



## The Antebellum Origins of the Modern Constitution: Slavery and the Spirit of the American Founding

by Simon J. Gilhooley, New York: Cambridge University Press, 2020, Pp. 350, \$110.00 (hbk), ISBN 9781108496124

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more to foreground their common themes. Several hint at, but do not fully develop, interesting lines of comparative analysis, such as this brief nod to the 1822 uprising in the Builsa resistance commemoration essay:

The same comparison could be made of other events that are still celebrated in the present. For example, the memory and commemoration of the Denmark Vesey Conspiracy and of slave resistance in general have been part of the struggle against racism. (p. 172)

The reader is left wanting to see the comparison drawn out further. The result is that references to the 1822 uprising feel somewhat tacked on in order to make certain essays relevant to the volume, whereas their purpose is to demonstrate longer and interconnected legacies of resistance across time and place.

Another reason to read the essays together is that the anthology lets interpretation of evidence that conflicts between authors stand with no explanation or contextualization of the differences, leaving the reader to critically compare accounts and derive their own conclusions. Sometimes these conflicting interpretations of a single detail can lead to vastly different takes on the uprising. For example, Bernard Powers claims Vesey may have been born on St. Thomas, and that his proximity to (and subsequent brief residence in) Haiti enabled him to make contacts with Haiti's Black residents and absorb revolutionary values; in contrast, Spady asserts Vesey may have been Kormantse, hailing from the Ghanaian coast or further inland, and thus drew upon West African politics and culture in his articulation and organization of collective rebellion. Spady cites evidence that Vesey was then taken to the Caribbean as a teenager and purchased by Joseph Vesey in St. Thomas before briefly residing in Haiti, then Charleston. Powers gives heavy weight to the Haitian influence on the 1822 uprising; Spady names it as one among many influences that might have inspired a few resisters. Readers are left to discern what to take from these interpretations. The editor or authors could have noted such contradictions by referencing the murky and fragmented nature of the archives, as Robert Paquette's essay does, to demonstrate that the available evidence points to either of these birthplaces.

In all, *Fugitive Movements* is a timely and necessary collection that adeptly interweaves historical scholarship and memory studies to advance understanding of the long legacy of Black resistance evident in the 1822 uprising and the Black freedom struggles that have endured to this day.

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**The Antebellum Origins of the Modern Constitution: Slavery and the Spirit of the American Founding**, by Simon J. Gilhooley, New York: Cambridge University Press, 2020, Pp. 350, \$110.00 (hbk), ISBN 9781108496124

Scholarship on the relationship between slavery and the Constitution has, for 35 contentious, culture-war-inflected years, been largely stuck asking questions that can only be answered by contorting and wringing our limited evidence of the constitutional convention. Simon J. Gilhooley has offered a breath of fresh air and, just maybe, a way out. In *The Antebellum Origins of the Modern Constitution*, Gilhooley picks up where the Cambridge School

contextualists left off, arguing that constitutional politics which invoke the “spirit of the founding” are not natural or inevitable, but instead arose from a particular historical moment. By assuming a narrow chronological and topical lens – the 1830s debates over slavery in the District of Columbia – this book is able to contextualize the emergence of the constitutional politics of slavery. Writing against recent prominent works on political constitutionalism, namely those by Sean Wilentz and Jonathan Gienapp, Gilhooley asserts that historical actors were not “motivated by an attempt to bring specific meaning to the constitutional text,” but instead invoked its spirit to “circumnavigate” its text to purely utilitarian ends (p. 9).

*The Antebellum Origins of the Modern Constitution* begins its inquiry in the Missouri Crisis debates. The founding loomed, but in critically limited ways. Both sides of the debate over Missouri’s admission as a slave state acknowledged that slavery’s place in the Constitution had been the product of a compromise among the framers. For expansionists, this meant that the question had been settled in 1787, with no need nor constitutional room for additional compromise. Restrictionists, on the other hand, argued that the compromises which produced the Constitution qualified and limited every right slaveholders claimed. This claim rested on a “progressive view of constitutional time”; a great deal of time had passed since 1787, and much had changed (p. 40). Constitutional slavery politics at the Missouri Crisis ultimately were, Gilhooley argues, “disordered and raw” and thereby a harbinger of what the next decades would bring, albeit not yet cohered into a “durable structure” (p. 39).

In the decade following Missouri’s admission, Black writers and activists capitalized on the shifting historical memory of the Declaration of Independence to make influential citizenship claims that shaped the constitutional politics of abolition. Analyzing publications like *Freedom’s Journal* and writings from James Forten, David Walker, and others, Gilhooley shows that Black theorists not only leaned on the Declaration, but transformed its utility within the politics of citizenship. Drawing on a “substantive understanding of American nationalism,” these Black theorists conjured a “national citizenship” which portrayed the Constitution “as committed to an expansive notion of the people” (p. 43).

