

# THE SLAVERY QUESTION

During the Terms of Office of John Whitehill and Robert Jenkins, Congressmen from Lancaster County from 1803 to 1807 and 1807 to 1811, Respectively.

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This paper is to consider the slavery situation at that period of time which included the twenty-year limit of the tolerance of the slave trade in our country, and the influence our town and county brought to bear on it through our Congressional representatives. It is my part in this work to give the historical setting, with the causes and effects incident, while the paper following mine will deal in detail with the biography of the men illustrating the period for us, who, by their influence and vote, assisted in the adjustment of the various phases of this situation as they occurred.

If we go back in fancy to these years, we find our town of Lancaster the largest inland city of the United States; we find it also the capital of the great Commonwealth of Pennsylvania. These facts, no doubt, added weight to the significance of our Representatives at this time, and augmented the silent and personal influence which accrues from large and important districts generally.

Twenty years previous to the year 1807 takes us back to the convention holding in Philadelphia to revise the Articles of Confederation, but which, in reality, formulated the Constitu-

tion. During these debates, and their consequent heated arguments and violent opposition, the sectional differences of the North and South, which always existed to a considerable extent, became more pronounced.

### **How Slavery Arose in the Colonies.**

The differences existed from the beginning. By a curious coincidence, incongruous as it seems, liberty and slavery had their birth on this soil in the same year, 1620 being the date of the arrival of the Pilgrim Fathers, as well as the distribution of the first negro slaves. Virginia, which was the cradle of independence, as was Massachusetts the cradle of Liberty and Pennsylvania the cradle of Fraternity, was that also of slavery. (Beverly's History of Virginia, page 35; Bancroft's History of the United States, volume 1, page 176). It is not definitely known whether the Spaniards introduced slavery into Florida before this time or not. Some historians think that this is the case. During the year 1621 the cotton plant was first introduced in Virginia (Bancroft, vol. 1, p. 179). This, together with the cultivation of tobacco, increased the demand for negroes, and both Virginia and Maryland became slave-holding States. New England early took up the slave traffic and availed herself of the cheap labor of the negro slaves. Massachusetts, in 1641, in her "fundamentals," or body of liberties, recognized the lawfulness of Indian and negro slavery, as well as of the African slave trade (Hildreth's History, p. 278). In Connecticut the proportion of slaves to freemen was greater than in Massachusetts. In 1650 Indians who failed to make satisfaction for injuries were ordered to be seized and delivered to the injured party, either to serve

themselves or to be shipped out and exchanged for negroes. Insolvent debtors also, as well as negroes, were made slaves in Connecticut. In Rhode Island, with the exception of Providence, slaves abounded to a greater extent than in any other portion of New England. In Providence, the home of Roger Williams, the services of the black and the white races were placed on the same footing and limitations (Cobb in Slavery, p. 158). Slavery was introduced into New Amsterdam as early as 1626 by the West India Company. Stuyvesant was urged to use every exertion to promote the sale of negroes. In 1750 the slaves of this colony constituted one-sixth of the population. The Quakers of our own colony held negro slaves, and it is believed that William Penn held slaves at the time of his death. In 1712 a general petition for the emancipation of slaves by law was presented to the Pennsylvania Legislature, to which the response was given, "It is neither just nor convenient to set them at liberty" (Bancroft, Vol. 2, p. 408). Negro slavery was found in Delaware as early as 1688. Although the colony was designed for free labor, and the citizens believed it was unlawful to buy or keep negro slaves, yet slavery was retained, and Delaware is ranked with the South among the slave-holding States. South Carolina held slaves from the beginning. Although many settlers of North Carolina were Quakers, this colony soon adopted slavery. Georgia was the only colony in which slavery was prohibited by law. This was not because of any benevolent feeling for the negro. Oglethorpe was Deputy Governor of the Royal African Company, and owned a plantation and slaves in South Carolina (Cobb on Slavery), but because

the colony of Georgia having been designed for the poor and destitute of the mother country, it was meant to stimulate the colonists to personal labor. Later, the plan did not work, and petitions were urged to abolish the law.

