

THE DECLARATION OF INDEPENDENCE
AND NEGRO SLAVERY: 1776 - 1876

Thesis for the Degree of Ph. D.
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ABSTRACT

THE DECLARATION OF INDEPENDENCE

AND NEGRO SLAVERY: 1776-1876

By

Dietrich Hans Schlobohm

One of the fundamental statements of American political faith has long been the Declaration of Independence. During the course of the nineteenth century the Declaration was used and interpreted in a variety of ways. Numerous individuals, groups and movements identified themselves with its principles in hopes of realizing some aim or idea. This can be seen by studying the questions of state's rights, secession, woman's rights, temperance, labor reform and suffrage.

The Declaration was most frequently used, however, with regard to the problem of slavery. This dissertation analyzes and describes how Americans of varying persuasions have interpreted and applied the document's principles with respect to the issues of slavery, race and equality. Hence, the study also explores prevailing attitudes on these questions, and in particular American beliefs concerning the Negro and his status in American life. In a broader sense this work reflects nineteenth century American views on the purpose of government and the nature of society. While

the first fifty years of the Declaration's history is reviewed, the focus of concentration is on the period from 1826 to 1876.

In the 1830's the Declaration of Independence became an antislavery manifesto. Abolitionists used the document's concepts of equality, inalienable rights and consent of the governed to justify their cause and highlight the inconsistency between American principles and the practice of slavery. Such usage continued during the 1840's and through the Civil War.

The Declaration and its principles, however, were often questioned and criticized. Some of the strongest criticism came from proslavery Southerners who did not repudiate the document per se, but who rejected it as interpreted by antislavery men. Southerners, in fact, often used Jefferson's famous paper to support their own aims and ideas such as state's rights and secession. Northern anti-abolitionists also leveled criticism against the document fearing that abolitionist activities and use of the Declaration's doctrines posed a threat to the Union.

Also discussed in this study is the Declaration's role in the politics of the period and its relationship to the Thirteenth, Fourteenth and Fifteenth Amendments. These areas of study reinforce the thesis that the document served a diversity of purposes and was frequently utilized in an

inconsistent and contradictory manner. The rhetoric of many antislavery Republicans for example, often far exceeded what they were willing to do in practice. Not only Republicans, but many of those who identified themselves with the document either did not completely comprehend, or were unwilling to accept its full implications.

The most important materials used for this study were articles, pamphlets and books containing the writings and speeches of those involved in the slavery controversy. The Congressional Record and Fourth of July orations were also extremely valuable.

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CHAPTER I

THE FIRST FIFTY YEARS: AN INTRODUCTION

On July 4, 1776 a defiant group of men in Philadelphia finished debating and formally adopted one of this nation's most important documents. The Declaration of Independence was the proclamation used by Thomas Jefferson and the founding fathers to symbolize and justify political independence from Great Britain. The Declaration, however, was not only significant because it allegedly gave the new nation its legitimacy, but also because it became a basic expression of American principles. Many Americans have in fact viewed it as a fundamental basis for government.

The Declaration of Independence, while often revered as one of America's most sacred documents, has also remained one of its most controversial. This is because there have always been basic questions regarding the Declaration's purpose and meaning which have never been adequately resolved, at least not in any unanimous sense.

Robert Frost in a poem entitled The Black Cottage has remarked:

That's a hard mystery of Jefferson's.
What did he mean? Of course the easy way
Is to decide it simply isn't true.

It may not be. I heard a fellow say so.
 But never mind, the Welshman got it planted
 Where it will trouble us a thousand years.
 Each age will have to reconsider it!¹

The "hard mystery" referred to by Frost represents the statement of political philosophy found in the Declaration's famous second paragraph. That section proclaims certain self-evident truths and inalienable rights, and also comments upon the relationship between man and government. Many Americans have repeatedly referred to these so-called truths and rights with a sense of emphatic absolutism. This is a rather interesting phenomenon since those rights and truths have always been rather ambiguous and subject to question. In attempting to explain the meaning of Jefferson's statement of political philosophy, Americans have in fact often been vague and inconsistent.

Were the political principles of the Declaration to be regarded as absolutes, as ideals, or as glittering generalities? While this question has been frequently discussed it has never received a final answer. The Declaration of 1776 has meant different things to a great number of Americans at various times in our history. In a very real sense the Declaration's history represents a significant aspect of the American experience.

¹Robert Frost, "The Black Cottage," Complete Poems of Robert Frost (New York: Holt, Rinehart, & Winston, 1949), pp. 75-76.

In the late eighteenth and during the course of the nineteenth century the Declaration of Independence was interpreted in a variety of ways and associated with numerous political, social and economic causes. It was used, for example, in support of antislavery, state's rights, woman's rights, temperance, labor reform, suffrage, and numerous other movements and ideas. During the nineteenth century, however, the Declaration and its principles were most frequently invoked and debated in regard to the question of slavery.

The primary purpose of this dissertation therefore will be to examine this fundamental expression of the American creed and attempt to discover how Americans of varying persuasions have interpreted and applied it in regard to the issues of slavery, race and equality. Hence, the study also explores prevailing attitudes on these questions, and in particular American beliefs concerning the Negro and his status in American life. In a broader sense this work reflects nineteenth century American views on the purpose of government and the nature of society. The focus of concentration will be on the period from 1826 to 1876. In order to provide the reader, however, with a more meaningful framework I will first briefly review the Declaration's history from 1776 to 1826, and also discuss how the document was used in respect to such questions as state's rights, secession, woman's rights, temperance,

suffrage and labor.

In the years shortly following the Declaration's adoption independence received the greatest attention. While the document's political philosophy was sometimes referred to, especially by antislavery advocates, it was more often associated with the act of separation from England.² By the fall of 1776, for example, the self-evident truths of the Declaration were rarely referred to by American political propagandists. John Adams in a letter to his wife Abigail, dated July 3, 1776, emphasized the passing of the July 2nd resolution, paying little attention to the Declaration itself. When he did refer to the document he associated it with the idea of American independence rather than the inalienable rights of man.³ Even Thomas Jefferson, while certainly not rejecting the Declaration's political principles, also stressed its importance as a rationale for independence. In a letter to Henry Lee dated May 8, 1825 he stated:

²The question of slavery and the Declaration of Independence during the Revolutionary period will be discussed in Chapter II.

³Philip F. Detweiler, "The Changing Reputation of the Declaration of Independence: The First Fifty Years," William & Mary Quarterly, 3rd Series, XIX (1962), pp. 557, 558. Charles F. Adams, ed., The Works of John Adams (10 vols.; Boston: Charles C. Little & James Brown, 1850-1856), I, 230, 232. The July 2nd resolution referred to by Adams was Richard H. Lee's resolution of June 7, 1776 which declared "that these United Colonies are, and of right ought to be, free and independent States,"

When forced, therefore, to resort to arms for redress, an appeal to the tribunal of the world was deemed proper for our justification. This was the object of the Declaration of Independence. Not to find out new principles, or new arguments, never before thought of, not merely to say things which had never been said before; but to place before mankind the common sense of the subject, in terms so plain and firm as to command their assent, and to justify ourselves in the independent stand we are compelled to take.⁴

((Philip F. Detweiler, an historian who has done considerable work on this subject, has noted that the founding fathers "viewed the Declaration principally as a proclamation of independence."⁵

July 4th anniversary celebrations in the years shortly following independence, also indicate that the Declaration was primarily associated with the act of separation. At one such Philadelphia celebration in 1778, the Declaration was ignored, while the act of independence was stressed. As one recent historian has noted, following the Revolutionary War the right to revolution was repeatedly deemphasized in July 4th orations.⁶

⁴Paul L. Ford, ed., The Writings of Thomas Jefferson (10 vols.; New York: G. P. Putnam's Sons, 1899), X, 343.

⁵Detweiler, op. cit., pp. 557, 558. The best account of the Declaration of Independence during the years of 1776 to 1826 is an unpublished Ph.D. dissertation by Detweiler entitled "The Declaration of Independence in Jefferson's Lifetime" (Tulane University, 1954).

⁶David Hawke, A Transaction of Free Men: The Birth and Course of the Declaration of Independence (New York: Charles Scribner's Sons, 1964), p. 212. Merle Curti, Probing Our Past (New York: Harper & Brothers, 1955), p. 109. Detweiler, "The Changing Reputation of the Declaration of Independence," pp. 559, 560.

Early historical accounts of the Revolutionary period also tended to stress the element of independence. David Ramsey in his History of the American Revolution (1789) devoted several pages to the Declaration, but did not discuss its political philosophy. Similarly, William Gordon in his account of the Revolution published that same year also ignored the Declaration's principles and emphasized the factor of political independence.⁷

During the Constitutional Convention the Declaration was rarely referred to and the vast amount of political literature concerning the disputed Constitution contains few references to Jefferson's paper. John Bach McMaster once noted that during this period "very scanty recognition seems to have been given to the equality of men, or to their inalienable rights to life, liberty, and the pursuit of happiness."⁸ While McMaster's argument may have validity it does not necessarily mean the principles of the Declaration were rejected by the framers of the Constitution. The available evidence, however, does tend to support the conclusion that Americans of the Revolutionary period

⁷David Ramsey, The History of the American Revolution (2 vols.; Trenton, N. J.: James J. Wilson, 1789, 1811), pp. 431-434. William Gordon, The History of the Rise, Progress, and Establishment of the Independence of the United States of America (New York: John Woods, 1789), p. 91.

⁸Detweiler, op. cit., pp. 562-563. John Bach McMaster, The Acquisition of Political Social and Industrial Rights of Man In America (Cleveland: The Imperial Press, 1903), p. 40.

primarily associated the proclamation of 1776 with separation from the mother country.

With the adoption of the Constitution, a new system of government was launched which inadvertently affected the reputation of the Declaration of Independence. During the 1790's, largely because of rivalry between political parties, a change in emphasis occurred respecting the Declaration; men became more interested in its principles. In studying the Federalists one notices that they were not avid supporters of the Declaration for two main reasons: (1) they were pro-British which was in conflict with the anti-British nature of the Declaration, and (2) they were wary of a political philosophy which sanctioned the right to revolution, and upheld the equality of all men. The Federalists therefore tended "to criticize the democratic excess which they associated with Republican interpretation of the Declaration's principles." By 1801, however, the Republicans were dominant politically and identified the Declaration with the ideas of natural rights, equality, and consent of the governed. With the passing of the French Revolution, and the disintegration of the Federalist party, the Jeffersonian conception of the Declaration was assured a place in American history.⁹

Following the War of 1812, a growing sense of

⁹Detweiler, op. cit., pp. 565-568, 570-571.

nationalism emerged in the United States. A leading magazine noted that "It is delightful to see the words 'national character,' 'national feeling,' and the like, coming into common use;" This national self-consciousness led to a renewed interest in the events, causes, and principles of the Revolution, and also added to "the growing prestige of the Declaration." Another magazine editorial on American independence in July of 1816 praised the founding fathers and stressed the importance of the principles of equality and consent of the governed, maintaining that such concepts should not be ridiculed.¹⁰

In this post-War of 1812 period there were many factors which indicate an increased interest and pride in the Declaration of Independence. John Binns, for example, the publisher of the Democratic Press, in 1816 announced his plans to issue engraved copies of the Declaration. A notice placed by Binns in Niles' Weekly Register stated that

We are firmly persuaded that the more the principles of the Declaration of Independence are spread out before the eyes of the world, the more they will be admired, by foreign nations as well as our own; and every innocent and honest device that may serve to attract attention toward them will serve, also to promote the great cause of public liberty.

Binns felt that elegant facsimiles of the Declaration would

¹⁰ Niles' Weekly Register, July 19, 1817, p. 321; July 13, 1816, p. 321. North American Review, January 1826, pp. 177-178. Detweiler, op. cit., p. 571.

help people familiarize themselves with its principles.

Benjamin Owen Tyler a professional penman and writing instructor also had ideas about publishing facsimiles of the Declaration. This he did in 1818, beating Binns into print and creating a publishers quarrel between them.

Binns, however, did manage to publish a more ornate facsimile the following year. Both ventures were financially successful and brought considerable attention to the Declaration.¹¹

In February of 1817 Congress authorized President Madison to commission John Trumbull, a well known American artist interested in history, to do several paintings commemorating the most important events of the Revolution.

One of these was the now famous painting of Jefferson and his committee presenting the Declaration to Congress.

Samuel A. Wells a grandson of Samuel Adams, in a letter to Jefferson dated June 2, 1819, remarked that while he was disappointed with Trumbull's work on the Declaration, it had nevertheless been favorably received by the public.¹²

¹¹Niles' Weekly Register, July 6, 1816, p. 310.
Dumas Malone, The Story of the Declaration of Independence (New York: Oxford University Press, 1954), pp. 253-254.

¹²U. S., The Debates and Proceedings of the Congress of the United States, 14th Cong., 2nd Sess., 1817, p. 1348.
John H. Hazelton, "The Historical Value of Trumbull's Declaration of Independence," The Pennsylvania Magazine of History and Biography, vol. XXXI (1907), pp. 32, 35, 36.
Trumbull's painting of the Declaration is on permanent display in the rotunda of the Capitol in Washington.

Several years later, John Q. Adams in his capacity as Secretary of State had printed an official facsimile of the original Declaration, which became the basis for all later engravings.¹³ Adams, who was an ardent admirer of the Declaration, sent copies to the surviving signers and other important persons in the country.

An incident during this same period which brought more attention to Jefferson's paper involved the author himself. In 1822, at least two newspapers, the Philadelphia Union and the Federal Republic challenged the idea of Jefferson's sole authorship of the Declaration. Then at a Salem, Massachusetts July 4th celebration, in the following year, Timothy Pickering asserted that Jefferson's contribution in writing the famous paper was not particularly significant and that the document was vastly improved by Congress' deletions. Jefferson could not ignore the incident, which had now become a public issue, and expressed his feelings in a letter to James Madison. He questioned and disputed several of Pickering's statements regarding the authorship and adoption of the Declaration, maintaining that either Pickering misquoted his source of information or that John Adams' memory had failed him.¹⁴

¹³Malone, op. cit., p. 254.

¹⁴Julian P. Boyd, ed., The Papers of Thomas Jefferson (16 vols., Princeton, N. J.: Princeton University Press, 1950-1961), I, 300. Adams, op. cit., II, 512-515. Ford, op. cit., X, 267-269. Pickering's source was a letter from John Adams dated August 6, 1822.

An examination of historical works published during the 1820's also indicates that there was an increased interest in the Revolutionary period. In 1822 Hezekiah Niles published his Principles and Acts of the American Revolution. From 1820 to 1827 John Sanderson, who was both an author and teacher, published a nine volume series entitled Biography of the Signers to the Declaration of Independence. The North American Review commenting on Sanderson's work, noted that "the Declaration of Independence - a national monument, not more lasting than brass, but as durable in its effects and association, as the republic itself and the name of freedom, - still deserves every illustration, which documents, tradition, or the arts can afford."¹⁵ One year after the printing of Sanderson's last volume, Timothy Pitkin's two volume history of the United States from 1763 to 1797 appeared. Also published during this period were such works as Memoir of the Life of Josiah Quincy (1825), Memoir of the Life of Richard H. Lee (1825), Chancellor James Kent's Commentaries on American Law (1826), and Charles Goodrich's Lives of the Signers (1829). While I believe these publications support Detweiler's contention regarding a renewal of interest in the Revolutionary period and the Declaration, an analysis of Sanderson's and Pitkin's work does not reveal any particular

¹⁵North American Review, January, 1823, p. 195.

emphasis upon the philosophy of Jefferson's paper. In fact, both authors ignore the political principles expressed in the Declaration and basically associate the document with the act of independence.¹⁶

On July 4, 1826 cities and towns across the country honored the fiftieth anniversary of American independence with "jubilee" celebrations. Some of the most eloquent orators and prominent statesmen of the day delivered speeches in honor of the nation's birth. One such oration was given by the renowned Edward Everett at Cambridge, Massachusetts. Everett expressed the questionable opinion that the Declaration marked the most important event in the history of the world. He also stressed the importance of reasserting the principles of equality and consent of the governed.¹⁷

July 4th, 1826 however, was destined to have a special significance for Americans because on this very day two of the surviving signers and authors of the Declaration --

¹⁶John Sanderson, Biography of the Signers to the Declaration of Independence (9 vols.; Philadelphia: R. W. Pomeroy, 1820-1827), I, ccxviii-ccxix; II, 24-28. Timothy Pitkin, A Political and Civil History of the United States of America (2 vols.; New Haven, Conn.: Hezekiah Howe & Durrie & Peck, 1828), I, 365, 370-371.

