as in the case of some Rhode Island units) comprising entire battalions. By the end of the war his attitude has changed, despite the failure of Laurens's project.⁴⁸ This ambivalence on Washington's part is further reflected in two items that are particularly worthy of note. First, early in his first term of office he sends a letter to James Seagrove, the U.S. Superintendent of the Creek Indians, instructing Seagrove, in his negotiations with the Spanish governor of Florida, to arrest the farther reception of fugitive slaves and then to obtain restitution of those slaves, who have fled to Florida, ...⁴⁹ Somewhat later in his life, a letter discussing the management of his own affairs contains a comment about the necessity of hiring an overseer to maintain control of part of his estates: But when I perceive but too clearly that Negroes are growing more and more insolent and difficult to govern, I am more inclined to incur the expense of an Overseer than to hazard the management, and peace of the place to a Negro; provided I can get a good Overseer on moderate terms.⁴⁸ These comments do not exactly reflect an embarrassment, urgency or sense of contrition over the holding of slaves.

Nonetheless, there does seem to be a change in Washington's attitude toward slavery, particularly after the war. One indication of this comes from his correspondence with the

Marquis de Lafayette and in his responses to Lafayette=s various plans and proposals for general emancipation throughout North America and the Carribean. Of one of Lafayette=s proposals, he writes AThe scheme, my dear Marqs. which you propose as a precedent, to encourage the emancipation of the black people of this country from that status of Bondage in which they are held, is striking evidence of the benevolence of your Heart. I shall be happy to join you in so laudable a work; but will defer going into a detail of the business, >till I have the pleasure of seeing you.@⁴⁹ Three years later he again indicates the desirability of emancipation: AThe benevolence of your heart my Dr. Marqs. is so conspicuous upon all occasions, that I never wonder at any fresh proofs of it; but your late purchase of an estate in the colony of Cayenne, with a view of emancipating the slaves on it, is a generous and noble proof of your humanity. Would to God a like spirit would diffuse itself generally into the minds of the people of this country; but I despair of seeing it. Some petitions were presented to the Assembly, at its last Session, for the abolition of slavery, but they could scarcely obtain a reading.@⁵⁰ Similarly, that same year he will write to John Francis Mercer that AI never mean, (unless some particular circumstance should compel me to it) to possess another slave by purchase; it being among my first wishes to see some plan adopted, by which slavery in this country may be abolished by slow, sure and imperceptible degrees.@⁵¹ And again, this time to Robert Morris, A...it is (not) my wish to hold the unhappy people, who are the subject of this letter, in slavery. I can only say that there is not a man living who wished more sincerely than I do, to see a plan adopted for the abolition of it; but there is only one proper and effectual mode by which it can be accomplished, and that is by Legislative authority; and this, as far as my suffrage will go, shall never be wanting.@⁵²

Despite these sentiments against slavery, Washington never acted upon the matter while

in public office. He seems to have adopted a fairly legalistic stance toward the matter. Though it is desirable that slavery be ended, until it is legally abolished the status of Africans in the United States is that of property and the interests of their owners must not be ignored. And unlike the sentiment reflected in some of Jefferson=s and Franklin=s remarks, and certainly the sentiments found in many of the political pamphlets of the time, he does not seem convinced that the evils of slavery by themselves exceed whatever calamities or difficulties would result from emancipation. He bypasses three conspicuous opportunities to speak out publicly: at the Constitutional Convention (when much of the Virginia delegation comes out against slavery), at his first inauguration speech and his farewell address. He does, however, opt for manumission upon his death and it seems safe to say that in the latter part of his life he could have been enlisted on the side of some proposal for the targeted, gradual elimination of slavery.

In sum, though the four strategically important political leaders we have been discussing took varying degrees of action regarding the issue of slavery, each articulated (again in varying degrees) opposition to that institution. Despite the fact that at least one of them voiced skepticism about the intellectual and psychological equality of Africans (notably Jefferson, but others likely entertained such doubts as well), none believed it justified the institution of slavery and all believed that the existence of the institution was a blight upon the country. Indeed, the suggestion on the part of Franklin, Jefferson and Madison is that it is a de facto corruption of the public sphere and therefore antithetical to the very idea of republican politics.

IV. The Idea of Slavery in Public Discourse

There are two notable characteristics of the public discourse concerning slavery in the 18th Century. First, the overwhelming bulk of work published during the period was opposed to

the slave trade and slavery. Indeed, from 1751 to 1790 only two pamphlets can be found that make an argument defending that trade. Second, the quality of writings of anti-slavery tracts is dramatically superior to those writings defending slavery. Defenses of slavery tended to rely on one of two primary arguments. The first was a pre-modern argument, that all men are not born equal, that some men have a natural right to enslave others. This is not likely to find many adherents in late 18th Century North America. The second kind of argument tended to rely on questionable interpretations of scripture. For example, apparently some arguments had been made that Africans (sometimes referred to generally as Ethiopians) were the descendants of Cain and therefore cursed, conveniently ignoring that all of Cain=s descendants would have died off in the great flood. The literature critical of slavery, on the other hand, is often systematic and comprehensive. It refutes justifications of slavery, actual or imagined, by appeal to scripture, appeal to philosophical principles, appeal to morality, on the basis of consistency, on the basis of the political and moral effects of slavery on both slaves and slave holders, on the basis of economic inefficiency, and on the debilitating effect that slavery has on the public sphere. In many instances it addresses the issue based on principle as well as addresses the practical objections to eliminating slavery and the slave trade.

