

WAS THE CIVIL WAR INEVITABLE

JOHN UNGASHICK OCTOBER 27, 2014

On October 25, 1858 in Rochester, NY William Henry Seward, a Senator and ex-Governor of New York, and at the time considered the favorite for the 1860 Republican Presidential nomination, gave a speech which included the following sentence related to the sectional disputes then convulsing the country. "It is an irrepressible conflict between opposing forces, and it means the United States must and will, sooner or later, become either entirely a slaveholding nation or entirely a free-labor nation." It is generally conceded that this speech was too radical and contributed greatly to Seward's failure to win the nomination which then went to the "moderate" Abraham Lincoln. However was this statement true in any real sense or at least true in 1858 and if it was when did the conflict become inevitable? An even bigger question is was the war "necessary" for the United States to evolve into the country it is today?

I will look at the issue in three separate stages, the early history of the Republic from 1776 to 1787, the middle years from 1820 to 1850 and the pre-war years from 1852 to 1859.

Early years. Declaration of Independence

Slavery was not an issue prior to the French & Indian War which ended in 1763. Each colony was a stand alone entity with no real sense of unity. The Townshend Acts, passed in 1767, began the long road which finally ended in independence. The colonies began to think as one and Two Continental Congresses were called, the second of which issued the Declaration of Independence on July 4, 1776. Canada was invited but did not participate.

At this time slaves existed in all 13 colonies and there was no discernable abolitionist sentiment although some of the signers, especially John Adams, had great reservations about the morality of slavery. Thomas Jefferson inserted this phrase in his first draft of the Declaration pertaining to the African slave trade and was included among the "charges" leveled against King George III; "Determined to keep open a market where men could be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce". This was a bit disingenuous as there was no great clamor for the abolishment of the slave trade and the Congress deleted the full sentence before the Declaration was finalized.

The stirring preamble where Jefferson declares that "all men" not all white men are created equal was equally disingenuous. Jefferson and many others compartmentalized their minds between the ideals of the Enlightenment and the realities of everyday life. There were also justifications for slavery that were lifted from the Bible such as the story of Noah and his son Ham, who mocked Noah when he became intoxicated and was thereby cursed to be "the servant of your brothers". At the time Ham was assumed to be the progenitor of Black Africans. Another quote comes from the New Testament, 1st Timothy "Let as many as are servants under the yoke count their own master as worthy of all honor." When I went to Catholic School in the 1950's they taught us the Noah/Ham story.

Northwest Ordinance of 1787

This was one of the few real accomplishments of the Articles of Confederation, the precursor to the Constitution. It organized the Northwest Territory, what we now call the Midwest which included Illinois and surrounding states, and opened it for settlement. For our purposes the main item of note was that slavery was permanently excluded from this area, the first instance of this type of action in US history. The Southern states went along as the area was not suited for slavery and there were plenty of other territories south of the Ohio River which would eventually come into the Union as slave states.

Constitution 1787

Shay's Rebellion in 1786 highlighted the weaknesses of the Articles of Confederation and led to the calling of a Constitutional Convention during the spring of 1787 and it lasted until September. The basic form of government still followed by the US was hammered out at this meeting. Various compromises were arrived at to placate the big and small states, commercial and agricultural interests and the slave and non-slave states.

The word slavery is nowhere to be found in the Constitution but three important decisions greatly impacted the so-called "peculiar institution". The first was prohibiting Congress from banning the external (but not internal) slave trade (but not slavery itself) for 20 years; i.e. 1808. This meant that if Congress banned the trade at that time, which it did, it would be illegal to import more slaves from Africa but all slaves and their descendents then in the country would continue as slaves. The recent hit movie *Amistad* involved this slave trade ban.