¹⁷Edward Everett, An Oration Delivered at Cambridge on the Fiftieth Anniversary of the Declaration of Independence (Boston: Cummings, Hilliard, & Co., 1826), pp. 14, 12, 24, 35. Another Fourth of July 1826 oration which emphasized the principles of the Declaration was Henry Colman's "An Oration Delivered in Salem on the Fourth of July, 1826" reviewed in the United States Literary Gazette, September, 1826, pp. 428-429.

Thomas Jefferson and John Adams -- died within hours of one another. To many Americans such a coincidence could not be purely a matter of chance or circumstance. The American Annual Register appears to have summed up the feeling of many Americans by interpreting the occurrence as the interposition of divine providence, stamping American independence "with a perpetual seal of sacredness." The magazine also stated that "the whole range of history may be appealed to, in vain to produce an event of equal singularity and interest." In the weeks that followed numerous eulogies and orations were delivered in memory of the two revered founders. In commenting on their lives and achievements, the Declaration of Independence was often mentioned.¹⁸

During the first fifty years of the nation's history the Declaration came to receive increasing attention and recognition. While the document was primarily associated with the act of independence its political principles also became an increasing source of interest and controversy. This latter point will be pursued in the following chapter which will discuss the antislavery movement and the famous Missouri controversy debates of 1819-1821.

¹⁸ American Annual Register, 1825-1826, Part I, p. 28; Part II, p. 225. Also see the Christian Examiner and Theological Review, July & August, 1826, pp. 316-317 and Niles' Weekly Register, July 15, 1826, p. 350. "Eulogies on Thomas Jefferson and John Adams," American Quarterly Review, March, 1827, pp. 54-77. Niles' Weekly Register for the months of July and August in 1826 contains numerous eulogies and comments on the lives and achievements of Jefferson and Adams.

Two of the most significant aspects of the Declaration's history during the middle years of the nineteenth century were: (1) the diversity of purposes it served and (2) the concentration upon its political philosophy. The Declaration and its doctrines were used by many different persons, groups and movements in support of a variety of causes.

In one July 4th, 1826 ceremony during the "jubilee" of independence, for example, Robert Owen the utopian socialist proclaimed a Declaration of Mental Independence. Speaking at New Harmony, Indiana, he called upon all of mankind to free themselves from the oppressions of "Private or Individual Property, Absurd and Irrational systems of Religion, and Marriage founded on Individual Property" According to Owen such institutions clearly hindered men in their pursuit of happiness.¹⁹

The Declaration of Independence was also used by many Americans to clarify the nature of the Union in the decades before the Civil War. Unionists argued that the Declaration supported the idea that the colonies united to form one people and one nation. State's rights advocates, however, often maintained the Declaration proclaimed the states to be sovereign and independent entities and ultimate sovereignty therefore resided with the states and not the

¹⁹John H. Noyes, History of American Socialisms (New York: Hillary House, Ltd., 1870, 1961), pp. 39, 45, 46.

national government.

An advocate of the unionist position was John Q. Adams. In a July 4, 1831 oration before a Quincy, Massachusetts audience he noted that the Declaration did not refer to individual states, but rather was a proclamation made by the "United Colonies" in the name of one people. According to Adams, union and independence were inseparable, and the concepts of nullification and secession were clearly refuted by the nation's founding document.²⁰

In support of the opposing point of view, John C. Calhoun in A Discourse on the Constitution and Government of the United States (1851) used the last paragraph of the Declaration, which affirms that the states are "free and independent," to support state's rights doctrine. Similarly, Supreme Court Justice Archibald Campbell of Alabama in his separate opinion in the Dred Scott case contended that the Declaration of 1776 supported the concept of sovereign and independent states.²¹

Sectional tension and disagreement over the nature of

²⁰John Q. Adams, An Oration Addressed to the Citizens of the Town of Quincy on the Fourth of July, 1831 (Boston: Richardson, Lord & Holbrook, 1831), pp. 6, 7, 17, 18.

²¹Richard K. Cralle, ed., The Works of John C. Calhoun (6 vols.; New York: D. Appleton & Co., 1854-1857), I, 115, 116, 123, 124; VI, 107-109. A Report of the Decision of the Supreme Court of the U. S. in the Case of Dred Scott vs. John F. A. Sanford (New York: D. Appleton & Co., 1857), p. 502. Justice Campbell agreed with the decision of the Court, but filed a separate opinion.

the Union finally led the nation to civil war in 1861. During the secession crisis of 1860 and 1861 both Southerners and Northerners, however, identified the principles of state rights and secession with the political philosophy of the Declaration. The proclamation of 1776 had specifically stated that when the people believed government had failed in its purpose they had the right to change or abolish it. Southern political leaders such as Jefferson Davis of Mississippi and Gustavus A. Henry of Tennessee used the Declaration's principles of inalienable rights, consent of the governed and the right to revolution to justify secession. The New Orleans Daily Crescent in discussing the South's right to secession in a November 13, 1860 editorial referred to the peoples' right to alter or abolish government as expressed in the Declaration of Independence and added that "higher authority than the above [D. of I.] is not to be found in the history of the United States."²²

Northern newspapers while not necessarily supporting secession, often admitted the South's right to such action.

²²Jefferson Davis, The Rise and Fall of the Confederate Government (2 vols.; New York: Thomas Yoseloff, 1881, 1958), I, 153, 184. Ralph H. Gabriel, The Course of American Democratic Thought: An Intellectual History Since 1815 (2nd ed. rev.; New York: The Ronald Press Co., 1940, 1956), p. 122. Dwight L. Dumond, ed., Southern Editorials on Secession (New York: The Century Co., 1931), pp. 235, 236. Also see "The Right of Secession," DeBow's Review, XXX (April, 1861), p. 398. Secessionists believed that the national government was formed by a voluntary compact among the states from which members could withdraw at their discretion.

Horace Greeley's New York Daily Tribune, for example, in a February 28, 1861 editorial stated

that the great principle embodied by Jefferson in the Declaration of American Independence, that governments derive their just powers from the consent of the governed, is sound and just; and that, if Slave States, the Cotton States, or the Gulf States only, choose to form an independent nation, they have a clear moral right to do so.²³

Another aspect of American life which saw frequent use of the Declaration and its principles was the various reform movements which gained momentum in the late 1820's, 1830's, and 1840's. One of the most notable of such groups was the woman's rights movement. In attempting to obtain legal and political equality with men, women such as Elizabeth Cady Stanton, Lucretia Mott, Susan B. Anthony, Lucy Stone, Ernestine Rose and numerous others frequently made use of the doctrines of inalienable rights, equality and consent of the governed. At the Seneca Falls, New York convention in 1848, for example, Elizabeth C. Stanton presented a Declaration of Sentiments which paraphrased the Declaration of Independence paragraph by paragraph. Mrs. Stanton

²³Howard C. Perkins, ed., Northern Editorials on Secession (2 vols.; New York: D. Appleton - Century Co., 1942), I, 359, 360. Further references to other northern newspapers using the Declaration of Independence in recognition of the southern states' right to secede can be found in vol. I, 186, 187, 188, 199, 200, 201, 352, 353; vol. II, 651.

Even many abolitionists believed the South had a legal right to secede from the Union based on the principles of the Declaration. See, for example, George M. Fredrickson, The Inner Civil War: Northern Intellectuals and the Crisis of the Union (New York: Harper & Row, 1965), pp. 58, 59.

believed that political equality with men was clearly expressed in the proclamation of 1776. Ernestine Rose, a well educated Polish emigre, was representative of many woman's rights advocates when she claimed equality with men by quoting the second paragraph of the Declaration of Independence in an October 18th, 1854 address. She stressed that the document proclaimed the doctrine of consent of the governed, and "as woman is a subject of government she ought to have a voice in enacting the laws."²⁴

Another active group within the reform movement of the period were those who believed society's problems could be solved through the practice of temperance. At the founding of the American Temperance Society on February 13, 1826 a Declaration of Independence was adopted which the Rev. John Marsh hoped would come to surpass the original Declaration of 1776 in prestige and influence. Some temperance supporters saw a close parallel between the revolutionary movement of 1776 and the temperance movement of the 1820's and 1830's. The Declaration of 1776 brought Americans political freedom, but the practice of drinking was a serious threat to that freedom. A July 4th temperance celebration in Philadelphia in 1835 included the reading

²⁴Elizabeth C. Stanton, Susan B. Anthony and Matilda J. Gage, eds., History of Woman Suffrage (6 vols.; Rochester, N. Y.: Charles Mann, 1881-1920), I, 68-73, 376, 377. For further references to the Declaration by woman's rights advocates see I, 106, 107, 129, 130, 237, 238, 262, 315, 316, 376, 377, 382.

of a Declaration of Temperance which closely resembled the original Declaration of Independence. The 1835 proclamation declared that whenever any habit or custom threatened the people's inalienable rights to life, liberty and happiness they had the right to alter or abolish such customs. According to temperance supporters: "... without temperance there can be no virtue, no happiness, no independence, individual or national."²⁵

The Declaration of Independence was also used by those seeking to extend the franchise in various states. Thomas Wilson Dorr who led the famous rebellion for suffrage in Rhode Island during the early 1840's frequently made use of the Declaration. Speaking before the State Constitutional Assembly in May of 1842 he maintained that the Declaration expressed the following fundamental principles of American government: (1) that governments were based on the consent of the governed and, (2) that the people have the right to alter or abolish government when it infringes on their safety and happiness.²⁶

²⁵John Marsh, (Boston: William P. James Gillpatrick, An Desert Temperance Society, Edmands, 1832), p. 17. Temperance with Republic, Benedict, 1835), pp. 6, 7.

²⁶Irving Mark and Eugene of Our Fathers: An Anthology of the American Common Man, 179 (Knopf, 1952), pp. 60, 61, 62.

William Byrdsall, the Party (New York, 1940, 41).

The proclamation of 1776 also found expression within the labor movement of the 1830's. Robert Walker, chairman of the New York Committee of Mechanics and Workingmen in a November 26th, 1830 address demanded equal rights for working men and the poor. In his speech Walker also asked:

Is it in keeping with the Declaration of Independence, to proclaim 'equal rights' the birthright of every American citizen, and yet charter monopolies for the benefit of the few, at the expense of the rights and the interests of the many?

Other labor leaders such as Seth Luther of Rhode Island made use of the Declaration of Independence as did the Locofocos who represented the radical wing of the Democratic party and often associated themselves with the cause of labor.²⁷

Several important points should be kept in mind regarding the persons and groups just discussed. First, the material and ideas presented were not intended to represent a conclusive study, but rather to demonstrate the diversity of purposes which the Declaration served. The Declaration was not limited in use to any particular class of people or section of the country. Americans with sometimes sharply differing backgrounds and beliefs freely used and endorsed the document. Second, reformers in particular made frequent use of the document. This was primarily

²⁷Ibid., pp. 55, 56, 57, 58, 60. Fitzwilliam Byrdsall, The History of the Loco-Foco or Equal Rights Party (New York: Clements & Packard, 1842), pp. 39, 40, 41.

because the Declaration was widely respected by Americans and also contained ideas which could easily be applied to a broad range of objectives. Many reformers appeared to have viewed the Declaration as an ideal or guide which, if only followed, would set America on the right course. Third, the focus of concentration was primarily on the statement of political philosophy found in the Declaration's second paragraph. Nevertheless, while the Declaration's principles were used for a variety of purposes during the nineteenth century they were most frequently used within the context of slavery.²⁸

²⁸From a quantitative point of view, the debate and criticism generated by the Declaration in regard to slavery and Negro equality easily surpassed all of its other uses combined.

CHAPTER II

SLAVERY AND THE DECLARATION: 1776-1840

The birth date of slavery in America was 1619 when a Dutch frigate deposited 20 ^{Africans} Negroes in Jamestown, Virginia. While some colonies and groups had questioned the practice of slavery, it was not forcefully attacked until the Revolutionary period, and a large scale movement devoted to its abolition did not begin until the 1830's. This crusade continued on through the Civil War and did not relent until 1870 when a majority of abolitionists viewed the Fifteenth Amendment as final victory.¹ The Declaration of Independence played an important role in this struggle because of its emphasis upon individual rights and because many persons viewed it as a basic expression of the American creed. The Declaration elicited opinions on such vital questions as race, equality and the nature and purpose of American society and therefore merits serious examination

¹James M. McPherson, The Struggle For Equality (Princeton, N. J.: Princeton Univ. Press, 1964), p. 429. I have found it impossible to make a clear and meaningful distinction between the terms antislavery men and abolitionists, and have therefore chosen to use the terms interchangeably. In cases, however, where such a distinction is crucial, I will attempt to provide the necessary clarifications.

and consideration. This chapter then will briefly treat the question of slavery and the Declaration from 1776 through the 1830's when the antislavery movement gained forceful momentum.

The American Revolution, while primarily a movement for political independence, also acted as a catalyst in effecting social change. One result of the colonial conflict with Great Britain was a growth in antislavery sentiment. Men such as John Woolman, Anthony Benezet, Benjamin Franklin, Thomas Paine and Benjamin Rush actively spoke out against slavery. In the years shortly preceding independence antislavery supporters often identified the colonial cause with that of the black man. Thomas Paine, for example, made such an association in a March 1775 article and called for an end to slavery.²

During the Revolutionary War and the 1780's advocates of Negro emancipation repeatedly pointed to the inconsistency between the practice of slavery and the use of natural rights principles to justify colonial claims. The Rev. William Gordon of Roxbury, Massachusetts referred to the Declaration of Independence in reminding his fellow citizens that slavery was inconsistent with their own struggle for freedom. Such thoughts were also echoed by Anthony Benezet,

² John H. Franklin, From Slavery to Freedom (New York: Alfred A. Knopf, 1947, 1965), pp. 125, 126. Arthur Zilversmit, The First Emancipation: the Abolition of Slavery in the North (Chicago: Univ. of Chicago Press, 1967), pp. 95, 96, 97.

the Pennsylvania Quaker, in a pamphlet published in 1783. In the following year the Rhode Island legislature passed a bill providing for the gradual abolition of slavery, stating that slavery was contrary to the rights of man.³

It is also perhaps revealing to note that a bill of rights attached to the Massachusetts Constitution of 1780 contained language similar to the Declaration of Independence, declaring for example, the equality of all men. In the Jennison case of 1783 Chief Justice William Cushing of the Massachusetts Supreme Court noted that slavery was inconsistent with natural rights principles and the fundamental law of the state. According to Cushing, the Constitution of 1780 proclaimed all men to be free and equal and guaranteed to protect their rights to life, liberty and property. On this basis the court ruled that slavery was illegal in Massachusetts.⁴

Antislavery supporters continued to use natural rights arguments and the Declaration to protest against slavery in

³Zilversmit, op. cit., pp. 94, 96-99, 170, 110, 121. William S. Jenkins, Pro-Slavery Thought in the Old South (Chapel Hill, N. C.: The Univ. of N. Carolina Press, 1935), pp. 34, 35.