We will proceed here as follows. I will use one work , AA Dialogue Concerning the Slavery of Africans@ published by Samuel Hopkins, representing the arguments of the Society for Promoting the Manumission of Slaves,⁵³ as a framework in which to present the arguments against slavery that appear throughout the century. The reasons for it=s selection are several. First, it=s officers included some of the most notable names of the time. John Jay was it=s president and Melancton Smith, later known for his opposition to the Constitution of 1787, was a member of it=s board of directors. Second, the pamphlet is first printed in 1776, but then

reprinted again after the war. Third, it is perhaps the most systematic and comprehensive piece of the period. At the same time its individual arguments are found in other published works throughout the century. In that respect, it represents an overview of the breadth and depth of anti-slavery opinion and discourse of the period.

Hopkins begins his tract with a comprehensive statement of the principles which inform the position of the Society regarding slavery.

The benevolent Creator and Father of men, having given to them all an equal right to life, liberty and property, no Sovereign power on earth can justly deprive them of either; but in conformity to impartial government and laws to which they have expressly or tacitly consented.

It is our duty, therefore, both as free Citizens and Christians, not only to regard with compassion, the injustice done to those of us who are held as slaves; but to endeavor, by lawful ways and means, to enable them to share equally with us, in that civil and religious liberty, with which an indulgent providence has blessed these States, and to which these, our brethren are, by nature, as much entitled as ourselves.⁵⁴

Two things are notable about this statement. First is the apparent influence of Locke's writings not only on the rights of men but on the idea that those rights are cannot be forfeited except by consent. This certainly excludes unjust wars and virtually all of the other justifications that both Locke and Montesquieu address. Second, there is the reference to the injustice done to those of us who are held as slaves. This formulation of the issue is particularly important. Among other things, if it is some of us who are denied our equal right to life, liberty and property, then some of the rest of us might also be so denied.

Hopkins then begins his point by point case by first addressing the issue of the slave trade. Some writers acknowledge the cruelty of the slave trade but tried to maintain that slavery itself was tolerable, if not defensible. In the Dialogue Hopkins argues that this distinction cannot be maintained. There is no clear boundary between slave trade and slavery. It is a

seamless process and the attempt to disentangle slavery from trade is arbitrary. The former includes all the same inhumanity that one finds in the latter, and that cruelty is beyond description. ABut it is in vaine to attempt a full description of the oppression and cruel treatment these poor creatures receive constantly at the hands of their imperious, unmerciful, worse than Egyptian task-masters. Words cannot utter it. Volumes might be written, and not give a detail of a thousandth part of the shockingly cruel things they have suffered, and are constantly suffering.⁵⁵ The attempt to separate the two is therefore arbitrary and requires the willful ignorance of the cruelty that pervades slavery as much as the trade.

The claim that slavery is one way of spreading Christianity to Africans also does not withstand critical scrutiny. If anything, Africans are not in fact converted and it is more likely to turn people away Christianity. Those engaged in slavery and slave trade are themselves poor examples of Christianity. Hence, slavery actually works against the spread of the Word. More importantly, by so discouraging Africans from being receptive to the word, slavery and those who promote it are complicitous in Africans= damnation. Third, in a point that will be developed at greater length later, the use of slavery as a method of spreading the Word is not consistent with the methods of Christ. Finally, this pretense of evangelism is fraudulent. AIf the Europeans and Americans had been as much engaged to Christianize the Africans, as they have been to enslave them; and had been at half the cost and pains to introduce the gospel among them; we have all the reason in the world to conclude that extensive country, containing such a vast multitude of inhabitants, would have been full of gospel light, and the many nations there, civilized and made happy; and a foundation laid for the salvation of millions and millions; and the happy instruments of it have been rewarded ten thousand fold for all their labour and expence.⁵⁶ Instead, the cruelty of those who pass themselves off as Christians has, if anything,

erected a barrier to the spread of Christianity. Elihu Coleman, writing some forty-three years earlier, makes a similar point about the responsibility of Christians regarding slavery: A...Those People that dwell nearest the Truth, and are most engaged in it, and are more concerned for the spreading of it, than for anything in this World, beside, cannot allow of this Practice, they seeing it to be Oppression and Cruelty.⁵⁷ Moreover, as many writers of the time point out, the so-called Christian treatment of slaves looks even worse in comparison to that of Muslims. The latter routinely free those slaves who convert to Islam.⁵⁸ In light of the religious environment of the time the point of this criticism could not be missed by those who read it. In preventing the spread of the gospel, those who support slavery are by definition doing the work of Satan.