Out of this foment of founding-era memory, immediatist abolitionists of the 1830s came to see their mission “as the fulfillment of commitments made at the time of the Revolution ... which subsequent actions had left unmet” (p. 63). This left a difficult strategic question: How could they claim abolition was the Revolution’s legacy when the founders had failed to abolish slavery, and in fact, many had been slaveholders? They skirted these questions by channeling the founders through text, particularly through the Declaration of Independence. Meanwhile, slaveholders also looked for a past that could be useful to slavery’s future. Gilhooley takes a cue from William W. Freehling, identifying the Virginia state constitutional debates of 1831-32 as a crossroads in the politics of American slavery, wherein slaveholders “made a constitutional protection of private property a mainstay of their case for slavery” (p. 98). They became increasingly deferential to the historical weight of constitution-making as a process, and tied its sanctity to the protection of property-in-man.

From these intellectual foundations, the 1830s saw slaveholders move away from a compact theory that rested in strict constructions of retained state sovereignty and toward a more ethereal “spirit of compromise” (p. 117). They were pushed when the defense of the peculiar institution began to demand more than federal noninterference, requiring instead proactive federal support. No issue better emblemized this shift than the question of slavery in the District of Columbia, a “vital space within both the abolitionist and slaveholding imagination, and a vital cog within the slave economy” (p. 126). Slaveholders in Congress defended slavery in D.C. on the grounds that, in Gilhooley’s words, “the great object of the Constitution had been to form a more perfect union, and ... the district had been ceded to enable this” (p. 184). That argument found its way into executive policy. When Martin Van

Buren pledged in his inaugural address to veto any D.C. abolition bill that reached his desk, he claimed to do so “in accordance with the spirit that actuated the venerated fathers of the Republic” (p. 200). The abolitionist spirit of the Constitution, Gilhooley argues, emerged as a specific response to this proslavery logic and used the tools laid out by Black writers in the 1820s.

The payoff of Gilhooley’s thesis becomes evident when he arrives at Roger Taney’s *Dred Scott* decision. Taney’s decision to anchor his ruling in tenuous assertions of what the founders must have meant, without a significant degree of textual support, has long puzzled historians. Now, it appears clearly as the culmination, or at least the most extreme version, of a two-decade-old proslavery intellectual project. There is, Gilhooley asserts, an additional legacy of these struggles that outlived the politics of slavery. We are stuck with the founders and their spirit, and therefore locked into a mode of constitutional politics that is “tilted toward conservatism” (p. 248). This reviewer was left wondering if Gilhooley’s work might also hold a different lesson. Does the antebellum struggle over slavery not show us that a politics driven by the spirit of the founding might powerfully support a range of political ends, progressive as well as conservative? Either way, skeptics and proponents of constitutional politics alike could not ask for a better starting point than this book.

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**Borderland Blacks: Two Cities in the Niagara Region During the Final Decades of Slavery**, dann j. Broyld, Baton Rouge: Louisiana State University Press, 2022, pp. 304, \$45.00 (hbk), ISBN 9780807177068

Works on the Underground Railroad, specifically the movement of Blacks from the United States into Canada, have overwhelmingly centered on the one-way flow of fugitives; redressing this, dann j. Broyld’s *Borderland Blacks* explores two cities in the Niagara region, Rochester and St Catharines, during the final years of slavery, revealing the fluid and collaborative nature of these two localities. In so doing, Broyld details the ways in which connections were formed and identities consolidated across regions and throughout the Black Diaspora.

The first chapter sets the scene, illustrating the mutability of the Niagara region between 1800 and 1865, focusing predominantly on the 1850s. The geopolitical and social climate of Rochester and St. Catharines cultivated theoretical as well as structural frameworks that facilitated movement between these two cities; infrastructurally, the advent of roadways, waterways, and railways created a “time-space compression that nurtured regional consciousness and social intercourse” (p. 55). Broyld also asserts that from the early 1800s borderland Blacks recognized that political dynamics and legal structures were more hospitable in British Canada, providing greater security for their rights, liberties, and immunities. Canada’s relationship with Britain, specifically Britain’s role in abolishing slavery, caused many Black Americans to look favorably on Canada. This transatlantic heritage of northern Blacks converged, shaping their identities and their conviction to help each other. The U.S. Civil War bolstered this fluidity and provided Blacks an opportunity to defend their civil liberties, as