### **The Slavery Sentiment at the Time of the Constitutional Convention.**

Various and decided changes of sentiment occurred as to slavery in the colonies as time progressed. None of the colonies favored the slave trade as it was carried on, and before the cotton gin was invented even South Carolina was speaking against it. With the invention of the cotton gin and the increased demand for cheap labor the sentiment in the South for slavery increased, and the slave trade was deemed absolutely essential to the prosperity of the South. In the North the sentiment against slavery (led by our own State of Pennsylvania as far back as 1688) increased daily and vehemently. Washington, Franklin, Jefferson, and many others of the galaxy of statesmen who adorned that period had arrayed themselves strenuously against slavery, and especially the slave trade.

### **The Constitutional Convention.**

This leaves the country at the time of the Constitutional Convention with seven free States and six slave States. Someone has said: "Threats of disunion preceded the Union," and this occurred in the Constitutional Convention, where, for the sake of peace and the preservation of the Union, the demands of the South were conceded, and, as the result of threats and compromises, though hotly contested, slavery was retained by a single vote and the period of the slave trade extended for twenty years. A

much more important step was formulated, however. When the two houses of Congress were established—the House of Representatives proportioned to the population, the Senate equal representation to the States—the first step toward the Civil War was taken. Seven free States had the great preponderance of representation in the House and the advantage of one State in the Senate. The South immediately saw the necessity of equalizing the number of States and electing the Vice President. In this way the South would control the Senate. In 1789 North Carolina passed an act ceding all her territory lying west of her present limits to the United States, “provided, always, that no regulations, made or to be made, by Congress, shall tend to emancipate slaves.” These conditions were accepted by Congress April 2, 1790. No report of the debate on the passage of the act exists. It was stormy, no doubt. North Carolina’s meaning was plain. Kentucky, in 1792, and Tennessee, in 1798, were admitted from this territory as slave States. To forestall this, Vermont was admitted as a free State in 1791, and we had eight slave and eight free States.

In 1802, April 2, Georgia ceded to the United States the territory lying west of her present limits, now the States of Mississippi and Alabama, provided “that the territory thus ceded shall become a State and be admitted into the Union as soon as it shall contain 60,000 free inhabitants, or at an earlier period, if Congress shall think it expedient, on the same conditions and restrictions, with the same privileges, and in the same manner, as provided in the ordinance of Congress of the 13th day of July 1787, for the government of the western territory of the United States;

which ordinance shall, in all its parts, extend to the territory contained in the present act of cession, the article only excepted which forbids slavery." This takes me beyond the period assigned to me, but it is interesting to watch the trend. Mississippi was admitted in 1817 and Alabama 1819. Meanwhile, Ohio was admitted in 1803, and the Indiana Territory organized, out of which Indiana in 1816 and Illinois in 1818 were admitted. Louisiana had been admitted in 1812, and this left the slave States and the free States equal once more, eleven to each account. The Louisiana Purchase was now to be disposed of, and the contest was on again. Maine was cut off from Massachusetts and admitted in 1820, and then the Missouri Compromise was passed and Missouri admitted as a slave State; but the status of slavery was settled forever in this direction. The South next looked toward Texas. The Mexican War was precipitated. Texas was admitted as a single slave State, though the South had hoped to carve it into four. When California was admitted as a free State from the territory which the South had so hoped to force into her own ranks, she recognized the death blow to the further extension of slavery, and her inability to cope in the Legislature for her terms as heretofore. It was then the South began to utter threats of disunion, and more than one prophetic statesman of the North, as well as the South, perceived the shadow of the coming tragic events casting before.

### **The Legislature in Which John Whitehill Figured.**

To go back to my period will bring us to the Congress which was debating the petition from the Indiana Territory as to whether the sixth ar-

ticle of the ordinance of 1787, which prohibited slavery within her territory, should be suspended for ten years. The memorial was referred to a committee and a report unfavorable to the plea was recommended by the committee. The report, coming at the end of the session, was referred to a new committee at the next session of Congress. This committee brought a report favorable to the memorial, but there was no action taken. The memorial to the same effect was presented at each succeeding Congress until 1807, when that committee reported: "Resolved, That it is not expedient at this time to suspend the sixth article of compact for the Government of the Territory of the United States northwest of the River Ohio."