Neither can it be argued that slavery is justified either because Africans voluntarily surrender their freedom or are taken as prisoners in a just war. Echoing Locke=s arguments against slavery, Hopkins go on to argue that to the extent that Africans have been enslaved as a result of war, the wars are not just but rather instigated by Europeans and Americans for the purposes of promoting slavery: AAnd there is abundance evidence from history, and testimonies incontestable, that these nations have been encouraged and induced to carry on most of their wars, for more than a century past, by the Europeans and Americans, that they might get captives to sell to traders in the souls and bodies of men; and where this trade has been the means of saving one life, it has destroyed millions.⁵⁹

Hopkins similarly rejects the idea that necessity justifies slavery, that only Africans are capable of physical labor in the climate of the West Indies and southern states. He says of this claim, that there is not the least evidence of this, but much of the contrary. Whites are healthy and do the labour in the East Indies, which blacks do in the West, in the same climate; and that to much greater advantage of which authentic accounts have been published. The truth is, most of

the whites which are born in southern states, or the West Indies, are not educated to labour, but, the great part of them, in idleness and intemperance. The blacks are introduced to do the work, and it is thought a disgrace for a white person to get his living by labour. By this means, the whites in general are vicious, and all imbibe such a haughty and tyrannical spirit, by holding so many slaves, that they are above labour, and many of them rather a plague than a blessing to all about them; and whole families are ruined forever by means of this slavery...⁶⁰ The argument here is reminiscent of that offered by Montesquieu, that slavery often occurs only because the morays and laws of a culture are poorly constructed and that it is in the nature of despotic societies, such as that described by Hopkins, for the privileged to force others to labor for them. In addition, the criticism here points to a theme that will emerge again later: the corrupting effect of slavery on slave holders. The masters are educated, as Jefferson also pointed out, to a kind of despotism and sloth. In addition, Hopkins goes one step further. Even if it could be demonstrated that some climates were so inhospitable to whites that they would need to force others to labor for them, it would not justify slavery. It would only point to the necessity of abandoning those climates to those who could work them without relying on the forced labor of others.

In addition to the moral and religious objections to slavery listed above, there are moral-political objections as well. Slavery has a debilitating, corrupting effect on the morays, values and character of those who are slave holders, as well as being morally repugnant for slaves. It encourages idleness, voluptuousness, tyranny, pettiness, sloth, and luxury. As such, it is corrupting of the kinds of virtuous character that typifies republican politics. AWhereas, if African slaves had never been introduced, or this slavery were now abolished; and every man had his farm or plantation, no more than he could cultivate to the best advantage, by the help of

his children, and perhaps a few hired men; this would introduce industry, temperance and oeconomy; the land would produce much more than it does now; and the country be filled with industrious, virtuous inhabitants, happy themselves and blessings to all around them, instead of the comparatively few families now; many of which are a burden to the earth, and a disgrace to human nature. - This brings the words of Solomon fresh to mind, Eccl. viii.9. >*There is a time, when one man ruleth over another to his own hurt*.⁶¹ Again these sentiments are common in the 18th Century. Jefferson echoes them in the Notes on Virginia. Coleman makes a similar point earlier: ANow I would have all to consider this Practice of making Slaves of Negroes... to see upon what Foundation it stands, or to see what=s the Original of it, whether or no Pride and Idleness was not the first rise of it, that they might go with white Hands and that their Wives might (Jezebel like) paint and adorn themselves, and their Sons and Daughters be brought up in Idleness, which may be very well the Mother of all Vice,...⁶² Thus, the practice of slavery is not just corrupting of those moral virtues that the public sphere and political economy of republicanism directly relies on, it is corrupting of family life as well, and a further encouragement to sinfulness and vice.

If slavery creates idleness and tyranny in slave holders, its effects are even worse on those held imprisoned in it and denied their liberty. In a passage that contrasts remarkably with some of Jefferson=s later failure to distinguish between cause and effect, Hopkins denounces the debilitating effect that slavery has on the individual psyche.

A state of slavery has a mighty tendency to sink and contract the minds of men, and prevent their making improvements in useful knowledge of every kind: It sinks the mind down in darkness and despair; it takes off encouragements to activity, and to make improvements, and naturally tends to lead the enslaved to abandon themselves to a stupid carelessness, and to vices of all kinds. No wonder then the blacks among us are, many of them so destitute of prudence and sagacity to act for themselves; and some are given to vice. It is rather a wonder, there are

so many instances of virtue, prudence, knowledge and industry among them. And shall we, because we have reduced them to this abject, helpless, miserable state, by our oppression of them, make this an argument for continuing them and their children in their wretched condition! God forbid! This ought rather to excite our pity, and arouse us to take some effectual method without delay, to deliver them and their children from this unhappy state.⁶³