The second provision was the so-called three-fifths compromise. It dealt with both the apportionment of taxes (a bad thing in the minds of many) and representation in Congress (a good thing). Southerners didn't want slaves counted in terms of taxes but did want them counted in the apportionment of representatives. A compromise was proposed by a liberal Northerner, James Wilson of Pennsylvania, whereby three-fifths of all slaves would be counted for both purposes. This had the effect of increasing the percentage of population in the South from 38% to 45% of the total and was instrumental in electing a string of Southern Presidents from Jefferson to Monroe. The actual language was a bit confusing ; "shall be determined by adding to the whole number of free persons, including those bound to service for a term of years (i.e. indentured servants) and excluding Indians not taxed, three-fifths of all other persons." This convoluted language caused some people after the fact to surmise that the framers opposed slavery and wanted to establish a document which was flexible in the event slavery was abolished. However this view was never widely held.

The third was the so-called "fugitive slave clause" which read "No person held to service in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due." Notice the absence of the word slavery in this clause and per historian David Fehrenbach "most revealing in

this respect was a last minute change in the fugitive-clause whereby the phrase "legally held to service in one state" was changed to read "held to service or labor in one state, under the laws thereof". This revision made it impossible to infer from the passage that the Constitution itself legally sanctioned slavery". This is strictly Mr. Fehrenbach's interpretation.

There was no significant initiative at the time of the Convention to abolish slavery even though the Founders were children of the Enlightenment. Several members of the Convention such as John Jay of New York and Oliver Ellsworth of Connecticut plus Benjamin Franklin wrote privately about the evils of slavery but knew that it could not be realistically abolished so they did not advance their views in the debates. Thomas Jefferson had very definite negative views on slavery but was unable to reconcile them with his need to operate his plantation with the help of slave labor and he was also horrified at the idea of free blacks roaming the country and interacting with white people.

Middle Years – Missouri Compromise of 1820

The slavery issue simmered for a generation without any major upheavals until 1820 when the territory of Missouri petitioned to be admitted as a slave state. At that time the number of free and slave states were equal at eleven each and to admit Missouri would upset the delicate balance in the Senate where every state was allowed two Senators. It also called into question the rest of the Louisiana Territory (purchased from France in 1803) which at that time except for the state of Louisiana (admitted in 1812) was not governed by any inclusion or exclusion of slavery. After hard bargaining a compromise was reached whereby a line was drawn from the southern boundary of Missouri (36 30') and slavery was excluded north of that line. At the same time Missouri entered the Union as a slave state Maine (previously part of Massachusetts) entered as a free state, preserving the balance.

While many Americans, especially Henry Clay, the architect of the compromise, praised this solution, ex-President Thomas Jefferson who was 77 years old and retired to his Monticello estate denounced the compromise with these prophetic words: "...but this momentous question, like a fire bell in the night, awakened and filled me with terror. I considered it at once as the death knell of the Union. It is hushed indeed for the moment, but for a reprieve only, not a final sentence. A geographic line, coinciding with a marked principle, moral and political, once conceived and held up to the angry passions of men, will never be obliterated; and every new irritation will mark it deeper and deeper". What Jefferson meant here was that he deplored the idea of Congress ruling on the status of slavery as he felt it was beyond their power under the Constitution. Another example of hypocrisy as he never objected to the Northwest Ordinance way back in 1787. Jefferson, along with James Madison, believed in something called diffusion. Since the fear of a slave rebellion such as that which convulsed Haiti in the early part of the century represented the slave-holding states worst fear, they felt that diffusing slaves all over the country would make rebellion less likely and in some bizarre way assist in ultimate emancipation. By keeping slaves in just a few states their ever increasing numbers were seen as a mortal threat. In addition since many people, including Abraham Lincoln in his early days, felt that freed slaves could not coexist with whites, diffusion would aid in

resolving this problem and assist in the ultimate goal of colonizing freed blacks in Africa which was the preferred solution for almost everyone save the hard core abolitionists. Unfortunately only a few thousand free blacks ever took up this challenge even though a lot of money and effort were squandered on it for years.