⁴Zilversmit, op. cit., pp. 112, 114, 115. It should be noted, however, that the Massachusetts Constitution of 1780 did not mention slavery and there is no evidence that its framers intended the document to abolish the practice. See Zilversmit, pp. 112, 113. Similarly, there is also no evidence that the Declaration of Independence was viewed as a part of the constitutional law of Massachusetts or that it was responsible for abolishing slavery in that state. See my discussion of the Declaration's legality in Chapter V, 226-228.

the 1790's. In 1791 Benjamin Banneker, the Negro astronomer, sent Thomas Jefferson, along with a copy of his Almanac, a letter criticizing Jefferson for upholding the principles of equality and inalienable rights, and continuing to own slaves. Two years later in a July 4, 1793 oration before the Tammany Society of New York, the Rev. Samuel Miller speaking on slavery stated: "Alas that we should so soon forget the principles, upon which our wonderful revolution was founded." George Buchanan in an oration delivered on the same day in Baltimore repeated the charge of inconsistency between slavery and the principles of American independence.⁵

The natural rights philosophy of the Revolutionary era played an important role in stimulating the growth of abolitionist sentiment in the North, and appears to have been a significant factor in the actual steps taken to eliminate slavery.⁶ Antislavery advocates effectively used natural rights principles and the Declaration of Independence

⁵Lorenzo D. Turner, Anti-Slavery Sentiment in American Literature Prior to 1865 (Washington, D. C.: The Assn. For the Study of Negro Life and History, 1929), pp. 14, 15. Merle Curti, Probing Our Past (New York: Harper and Brothers, 1955), pp. 105, 106. Jenkins, op. cit., p. 37.

⁶During the Revolution and in the decade shortly thereafter most northern states took some kind of action towards eliminating slavery. Arthur Zilversmit builds a strong case that the natural rights and revolutionary philosophy of the period played an instrumental role in this regard. See Zilversmit, op. cit., pp. 137, 138, 226, 227, 228.

to demonstrate the inconsistency between slavery and the basis of American government. While the Declaration was invoked at times to bring attention to the contradiction it does not appear that the document or its principles were the major weapon in the antislavery argument. Nor does there appear to have been any detailed use, analysis or criticism of the Declaration's principles during the Revolutionary era.⁷

The early part of the nineteenth century up until approximately 1831 has often been referred to as the "neglected period" of antislavery activity. This is particularly true for the period before 1819, for while antislavery agitation never really ceased to exist during these years it was not especially vociferous or well organized. In the first two decades of its existence, Congress, under the new Constitution only debated slavery on a few occasions, and in the decade after 1807 foreign affairs and the problems of war tended to dominate the nation's interest.⁸

It is not surprising therefore to find only occasional

⁷The major antislavery arguments used during the Revolutionary period appear to have consisted of religious, moral and natural rights principles. Zilversmit in his treatment of the period, for example, presents no evidence that the specific principles found in the Declaration's preamble received a great deal of discussion or attention. Also see Philip Detweiler's "The Declaration of Independence in Jefferson's Lifetime" (unpublished Ph.D. dissertation, Tulane Univ., 1954), pp. 103, 109, 110.

⁸Jenkins, op. cit., pp. 49, 50, 56. Alice F. Tyler, Freedom's Ferment (New York: Harper Torchbook, 1944, 1962), p. 470.

references to the Declaration with regard to slavery in these years. One instance in which the document received mention was the congressional slave trade debates of 1806. Representative John Smilie of Pennsylvania referred to the Declaration in criticizing the infamous practice. Smilie's colleague, Joseph Clay also from Pennsylvania, however, challenged such usage. According to Clay the principles of the document had to be qualified. He noted, for example, that men did not really have an inalienable right to life and liberty. In the same year John Parish a Quaker writer and staunch abolitionist, published a book called Remarks on the Slavery of the Black People in which he maintained that Congress had the power to abolish slavery. He based his argument on the Declaration and the Constitution's preamble.⁹

A revealing episode concerning slavery and the Declaration occurred in 1818 and involved the future Supreme Court Justice of the United States, Roger B. Taney. In that year Jacob Gruber, a Methodist minister, gave an anti-slavery address in Hagerstown, Maryland which greatly disturbed and alienated his audience. Gruber severely criticized slavery and slaveholders alike. In his remarks he referred to the Declaration's doctrines of equality and inalienable

⁹Detweiler, op. cit., pp. 117, 118, 107. Jacobus tenBroek, Equal Under Law: The Anti-Slavery Origins of the Fourteenth Amendment (rev. ed.; New York: Collier Books, 1951, 1965), p. 71, f. n. #2.

rights and suggested that it was inconsistent to affirm such principles and also own slaves.¹⁰

Gruber was subsequently charged with encouraging slaves to riot and participate in rebellion, and brought to trial. Fortunately, he was able to secure the services of Roger B. Taney, then a young and ambitious lawyer. Taney based his defense on Gruber's right of free speech under Maryland law. He argued that it was not unlawful to voice one's opinion on slavery and noted that "Mr. Gruber did quote the language of our great act of national independence, and insisted on the principles contained in that venerated document." Taney went on to maintain that slavery was a national disgrace which had to somehow be eliminated. He declared:

Yet while it [slavery] continues it is a blot on our national character, and every real lover of freedom confidently hopes that it will be effectively, though it must be gradually, wiped away And until it shall be accomplished: until the time shall come when we can point without a blush, to the language held in the Declaration of Independence, every friend of humanity will seek to lighten the galling chain of slavery, and better, to the utmost of his power, the wretched condition of the slave.¹¹

The young lawyer had clearly used the Declaration to

¹⁰Carl B. Swisher, Roger B. Taney (New York: The Macmillan Co., 1935), p. 95. Gruber's remarks were actually made at a Methodist camp meeting before a large audience consisting of some 2600 whites and 400 blacks.

¹¹Swisher, op. cit., pp. 96, 97, 98. Anonymous, The Unjust Judge: A Memorial of Roger B. Taney, Late Chief Justice of the United States (New York: Baker & Godwin, 1865), pp. 8, 9.

demonstrate that slavery was inconsistent with American principles. It is significant to note, however, that Taney's interpretation of the Declaration changed in later years and that his earlier views became a source of embarrassment for him.¹²

The single episode in American history, before 1830, which probably did the most to publicize the principles of the Declaration was the Missouri controversy. Glover Moore in his book on this subject finds that throughout the debates both Northerners and Southerners made frequent reference to natural rights philosophy and the Declaration of Independence to support their views.¹³ Philip Detweiler contends that during the Missouri debates the Declaration itself became a subject of controversy. "For the first time in our history its preamble was examined and analyzed, praised or criticized, in large-scale fashion." Because the Declaration played an important role in the debates its own meaning came into question. Part of the reason why strong appeals were made to the document was because the Constitution did not clearly define what the nature and position of slavery was to be in American society. Representative Timothy Fuller of Massachusetts believed that the

¹²See Chapter IV, pp.145-146. It should also be noted that Gruber was acquitted.

¹³Glover Moore, The Missouri Controversy, 1819-1821 (Univ. of Kentucky Press, 1953), p. 307.

Declaration contained the fundamental principles upon which American government was based and implied that it served as an "interpretative guide" to the Constitution.¹⁴ Not all Americans would agree with Fuller, especially in regard to his latter point, but it is an idea which constantly recurs as one traces the Declaration through the nineteenth century.

In February of 1819, the House of Representatives began to discuss the question of statehood for Missouri and Alabama. It was during the discussion of the Missouri Bill that James Tallmadge, a Democratic congressman from New York, introduced his famous amendment which stated

that the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall be duly convicted; and that all children of slaves, born within the said state, after the admission thereof into the Union, shall be free, but may be held to service until the age of twenty-five years.¹⁵

This amendment provided the spark which ignited the famous debate over slavery.

During January and February of 1820 the Declaration came to play its most important role in the debates. For it was at this time that the document was most often referred to. Many antislavery advocates, both citizens and

¹⁴Philip F. Detweiler, "Congressional Debate on Slavery and the Declaration of Independence, 1819-1821," American Historical Review, LXIII (1958), pp. 598, 602, 603-604.

¹⁵Moore, op. cit., p. 35.

congressmen, held that the concept of equality expressed in the Declaration indicated that slavery should not be allowed in Missouri. On January 18, 1820, for example, a petition was sent to the Senate by a group of Connecticut citizens, stating in part that "the peculiar phraseology of the preamble to the Declaration of Independence, declaring that 'all men are created equal,' & c., shows conclusively that the illustrious authors of that document never contemplated the further extension of slavery in these United States." The petition also went on to note that when the Constitution was adopted the intent of the Declaration was held in abeyance in order to effect a compromise with the southern states. But with regard to the admission of new states to the Union, the original intention of the Declaration should apply. Antislavery congressmen in both the House and Senate endorsed such views, especially the notion that the Declaration's reference to equality was good reason for opposing the extension of slavery to Missouri.¹⁶

¹⁶U. S., The Debates and Proceedings of the Congress of the United States, 16th Cong., 1st Sess., 1820, pp. 2457, 2459-2460. The congressional record will be cited hereafter as the Congressional Globe. Detweiler, "Congressional Debate," p. 604.

Senator James Barbour of Virginia was extremely critical of antislavery use of the Declaration, especially with respect to the idea that the founding fathers had waived the document's principles in regard to the older states, but now [in 1820] these principles and intentions must be applied. Barbour sharply ridiculed such logic and justly so. See Detweiler, "Congressional Debate," p. 610.

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In response to such ideas, proslavery forces in Congress began to develop a critical view of Jefferson's paper. Senator Nathaniel Macon of North Carolina, for example, stated that the Declaration was not a part of the Constitution and that the extension of slavery was a constitutional question and did not involve the Declaration. Representative Louis McLane of Delaware, addressing the House on February 7th discussed the relationship between the Declaration and slavery. He believed that "abstract principles" such as "all men are created equal" did not pertain to Negroes. In regard to the Declaration he noted that

It was pronounced by the freemen of the country, and not by slaves. No one pretended that they acquired any claim to freedom on this account; on the contrary, the Revolution found them in a state of servitude, the acknowledgement of our actual independence left them so, and the Constitution of the United States perpetuated their condition.

Others, such as Senator William Pinkney of Maryland were critical of the so-called self-evident truths of the Declaration. Speaking before the Senate on February 15, 1820, he stated that "the self-evident truths announced in the Declaration of Independence are not truths at all, if taken literally; and the practical conclusions contained in the same passage of that declaration prove that they were never designed to be so received." Philip Detweiler points out that the question of whether such "truths" were abstractions or truths indeed was a principal point of disagreement

during the debates.¹⁷

Other Southerners such as Representative John Tyler of Virginia maintained that the restrictionist view of the antislavery advocates was interfering with the right of Missourians to self-government. Both Tyler and Louis McLane argued that the right to self-government was one of the main principles of the Revolution and the Declaration. According to Alexander Smyth of Virginia, such restrictions were in essence an infringement upon the inalienable rights of native, white Missourians.¹⁸ These proslavery Southerners clearly utilized the Declaration to reinforce their own views on slavery. In a subtle way they were using the document to support the state's rights doctrine.

The Missouri debates reveal several important points about the Declaration: (1) the document received a considerable amount of use and recognition, (2) for the first time in the nation's history its principles of equality, inalienable rights and consent of the governed were presented, analyzed and criticized in a forceful and detailed manner, and (3) proslavery congressmen were not only critical of the Declaration, but some even used it to support their own views on slavery.¹⁹

¹⁷Detweiler, "Congressional Debate," pp. 605-606.
Congressional Globe, 16th Cong., 1st Sess., 1820, pp. 1154, 405.

¹⁸Congressional Globe, 16th Cong., 1st Sess., 1820, pp. 1383-1384, 1155. Detweiler, "Congressional Debate," p. 608.

¹⁹Detweiler, "Congressional Debate," pp. 614-615.

Besides promoting sectional attitudes and tensions, the Missouri debates are significant because they represent a crucial turning point in southern attitudes toward slavery. In the period from 1790 to 1820 the majority of Southerners supported the institution of slavery, but seldom felt required to vigorously defend it. Their general attitude tended to be rather passive and apologetic.²⁰

Beginning in 1820, however, the southern attitude toward slavery became much more adamant and defensive. The main factors responsible for this change were: (1) the Missouri controversy, (2) the growing activity of the American Colonization Society, and (3) the increasing amount of antislavery literature being produced by abolitionist groups. This defensive attitude was also reenforced by the mounting economic investment which the South had in slaves and the belief that slavery was profitable. In reaction to the growing antislavery sentiment, Southerners developed arguments in defense of slavery. They pointed out that the Constitution was a compromise between the North and South which recognized the legality of slavery and promised to protect the slaveowner's rights.²¹ Pro-slavery writers also made strong use of history, the Bible and the laws of God to support their arguments. Apologists for slavery, as in the Missouri debates, also challenged

²⁰Jenkins, op. cit., p. 48.

²¹Ibid., pp. 65, 66, 157.

natural rights philosophy and the principles of the Declaration of Indpendence, to which antislavery supporters increasingly referred.

Southerners such as Senator John Randolph of Virginia and Thomas Cooper of South Carolina were representative of those who challenged the Declaration's doctrines, especially the idea of equality. During a March 1826 congressional debate over sending a delegate to the Panama Congress, Senator Randolph touched upon the subject of slavery and criticized the idea of equality as advanced by opponents of the institution. Although expressed in the Declaration, the concept "that all men were born free and equal" was "a most pernicious falsehood." According to Randolph, the Declaration was a "fanfaronade of abstractions" which could not be used by slaves to demand their freedom. Thomas Cooper, the South Carolina intellectual and college professor, in the 1829 edition of his Lectures on the Elements of Political Economy also attacked the political philosophy of the Declaration, rejecting the doctrines of equality and inalienable rights as being nonsense and unattainable.²²

The proslavery response to the Declaration of

²² Congressional Globe, 19th Cong., 1st Sess., 1826, pp. 125, 127. Dumas Malone, The Public Life of Thomas Cooper: 1783-1839 (Columbia, S. C.: Univ. of South Carolina Press, 1926, 1961), p. 290. Jenkins, op. cit., p. 125.

Cooper merits a special note of explanation. In the 1790's he had been a radical, Jeffersonian Republican, but in later years he came to reject much of Jefferson's social and political philosophy. He in fact became an influential proslavery writer.

Independence and its principles became more involved and complex in the 1830's primarily because antislavery use of the Declaration intensified. Some of the main themes which will therefore be examined in the remaining portion of this chapter are: (1) the Declaration as an antislavery manifesto in the 1830's, (2) the southern proslavery response to such usage, and (3) the northern anti-abolitionist reaction to the Declaration.

In the early 1830's a full scale controversy developed over the question of slavery which would continue unabated until resolved by the Civil War and the Fifteenth Amendment. As Nat Turner, the Virginia Assembly, William Lloyd Garrison and a host of others came into public view the issue of slavery became an ever encompassing web, ensnaring men, movements and institutions.

In August of 1831, Nat Turner, a Negro slave and religious fanatic, led an ill-fated insurrection in southeastern Virginia which resulted in the massacre of some 57 whites. This incident received national attention and provoked the famous Virginia slavery debates during the winter of 1831-1832. The debates are important because they represent the last major public discussion of slavery in the South in which a noticeable amount of antislavery sentiment was clearly present.

The majority of delegates in the Virginia Assembly supported slavery, but there were a substantial number of

reformers and antislavery men who had serious reservations about the institution. Conservatives in the legislature were extremely critical of reformers and those who proposed abolition programs. They feared that such actions would result in decreasing slave prices and more insurrections.²³

The debates indicate that most antislavery men were concerned about the consequences of slavery on the white population, and only a few radical reformers and abolitionists referred to natural rights philosophy and the principles of the Declaration of Independence to support their arguments against slavery.²⁴ One of the small group of Virginians who believed that slavery was contrary to the basic principles of American government was Samuel Moore of Rockbridge County. Besides being detrimental to slaveholders and Virginians in general, slavery violated the basic tenets of the American creed -- freedom and equality. Moore felt that all men had an inalienable right to liberty.²⁵ Speaking to the Assembly on January 18, John H. Gholson, a proslavery apologist from Brunswick, criticized Moore's

²³Joseph C. Robert, The Road from Monticello: A Study of the Virginia Slavery Debate of 1832 (Durham, N. C.: Duke University Press, 1941), p. 20.