Hence, because it corrupts both slave holders and those enslaved, slavery is inconsistent with republican principles. And this is not just because it denies some their rights of life, liberty and property. It is as much because of the effect that it has on those who it makes into despots. It destroys the public sphere of republican governments, corrupts the children of citizens, and damns the families of those who promote it: AWe cannot hesitate to say, this sage observation is verified in the most striking manner, and to the highest degree, in the slavery under consideration. It is an unspeakable hurt to the public, to the commonwealth. If it is inconsistent with republican principles and tends to overthrow the liberty of those states, and introduce monarchy and tyranny, to have such slavery tolerated among us, and so many petty sovereigns and lords, ruling over a number of vassals with despotic sway. Their children naturally imbibe those arbitrary principles, and grow up as unfit to be useful members of those free, republican states, as do the children of the most haughty monarch on the globe. And those men rule over themselves to their own hurt, and the hurt, the misery and ruin of their families, temporal and ETERNAL.⁶⁴

Hopkins then turns to the religious justifications given for slavery and drawing on both the Old and the New Testament, refutes the arguments one by one. There are three general parts to his argument. First, the claim that the slavery of Africans is justified because they bear the curse of Ham does not bear critical scrutiny. Second, the justification and mention of servitude in the Old Testament does not imply a general justification of chattel slavery in North America.

Third, the practice of slavery is completely antithetical to the teachings of the New Testament.

One of the more common arguments justifying slavery was that Africans, being decedents of the tribe of Ham, bore the curse of Ham, i.e. AA servant of servants shall he be unto his brethren. As the decedents of Ham, Africans were justly enslaved by Europeans. This claim, Hopkins and others argue, is based on a misreading of scripture. First, it mistakes a prophecy for a curse. The prophecy of the servitude of Ham=s posterity goes no further in excusing the sins of slave holders than the prophecy concerning the Egyptian enslavement of the Israelites excused Pharaoh of his wickedness. But beyond this, this reading of scripture is further mistaken. Of the posterity of Ham subject to this prophecy, only Canaan was doomed to servitude. Africans are not the posterity of Canaan. Hence, Europeans can have no more basis in Biblical genealogy to enslave Africans than Africans do to enslave Europeans.

This dissection of this argument appears repeatedly in the anti-slavery literature. It can be traced back to Samuel Sewall who first addresses the claim in the late 1600's. Sewall, one of the dissenting judges in the Salem witch trials, argues that Africans are not the decedents of Canaan, but rather of Cush. Moreover, the bulk of references to the question of slavery in the Old Testament witness against the practice. Quoting Exodus to emphasize the seriousness of the crime of slavery he points to that passage that states AHe that Stealeth a Man and Selleth him, or if he be found in his hand, he shall surely be put to Death. Exod. 21.16. @⁶⁵

Similarly, the argument that slavery can be justified because it is found in the Old Testament and the Israelites kept servants does not hold water on both Sewall and Hopkins accounts. First, where the Old Testament does speak of slavery, it is quite specific to the Jews, directed at those tribes that presented an immediate danger to the Israelites. But there is no blanket justification in the Old Testament, and even if there were it would give Africans as much

right to enslave Europeans as vice versa. Indeed, if slavery is justified in the Old Testament, what appeal to North Americans have, Hopkins asks, against the slavery that England would impose on the colonies. Moreover, such a blanket justification would create a state of constant war between states, a condition that no Christian could claim was divinely sanctioned.

Just as importantly, the idea that one nation has the divine right to enslave another, although there may have been times when God gave such a privilege to the Israelites, is antithetical to the teachings of Christ in the New Testament. In the Old Testament, one nation held a privileged place. With the coming of Christ, no single nation can claim the same unique privilege once held by Israel. The distinction is now at an end and all nations are put upon a level; and Christ, who has taken down the wall of separation, has taught us to look on all nations as neighbors and brethren, ... and to love all men as ourselves...by which he has most effectually abolished this permission given to the Jews, as well as many other institutions, which were peculiar to them.⁶⁶ Hence, there is no justification for slavery to be had from scripture, whether from the Old or the New Testament.

Having refuted the justification of slavery on moral, political and religious grounds, Hopkins then turns to the practical objections for emancipation. His argument here, again, refutes each objection that could be raised against the abolition of slavery immediately. Several of these are based on the logic that since there is no principled defense possible, any practical difficulties are necessarily something that must be overcome. In addition, Hopkins argues that the practical consequences of retaining slavery are actually greater than the practical consequences of allowing its continuation. Among the most important of these practical consequences for not eliminating it is the loss of Divine favor in the coming conflict. Just as the Jews faced the withdrawal of God's favor for their hubris, Hopkins argues, America faces a

similar situation. And if we continue in this evil practice, and refuse to let the oppressed go free, under all this light and admonition, suited to convince and reform us; and while God is evidently correcting us for it, as well as for other sins, have we any reason to expect deliverance from the calamities we are under? May we not rather look for slavery and destruction, like that which came upon the obstinate, unreformed Jews?⁶⁷ This last point is echoed by Nathaniel Niles. In discussing the nature of republican government and the difference between license, liberty and tyranny, Niles argues that the colonies have been favored by God. But slavery jeopardizes that favor. Would we enjoy liberty? Then we must grant it to others. For shame, let us either cease to enslave our fellow men or else let us cease to complain of those that would enslave us. Let us either wash our hands from blood, or never hope to escape the avenger... Now is the decisive moment. God sets before us life and death, good and evil, blessing and sinning, and bids us choose. Let us therefore choose the good and refuse the evil, that we may live and not die.⁶⁸ To keep the favor of God, America must turn away from that practice that is so obviously the embodiment of sin and evil.