Nat Turner's Rebellion of 1831

A good friend of mine told me that he has read and believes that the Nat Turner revolt never took place and I respect his opinion but I have heard enough about it from other sources to convince myself that it did in fact occur in August 1831 in Southampton County, Virginia. Nat Turner was a slave who had been taught to read and write, which was frowned upon by the white establishment and then expressly forbidden in the aftermath of the revolt. Turner had what he later described as “visions” and was convinced that he had a God-given duty to raise a slave revolt and kill all white people, including women and children. On August 21st he began the rebellion and before it was stopped two days later, 55 white people had been killed by the 70-odd slaves and free blacks which took part. Turner temporarily eluded his pursuers but was captured in October and after a trial was hanged a few days later. In all over 200 blacks were killed during the revolt and its’ aftermath. Turner supposedly dictated his “confessions” to a court appointed attorney, Thomas Ruffin Gray, and this was the basis for a 1967 Pulitzer-prize winning novel (I stress the word novel) by William Styron. The authenticity of the initial confessions coupled with the fact that Styron used some poetic license in his novel has contributed to the controversy which my friend alluded to. There were other slave revolts but none were as bloody as that of Matt Turner and the threat of a slave insurrection was always one of the South's greatest fears.

A postscript to this story is the fact that the Virginia Legislature seriously debated the abolition of slavery beginning in December 1831 and defeated the measure by only seven votes in early 1832. This was a gradual compensated emancipation and wouldn't have actually been fully completed for a generation but it is significant and was the last legislative move in the South regarding abolition until the passage of the 13th amendment after the Civil War. The soil in the “upper South” had been depleted by overuse and slavery was not then as lucrative as it had been a few years earlier. It is generally conceded that Nat Turner's Rebellion along with the Haitian slave revolt earlier in the century were major factors in the defeat of the Virginia emancipation proposal. The opening up of new lands in the Deep South and the later development of better means of fertilization and soil restoration revived the peculiar institution throughout the slave-holding areas.

The Nullification Crisis of 1828 -1833

Even though this was a serious episode in North-South relations, the Nullification Crisis had almost nothing to do with slavery. In 1828 tariffs were increased in order to protect American industry from foreign competition. This was opposed by most of the South and certain portions of New England. When Andrew Jackson was elected in late 1828 it was assumed he would quickly move to lower the tariff but since he did not do so immediately a crisis developed. John C. Calhoun, until that time Jackson's Vice President, resigned in 1832 in order to run for the Senate and promote his theory of state

nullification. This concept, which was conceived by Thomas Jefferson in his 1797 Kentucky and Virginia Resolutions, stated that each state had the right to “nullify” a federal law within their boundaries if they determined it was not in their best interests. Meanwhile the Congress significantly reduced the tariff in 1832 but Calhoun was still not happy; he organized a South Carolina state convention and an ordinance of nullification was passed. President Jackson bristled at this challenge to federal power and rammed through a force bill authorizing the President to use military force against South Carolina. Calhoun and the state authorities backed down and the crisis was over but the precedent had been set that a state could challenge federal law and the spirit of Calhoun’s philosophy long outlived his death in 1850.

Texas Revolt of 1836, Mexican War of 1846-1848 and Compromise of 1850

All three of these episodes are intertwined and I will discuss them together. Mexico won its’ independence from Spain in 1821 and shortly thereafter began encouraging immigration into the sparsely settled province of Texas. Americans poured into the area and within a few years their numbers greatly exceeded the Mexican population. Despite the romanticism of the Alamo and other stories about the Texas revolution, the primary rationale for the revolt was that the Mexican government forbade slavery while the 30,000 American settlers had imported 5,000 slaves. The initial stages of the revolt were disastrous for the Anglos and led to the fall of the Alamo and several other defeats. The slaughter of all the Alamo survivors plus other atrocities committed by the Mexican Army stiffened resistance and the war ended with a brilliant victory at San Jacinto by an army led by Sam Houston in which the Mexican President and army commander, Santa Anna, was captured. In the peace which ensued Texas was granted independence and they immediately petitioned to be admitted as a US slave state.