²⁴Ibid., p. 24. Robert notes that most moderate reformers joined the conservatives in rejecting the natural rights arguments presented during the debates.

²⁵Richmond Enquirer, January 19, 1832, pp. 1, 2.

comments of January 11th. Gholson rejected Moore's notion that because all men were free and equal by nature, slavery should be abolished. In his speech, Gholson was also critical of Thomas Jefferson Randolph's proposal for the abolition of slavery. Randolph had presented a plan which called for the emancipation of all slaves born after July 4, 1840 upon their reaching the age of twenty-one. The date chosen by Randolph obviously had a symbolic meaning. Emancipation was clearly identified with the principles of the Declaration of Independence. Gholson in his remarks praised the 4th of July as an important day in the nation's history, but stated that if the House of Delegates decided "to connect with its [July 4th] history, the adoption of this unjust, partial, tyrannical and monstrous measure [Randolph's plan], permit me, . . . to offer a prayer to heaven, that the recording Angel, as he writes it down, may drop a tear upon it, and blot it out forever."²⁶ While Gholson obviously was engaging in histrionics, he made his point. July 4th and the Declaration of Independence should be identified with independence from Great Britain, and not emancipation or equality.

The views of proslavery advocates such as Gholson did not prevent other antislavery men from raising their voices during the debates. Representative William B. Preston in a speech on January 16 before the Assembly noted that the

²⁶Ibid., January 21, 1832, p. 2; January 24, 1832, p. 3.

statutes which made men slaves violated a man's natural and inalienable rights. Thomas Jefferson himself, Preston pointed out, was extremely critical of slavery, especially in his original draft of the Declaration of Independence. Preston summed up his remarks on this subject by stating that a plan for emancipation, a delegate's right to express his opinion, and religious freedom were all derived from the same source: the Declaration of Independence. Several days after Preston spoke, Charles Faulkner addressing the same Assembly, noted that "the idea of a gradual emancipation and the removal of the slaves from this Commonwealth, is coeval with the declaration of your own independence from the British yoke."²⁷ James McDowell of Rockbridge, in his remarks made on January 21, maintained that the practice of slavery represented "one of the most striking instances upon record, of a people resolutely violating toward others, that principle of absolute freedom on which they erected their own independence, and which they were the first to proclaim to the world as the only just and admissible rule of popular government."²⁸

As previously mentioned, most antislavery delegates did not refer to the natural rights philosophy of the

²⁷Ibid., February 9, 1832, pp. 1, 2; February 2, 1832, p. 1.

²⁸James M'Dowell, Speech of James M'Dowell Jr. in the House of Delegates of Virginia on the Slave Question (Richmond: Th. W. White, 1832), p. 5.

Declaration of Independence or the Virginia Bill of Rights. Perhaps a typical example of this was Patrick Henry's grandson, William Roane. While concerned about slavery, Roane in regard to natural rights philosophy stated "Nor do I believe in that Fan-faronade about the natural equality of man. I do not believe that all men are by nature equal, or that it is in the power of human art to make them so." More severe in his criticism than Roane was the proslavery-minded James Knox who had no use at all for abolition proposals. Knox succinctly stated that not only was slavery recognized in law, but the Declaration of Independence did not emancipate the slaves and the Virginia Constitution protected such property rights. In response to the anti-slavery forces' use of Jefferson's views on slavery, Knox stated that what "might have been practicable at the time that Mr. Jefferson advanced his abstract opinion is certainly inexpedient now; and if persisted in . . . without regard to circumstances, will produce a wreak of devastation," Knox's views were representative of the majority's, for when the final votes were taken, the proposals for gradual emancipation and expulsion of Negroes from Virginia were defeated.²⁹

The Virginia slavery debates indicate that relatively

²⁹Richmond Enquirer, February 4, 1832, p. 2; February 11, 1832, pp. 1, 2. On the strongest antislavery bill proposed during the debates, that of William B. Preston's to abolish slavery in Virginia, the proslavery supporters won by a vote of 73 to 58.

few delegates referred to the natural rights philosophy of the Declaration, but it is interesting to note that those who did often made a strong association between emancipation and the Declaration. The inconsistency between slavery and Jefferson's famous paper was only apparently clear to a few men. In the future the number would grow.

Throughout the course of its existence the abolitionist movement identified itself with natural rights philosophy, very often invoking the principles of the Declaration of Independence. Abolitionists did not appear to feel ill at ease or bothered by their references to abstract concepts of rights. They often presented their arguments in ideal terms. Carl Becker, in his study on the Declaration, has perceptively noted that "Whenever men become sufficiently dissatisfied with what is, with the existing regime of positive law and custom, they will be found reaching out beyond it for the rational basis of what they conceive ought to be."³⁰ Many abolitionists believed that the philosophy of the Declaration should be America's main objective, and indicated this by using its principles as the rationale for their arguments and actions. Basic to the abolitionist creed was the idea that slavery violated the self-evident truths of the Declaration and therefore created an

³⁰Carl L. Becker, The Declaration of Independence: A Study in the History of Political Ideas (New York: Vintage Books, 1958, originally published 1922), pp. 133-134.

inconsistency between what America ought to be and what it was in practice. One student of the antislavery movement has noted that by identifying with the principles of the Declaration and the fundamental law, the abolitionists changed the nature of the controversy. "Their movement became a holy crusade, not the struggle of a few men for the freedom of the blacks, but a great moral battle for first principles, for God and liberty, for the divine and natural rights of man."³¹

Dissatisfaction with the apparent inconsistency between the principles of the Declaration of Independence and the institution of slavery can be found in the speeches and writings of numerous antislavery advocates. At a July 4th, 1826 Jubilee celebration of American independence, in Braintree, Massachusetts, the Reverend Josiah Bent declared that slavery stood in contradiction to the basic principles of American government and the ideas of the Declaration of Independence. Americans could not really celebrate a "Jubilee of freedom" until slavery was abolished.³² Symbolic of this contradiction was the fact that free Negroes often celebrated Independence Day on July 5th. Peter Osborne, a Connecticut Negro, in a July 4th oration given

³¹Russel B. Nye, Fettered Freedom: Civil Liberties and the Slavery Controversy, 1830-1860 (E. Lansing, Mich.: Mich. State Univ. Press, 1949), p. 196.

³²Rev. Josiah Bent, An Oration Delivered at Braintree on July 4, 1826 (Boston: E. Bellamy, 1826), pp. 19, 14.

on the 5th of July, 1832 noted that free Negroes in the North celebrated July 4th on the following day because the principles of the Declaration had not yet been fully realized, i. e., they did not apply to Negroes.³³ Writing about Jefferson and the Declaration in his diary in 1819, John Quincy Adams recorded some thoughts which some twelve years later would appear prophetic:

His [Jefferson's] Declaration of Independence is an abridged Alcoran of political doctrine, laying open the first foundation of civil society; but he does not appear to have been aware that it also laid open a precipice into which the slaveholding planters of his country sooner or later must fall. With the Declaration of Independence on their lips, and the merciless scourge of slavery in their hands, a more flagrant image of human inconsistency can scarcely be conceived than one of our Southern slaveholding republicans.³⁴

In a July 4, 1829 address to the Park Street Church in Boston another American spoke of the "glaring contradiction, as exists between our creed and practice." Continuing in this vein, he stated that "I am sick of our unmeaning declamation in praise of liberty and equality; of our hypocritical cant about the inalienable rights of man."³⁵ At the time he uttered these words, William Lloyd Garrison

³³Herbert Aptheker, ed., And Why Not Every Man? (Berlin: Seven Seas Publishers, 1961), pp. 105, 106.

³⁴Charles Francis Adams, ed., Memoirs of John Quincy Adams (14 vols.; Philadelphia: J. B. Lippincott and Co., 1874-1877), IV, 492. See also VIII, 299-300.

³⁵R. F. Wallcut, ed., Selections From the Writings and Speeches of William Lloyd Garrison (Boston: R. F. Wallcut, 1852), p. 53.

had not yet made a wholehearted commitment to the cause of immediate abolition, but that was soon to come.

Garrison was one of the most controversial abolitionist figures and also one of the most important antislavery symbols of his time. While he and his followers were not numerically a powerful force, their ideas had a significant impact upon the crusade against slavery.³⁶ Garrison based his case against slavery upon certain moral assumptions and the principles of the Declaration of Independence. His speeches and writings contain numerous references to the Declaration and its principles.

In the same year that Nat Turner led the Southampton insurrection, William Lloyd Garrison launched his famous Liberator. Garrison's first issue on January 1, 1831 made a commitment to the immediate abolition of slavery and quoted the famous second paragraph of the Declaration in support of such action. The Liberator was not widely read in the North, but was made famous by the South's reaction

³⁶Nineteenth and early twentieth-century historians tended to view Garrison as the central figure in the abolitionist movement. In 1933, however, Gilbert H. Barnes in his provocative study The Antislavery Impulse was strongly critical of Garrison and deemphasized his importance. According to Barnes, Theodore Weld was the prime mover in the antislavery movement. This view has also been reenforced and promoted by Dwight L. Dumond. See, for example, his Antislavery: The Crusade For Freedom in America (1961). Several recent books which attempt to restore Garrison's tarnished image and reemphasize his importance are John L. Thomas' The Liberator: William Lloyd Garrison (1963), Walter M. Merrill's Against Wind and Tide (1963) and Aileen S. Kraditor's Means and Ends in American Abolitionism (1969).

to its radical and inflammatory statements. Southern newspapers often reprinted statements from the Liberator which disturbed and enraged slave-owners.³⁷

At the 1833 convention held in Philadelphia to organize officially the American Anti-Slavery Society, delegates adopted a Declaration of Sentiments. This document, reputedly written by Garrison, quoted at length from the Declaration of Independence. The second paragraph of the Declaration of Sentiments proclaimed that the American system of government was based upon the idea "that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, Liberty, and the pursuit of happiness." The men who formed the American Anti-Slavery Society made it perfectly clear that their primary purpose was the practical realization of the Declaration's principles. All men should experience the equality and possess the liberty necessary to enjoy the fruits of their labor. One of the concluding thoughts found in the Declaration of Sentiments was that ". . . we [the delegates] plant ourselves upon the Declaration of our Independence and the truths of Divine Revelation, as upon the Everlasting Rock."³⁸

³⁷Wallcut, op. cit., pp. 62, 63, Tyler, op. cit., p. 486.

³⁸Wendell P. Garrison and Francis J. Garrison, William Lloyd Garrison: The Story of His Life Told By His Children (4 vols.; Boston: Houghton, Mifflin and Co., 1885-1889), I, 408, 410, 412. It is interesting to note that abolitionists often saw the Declaration of Independence and the Bible as being partners in the same great crusade.

While Garrison must be given credit for providing one of the sparks which ignited the antislavery movement, not all men sympathetic to the cause were as radical. Men such as William Ellery Channing, Francis Wayland and John Quincy Adams were much more moderate in their demands, although they strongly condemned slavery as deleterious to both whites and blacks. Like Garrison, however, these men often used the principles of the Declaration to support their views.

William Ellery Channing's famous Essay on Slavery (1835) was considered one of the most important antislavery tracts of the time. In this work, Channing maintained that all men have rights which are inalienable, unchangeable and not derived from society. Such rights were God-given and prohibited the practice of one man owning another as property. Channing noted that the American people, in the Declaration of Independence, clearly expressed their belief in the concept of inalienable rights. Americans "published universal, everlasting principles, which are to work out the deliverance of every human being." He also stated that slavery prevented a man from exercising his "fundamental right to inquire into, consult and seek his own happiness."³⁹

³⁹Louis Filler, The Crusade Against Slavery: 1830-1860 (New York: Harper Torchbook, 1963, originally published 1960), p. 101. Benjamin F. Wright, American Interpretations of Natural Law (Cambridge, Mass.: Harvard Univ. Press, 1931), p. 225. William E. Channing, Slavery (Boston: James Munroe and Co., 1835), pp. 31, 30, 14, 16, 17, 46, 49.

Not all of Channing's neighbors agreed with his views, as is evident from an article written in Essex County, Massachusetts in 1836. The anonymous author, in reference to Channing's essay, asserted that the idea of inalienable rights was purely subjective "fancy" and that rights in practice were whatever a given community declared them to be.⁴⁰

Another influential moderate on slavery was the Reverend Francis Wayland, President of Brown University. Wayland's book entitled The Elements of Moral Science (1835) was very popular and became a major American textbook in moral philosophy. Wayland believed that the natural rights of man were part of God's moral law. He contended that all men had an equal right to use their mind and body as they saw fit in order to "promote their own happiness" as long as they did not interfere with the rights of others. To support this view, Wayland quoted the second paragraph of the Declaration of Independence on equality and inalienable rights. He also stated that whenever a person or an institution interfered with an individual's rights, his personal liberty had been violated. Closely related to this concept, according to Wayland, was the idea that governments

⁴⁰ Anonymous, Remarks on Slavery by William E. Channing (Boston: John H. Eastburn, 1836), p. 37.

derived their power and authority from the consent of the governed.⁴¹ Wayland clearly used the principles of the Declaration to support his concept of personal liberty and to criticize the practice of slavery. He implied that the doctrine of personal liberty was not affected by race.

Although never officially an abolitionist, John Quincy Adams strongly believed that slavery was morally wrong. His views on slavery were much closer to men like Benjamin Lundy and Channing than to radicals like Garrison and Phillips. Nevertheless, the Declaration of Independence played an important role in his political philosophy.⁴² Whether discussing slavery, the right to petition, or state's rights he inevitably referred to the principles of the Declaration. Adams believed that the main purpose of

⁴¹Wright, op. cit. p. 219. Francis Wayland, The Elements of Moral Science (1835), ed. Joseph L. Blau (Cambridge, Mass.: Harvard Univ. Press, 1963), pp. 187, 198, 199. Wayland, like other college presidents of his day, taught the senior course in moral philosophy. His book basically dealt with what we today would call ethics.

⁴²It should be noted that Adams had an important influence upon the thinking of many of his contemporaries, especially with regard to the Declaration of Independence. Some of those whom he influenced were Chief Justice Joseph Story, Charles Sumner, William Goodell and Joshua Giddings. See, for example, Joseph Story, Commentaries on the Constitution of the United States (2 vols.; Boston: Little, Brown & Co., 1833, 1873), I, 147, 150, 151. Charles Sumner, The Works of Charles Sumner (15 vols.; Boston: Lee & Shepard, 1870-1882), V, 323, 324, 325. David Donald, Charles Sumner and the Coming of the Civil War (New York: Alfred A. Knopf, 1965), p. 153. William Goodell, Views of American Constitutional Law (Utica, N. Y.: Lawson & Chaplin, 1845), pp. 137, 138, 139. George W. Julian, The Life of Joshua R. Giddings (Chicago: A. C. McClurg & co., 1892), p. 375.

government was human betterment, and that the Declaration was symbolic of the fact that man was not only interested in, but capable of progress. Speaking before the Cincinnati Astronomical Society in 1843, he declared "that the form of government founded upon the principle of the natural equality of mankind, and of which the unalienable rights of individual man are the cornerstone, is the form of government best adapted to the pursuit of happiness, as well of every individual as of the community."⁴³

In one of his many references to slavery, Adams asserted that the founding fathers, including southern patriots, saw the inconsistency between slavery and the principles of the Declaration. Jefferson was against slavery and other southern, revolutionary leaders never tried to justify it and hoped some day to see its demise. Adams made these remarks at a Fourth of July celebration in Newburyport, Massachusetts in 1837. During the same oration he noted that the main purpose of assembling that day was not to celebrate independence but to celebrate the proclamation of human emancipation: the Declaration of Independence proclaimed "the emancipation of man from the thralldom of man."⁴⁴ Adams clearly stated that the Declaration

⁴³Adrienne Koch and William Peden, eds., The Selected Writings of John and John Quincy Adams (New York: Alfred A. Knopf, 1946), pp. xxxiii, 400.