V. Slavery and Ratification

As we know, the substantial case against slavery did not prevail at the Federal Convention of 1787 or in subsequent state ratification conventions. But it is important to recognize that the issue was not easily ignored. The issue was contentious in and of itself as well as in relation other issues such as representation and taxation. Indeed, the issues of slavery and the slave trade came up repeatedly in one context or another.⁵⁰ In the course of the discussions about related issues, many delegates took the opportunity to make their views known. On August 8, Gouverneur Morris of Pennsylvania, perhaps one of the most class conscious delegates to the

Convention, made his position clear. Madison, records Morris as saying

He never would concur to upholding domestic slavery. It was a nefarious institution – It was the curse of heaven on the States where it prevailed. Compare the free regions of the Middle States, where a rich & noble cultivation marks the prosperity & happiness of the people, with the misery & poverty which overspread the barren wastes of Va. Maryd. & the other States having slaves. ...The admission of slaves into the Representation when fairly explained comes to this: that the inhabitant of Georgia and S. C. who goes to the Coast of Africa, and in defiance of the sacred laws of humanity tears away his fellow creatures from their dearest connections & dam(n)s them to the most cruel bondages, shall have more votes in a Govt. instituted for protection of the rights of mankind, than the Citizen of Pa or N. Jersey who views with a laudable horror, so nefarious a practice.⁵¹

The issue would be addressed again just two weeks later. After being raised by Roger Sherman of Connecticut, who asserted that the several states were likely to abolish it on their own, George Mason condemned both the slave trade and slavery in to uncertain terms, though his concern seems to be mostly for the adverse effects it has on the white population, although the passage closes with the suggestion of that recalls Nathaniel Niles's earlier warning:

This infernal traffic originated in the avarice of British Merchants. The British Govt. constantly checked the attempts of Virginia to put a stop to it. The present question concerns not the importing States alone but the whole nation. The evil of having slaves was experienced during the late war. ...Slavery discourages arts & manufactures. The poor despise labor when performed by slaves. They prevent the immigration of Whites, who really enrich & strengthen a Country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a Country. As nations can not be rewarded or punished in the next world they must be in this.⁵²

The issue was addressed in the fashion that had become common for the delegates, it was referred to committee. The result, of course, was Article I, Section 9 that the slave trade would be taxed at ten dollars per imported African and the trade itself could be prohibited in twenty years. The issue would emerge again in the ratification debates. Two states are of particular interest in this regard, Massachusetts which had already made slavery illegal and Virginia which,

though it had a substantial slave population, had outlawed the slave trade.⁵³

In the Massachusetts Convention, slavery emerged as an issue in relation to apportionment and the levying of taxes. Thomas Dawes, Jr., speaking in that context, voiced the expectation that Article I, Section 9 would result in the slow demise of slavery. Though slavery was at odds with the notions of natural justice common in Massachusetts, it concerned southern states only and therefore was an issue in which Massachusetts had no business meddling. “The members of the Southern States, like ourselves, have their prejudices. It would not do to abolish slavery, by an act of Congress, in a moment, and so destroy what our southern brethren consider a property. But we may say, that, although slavery is not smitten by an apoplexy, yet it has received a mortal wound, and will die of a consumption.”⁵⁴ Isaac Backus reiterated Dawes’s prediction, adding “hope” to the latter’s prediction of consumption: “no man abhors that wicked practice more than I do; I would gladly make use of all lawful means toward the abolishing of slavery in all parts of the land. But let us consider where we are, and what we are doing. In the Articles of Confederation, no provision was made to hinder the importation of slaves into any of these states; but a door is now open hereafter to do it, and each state is at liberty now to abolish slavery as soon as they please. . . . we may hope it will die with a consumption.”⁵⁵ Hence, the combination of a duty and the expected national prohibition on the slave trade, something that would individual states would likely pursue themselves, suggested to the Massachusetts delegates that a live and let die attitude was the best course of action.