In the session of 1804-5, a memorial was presented to Congress by the annual convention of delegates from the State societies for promoting the abolition of slavery and improving the condition of the African race, then meeting in Philadelphia, to prohibit the further importation of slaves into the newly-acquired region of Louisiana. The memorial was referred to the committee on the government of Louisiana, and a provision was inserted into the act authorizing the Territory of New Orleans, that no slaves should be carried to said Territory except from some part of the United States by citizens removing to the Territory as actual settlers. This memorial had in view the act of South Carolina reviving the African slave trade after a suspension of it, since the law imposing a tax of ten dollars (Article I, Section 9, Constitution) had been passed. The act of South Carolina was taken up by the House, and Bard, of Pennsylvania, introduced a resolution imposing the tax of \$10 on each slave

imported. Lowndes, of South Carolina, apologized for his State. He said it was an impossibility to enforce the prohibition, as the people did it in defiance of the law, and the law was repealed in order to remove the spectacle of the daily violation of the law, but he thought the imposing of the tax was unjust. There was considerable discussion, in which Bard, Lucas and Smilie, of Pennsylvania, made eloquent speeches. Nothing was done in the matter at this session, but the subject was opened in the next session when South Carolina accused Rhode Island of furnishing the ships, and of encouraging the trade in other ways. The subject was passed over to the next session, when the time was at hand to abolish the slave trade altogether by constitutional statute.

### **The Abolition of the Slave Trade.**

The message of President Jefferson, communicated on Tuesday, December 2, 1806, being the second session, reads in part:

“To the Senate and House of Representatives of the United States of America, in Congress assembled: I congratulate you, fellow citizens, on the approach of the period at which you may interpose your authority, constitutionally, to withdraw the citizens of the United States from all further participation in these violations of human rights which have been so long continued on the inoffending inhabitants of Africa, and which the morality, the reputation, and the best interests of our country have long been eager to proscribe. Although no law you may pass can take prohibitory effect until the first day of the year 1808, yet the intervening period is not too long to prevent, by timely notice, expeditions which can-



not to be completed before that day." (Executive paper No. 25, of the President's messages, Ninth Congress, second session).

On the next day, December 3, this portion of the message was referred to a select committee of the House, consisting of Messrs. Early, of Georgia (chairman); T. M. Randolph, of Virginia; J. Campbell, of Maryland; Thomas Kenan, of North Carolina; Cook, of Massachusetts; Kelly, of Pennsylvania, and Van Ransellaer, of New York. This time the bill was not allowed to lay over. On the 15th of December the committee reported. The original report provided that "all negroes, mulattoes and persons of color illegally introduced should be forfeited and sold for life for the benefit of the United States." This aroused violent opposition, participated in by Sloan, of New Jersey (who proposed an amendment to substitute "shall be entitled to his or her freedom" instead of the "death penalty"). Macon, the Speaker of the House; Smilie, of Pennsylvania; Pitkin, of Connecticut, debated earnestly and to some extent. A movement was made and passed to recommit the bill. When it was presented again the same opposition was urged against "forfeiture;" however, the bill carried as it stood 63 to 36. John Whitehill voted in its favor. The debate then turned on the punishment to be inflicted on the masters and owners of vessels engaged in the slave trade, a provision in the bill having offered death as one penalty. This part of the bill again was hotly contested. Imprisonment instead of death was offered as an amendment, and this substitution carried by a vote of 63 to 52, Whitehill voting with the minority, favoring death as the penalty instead of imprisonment. The bill was

engrossed, and the question arose on its passage, when the Northern members seemed to recollect that the bill as it stood, viz., forfeiting the slaves imported and putting the proceeds into the public treasury, sanctioned slavery and cast a stain on the national character. In order to devise some other plan it was moved to recommit the bill to a committee of seventeen, one from each State. This motion was carried 76 to 49, Whitehill voting in its favor. The bill now, as reported by the committee of seventeen, was debated and amended and passed by a vote of 113 to 5, and was sent back to the Senate. Here other troubles arose which refused to adjust, and a committee of conference was appointed. Finally, the report of the committee of conference was agreed to, 63 to 49. John Whitehill voted for its passage. During these debates several heated remarks were made by Southerners, showing the trend of Southern sentiment. At one time they declared they "would resist this with their lives." John Randolph said at another time: "If the bill passed as it stood the Southern people would set the act at defiance. I would set the first example." At another time he said the bill would result in total emancipation in future years, and he would not agree to it. It would blow the Constitution into ruins and this Union would disunite; that the slave States would secede from the Union.