⁴⁴John Quincy Adams, An Oration Delivered before the Inhabitants of the Town of Newburyport . . . July 4th, 1837 (Newburyport, Mass.: Charles Whipple, 1837), pp. 50, 53, 54.

carried the idea of freedom for the slave.

Less than a year before he gave his July 4th oration, Adams had become involved in the petition controversy. In 1836 many southern and some northern congressmen, disturbed by abolitionist activities, and wanting to avoid discussion of slavery in Congress had pushed a Gag Rule through the House of Representatives. By this rule petitions were officially received and then permanently tabled. John Quincy Adams was the leading figure in opposition to this practice, and made numerous references to the Declaration in support of his position.⁴⁵

Writing to his constituents in March of 1837, Adams denied charges leveled by his critics that the presentation of antislavery petitions infringed upon the rights of the South, especially the slaveholders. He admitted that to a certain extent the Constitution recognized the right of owning property in slaves, but contended that "they are rights incompatible with the inalienable rights of all mankind, as set forth in the Declaration of Independence" In the spring of 1839, Adams denounced the House of Representatives for refusing to consider abolitionist petitions and declared that such action violated the self-evident

⁴⁵Samuel F. Bemis, John Quincy Adams and the Union (New York: Alfred A. Knopf, 1956), p. 340. It was the petition controversy which finally gave abolitionists an issue with which to gain Northern support for their cause.

truths of the Declaration.⁴⁶ When a group of southern Whigs attempted to censure him for his petition activities, he responded by having the Clerk of the House read the first two paragraphs of the Declaration. Adams also personally added that

if there is a principle sacred on earth and established by the instrument just read [D. of I], it is the right of the people to alter, to change, to destroy, the government if it becomes oppressive to them. There would be no such right existing if the people had not the power in pursuance of that right, to petition for it I rest that petition on the Declaration of Independence.⁴⁷

John Quincy Adams therefore basically argued that the right of petition was one of man's inalienable rights and guaranteed by the Declaration.

Like most men with strong convictions attempting to make a point, Adams tended to exaggerate at times. First, while some of the southern, revolutionary leaders may have had reservations about slavery, it does not appear that all or even most of them saw blatant contradictions between slavery and the Declaration. And while Adams' remark about the Declaration resulting in the emancipation of humanity sounds impressive, it has a hollow ring. In practice, Adams was a moderate on slavery, e. g., he believed that the

⁴⁶Josiah Quincy, Memoir of the Life of John Quincy Adams (Boston: Phillips, Sampson & Co., 1859), p. 260.
Wright, op. cit., p. 171

⁴⁷Bemis, op. cit., pp. 430-431

states had the right to control slavery where it existed.⁴⁸ William Lloyd Garrison, a strong critic of Adams, addressed himself to this matter in a July 4th, 1839, oration at South Scituate, Massachusetts. Garrison noted that John Quincy Adams was theoretically an opponent of slavery, but pointed out that Adams opposed the abolition of slavery in the District of Columbia. Adams defended his position by stating that the majority of residents in the District were opposed to abolition, and to override their will would be to violate the principle of consent of the governed, a fundamental principle of the Declaration. Garrison accepted the idea of consent of the governed, but not if it meant oppression of one race by another. Principles lost their validity if they were misinterpreted and abused.⁴⁹

The main point of this criticism is not to attack or discredit John Quincy Adams, but to demonstrate that Adams moulded and interpreted the principles of the Declaration to conform to his own beliefs. This practice, however, was not unique to Adams. One of the important points which this paper will illustrate is that many men used the Declaration not only to support their personal views, but in an incon-

⁴⁸John Q. Adams, op. cit., p. 53.

⁴⁹William Lloyd Garrison, An Address Delivered Before the Anti-slavery Society at South Scituate, Massachusetts July 4, 1839 (Boston: Dow and Jackson, 1839), pp. 26, 27, 28, 29. Also see George A. Lipsky, John Quincy Adams, His Theory and Ideas (New York: Thomas Y. Crowell Co., 1950), p. 160. Filler, op. cit., p. 99.

sistent and contradictory fashion.

By the late 1830's radicals such as Garrison had broadened their interpretation of the Declaration. In a July 4th speech given in 1838, Garrison repeated his demand for the immediate emancipation of all slaves. He emphatically stated that "There are two important truths, which as far as practicable, I mean every slave shall be made to understand. The first is, that he has a right to his freedom now; the other is, that this is recognized as a self-evident truth in the Declaration of American Independence." Garrison also implied that slaves had the right to fight for their freedom. Such action would be in the tradition of Nat Turner, and the American Revolution. The American people extended this right to all mankind in their Declaration of Independence.⁵⁰ Garrison was clearly using the Declaration to support the ideas of "freedom now" and the individual's right to resist an unjust government.

One result of the mounting controversy over slavery, which has already been indicated, was that the Declaration and its principles became the subject of increased discussion. But perhaps more important than this was the fact that such discussion led to increased analysis and criticism of the famous document. Before the 1830's the attention paid to the Declaration of Independence was not particularly intense or detailed. With the exception of the Missouri debates,

⁵⁰ Walcutt, op. cit., pp. 190, 191, 192.

criticism was limited to casual and isolated incidents.⁵¹ But this situation changed as antislavery forces increasingly made use of the Declaration's principles. John Quincy Adams' son Charles Francis Adams writing in 1856 noted that in 1776 and during the Revolution the document was viewed as a justification for independence, but in later years it became important for its "abstract principles," i. e., political philosophy, and had subsequently been viewed as having a universal application.⁵² George Fitzhugh in his famous Sociology for the South (1854) stated that until slavery became such a controversial issue and the abolitionist movement came into being, the meaning and intention of the Declaration of Independence had not been seriously considered. With the rise of the slavery controversy, the basis of American government and the meaning of the Declaration and similar documents, e. g., the Virginia Bill of Rights became important and crucial questions.⁵³

Proslavery men were put on the defensive by anti-slavery forces in the 1830's because they were placed in the position of not only having to justify slavery, but of

⁵¹See the references to Joseph Clay, John Randolph and Thomas Cooper in Chapter II, pp. 27, 35.

⁵²Charles Francis Adams, ed., The Works of John Adams (10 vols.; Boston: Charles C. Little & James Brown, 1850-1856), I, 235.

⁵³George Fitzhugh, Sociology For the South, or the Failure of Free Society (Richmond: 1854, Burt Franklin, ed., 1966), p. 177.

having to explain away the obvious inconsistency between the words of the Declaration of Independence and the "peculiar institution." To a great extent their response to abolitionist attacks and the charge of inconsistency was to challenge antislavery interpretations of equality and inalienable rights and to question the actions and intentions of the founding fathers. Many northern anti-abolitionists also joined Southerners in questioning and criticizing the Declaration because they believed abolitionist activities and use of the document threatened the nation's unity and stability.

James G. Birney, the Alabama slaveowner turned abolitionist, in a letter to Ralph R. Gurley dated December 3, 1833, mentioned that southern planters in general rejected the notion that their slaves had any natural rights and believed the concept that "all men are created equal" was "ridiculous nonsense."⁵⁴ Birney's remarks concerning the Declaration's equality clause not only applied to southern planters but to the overwhelming majority of proslavery apologists whether they were Northerners or Southerners.

One of the earliest responses to abolitionist interpretations of the Declaration of Independence in the 1830's came from Jarvis Gregg, a Dartmouth College tutor who wrote

⁵⁴Dwight L. Dumond, ed., Letters of James G. Birney: 1831-1857 (2 vols.; New York: D. Appleton-Century Co., 1938), I, 97.

a detailed article on the Declaration in 1834. Gregg, while not actually a proslavery writer, tended to condone slavery in practice. His basic concern was with abolitionists who he felt interpreted and applied the Declaration in a distorted and harmful way.⁵⁵

Gregg began his article by noting that there had recently been much discussion of slavery, but very little analysis and questioning of principles. Gregg believed that such discussion could only be beneficial and lead to truth if the fundamental principles and accepted axioms being presented were true. Much of the confusion resulting from the slavery controversy, according to Gregg, was due to "the unquestioning admission of certain principles, which have passed into the mass of received truths" One such principle was the notion found in the Declaration of Independence that "all men are created equal." Most men, according to Gregg, agreed that all men were not equal, especially in terms of physical, intellectual and cultural attributes. But he went one step further and maintained that social and civil inequalities were natural and had always existed. God had in fact established such

⁵⁵Jarvis Gregg, "Declaration of Independence" The American Quarterly Observer II (1834), pp. 87, 80, 81, 57, 58, 86, 89. Gregg stated that he was against abusing slaves and did not support slavery as a permanent institution, but he also felt that slavery was not necessarily sinful. Slaves should only be given freedom if such action were beneficial to themselves and society.

natural inequalities and distinctions. Gregg believed that while the doctrine of natural equality was popular theory in the United States, Americans had not really adopted such notions.⁵⁶

James Kirke Paulding, a prominent novelist and politician from New York, reinforced Gregg's views in a book entitled Slavery in the United States (1836). He argued that while the Declaration referred to the equality of all men, such equality might be forfeited if a person committed a crime or became a prisoner of war.⁵⁷ Paulding symbolized the fact that proslavery men were not all Southerners.

An outstanding defender of slavery during the 1830's and 1840's, who addressed himself to this issue, was Chancellor William Harper, the South Carolina jurist and political thinker. His response to those who used the equality clause in support of emancipation was, "is it not palpably nearer the truth to say that no man was ever born free, and that no two men were ever born equal." Diversity was the dominant element in society and slavery was quite natural. According to Harper, the notions of equality and inalienable rights were not only nonsense, but actually

⁵⁶Ibid., pp. 49, 53, 54, 55, 58. Gregg suggested that the principles of the Declaration of Independence were not challenged, but rather accepted on blind faith. He admitted that the Declaration was a noble document, but asked whether the founding fathers were infallible, and maintained that the Declaration's concepts were open to question. See pp. 50, 52, 53.

⁵⁷James K. Paulding, Slavery in the United States (New York: Harper and Brothers, 1836), pp. 37, 42, 43.

were a threat to the stability of southern society.⁵⁸

Harper admitted that the Declaration of Independence was an important document, but maintained that it should be freely criticized, especially if it contained absurd and erroneous ideas. With regard to the question of equality, for example, he implied that if the document were not properly interpreted and understood it could be a harmful and threatening force.⁵⁹

Harper appears to have influenced another proslavery writer who was concerned about abolitionist use of the Declaration's principles. Daniel K. Whitaker was the publisher of the Southern Literary Journal and often printed articles and comments by Harper. In a series of public letters addressed to William Ellery Channing entitled Sidney's Letters (1837), Whitaker stated that Jefferson had made a mistake when he included the doctrine of equality in the Declaration. The South Carolina publisher believed such an idea was an illusion and threatened the nation's stability.⁶⁰

One of the South's most famous antebellum novelists, William Gilmore Simms, in response to abolitionist claims,

⁵⁸Chancellor William Harper, Memoir on Slavery, Read Before the Society for the Advancement of Learning of South Carolina, 1837 (Charleston: James S. Burges, 1838), p. 6, 9.

⁵⁹Ibid., pp. 6, 9.

⁶⁰Daniel K. Whitaker, Sidney's Letters to William E. Channing (Charleston: Edward C. Councill, 1837), pp. 51, 52.

also commented upon the meaning and validity of the equality clause. In his essay entitled The Morals of Slavery (1837), he stated that the concept was a fine sounding idea, but in actuality was vague and erroneous. Reiterating earlier proslavery arguments he noted that contrary to the Declaration, men were not created equal. The "endless varieties" and "boundless inequalities" of God's creation were evidence of this.⁶¹

Simms, however, went further than many of his fellow proslavery supporters by suggesting what the equality doctrine actually meant to the revolutionary generation, rather than just pointing out the flaws and absurdity of such a concept. He asserted that the founding fathers used the equality clause in a limited sense. What they really meant by "all men are created equal" was that Americans were equal to Englishmen in physical and intellectual abilities, that Americans deserved equal rights, and should be allowed to govern themselves. In another variation on the equality theme, Simms maintained the founding fathers also believed that in God's eyes all men were equal, and that each person in his proper place, living up to his potential and fulfilling his duties, had an equal right to society's security and protection. Simms strongly emphasized the idea of the

⁶¹William Gilmore Simms, "The Morals of Slavery," The Pro-Slavery Argument (Charleston: Walker, Richards and Co., 1852), pp. 250, 251.

individual maintaining his proper place. At one point in his remarks on equality and the Declaration he asserted that the founding fathers never understood the principles of the document in a literal or unqualified sense. He was certain that the revolutionary leaders never intended the Declaration to signify more than his own exposition of its meaning.⁶²

Another proslavery response to the doctrine of equality, as used by abolitionists, was to deny its application to Negro slaves. In his book on slavery, James Kirke Paulding maintained that the Declaration's reference to equality was not intended to include slaves. The provisions of American constitutions and declarations only included slaves within their meaning when the word slave was specifically mentioned. According to Paulding, many slaves had also lost their freedom long before they came to America.⁶³

Paulding concluded his remarks on the Declaration and equality by stating that the document "was not an elaborate metaphysical discussion of human rights, but a mere assertion of great general principles; and to have enumerated all the exceptions would have been giving the world a volume in folio, instead of a simple declaration of rights. The charge of inconsistency between our principles and practice,

⁶²Ibid., pp. 252, 258, 253. Simms also noted that the Declaration had been a controversial document for quite some time and a final decision on its meaning was a long way off.

⁶³Paulding, op. cit., pp. 43, 44.

is therefore entirely unfounded."⁶⁴ Like other proslavery writers, Paulding believed that for the Declaration to be meaningful, it had to be properly interpreted.

While discussing the Declaration's equality clause in his book The South Vindicated (1836), William Drayton of South Carolina suggested that abolitionists were not objective in their criticism of slavery and that they frequently referred to abstractions and axioms without giving thought to the practical effects of what they advocated. He quoted James R. Burden, president of the Pennsylvania State Senate, to help support his contention that antislavery men had perverted the meaning of Jefferson's famous paper. Burden's point was simply that slavery was not inconsistent with colonial independence and freedom. If the signers of the Declaration believed slavery was inconsistent with colonial freedom, why had they not emancipated the slaves? Burden also stated, according to Drayton, that slavery continued to exist after the adoption of the Constitution and was actually protected by that document.⁶⁵

Drayton's use of Burden's opinions served two purposes.

⁶⁴Ibid., p. 43.

⁶⁵James R. Burden was not so much a proslavery supporter as he was an antiabolitionist. Like many Northerners in the 1830's he believed that abolitionists were a threat to the Union. See Lorman Ratner, Powder Keg: Northern Opposition to the Antislavery Movement, 1831-1840 (New York: Basic Books Inc., 1968), pp. 55, 73. William Drayton, The South Vindicated From the Treason and Fanaticism of The Northern Abolitionists (Philadelphia: H. Manly, 1836), pp. 80, 83, 84.

They supported his own views regarding the Declaration and also demonstrated that Northerners as well as Southerners held such opinions. The South Carolinian's main point, however, was that the principles of the Declaration were not intended to include Negroes and that abolitionists had misinterpreted the document.

Another method used by proslavery and antiabolitionist writers to counter antislavery arguments was to challenge the concept of inalienable rights. Jarvis Gregg believed that men did have certain rights, but whether they were inalienable was another question. Rights, in Gregg's view, were social and conventional rather than absolute. He rejected Jefferson's notion that men had certain civil and political rights which could not be limited or alienated, and that if attempts were made to suppress these rights the individual had the right to resist or resort to revolution. Gregg contended that the right to life was not inalienable because in many states if a person committed a crime he might forfeit his life. And if a society was threatened by military force a man might be required to sacrifice his life in defense of the community.⁶⁶

Neither was the right to liberty absolute. People were not free to always do as they pleased. Men were forced to serve in the military, children were subject to parental

⁶⁶ Gregg, op. cit., pp. 60, 66, 67, 68.

authority and qualifications were established for voting. According to Gregg, a man could not claim the right to life, liberty and equality on the basis of his humanity. A man had to prove that "this or that [right or action] will at the same time promote both his own and the general good."⁶⁷

It is interesting to observe that many of the pro-slavery apologists from the 1830's through the Civil War used arguments quite similar to those presented by Gregg. While Gregg may not have originated these criticisms of inalienable rights, he did present a detailed exposition of arguments which would become a basic part of the proslavery repertory.