Among the most adamant opponents of the continued existence of the slave trade in Virginia was again George Mason. Mason pointed out that leading up to the war, the Crown’s refusal to allow for the prohibition of the slave trade was seen as an act of oppression on the part of the Crown. But his objections were a mixture of moral outrage and expedient concern for the

status of security of existing slaves as property, appoint noted by George Nicholas. “The augmentation of slaves weakens the states; and such a trade is diabolical in itself, and disgraceful to mankind; yet, by this Constitution, it is continued for twenty years. As much as I value a union of all the states, I would not admit the Southern States into the Union unless they agree to the discontinuance of this disgraceful trade, because it would bring weakness, and not strength, to the Union. And though this infamous traffic be continued, we have no security for the property of that kind which we have already. There is no clause in this Constitution to secure it; for they may lay such tax as will amount to manumission.”⁵⁶

Patrick Henry saw even more insidious aspects of the power granted to Congress by the Constitution and its potential effects on slavery. Arguing that the Constitution embodied “ten thousand *implied powers* which they may assume, they may, if we be engaged in war, liberate every one of your slaves if they please.” As objectionable as the slavery may be, giving the implied power of manumission to the national government would be a disaster, argued Henry.

As much as I deplore slavery, I see that prudence forbids its abolition. I deny that the general government ought to set them free, because a decided majority of the states have not the ties of sympathy and fellow-feeling for those whose interest would be affected by their emancipation. ...I repeat it again, that it would rejoice my very soul that every one of my fellow-beings was emancipated. As we ought with gratitude to admire that decree of Heaven which has numbered us among the free, we ought to lament and deplore the necessity of holding our fellow-men in bondage. But is it practicable, by any human means, to liberate them without producing the most dreadful consequences? ...their manumission is incompatible with the felicity of our country.”⁵⁷

In the end, the Virginia Convention accepted Madison’s argument that there the protections of slavery were plenty enough and actually better than under the Articles of Confederation,⁵⁸ satisfied that the slavery was for the time being safe enough, a conclusion that other slave states came to agree with, despite the reservations of some of their inhabitants.

V. Conclusion

I have been arguing that in the latter part of the 18th Century the center of gravity of early American public discourse concerning slavery was heavily weighted against slavery. Moreover, the overwhelming body of argument was opposed on principle rather than on expediency, though both were present. In addition, I have argued that the opposition was common at several levels of thought. Principled arguments against slavery were to be found in the works of noted European philosophers, including those most influential in American thinking such as Locke and Montesquieu. Similarly, four of the most influential political actors and thinkers of the time all indicated their opposition to slavery. Finally, the common political discourse of the period, as revealed in political and religious pamphlets, was overwhelmingly opposed to slavery on moral, religious, political and philosophical principles. Clearly there was sentiment in favor of slavery being expressed in some venues during this period. Indeed, the common themes of anti-slavery tracts suggest that somewhere these pro-slavery themes (for example, the argument from war) are reiterated from time to time. Nonetheless, the latter is virtually absent from the accumulated political writings available to us in political and religious pamphlets and where it does appear the quality of argument is embarrassingly weak.

Two questions remain. First, why is there not more argument in favor of the institution of slavery. Second, given what appears to be an overwhelming case against slavery, why was it not ended before it got a second life with the invention of the cotton gin.

There might be several reasons why the public defense of slavery is so thin. First, it might be the case, as it was for Patrick Henry, that slave holders knew that no defense was possible. It was wrong, but their way of life and the convenience it provided required it. Hence,

while they would not publicly defend it, they would move politically to prevent its elimination. This last point suggests another reason. Given the status quo, pro-slavery actors did not have to defend it; they only had to insure that legislative attempts to end it were not successful. Slavery would not be the only issue that would ever fall into this category.

As to the issue of why it was not eliminated, two possibilities suggest themselves. First, the time for movement would have been either right after the war or during the Convention and immediately thereafter. The war having exhausted much national effort, it is likely that a fight about slavery was not about to occur. Second, as we have seen it is widely acknowledged that many people of the time believed that the institution was doomed. Virtually everybody recognized it was morally and philosophically bankrupt and increasingly people believed it was also economically inefficient. The two taken together seemed to spell the ultimate, if not imminent, demise of slavery. Hence, Americans were willing to take the path of least resistance.

There is a final lesson to be learned, one that we can infer from an argument made by Norman Jacobson in a much underappreciated article. Jacobson argues that in the contest over the ratification of the Constitution, two virtually irreconcilable political theories contended for authority. “One was notable for its expression of friendship and brotherhood, for its insistence upon individual spontaneity and uniqueness, and for its distain for material concerns...The other displayed a preoccupation with social order, procedural rationality, and the material bases of political association and division;...”⁵⁹ Jacobson goes on to argue that the triumph of the vision of the Federalists over the Anti-Federalists has not been successful because it was most consistent with a preexisting human nature. Rather, what has sustained that vision is that it has helped to shape and mold human beings into being the kind of citizens the theory requires. The Federalists “enacted their psychological, social, economic, and political theories into

fundamental law, then erected institutions designed to train generations of citizens to prefer certain goods and conduct over all others.”⁶⁰ In effect, the political, legal, and economic regime established by the Constitution helped to create the kinds of citizens the new regime needed. Though they may not have changed human nature, they certainly were able to sculpt and shape the political ideas, patterns of behavior, and expectations of generations of citizens to come. One does not need to commit to some form of determinism to acknowledge that the ideas that are imbued in institutions and reiterated in habits, behavior, and language become accepted as commonplace and understood as natural.⁶¹ They help to shape what Charles Taylor calls the social imagery of an age. By allowing for the persistence of slavery, including the numerous clauses that supported it directly or indirectly, the Constitution helped to create the kinds of citizens some of whom would become complacent and accept it and some of whom would come to insist that it was not just a necessary evil but a moral entitlement.⁶² In other words, the Constitution helped shape the boundaries of the political-moral landscape when it came to the issue of slavery.