However, sectional discord prevented the admission of Texas and it wasn’t until the dying days of the Tyler administration in late 1844 that they were admitted. This caused a rupture with Mexico and after a few other incidents (highly questionable on the part of the US and criticized by an obscure Illinois Congressman named Abraham Lincoln) war began in May 1846. An American army moved south from Texas under Zachary Taylor and won several victories but it was determined that only a direct invasion and the capture of the Mexican capitol would suffice. Winfield Scott launched a brilliant campaign which ended in the capture of Mexico City and forced the Mexicans to agree to the humiliating Treaty of Guadalupe-Hidalgo which ceded virtually all of their territory north of the Rio Grande including all or parts of what are now six southwestern states. On Scott’s staff was a brilliant young officer named Robert E. Lee and a colonel of Mississippi volunteers named Jefferson Davis was also a major contributor to the victory. There are several interpretations of the Mexican War but in retrospect it is very hard for me to evaluate it any other way than a war of naked aggression by a more powerful state against a weaker state.

The new territory was known as the Mexican Cession and very soon after the treaty was signed a congressman from Pennsylvania name David Wilmot introduced a “proviso” that all land acquired would be off limits to slavery. This created a serious controversy and led to what became the Compromise of 1850. There were several issues which

created friction between the sections and they were dealt with in a series of bills first proposed by an aged Henry Clay and opposed fiercely by John C. Calhoun but finally passed through the efforts of a brilliant young Senator from Illinois, Stephen A. Douglas. The compromise had five separate provisions, some of which appealed to the North and others to the South. First of all was the settlement of the Texas debts which were assumed by the Federal Government in exchange for a large transfer of land which became part of the Territory of New Mexico. Secondly the Territory of Utah was organized and the issue of slavery in both were papered over by the concept of popular sovereignty, which we will come to later. The Wilmont Proviso was not adopted but it still was a popular rallying cry for many Northerners.

The third item was the admission of California as a free state which eliminated the territorial stage. A fourth provision was a greatly strengthened fugitive slave law and the last was the banning of the slave trade (but not slavery itself) in the District of Columbia. There is a story, which may or may not be true, that one of the reasons Abraham Lincoln became an anti-slavery advocate is that he witnessed a slave market in Washington, DC when looking out his office window when he was a Congressman in the mid 1840's. It was a national disgrace that slaves were openly bought and sold in the capital of the country. This brings to mind a story I heard when I was in Vietnam in 1970 told to me by a veteran MP who earlier in his career had been stationed in Saudi Arabia. One of his duties was to attend the Friday slave market to ensure that no US GI's bought slaves. It is amazing to think that slavery was legal in Saudi Arabia at that time, only forty plus years ago, although it is illegal now.

The compromise advanced several ideas which were controversial interpretations of the Constitution and came back to haunt the country when the Secession Crisis hit a decade later. The first was that the Congress had the ability to legislate the issue of slavery in the territories but not in states which were already in the Union and considered slave states. The second was that since slaves were property the government was obligated to intervene and return fugitive slaves.

Pre War Years – Uncle Tom's Cabin

If the Compromise of 1850 bought another decade of peace and put off what might still have been an avoidable conflict, four incidents in the 1850's changed the dynamic in what was probably an irreversible direction. The first was the publication of Uncle Tom's Cabin in 1852 by Harriet Beecher Stowe, the daughter of Lyman Beecher and the sister of Henry Ward Beecher, both prominent abolitionists. While still a distinct minority, the abolitionist movement gained ground steadily from the mid 1830's forward. Prior to this novel (I emphasize novel) slavery was only discussed in the abstract but here characters were given names and the horror of slavery was given a human face. It is said that upon reading Uncle Tom's Cabin, Queen Victoria cried. Those in the South bitterly resented what they felt was a very distorted view of slavery and this exacerbated regional tensions. Many years later when introduced to Stowe, President Abraham Lincoln is said to have commented "So this is the little woman who started this big war". It should be noted that Ms. Beecher's research for her novel was almost all second hand as she had very little personal experience with the "peculiar institution".