William Gilmore Simms questioned the validity of inalienable rights as found in the Declaration of Independence and noted that such rights were alienated every day. Men constantly forfeited their lives by committing crimes and lost their liberty for other offenses. Paulding believed that all men had certain natural rights, but this did not mean that society could not take a human life to protect itself, nor that in pursuing one's happiness, one could interfere with the rights of others. Chancellor Harper suggested that the idea of inalienable rights was ambiguous and pointed out that the laws of society were in fact

⁶⁷Ibid., pp. 68, 69, 72.

designed to restrain men in what they might decide was their pursuit of happiness. Society at times had to deprive men of their rights for its own security. The issue of privileges and rights, he concluded, was not based upon the abstract idea of natural rights, but upon convention and tradition, i. e., what society decided was sound, safe and expedient.⁶⁸

Defenders of the "peculiar institution" also answered the abolitionist charge of inconsistency by questioning the actions and intentions of the revolutionary leaders. Men such as Harper, Simms, and Whitaker believed that the founding fathers were carried away by the revolutionary fervor of the times and were not really in a good position to lay down philosophical principles. Simms' comments in 1837 were perhaps representative of this view. He wrote: "They [the founding fathers] were much excited, nay rather angry, in the days of the 'declaration,' and hence it is what they alleged to be self evident then, is, at this time, when we are comparatively cool, a source of very great doubt and disputation." Simms also suggested that one should not take the generalizations of the Declaration too seriously. They were brief and purposely exaggerated because the colonists were attempting to gain the attention and support

⁶⁸Simms, op. cit., p. 259. Paulding, op. cit., p. 43. Harper, op. cit., pp. 8, 9, 10, 7.

of other nations.⁶⁹

Whitaker was critical of people, especially abolitionists, who used the Declaration and did not consider the circumstances under which it was written. The true purpose of the Declaration was to justify colonial separation in light of British oppression. Whitaker stated, for example, that

He Jefferson had reference therefore, we may suppose, to states and nations, and not to individuals, when he spoke of the equality of mankind and their right to liberty. All men, in their natural, or state capacity, were equally entitled, and equally at liberty, to rid themselves of oppression, and act for themselves, -- a right which, as individual citizens, they did not possess and could not exercise, as against an established government.⁷⁰

This statement not only expressed Whitaker's idea of the true purpose of the Declaration, but conveniently eliminated the Negro slave's demand for freedom since the equality clause supposedly did not apply to individuals. In a subtle way it also reinforced the concept of state's rights.

The writings of slavery apologists reveal some significant facts regarding the South's conception of the Declaration of Independence. Proslavery writers tended to view the Declaration cautiously and in a critical light. Praise for the Declaration, if expressed at all, tended to be restrained and qualified. While not revered, it does

⁶⁹Simms, op. cit., pp. 250-251, 253.

⁷⁰Daniel K. Whitaker, "Channing's Duty of the Free States," Southern Quarterly Review (July, 1842), p. 156.

appear to have been respected by many Southerners, especially as a document justifying colonial independence.⁷¹

For the Declaration to be admired and respected by Southerners, however, it had to be properly interpreted and understood. And on this point problems arose. As interpreted by the abolitionists it became to most Southerners a meaningless and absurd document, an antislavery manifesto. Proslavery writers such as Drayton and Simms believed the Declaration should not be taken too seriously and that its generalizations had to be qualified. But they did not reject it. What they did reject was the abolitionist interpretation of the Declaration.⁷²

Other writers such as Harper and Whitaker were more severe in their criticism of the Declaration. Deeply disturbed by the antislavery interpretation of the Declaration, they strongly attacked the document's principles, and even Jefferson himself. These writers, however, also did not totally reject the Declaration.⁷³

There are other sources of information which lend

⁷¹For evidence that Southerners primarily associated the Declaration with separation from Great Britain see Whitaker, "Channing's Duty of the Free States," p. 156, Harper, op. cit., p. 6. Simms, op. cit., p. 252. Also see my references to John C. Calhoun in Chapter III, p. 80.

⁷²Drayton, op. cit., pp. 80, 83, 84. Simms, op. cit., pp. 252, 253, 257, 258.

⁷³Whitaker, "Channing's Duty of the Free States," p. 156. Harper, op. cit., p. 6.

support to the idea that Southerners did not completely reject the Declaration of Independence. One contemporary historian has pointed out the strong southern attachment to the concept of liberty, often symbolized in July 4th celebrations. Right up to the Civil War the Fourth of July continued to be an important patriotic celebration in the South. A typical southern July 4th toast to the Union went as follows: "The Declaration of Independence, and the Constitution of the U. S. -- Liberty and Union, now and forever, one and inseparable." During Fourth of July ceremonies the Declaration was almost always read as a prelude to formal orations, and Southerners often made references to the famous paper during or in commenting upon such celebrations. Another reason why Southerners did not completely disapprove of the Declaration was that its principles proved useful in supporting state's rights and secession arguments.⁷⁴

Another interesting aspect of the Declaration's history in the 1830's was that criticism of the document was not limited to Southerners. Northerners such as Jarvis Gregg, James Burden and James Kirke Paulding openly questioned the Declaration and especially rejected it as interpreted by

⁷⁴Charles G. Sellers, "The Travail of Slavery," The Southerner as American (1960), Bobbs Merrill Reprint (H-194), pp. 40, 41, 42, 43. Fletcher M. Green, "Listen to the Eagle Scream: One Hundred Years of the Fourth of July in North Carolina (1776-1876)," North Carolina Historical Review (July, October, 1954), pp. 304, 534, 536. See Chapter I, pp. 14-16.

the abolitionists. They appear to have been more concerned about abolitionists than slavery. A Senate speech given by Henry Clay on February 7th of 1839 indicates that criticism of abolitionists could also be found in western states.

Like the majority of Americans during this period, excluding Southerners, Clay gravitated towards a compromising or middle position. In years past he had admitted that slavery was a moral evil and had supported efforts to eliminate the institution. In his speech on February 7th he reiterated the point that he was "no friend of slavery." However, by 1839 he was also opposed to Negro emancipation for several reasons, one of which was that he did not believe whites and blacks could live together in peace and equality. Abolitionists were fomenting revolution rather than peaceful reform. Immediate emancipation would be disastrous. According to Clay, in places where blacks outnumbered whites, the blacks would use the principles of the Declaration, such as the people's right to change, alter or abolish government to establish a new government which would be oppressive toward whites. He was therefore critical of abolitionists and stated that by "elevating themselves to a sublime but impracticable philosophy, they would teach us to eradicate all the repugnances of our nature, and to take to our bosoms and our boards, the black man as we do the white,

on the same footing of equal social condition."⁷⁵ In essence men like Gregg, Burden, Paulding and Clay were representative of many Northerners and Westerners who feared that abolitionist activities threatened the Union and stability of American society. Antislavery agitation not only alienated the South, but might lead to disunion or even social chaos.⁷⁶

In brief then, the 1830's saw the antislavery movement adopt the Declaration of Independence and its principles as a primary rationale in support of their cause; clearly using it to conform to their own ideas and purposes. Such action provoked a strong southern response which was extremely critical of the Declaration as interpreted by the abolitionists. The majority of Southerners, however, did not reject the Declaration per se. They associated the document primarily with colonial separation from Great Britain, and also used it at times to support the state's rights doctrine. The antislavery interpretation of the Declaration also elicited criticism from Northerners and

⁷⁵D. Mallory, ed., The Life and Speeches of Henry Clay (2 vols.; Philadelphia: Leary and Getz, 1859), II, 398, 402, 407-410, 418, 594, 595, 414. Filler, op. cit., pp. 100, 150. With the elections of 1840 close at hand Clay may have been trying to appease Southerners by strongly criticizing abolitionists and opposing the abolition of slavery in the District of Columbia.

⁷⁶Lorman Ratner in his book Powder Keg (1968) discusses Northern opposition to abolitionism. See especially pages 51-87.

Westerners who either supported slavery or feared that abolitionists were a threat to American society.

CHAPTER III

CONSTITUTIONAL ABOLITIONISTS SPEAK OUT: 1840's

The decade of the 1840's witnessed several developments regarding slavery which distinctly set that decade apart from the 1830's and which also had an important influence upon the Declaration's history. To begin with, a substantial number of abolitionists came to believe that speeches, writings and petitions were not sufficient. Some kind of political action would be needed to rid the nation of slavery. At the national meetings of the American Anti-Slavery Society in 1839 and 1840 there was increasing friction between the politically minded abolitionists and the Garrisonians. The basic issues which split these groups were: (1) criticism of the churches, (2) the role of women in the movement, and (3) the need for a political party devoted to abolition.¹ The result was that the American Anti-Slavery Society split apart in 1840, and many of the political abolitionists worked at organizing and

¹Louis Filler, The Crusade Against Slavery: 1830-1860 (New York: Harper Torchbook, 1963), pp. 135, 142. Louis Filler, ed., Wendell Phillips on Civil Rights and Freedom, p. 28. Jacobus ten Broek, Equal Under Law: the Antislavery Origins of the Fourteenth Amendment (rev. ed.; New York: Collier Books, 1951, 1965), p. 136.

strengthening the Liberty party which strongly identified itself with the Declaration's doctrines.

A second development closely related to the first was the emergence of a small group of abolitionists who were generally interested in political action and who asserted constitutionally radical views. The Declaration of Independence and its principles were an important element in their constitutional theories, and in the antislavery politics of the period. These two developments then will be major topics of discussion in this chapter.

During the same decade, antislavery supporters and proslavery apologists continued to debate the meaning and importance of the Declaration's political philosophy. And as in the 1830's (the question of equality and the charge ~~that~~ that slavery was inconsistent with the principles of the Declaration continued to be major points of controversy with, however, some new variations.)

As was mentioned in the preceding chapter, Southerners were not the only persons to criticize abolitionist objectives and their use of the Declaration of Independence. Henry Clay, for example, was not so much a critic of the Declaration, as he was of abolitionist interpretations of that document. In a Richmond, Indiana speech in October of 1842 Clay admitted that the Declaration was a great statement of abstract principles, but noted that concepts such as equality were impossible to achieve in a realistic

and practical sense. He especially rejected the abolitionist contention that one of the main objectives of the Declaration was to abolish slavery. Southern states would never have adopted a declaration whose purpose was to abolish slavery. According to Clay, to assert that such was one of the Declaration's aims was to charge the signers with political fraud and hypocritical conduct. He concluded his argument on this point by stating that "if the doctrines of ultra political abolitionists had been seriously promulgated at the epoch of our Revolution, our glorious Independence would never have been achieved -- never, never."²

One of the most famous northern critics of the Declaration was Orestes A. Brownson, a political thinker and writer. Like Henry Clay he too expressed concern over antislavery interpretations of Jefferson's paper. In an 1843 article entitled the "Origin and Ground of Government" he stated that the Declaration was a patriotic and admirable document,

But the principles laid down as self-evident truths in the preamble of the instrument by which independence was declared, were not only not called for as the ground of the justification of the measure, but were, to say the least, of questionable soundness, and have led to the adoption by a large portion of our people, of theories practically incompatible with government itself, and

²D. Mallory, ed., The Life and Speeches of Henry Clay (2 vols.; Phila.: Leary & Getz, 1859), II, 398, 402, 593, 594. Clay's comments about the Declaration and abolition appear to be a sharp reaction to the views of political abolitionists such as Alvan Stewart, George Mellen and Lysander Spooner. See pp. 86-95 of this chapter for their ideas on this question.

everything like social order.

One such "questionable" notion was the idea that "all men are created equal." Regardless of the fact that Americans constantly repeated this idea, Brownson did not believe it was a self-evident truth. According to him, the only real sense in which men were equal was in their accountability to God.³

Richard Ely Selden, the New Yorker who wrote Criticism on the Declaration of Independence (1846), did not believe slavery could be justified and wanted to see the practice abolished. He maintained, however, that abolitionists would have a stronger case against slavery if they omitted from their arguments the idea of equality and other so-called

³Henry F. Brownson, ed., The Works of Orestes A. Brownson (20 vols.; Detroit: Thorndike Nourse, 1882-1887), XV, 329, 330.

It is interesting to note that in the 1830's Brownson was a radical Jacksonian Democrat with anti-capitalist views who identified himself with the working classes and supported labor reform and extending the suffrage. In an 1834 July 4th oration he strongly affirmed the doctrine of equality, suggested that true equality and freedom were yet to be realized in America, and although he did not lavishly praise the Declaration, he did not criticize it. See Orestes A. Brownson, An Address Delivered at Dedham, July 4th, 1834 (Dedham, Mass.: H. Mann, 1834), pp. 3, 5, 6, 7, 9, 10. By the 1840's, however, he had become more conservative, a trend which appears to have continued throughout his life.

While Brownson admitted slavery was theoretically evil, he appears to have condoned the institution in practice. By 1838, he believed abolitionists represented a more serious evil and was extremely critical of their ideas and objectives. Abolitionist claims were not only unrealistic, but posed a threat to true liberty. See Arthur M. Schlesinger's, Orestes A. Brownson: A Pilgrim's Progress (New York: Octagon Books, 1939, 1963), pp. 79, 80.

self-evident truths. In analyzing the Declaration, Selden concentrated on its famous second paragraph which he felt was the most confusing and the most often quoted. Selden suggested that the nation's dignity and honor were denigrated "for thus publishing to the world in our first and gravest document, this swelling axiom, [the equality clause] as contemptible for its inapplicability, as for its falsehood." According to Selden, many readers, and even Jefferson, had vague notions about the self-evident truths of the Declaration. He questioned whether Jefferson actually believed in the statement that "all men are created equal." To begin with, the statement could not be proved and Jefferson himself continued to own slaves after writing it. Furthermore, no government in the world had ever treated men as though they were equals. All of man's knowledge and experience indicated the contrary.⁴

Since Selden was an antislavery supporter with rather interesting views, and one who discussed the Declaration's principles in elaborate detail, his ideas merit further examination. Besides questioning the doctrine of equality Selden also challenged the notion of inalienable rights, giving the standard arguments on the issue. But he did add an important argument of his own. He said that an abstract

⁴Richard E. Selden, Criticism on the Declaration of Independence, as a Literary Document (New York: The News Offices, 1846), pp. 7, 9, 11, 13, 14, 15, 39.

right to something like life or liberty was worthless and absurd unless one actually had possession of such rights. He cited the right to liberty which slaves had, according to the Declaration, as an example of this.

Selden concluded his argument on this point by stating

that rights to things one has not got, and cannot get; are just equal to no rights at all. The magnificent parade in the Declaration, of inalienable rights to life and liberty therefore, are but a rhetorical cheat - a fiction of the sophist's brain.⁵

Selden also went on to suggest that if Jefferson really believed in the principles of equality and inalienable rights there would have been no need to include the idea that governments are instituted to secure these rights. If the previously mentioned rights were so absolute and inalienable, why was "human government" necessary? Selden's explanation of the contradictions and nonsense which he found in the Declaration was that Jefferson did not have a clear understanding of what he wrote about. But his gravest error "lay in his attempt to make truths." Selden's attitude toward the Declaration can be summed up in the following remark: "I must say, a more crude and profitless jumble of words, than fills the passages in the forepart of the Declaration, is nowhere to be found in any State document north of Mason and Dixon's line."⁶

⁵Ibid., pp. 19, 20, 21.

⁶Ibid., p. 24, 25.

Selden's thoughts on the Declaration of Independence are interesting primarily because they are so unique. He was not only a Northerner, but had strong antislavery views. It evidently bothered him that so much antislavery literature referred to the Declaration. He firmly believed that the abolitionists could have strengthened their case if they had stopped using the so-called self-evident truths of the document.⁷ To Selden it logically followed that absurd rationales would result in absurd arguments. Many Americans, however, did not perceive this, or, if they did, they chose to ignore it.