Elements of Jacobson’s point can be identified in much of the writing, including that of Jefferson, Hopkins, Rush, and the Quaker abolitionists, that discusses the moral-political effects of slavery on citizens. Slavery, it was argued, was a corruption of the public sphere. It created in slave holders a penchant for tyranny. It encouraged habits of the heart, and mind that took comfort and satisfaction in the subordination of and domination over others. As such, its persistence undermined Jefferson’s hope that a new generation would be educated to oppose it and usher it out of existence. Instead, it taught them what he feared it would, to be not only comfortable with their tyranny but to expect it as their birthright. And it is here that the moral lesson concerning the toleration of political evil is to be found. Postponed remedies to the

corruption of the public sphere are often a bad bargain.

ENDNOTES

¹ They were, of course, wrong about this.

² Gary Nash has made a similar argument in *The Forgotten Fifth: African Americans in the Age of Revolution* (Cambridge, MA: Harvard University Press, 2006). I see my argument as complementing his claims.

3. The title of Book 15, "How the laws of civil slavery are related with the nature of the climate," is in some respects misleading. Although Montesquieu does discuss the connection between climate and slavery at times, the discussion of slavery is more comprehensive than that and deals as much with the mores of societies that tolerate or promote it.

4. Montesquieu, *Spirit of the Laws* (New York: Cambridge University Press), p. 246.

5. Montesquieu, p. 247. (Revised translation).

6. Montesquieu, p. 139.

7. Montesquieu, p. 140.

8. Ibid.

9. Ibid.

10. Ibid.

11. Montesquieu, p. 247.

12. Ibid.

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13. Ibid.
 14. Ibid.
 15. Montesquieu, p. 249.
 16. Ibid.
 17. Montesquieu, p. 246.
 18. Montesquieu, p. 253.
 19. Montesquieu, p. 246, 251.
 20. Montesquieu, p. 251.
 21. Montesquieu, p. 253.
 22. Montesquieu, p. 250.
 23. Thomas Day, *Fragment of an Original Letter on the Slavery of Negroes*, London, 1776, American Antiquarian Society, Worcester, MA, p. 34.
 24. Saome Jenyns, *Thoughts on Slavery from Different Authors*, Philadelphia: Jospech Crukshank, 1780, p. 81.
 25. Benjamin Rush/A Pennsylvanian, "An Address to the Inhabitants of the British Settlements in America Upon Slave Keeping" Philadelphia, 1773, in Charles Hyneman and Donald Lutz, ed., *American Political Writing during the Founding Era 1760-1805*, Volume 1, (Indianapolis: Liberty Press, 1983), p. 218.
 26. John Locke, *Two Treatises on Government* (London: J. M. Dent, Everyman Edition, 1993), p. 126.
 27. Locke, pp. 126-127.
 28. Locke, p. 205.
 29. Locke, p. 207.
 30. Locke, pp. 208-209.
 31. Marvin Mayer, p. 398.
 32. Franklin, *The Works of Benjamin Franklin* (Chicago: Sparks, 1882), V. 1, p. 314.
 33. Franklin, *Works*, III, p. 16, 17.
 34. Cited in Matthew Mellon, *Early American Views on Negro Slavery* (New York: Mentor Books, 1969), pp. 19-20.
 35. Mellon, pp. 24-26.

³⁶ Paul Finkelman has made the strongest case against Jefferson, and indeed against the Founders as a whole,

although the second edition of his book makes the case that in the 1790's the Federalists made the case against slavery. See Finkelman, *Slavery and the Founders: Race and Liberty in the Age of Jefferson*, second edition (Amonk, NY: M. E. Sharpe, 2001). For a different view of Jefferson and slavery, one closer to the position outlined here, see Jean M. Yarborough, *American Virtues: Thomas Jefferson on the Character of a Free People* (Lawrence, KS: University Press of Kansas, 1998), pp. 8-10, 69-71.

37. Thomas Jefferson, "Autobiography," in *The Works of Thomas Jefferson* (New York: Putnam and Sons, 1904), Vol. I, p. 7.

38. Jefferson introduced similar legislation to the legislature of the new State of Virginia in 1776, similarly to no avail. See Mellon, *Early American Views on Negro Slavery*, pp. 100-101.