Kansas-Nebraska Act of 1854

Stephen Douglas, fresh from his success in 1850, was eager to build a reputation in both the North and South which would ensure his nomination as the Democratic Presidential candidate in 1856. He therefore proposed the Kansas-Nebraska Act which enshrined the concept of popular sovereignty in the organization of the Western Territories. It stipulated that the territories could choose for themselves whether to be a slave or free state and in effect repealed the Missouri Compromise. At first it seems only fair that the citizens should choose their own future but it ran counter to the widely held view, by Lincoln among others, that slavery was an intrinsic evil that had to be protected where it presently existed but should not be expanded into the new territories. A weak President, Franklin Pierce, supported the act and it passed on a close vote but almost immediately the situation boomeranged on Douglas, creating a firestorm throughout the Union. The Whig party, the legacy of Henry Clay and of which Abraham Lincoln was then a member, shattered and effectively ceased to exist. The Kansas territory which was more likely to support slavery than distant Nebraska saw hordes of pro-slavery settlers from adjoining Missouri cross the border and since the voting rolls and census statistics were not as refined as they are today these settlers claimed to be Kansas citizens and wanted to vote in the referendums that were being held on the future of the territory. Anti-slavery groups did the same and a mini civil war erupted, known as "Bleeding Kansas". This carried over into the real Civil War and was an excuse for lawlessness and banditry throughout the territory. One of the staples of 1950's cowboy movies, the James Gang, got their start as pro-slavery Kansas guerillas.

A combination of Northern Whigs, some Northern Democrats, the so-called Free Soil Party and remnants of the anti-immigrant No-Nothing Party combined to form the new Republican Party and they were very successful in the 1854 fall Congressional elections. The bedrock of the Republican platform, in addition to embracing Henry Clay's American System, was an absolute resistance to any expansion of slavery in the territories. At this point it became apparent, especially to the South, that what was a strictly regional party committed to stopping the expansion of slavery, but not and I emphasize not, the abolition of slavery in the states where it now existed could conceivably win a national election. In the election of 1856, the colorless Democratic candidate, James Buchanan, was barely able to beat out Republican John C. Fremont. Only the fact that Buchanan's home state of Pennsylvania, which went to him in a close race, prevented Fremont's election if he could then have grabbed one more Northern state from among New Jersey, Indiana or Illinois.

Dred Scott Decision of 1857

One of the bedrocks of the American political system is the concept of the separation of powers. In other words the three branches of government (executive, legislative & judicial) operate independently of each other and are restricted in what they are able to do by the actions of the other branches. President-elect Buchanan grievously violated this concept by communicating with two Supreme Court justices and pressuring them to come

up with what Buchanan thought would be a “proper” decision in the Dred Scott case before his inauguration on March 4, 1857.

The Court did rule 7-2 on March 6, 1857 in the manner in which Buchanan desired. In effect this decision completely overturned all restrictions on the federal government’s ability to restrict slavery, invalidating both the Missouri Compromise and the Northwest Ordinance. In fact this was the first time since the Marbury vs. Madison case of 1803 that the Court had declared an act of Congress unconstitutional. The decision stated that no slave or any descendent of slaves including freed slaves, was a citizen or could ever become a citizen. In addition by defining slaves as property it gave slave-holders the right to take slaves anywhere in the Union, even to Free States and prohibited the government from interfering.