The vast majority of Southerners, on the other hand, would readily endorse Selden's logic concerning absurd rationales. One such individual was Charles F. Mercer, the Virginia congressman and critic of the Declaration, who expressed his views in a book called An Exposition of the Government of the United States (1845). Although a Southerner, Mercer was a staunch Unionist, who had strong reservations about slavery. He actively supported colonization and worked in behalf of abolishing the slave trade. Mercer, nevertheless, asserted that because the Declaration was so revered and admired it had not been generally exposed to criticism. He argued that the document contained faults and errors. For instance, one of its most serious falsehoods

⁷Ibid., pp. 15, 22, 39. These pages also contain evidence of Selden's antislavery views.

was its statement of equality. According to Mercer, men could not and should not be equal. He believed that those who did not have a stake in society, such as property, should not be allowed the same power and influence in governing society.⁸

Mercer's basic point was that it would be better for the country and its government if people would be objective and recognize the Declaration for what it was. It was an important and useful document, but it contained some erroneous concepts which should be recognized and left open to criticism. Such action could only strengthen the nation and its character.

Other Southerners such as James H. Hammond and John C. Calhoun, both from South Carolina, did not share Mercer's reservations concerning slavery and were in fact leading defenders of the "peculiar institution" during the 1830's and 1840's. They did, however, agree with Mercer regarding the Declaration and the doctrine of equality. Hammond in his Letters on Slavery (1845) strongly rejected the natural rights philosophy and abstract notions of equality being advocated by the antislavery forces of the period.⁹

⁸Charles F. Mercer, An Exposition of the Weakness and Inefficiency of the Government of the United States of North America (1845), pp. 235, 236.

⁹James H. Hammond, "Hammond's Letters on Slavery," The Pro-Slavery Argument; As Maintained by the Most Distinguished Writers of the Southern States (Charleston: Walker & Richards & Co., 1852), pp. 104, 110. William S. Jenkins, Pro-Slavery Thought in the Old South (Chapel Hill, S. C.: The Univ. of N. Carolina Press, 1935), pp. 127, 128.

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John C. Calhoun held a corresponding view of such ideas and his strongest attack on the principles of the Declaration can probably be found in his speech on the Oregon bill in June of 1848. Calhoun stated that the idea that "all men are born free and equal" had become axiomatic in the minds of many people and posed a serious threat to the Union. He noted furthermore that the concept "as now expressed and understood, is the most false and dangerous of all political errors." Since the proposition was understood by many in a literal sense, it should be criticized on that basis. He suggested, for example, that men were not born free since they were dependent and subject to their parents until maturity. And as for equality, it was quite obvious that the natural condition of men was one of inequality.¹⁰

This, however, was not the main point of Calhoun's argument. He suggested that the popular notion that "all men are born free and equal," grew out of the equality clause found in the Declaration of Independence. The popularity of the doctrine was due in part to the fact that it was associated with the famous Declaration. Calhoun maintained, however, that the equality clause was included in the Declaration without good reason: "It made no necessary

¹⁰Richard K. Cralle, ed., The Works of John C. Calhoun (6 vols.; New York: D. Appleton & Co., 1854-1857), IV, 507, 508.

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part of our justification in separating from the parent country, and declaring ourselves independent." British oppression and violations of American rights were sufficient causes. It is perhaps significant to note that Orestes Brownson had advanced a similar argument some years earlier. Calhoun, continuing his criticism of the equality principle, stated that the absurd doctrine had done more than anything else "to retard the cause of liberty and civilization." He believed it was a great mistake to have allowed such a false and destructive idea to be written into the Declaration. America would have to pay a price for its blunder.¹¹

While critical of some of the Declaration's principles and indirectly of its illustrious author, Calhoun did not completely reject the Declaration. Thomas Hart Benton in his Thirty Years View (1856) reported that early in 1849, a group of southern congressmen led by Calhoun sought to protest their dissatisfaction with current antislavery agitation. The group drew up a manifesto of southern grievances which resembled and was referred to as a "second Declaration of Independence."¹²

¹¹Ibid., pp. 508, 511, 512. Brownson, op. cit., XV, pp. 329, 330. Calhoun like other Southerners primarily associated the Declaration of Independence with the act of colonial independence.

¹²Thomas H. Benton, Thirty Years View (2 vols.; New York: D. Appleton & Co., 1856), II, 733, 734. Calhoun's use of the Declaration with respect to the question of state's rights reveals that he could utilize the famous document if it suited his purposes. See, for example, Cralle, op. cit., I, 115, 116, 123, 124; VI, 107-109.

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Contemporaries of Calhoun, who held different views on equality and the Declaration were Charles Sumner and Theodore Parker. Sumner was a leader of the Massachusetts "conscience" Whigs, a founder of the Republican party and an outstanding antislavery spokesman in the Senate during the 1850's. Sumner became actively involved in the anti-slavery crusade during the late 1840's. It was around this same time that he came under the influence of John Quincy Adams, adopting many of the latter's views, including those concerning the Declaration of Independence.¹³

In the case of Sarah C. Roberts vs. the City of Boston (1849), Sumner, acting in behalf of the plaintiff, argued before the Supreme Court of Massachusetts that separate schools for black children were unconstitutional. A major part of Sumner's presentation dealt with the question of equality. Stressing the importance of this concept, he criticized John C. Calhoun for stating that the claim to equality found in the Declaration of Independence was "the most false and dangerous of all political errors." Sumner emphasized the importance of equality before the law and quoted from the preamble of the Declaration to support his view. While agreeing that all men were not equal in terms of physical and mental ability, he quickly pointed out that such inequality was not "inconsistent with complete civil

¹³David Donald, Charles Sumner and the Coming of the Civil War (New York: Alfred A. Knopf, 1965), p. 153.

and political equality." Continuing in this vein, he asserted that "the equality declared by our fathers in 1776, and made the fundamental Law of Massachusetts in 1780, was Equality before the Law." One of the main objectives of the Declaration of Independence and the Massachusetts Bill of Rights, according to Sumner, had been to abolish civil and political distinctions and privileges in American society.¹⁴ If men did not have equal access to political and social rights, the fundamental principles of American government as found in the Declaration were repudiated. While the court ruled against the plaintiff, Sumner made his case and would be heard from again.

Theodore Parker, the Boston abolitionist and Unitarian minister, like Charles Sumner, revered the Declaration of Independence and believed that all men, black and white, should enjoy political and social equality. Like Sumner, Parker was as concerned about northern attitudes towards equality and the Declaration, as he was about southern views. In a speech before the New England Antislavery Convention in Boston on May 31, 1848 he noted that people claimed they believed in freedom and the principles of the Declaration such as equality, and yet somehow managed to see the Negro as an exception to those principles. People maintained, for

¹⁴Charles Sumner, The Works of Charles Sumner (15 vols.; Boston: Lee & Shepard, 1870-1882), II, 331, 329, 340, 341.

example, that the compromises of the Constitution had to be respected. Parker's main point was that there was a basic inconsistency between what Americans professed to believe and what they practiced. He asserted that the abolitionist response to this problem was to instill the principles of the Declaration "into the minds of the people, knowing that if it be there, actions will follow fast enough."¹⁵

While the Declaration's doctrine of equality was one of the major points of controversy in the debates over slavery it was not the only principle proclaimed by the document which came into question. The proclamation of 1776 also referred to the people's right to "alter" or "abolish" government. Abolitionists, at times, made use of this principle to justify changing the nature of American society in order to realize freedom and equality for the Negro.

William Lloyd Garrison, it will be recalled, in a July 4th, 1838 speech maintained that the right to freedom was recognized as a self-evident truth in the Declaration of Independence. Drawing an analogy between the colonial struggle for independence and slavery, he declared that "if any man has a right to fight for liberty, this right

¹⁵Theodore Parker, Speeches, Addresses and Occasional Sermons (3 vols.; Boston: Horace B. Fuller, 1855, 1860), II, 344, 345.

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equally extends to all men subjected to bondage." Garrison implied that slaves had the right to fight for their freedom. The Declaration of Independence, according to Garrison, had clearly proclaimed the right to resist or change government when it failed in its purpose.¹⁶

Obviously not all Americans agreed with the ideas expressed by Garrison. Orestes Brownson, for example, in his "Origin and Ground of Government" questioned the people's right to resist, alter or abolish government. Whether such a right was legitimate depended upon how the word "people" was defined. According to Brownson, if it were defined just as individuals, or a group of individuals, it was not valid. Only when the term "people" was used in the sense of a body politic or political community, as legally convened in a constitutional convention, for example, could the "people" legitimately alter or abolish government.¹⁷

Some Americans, however, would disagree with Brownson's exposition of this principle. Henry David Thoreau in his famous essay on Civil Disobedience (1849) supported the idea of abolitionists withdrawing their support from the government of Massachusetts if they felt bound by conscience

¹⁶R. F. Wallcut, ed., Selections From the Writings and Speeches of William Lloyd Garrison (Boston: R. F. Wallcut, 1852), pp. 190, 191, 192.

¹⁷Brownson, op. cit., XV, 330, 331. Brownson also noted that since the colonists were not rebelling against their own colonial governments the right to revolution was unnecessarily included in the Declaration.

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to do so. Thoreau maintained that "all men recognized the right of revolution; that is, the right to refuse allegiance to, and to resist, the government, when its tyranny or its inefficiency are great and unendurable."¹⁸ Thoreau's conception of this principle was much more individualistically oriented than Brownson's. Every man had the right to follow his individual conscience in such matters.

Going one step further than Thoreau, a pamphlet published by the New England Anti-Slavery Convention in 1843 argued that the slaves had every right under the Declaration of Independence "to wage war," if necessary, against their masters in order to obtain their rights and freedom. The pamphlet noted that the Declaration specifically stated that if government became destructive of its purpose, people had a right to change and or abolish it.¹⁹

This review of the Declaration during the 1840's has thus far revealed some interesting points. To begin with, the document continued to serve as an important rationale in the antislavery argument and therefore continued to be a source of controversy. As in the 1830's the Declaration's preamble was challenged on philosophical grounds as well

¹⁸Henry David Thoreau, Walden and Civil Disobedience ed. Sherman Paul (Boston: The Riverside Press, 1947), pp. 244, 238.

¹⁹William H. Pease and Jane H. Pease, eds.; The Antislavery Argument (New York: The Bobbs-Merrill Co., 1965), pp. 216, 217.

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as from the point of view that the founding fathers had never intended the meaning which abolitionists gave to such principles.

Second, some of the Declaration's leading critics were not proslavery supporters, but men who had reservations about slavery, or even strong antislavery views, as for example, Charles Mercer and Richard Selden.

Third, one of the most disputed elements of the Declaration's political philosophy continued to be the doctrine of equality. Men like Charles Sumner implied, for example, that equality before the law had been made a part of the fundamental law of the land by the Declaration.

Finally, while the concepts of equality and inalienable rights were frequently invoked, antislavery men also at times made use of the document's right to revolution doctrine. While some abolitionists talked about the right to revolution very few were actually ready to put such a principle into practice.²⁰

During the late 1830's, however, an increasing number of abolitionists came to believe that rhetoric alone would not rid the nation of slavery. Some kind of political action was needed and hence the Liberty party was organized.

²⁰In the late 1850's a militant group of abolitionists including men such as Theodore Parker, Thomas Wentworth Higginson and Gerrit Smith appear to have supported John Brown's revolutionary attempt to emancipate the slaves of Virginia. See Filler, Crusade Against Slavery, pp. 268-270.

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Closely related to this development was the emergence of a small group of politically and constitutionally minded abolitionists who increasingly vocalized their somewhat radical views of the Constitution and the Declaration of Independence. The ideas of Alvan Stewart, George Mellen, Lysander Spooner, William Goodell and James G. Birney significantly influenced antislavery thought. One of the remaining objectives of this chapter therefore will be to examine how this group of abolitionists used the Declaration in their constitutional arguments.

Although the views of Stewart and others were widely publicized within antislavery circles, they were often considered too extreme to be adopted as official abolitionist policy.²¹ These men were not, however, radicals in the same sense as William Lloyd Garrison and Wendell Phillips. The latter condemned the Constitution since it sanctioned slavery, urged disunion, and attempted to persuade fellow abolitionists not to vote or hold office. On the other hand, the constitutional abolitionists, as they will henceforth be called, viewed the Constitution as an antislavery document, and were less extreme in the choice of actions

²¹While their works gained wide circulation within antislavery circles they were often a source of controversy. See Jacobus tenBroek, Equal Under Law: The Antislavery Origins of the Fourteenth Amendment (New York: Collier Books, 1951, 1965), p. 72. Also note criticism by William Bowditch and Wendell Phillips of Lysander Spooner's views further along in this chapter.

they advocated to eradicate slavery.²²

One of the most important figures in this group was Alvan Stewart, a leading abolitionist from Utica, New York who organized the New York Anti-Slavery Society in 1835, and urged abolitionists to political action in the late 1830's. A contemporary historian notes that he was the first person to maintain that Congress had the constitutional authority and duty to eliminate slavery everywhere in the Union.²³ Stewart's theory and his interpretation of the Constitution as an antislavery document had a great impact upon the constitutional abolitionists, who elaborated upon his constitutional ideas in the 1840's. The main sources with which Stewart attacked slavery were the Declaration of Independence, the guarantee clause of the Constitution (Article IV-Sec. 4) and the Fifth

²²Aileen S. Kraditor in Means and Ends in American Abolitionism, Garrison and His Critics on Strategy and Tactics, 1834-1850 (New York: Pantheon Books, 1967), p. 8 makes an important distinction between abolitionists. Radical abolitionists were those "who like Garrison, believed that American society, North as well as South, was fundamentally immoral, with slavery only the worse of its many sins, and looked forward to a thorough-going change in its institutional structure and ideology." Conservative abolitionists were those "who were reformers rather than radicals in that they considered Northern society fundamentally good and believed the abolition of slavery would eliminate a deviation from its essential goodness and thereby strengthen and preserve its basically moral arrangements." According to this distinction men such as Stewart, Mellen, Spooner, Goodell and Birney would fall into the latter group.

²³tenBroek, op. cit... pp. 281, 67.

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Amendment.²⁴ Although his views of the Declaration were not as extreme as some of those held by other abolitionists, they did play an important part in his condemnation of slavery.

Stewart viewed the Declaration as an expression of great moral truths and fundamental political principles. The revelation of these principles in the Declaration was the greatest contribution to the welfare of mankind since the birth of Christ. According to Stewart, other men had thought about the concepts of equality, inalienable rights, and consent of the governed, but it was the American people who first clearly endorsed and proclaimed them to the world. America in a very definite sense was a chosen nation, something akin to a "city upon a hill." Her founding fathers had been chosen, like Moses, to ascend into the presence of God and behold the great truths which should determine the basis of society and structure of government.²⁵

Stewart was aware, however, that all Americans did not

²⁴Ibid., pp. 71, 72. Dwight L. Dumond, Antislavery: the Crusade for Freedom in America (Ann Arbor: Univ. of Michigan Press, 1961), pp. 294, 295. Article IV, Section 4, of the Constitution guarantees to each State a republican form of government. The Fifth Amendment appears to have been the most important element in Stewart's constitutional theory regarding slavery. See, e. g., tenBroek, op. cit., pp. 66-71. For the importance of the Fifth Amendment in antislavery political thought see the Liberty party resolutions of 1843 on p. 139 of tenBroek's book.