39. Jefferson, "Notes on Virginia," *Works*, Vol. IV, p. 82.

40. Jefferson, "Notes....," p. 83.

41. Jefferson, "Notes....," p. 83.

42. Jefferson, "Notes....," p. 83.

43. Madison, "AJM to Edmond Randolph, July 26, 1785," in *Letters and Other Writings of James Madison* (Philadelphia: U.S. Congress, 1865), Vol. 2, p. 161.

44. Madison, *Notes of Debates in the Federal Convention of 1787* (New York: Norton, 1987), p. 77.

45. Madison, *Notes...*, p. 530.

46. Madison, *Federalist Papers*, No. 42.

⁴⁷ See David J. Siemers, *Ratifying the Republic: Antifederalists and Federalists in Constitutional Time* (Stanford: Stanford University Press, 2002).

48. Laurens met with substantial opposition from South Carolina and Georgia slave holders, many of whom feared that the conscription of Africans would later be a justification for emancipation and would also put weapons in the hands of those who would obviously have resented their enslavement.

49. "AGW to James Seagrove, May 20, 1791," in *Writings of George Washington* (Washington, D.C: U.S. Government Printing Office, 1941), Vol. 31, p. 289.

48. "AGW to Alexander Spotswood, Sept. 14, 1798," in *Writings...*, Vol. 36, p. 445.

49. "AGW to Lafayette, April 5, 1783," in *Writings...*, Vol. 26, p. 300.

50. "AGW to Lafayette, May 10, 1786," in *Writings...*, Vol. 28, p. 424.

51. "AGW to John Francis Mercer, Sept. 9, 1786," in *Writings...*, Vol 29, p. 5.

52. "AGW to Robert Morris, April 12, 1786," in *Vol. 28*, p. 408.

53. The current citation is, Samuel Hopkins, "A Dialogue Concerning the Slavery of the Africans," in James M. McPherson and William L. Katz, eds., *The Antislavery Crusade in America* (New York: Arno Press and New York Times, 1969), pp. 1-72. The original pamphlet is published as Samuel Hopkins, *A Dialogue Concerning the Slavery*

of the Africans; Shewing it to be the *Duty and Interest* of the American States to emancipate all their *African Slaves* (Norwich: Judah P. Spooner, 1776; New York: Robert Hood, 1785).

54. Hopkins, p. 3

55. Hopkins, p. 17.

56. Hopkins, p. 19.

57. Elihu Coleman, *Testimony Against that AntiChristian Practice of Making Slaves of Men*, Boston, 1733, p. iii.

58. Coleman, p. 11.

59. Hopkins, AA Dialogue...,@ p.21.

60. Hopkins, pp. 21-22.

61. Hopkins, p. 22.

62. Coleman, Testimony..., p. 8.

63. Hopkins, AA Dialogue...@, p. 51.

64. Hopkins, p. 22.

65. Sewall, AThe Selling of Joseph,@ in McPherson and Katz, eds., p. 2.

66. Hopkins, AA Dialogue...@ p. 29.

67. Hopkins, AA Dialogue...@ p. 57.

68. Nathaniel Niles, ATwo Discourses on Liberty,@ in Hyneman and Lutz, eds., pp. 275, 276.

⁵⁰ This is not to say that the issue of slavery was the central issue that drove the deliberations of the Federal Convention and subsequent debates about the Constitution. One is hard pressed to imagine an issue that would not have been the source of disagreement even if slavery had somehow been magically removed from the Republic.

⁵¹ Max Farrand ed., *The Records of the Federal Convention of 1787*, Volume II (New Haven: Yale University Press, 1966), pp. 221-222.

⁵² Farrand, p. 370.

⁵³ Virginia, of course, had an interest in the abolition of the slave trade. If external sources of slave were not available, Virginia's own slaves would become that much more valuable.

⁵⁴ Jonathan Elliot ed., *The Debates in the Several State Conventions of the Adoption of the Federal Constitution as Recommended by the General Convention at Philadelphia*, Vol. II. (New York: Burt Franklin, 1888), p. 41.

⁵⁵ Elliot, p. 149. Of course, under the Articles each state was also free to abolish slavery as it saw fit.

⁵⁶ Elliot, pp/ 456, 452.

⁵⁷ Elliot, pp. 590-591.

⁵⁸ Elliot, p. 453.

⁵⁹ Jacobson, "Political Science and Political Education," *The American Political Science Review*, Vol. 57, No. 3 (Sep., 1963), p. 561.

⁶⁰ Ibid.

⁶¹ Perhaps the most compelling account of this is still Norbert Elias, *The Civilizing Process* (Oxford: Blackwell Publishers, 2000).

⁶² For the accommodating clauses, see Finkelman, pp. 6-10. For the latter view of slavery as an entitlement, see Charles B. Dew, *Apostles of Disunion: Southern Secession Commissioners and the Causes of the Civil War* (Charlottesville: University of Virginia Press, 2001).