Dred Scott could have been decided on very narrow grounds; i.e. Scott was not a citizen and therefore lacked standing to sue in federal court. This would have avoided dealing with the real issues involved and that tactic is not unknown in federal courts, even today. However Chief Justice Roger Taney, a slaveholder who had been appointed by Andrew Jackson way back in 1836, acceded to Buchanan’s request to settle the issue once and for all and he issued a sweeping decision. President Buchanan assumed that since Americans were a law-abiding sort they would just accept the Supreme Court decision as the law of the land and the problem would be solved permanently. Of course this was not the case as the North erupted in fury and this response was noted in the South making them even more determined to uphold what they felt where their “constitutional rights” guaranteed by the decision. Abraham Lincoln, by now a prominent national Republican figure, along with many others denounced the decision. In his “House Divided” speech in 1858 during the famous Lincoln-Douglas debates Lincoln stated:

Put this and that together, and we have another nice little niche, which we may, ere long, see filled with another Supreme Court decision, declaring that the Constitution of the United States does not permit a State to exclude slavery from its limits. ...We shall lie down pleasantly dreaming that the people of Missouri are on the verge of making their State free, and we shall awake to the reality instead, that the Supreme Court has made Illinois a slave State."

Sectional tensions were rising and the possibility of a real compromise was fading fast.

John Brown’s Raid of 1859

As I stated in the section on Nat Turner, a slave revolt was always the ultimate nightmare for the slave-holding South. On October 16, 1859 a party of 15 whites and 5 Negroes led by fanatical abolitionist John Brown stormed the federal arsenal at Harper’s Ferry, Virginia and barricaded themselves along with ten hostages in a roundhouse. Local militia were called out and they surrounded Brown and his associates; eventually a party of U.S. Marines under the command of Lt. Colonel Robert E. Lee and containing his young aide, Lt. Jeb Stuart, both of whom would figure prominently in the upcoming war, stormed the roundhouse, killing several insurgents and capturing the rest, included a wounded John Brown. They were turned over to the local Virginia authorities who tried Brown for treason, found him guilty and he was hanged on December 2nd.

Some parts of the North (but not it must be stated Abraham Lincoln) saluted Brown as a hero and it was subsequently discovered that certain Northern abolitionists had given money and support to Brown. The South blamed the inflammatory rhetoric of the abolitionists as having “inspired” Brown, and the incident reinvigorated the here to fore moribund Southern militia system and hardened attitudes all the way around. The South was now in no position to compromise and did not believe Republican protestations that they did not intend to interfere with slavery in the states where it presently existed even though they were unalterably opposed to its’ expansion into the territories.

Conclusion

Clearly the election of a so-called “Black Republican” in 1860 in the person of Abraham Lincoln was the immediate catalyst for the secession crisis and the Civil War but the die had been cast long before that. With the breakup of the Democratic Party in mid 1860 into Northern and Southern wings, each of which nominated their own candidate plus another border state candidate which entered the race, it was inevitable that the Republicans would win the election virtually irregardless of their candidate. Many people have said that the best solution to the crisis was for the South to abide by the election and trust themselves to the Constitution which required three-fourths of the states to ratify any amendments, including any which impacted slavery. It was an article of faith among virtually everyone that slavery was protected by the Constitution where it presently existed. If the South stayed united, the three-fourths margin would never have been reached. Also Abraham Lincoln several times floated the idea of compensated emancipation to the loyal border states of Maryland, Kentucky, Missouri & Delaware during the war but was turned down. The Emancipation Proclamation was looked on as purely a “war measure” using the President’s stated power to confiscate the property of traitors. Slave holders, even so-called loyal ones, could not envision the complete end of the peculiar institution and it may well have been that only the shock of war could have ever ended slavery.

A quote I found on the internet is probably a good way to end:

It has been said that the seeds of the Civil War, which was fought despite revisionist theory to the contrary, over the issue of slavery were sown in the compromises of the Constitution on the issue. This is probably true. Slavery, which was started in violence by the kidnapping, shipment and commerce of human chattel, needed violence to bring it to an end. After the devastation of the Revolutionary War and the unrest in the U.S. under the Articles of Confederation, a time of peace and recovery was needed to strengthen the nation to a point where it could survive a Civil War. The greatest tragedy is that in the nearly 100 years between the start of the Revolutionary War and the end of the Civil War, millions of slaves, served, suffered and died so that the nation could prosper.