The act as finally passed imposed a fine of \$20,000 upon all persons concerned in fitting out any vessel for the slave trade, with the forfeiture of the vessel; likewise a fine of \$5,000, with forfeiture also of the vessel, for taking on board any negro, mulatto or person of color in any foreign country, with the purpose of selling such person within the jurisdiction of the

United States as a slave. For transporting from any foreign country and selling as a slave or holding to service or labor within the United States any such person as above described the penalty was imprisonment for not less than five nor more than ten years, with a fine not exceeding \$10,000 nor less than \$1,000. The purchaser, if cognizant of the facts, was also liable to a fine of \$800 for every person so purchased. Neither the importer nor the purchaser was to hold any right or title to such person, or to his or her service or labor; but all such persons were to remain subject to any regulations for their disposal, not contrary to the provisions of this act, which might be made by the respective States and Territories. Coasting vessels transporting slaves from one State to another were to have the name, age, sex and description of such slaves, with the names of the owners, inserted in their manifests, and certified also by the officers of the port of departure; which manifests, before landing any of the slaves, were to be exhibited and sworn to before the officer of the port of arrival, under pain of forfeiture of the vessel and a fine of \$1,000 for each slave as to whom these formalities might be omitted. No vessel of less than forty tons burden was to take any slaves on board except for transportation on the inland bays and rivers of the United States; and any vessel found hovering on the coast with slaves on board, in contravention of this act, was liable to seizure and condemnation, for which purpose the President was authorized to employ the ships of the navy, half the proceeds of the captured vessels and their cargoes to go to the captors. The masters of vessels so seized were liable to a fine of \$10,000 and impris-

onment for not less than two nor more than four years. The negroes found on board were to be delivered to such persons as the States might respectively appoint to receive them, or, in default of such appointment, to the overseers of the poor of the place to which they might be brought; and if, under State regulations, they should be "sold or disposed of." The penalties of this act upon the seller and purchaser were not to attach in such cases.

This was the stormy period which John Whitenill helped to weather. There are no speeches accredited to him, but the influence of the man, the results that were accomplished, the reduction of slavery in the district which he represented during his terms of office, all speak of the silent influence, quietly but firmly exerted, to accomplish a determined purpose.

During the official terms of Robert Jenkins slavery did not hold the prominent place that it did in his predecessors' time. The great topic of his day was the approaching of other troubles, in which he took his part with the vigor, intelligence and firmness which characterized him personally.

There are two entries of interest in the Congressional Records that appear while Jenkins was Representative. They both occurred at the beginning of his term. Mr. Randolph, from the committee appointed on the 11th inst., presented a bill to explain the act entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States from and after the first day of January, in the year of our Lord, 1808," which was read twice and committed to a committee of the whole on Monday following. This closed the work of the Congress in

respect to the act of prohibition of the slave trade. A final incident directly concerned, however, occurred when on December 30, 1807, a petition from sundry merchants of Charleston, S. C., importers of slaves, was presented and read, in which they stated that many vessels had cleared out from thence for the purpose of importing slaves before the law was passed by Congress prohibiting the importation of slaves, and some had cleared out immediately after the passing of the law and had been detained by accident beyond the time limited by law. They prayed that a law might be passed affording them relief.

The question being put on a motion made by Mr. Marion for a reference of this petition to the Committee of Commerce and Manufactures, the motion for reference was negatived, yeas 37, nays 39. It does not appear how Jenkins voted in this instance. Later, there were evasions of this law, which caused much trouble to the Government and had to be summarily dealt with.

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