²⁵Luther R. Marsh, ed., Writings and Speeches of Alvan Stewart, on Slavery (New York: A. B. Burdick, 1860), pp. 348, 142, 143.

feel as he did in regard to the Declaration. He, therefore, often stressed the fact that its principles were not just rhetorical generalities, but fundamental truths. Those who accepted the slaveholders' view that its principles were merely abstractions brought dishonor upon their country. If Americans had in fact whole-heartedly accepted all the ideas contained in the Declaration, right from the beginning, there would have been no slavery problem. In a Philadelphia speech in May of 1838 he declared that "to tolerate slavery a single year in one of these States, after this Declaration of Independence, was a base hypocrisy, a violation of our engagements to mankind and to God." Stewart believed that the adoption of the Declaration of Independence theoretically abolished slavery. The problem, however, was that Americans had not put this concept into practice.²⁶

In response to those who argued that the Constitution sanctioned slavery, Stewart pointed to the guarantee clause and the Fifth Amendment contained in that document. The Constitution was in essence an antislavery document. It was inconceivable to Stewart that the same generation of men who signed the Declaration could adopt a proslavery Constitution in contradiction to the principles of 1776.²⁷

²⁶Alvan Stewart, A Legal Argument Before the Supreme Court of the State of New Jersey, At the May Term at Trenton, for the Deliverance of 4000 Persons From Bondage (New York: Finch & Weed, 1845), p. 29. Marsh, op. cit., pp. 144, 349.

²⁷Dumond, op. cit., p. 294.

George Mellen writing in 1841 praised Stewart's position on slavery and agreed that the practice violated the spirit and intention of the Constitution. Like Stewart, he suggested that the founding fathers could not have guaranteed the South's right to practice slavery because to have done so would have been a repudiation of their belief in the principles of the Declaration. Mellen noted that Jefferson's original draft of the document contained a clause criticizing slavery, and although it was omitted from the final version, the majority of Americans in 1776, stood opposed to the institution. Continuing in this vein, he declared that

the great principles that animated them [Americans] still remained embodied in the instrument; [D. of I.] and, the moment it was adopted by this country, every slave was free; and such undoubtedly must have been the understanding of the men who promulgated it, unless they should be accused of the want of understanding the meaning of the words they had used.²⁸

According to Mellen, the founding fathers definitely intended to include the Negro within the meaning of the Declaration's second paragraph. Freedom for the slave was one of the Declaration's main objectives. Mellen also

²⁸G. W. F. Mellen, An Argument on the Unconstitutionality of Slavery (Boston: Saxton & Pierce, 1841), pp. 5, 14, 15, 34, 52. Assertions by political abolitionists such as Mellen, Stewart and Spooner that one of the main purposes of the Declaration was to abolish slavery often elicited a strong response from antiabolitionists. See, e. g., Henry Clay's comments in the beginning of this chapter. Further criticism by Clay of political abolitionists and their views can be found in the Life and Speeches of Henry Clay (ed. by D. Mallory), II, 399, 400, 593-595.

noted that one of the reasons why Negroes did not achieve freedom was that no Negro leaders stepped forward to assert the black man's rights.²⁹

Although saying noble things about the Declaration, Mellen's views leave some basic questions unanswered. Why was Jefferson's clause on slavery struck from the document? If one of the Declaration's main objectives was to free the slaves, why did not most revolutionary leaders and signers free their own? With such widespread opposition to slavery why were laws not passed abolishing the institution? One might also add that leading Negroes such as the astronomer Benjamin Banneker did step forward to assert Negro rights, but to no avail.³⁰

Mellen also commented upon the relationship between the Constitution and the Declaration. He contended that the former was definitely in harmony with the principles of the Declaration. For example, both the preamble to the Constitution and the Fifth Amendment reaffirmed the concepts of equality and inalienable rights.³¹

²⁹Mellen, op. cit., pp. 34, 51.

³⁰Lorenzo Dow Turner, Anti-Slavery Sentiment in American Literature Prior to 1865 (Washington, D. C.: The Assn. For the Study of Negro Life and History, 1929), pp. 14-15. Turner noted, in 1791 along with his Almanac, Banneker sent Thomas Jefferson a letter asking how he could continue to own slaves after professing to believe in the concepts of equality and inalienable rights.

³¹Mellen, op. cit., pp. 52, 53, 56. tenBroek, op. cit., p. 75, f. n. #12.

One of the most controversial of the constitutional abolitionists was Lysander Spooner, a Massachusetts lawyer, who unequivocally believed that slavery had no legal and constitutional basis for existence. His book entitled Constitutionality of Slavery (1845) became campaign literature for the Liberty party and abolitionist movement in general.

To understand Spooner's views on slavery, the Constitution, and the Declaration one has to understand the basic assumptions with which he worked. Spooner believed that natural law was the highest form of law. "Natural law, then, is the paramount law," and if positive law was ever contrary to natural law it was invalid. He maintained therefore "that no rule of civil conduct, that is inconsistent with the natural rights of men, can be rightly established by government, or consequently be made obligatory as law, either upon the people, or upon judicial tribunals."³²

In his book, Spooner presented a unique and interesting constitutional interpretation of the Declaration's principles. Slavery being his main concern, he used several arguments involving the Declaration to demonstrate the illegality of such a hideous practice. Spooner noted that in 1776 the Declaration was recognized as being constitutionally

³²Lysander Spooner, The Unconstitutionality of Slavery (Boston: Bela Marsh, 1845), pp. 7, 8, 18, 19.

lawful for the purpose of declaring colonial independence. Continuing in this vein, he suggested that "If then, the act of absolution [independence] was lawful, does it not necessarily follow that the principles that legalized the act, were also law?"³³ In other words, the colonists must have considered the doctrine of inalienable rights as part of the constitutional law of the country. This line of thought led him to the conclusion that if the Declaration were part of the constitutional law of the United States just for a day, it legally abolished slavery. Spooner did not believe that slavery ever had a legal basis for existence, but for the sake of argument, if it did, it was abolished by the Declaration. Since this was the case, slaveholders presently had the obligation of demonstrating that slavery had been "constitutionally established" since July 4th, 1776.³⁴ This of course was something which Spooner knew would be difficult to prove.

Spooner presented a corollary to his first line of argument. He pointed out that the Declaration of Independence clearly recognized that man's inalienable rights were self-evident truths. And all self-evident truths were a part of "all laws and contracts" even though they were not always specifically listed. It would be impossible, for

³³Ibid., p. 42.

³⁴Ibid., pp. 42, 43.

ple, to list all the self-evident truths that might be associated with the administration of a particular law. Therefore, all such truths were taken for granted unless specifically and constitutionally denied. He contended that the concept of inalienable rights had never been denied by any constitution or statute in the United States. Therefore freedom was a legal right which all men had, black or white.³⁵

Spooner, however, admitted that in practice the concept that all men had an inalienable right to life, liberty, and the pursuit of happiness had been denied to the Negro in America. This was something which happened to many truths when they were only partially accepted and implemented. He noted that American courts would never allow one white man to enslave another and were therefore guilty of not applying the fundamental law of the land consistently.³⁶ To Spooner's way of thinking this contradiction did not change the fact that the doctrine of inalienable rights was still a basic part of the constitutional law of the United States.

Not all abolitionists, however, agreed with Spooner's constitutional theories. Garrisonians such as William Litch and Wendell Phillips firmly believed the Constitution

³⁵Ibid., pp. 43, 44.

³⁶Ibid., pp. 44, 45.

was a proslavery document. Bowditch wrote an essay entitled The Constitutionality of Slavery which was in essence a refutation of Spooner's work. With regard to the Declaration, Bowditch rejected Spooner's contention that it was part of the constitutional law protecting the colonists' natural rights. He found no evidence to support the idea that the colonists "expressly or impliedly gave Congress the power to abolish slavery."³⁷

One of Spooner's severest critics was also a fellow abolitionist. Wendell Phillips was an intellectual leader of the radical wing in the antislavery movement. In opposition to many abolitionists, Phillips like Garrison categorically repudiated the Constitution and maintained that the American system was synonymous with slavery.

Phillips was of course an arch critic of slavery, but in reviewing Spooner's book he came to the conclusion that many of the latter's arguments were erroneous. He strongly disagreed with Spooner's contention that the Constitution did not recognize or sanction slavery. Phillips, on the contrary, believed that that was the basic problem with the Constitution; it was clearly a proslavery document.³⁸

In addition to this, Phillips rejected Spooner's

³⁷Kraditor, op. cit., pp. 208, 209.

³⁸Wendell Phillips, Review of Lysander Spooner's Essay on the Unconstitutionality of Slavery (Boston: Andrews & Prentiss, 1847), pp. 35, 36.

ment that the Declaration of Independence abolished
 ery. Phillips asserted that the Declaration declared
 pendence from Great Britain and this was all it was
 nded to do. He stated, for example, that "No court
 ever held it to be the 'fundamental law' of the country.
 he contrary, it is simply a State paper, -- a political
 -- changing the form of government, and having no
 tion to individual rights."³⁹ To support this view
 uoted from John Quincy Adams' Fourth of July oration
 vered at Quincy in 1831. He noted that Adams in dis-
 ing this question had stated that the Declaration
 e no change in the laws It left all municipal
 slation, all regulation of private individual rights
 interests to the people of each separate Colony."
 lips concluded his criticism by declaring that "Every
 knows and every page of our history proves, that the
 aration was neither intended nor supposed to abolish
 ery."⁴⁰

The foregoing comments reveal some interesting facts
 only about abolitionists, but also about Wendell Phillips.
 t, not all abolitionists agreed on the constitutionality
 lavery nor in their interpretation of the Declaration of
 pendence. Second, Phillips appears to have interpreted

³⁹Ibid., p. 87.

⁴⁰Ibid.

the Declaration to suit his own purposes. He clearly interpreted the document in different ways at different times. For example, at a woman's rights convention held at Worcester, Massachusetts in 1851 Phillips offered a series of resolutions supporting woman's rights, including one which quoted at length from the Declaration's preamble. Phillips declared that life, liberty and the pursuit of happiness were inalienable rights which also applied to women. In addition, the consent of the governed principle also included women.⁴¹ In this instance the Declaration was definitely more than just a "State paper" and it clearly had a "relation to individual rights." In the following year at a Massachusetts Anti-Slavery Society meeting, Phillips criticized Rufus Choate for referring to the principles of the Declaration as "infamous ethics." Speaking to a Brooklyn, New York audience after John Brown's raid on Harper's Ferry, his response to the question "Has a slave a right to resist his master?" was: "I will not argue that question to a people hoarse with shouting ever since July 4, 1776, that all men are created equal, that the right to liberty is inalienable and that 'resistance to tyrants is obedience to God'."⁴² In the foregoing instances Phillips obviously associated the Declaration with more than the

⁴¹Wendell Phillips, Speeches, Lectures, and Letters (Boston: James Redpath, 1863), pp. 12, 13.

⁴²Ibid., pp. 60-61, 279.

of political independence. His use of John Quincy Adams' Fourth of July oration must also be called into question. In the quote used by Phillips, Adams was addressing himself to the question of state sovereignty and not slavery. Adams was in fact attempting to prove that the Declaration while joining the colonies into a union of states, did not violate any of the rights of the colonies or the people residing therein.⁴³ John Q. Adams had stronger views on the Declaration than Phillips and lead the reader to believe. It will be recalled that Adams maintained that the rights of slaveowners were "incompatible with the inalienable rights of all mankind, as set forth in the Declaration of Independence," and in a later oration asserted that the main reason for assembling on July 4th was not to celebrate independence from Great Britain but to celebrate "the emancipation of man from the bondage of man."⁴⁴

Another constitutional abolitionist who was influential in antislavery circles was the Reverend William Goodell. He was active in temperance and antislavery since the early 1830's,

⁴³John Q. Adams, An Oration Addressed to the Citizens of the Town of Quincy, on the Fourth of July, 1831 (Boston: H. B. Lord & Holbrook, 1831), pp. 17-21.

⁴⁴Josiah Quincy, Memoir of the Life of John Q. Adams (Boston: Phillips, Sampson and Co., 1859), p. 260. John Quincy Adams, An Oration Delivered Before the Inhabitants of the Town of Newburyport . . . July 4th, 1837 (Newburyport, N.H.: Charles Whipple, 1837), pp. 53, 54.

Founded the Liberty League in 1847 after coming to the conclusion that the Liberty party's program of opposition to slavery was too narrow. Being interested in the relationship between slavery and law, he published his ideas in Views of American Constitutional Law (1845). Goodell maintained that the United States had established a fundamental system of principles before the Constitution was adopted, and that these doctrines were expressed in the Declaration of Independence. He argued that since the Declaration was never repealed by any of the states it remained "as the fundamental basis and ground work of American Constitutional Law." The Articles of Confederation and the Constitution were merely "adjustments" and elaborations of the Declaration's principles.⁴⁵ Goodell developed this line of thought to the point where he concluded that the Declaration had "paramount authority . . . over all our other Constitutions and laws." These arguments led to the conclusion that not only did the Declaration prohibit slavery, but that the practice was illegal in all states and territories of the Union.⁴⁶

While difficult to positively prove, it appears that Goodell was strongly influenced by Mellen and especially Sumner. His reference to the fact that the Declaration had

⁴⁵William Goodell, Views of American Constitutional Law In Its Bearing Upon American Slavery (Utica, N. Y.: Goodell & Chaplin, 1845), pp. 136, 138.

⁴⁶Ibid., pp. 139, 141.

er been repealed by the states was an elaboration of
 of Spooner's main points.⁴⁷ Goodell, however, did
 e the argument one step further than his colleagues.
 maintained that the principles of the Declaration of
 ependence were not only part of the constitutional law,
 that they were the supreme constitutional authority.
 hence slavery must be viewed as having no legal and
 stitutional basis for existence.⁴⁸

It is interesting to note that Goodell made the
 laration the most important element in American con-
 stitutional law. To support his view on the paramount
 ority of the Declaration he relied on three major
 rces: (1) John Adams' July 4th oration of 1837,
 decisions of Massachusetts Courts and (3) Representative
 n C. Spencer's comments in the New York Legislature in
 1837.⁴⁹

The historical validity of many of the ideas advanced
 the constitutional abolitionists, regarding the Declaration
 of Independence and the Constitution, is rather doubtful
 and is definitely open to question. Slavery, for example,

⁴⁷Further evidence of Spooner's influence can be
 found in Goodell's, Slavery and Anti-Slavery (1852), pp. 22,
 78, 476. Also see tenBroek, op. cit., p. 85, f. n. #20.

⁴⁸Goodell, Views of American Constitutional Law,
 138, 139.

⁴⁹Ibid., pp. 139, 140. Goodell went into greater
 detail on the meaning of some of the Declaration's basic
 principles in his book Our National Charters (1863). See,
ibid., Chapter V, p. 187.

was not abolished by the Declaration nor was this one of the document's objectives. There is also little historical evidence to support the assertions that slaves were intended to be included within the meaning of the Declaration's equality clause, and that the Constitution was intended to be an expression or reaffirmation of the Declaration's principles. And whether those principles were an essential part of the nation's constitutional law or had the force of law was a frequently debated question, which shall be discussed at length in one of the following chapters. The important point, however, is that such ideas gained influence and were accepted by many as truth.

James G. Birney, the ex-slave owner from Alabama who became a staunch opponent of slavery, was strongly influenced by the constitutional abolitionists and eventually joined their ranks. Birney believed that Americans should never sanction anything which was contrary to the principles of the Declaration. For this reason he was firmly opposed to slavery.

Birney's constitutional views, however, evolved slowly during the 1840's. In 1844 he suggested that Congress might have the power to abolish slavery. To support this opinion he stated that the concepts of freedom and rights expressed in the Declaration had been made a part of the Constitution. This fact plus the Fifth Amendment would

appear to give Congress such authority.⁵⁰

In a series of articles published in the Albany Patriot in 1847, Birney again addressed himself to the constitutional problem of slavery. He asserted in one of these letters that the Declaration with its ideas of equality and inalienable rights definitely supported the slave in his demand and right to freedom. Birney believed that the principles of the Declaration formed a part of the fundamental law of the country and therefore the Constitution could not have sanctioned slavery, because such action would amount to a repudiation of the former document. By 1850 he positively claimed that, under the Constitution, slavery could be abolished everywhere in the United States.⁵¹

Commenting upon the legality of the Declaration in his second public letter to the Albany Patriot, Birney noted that people had argued that the document was not as binding upon Americans as was the Constitution. Birney admitted this was true in a certain sense but stated that

the Constitution shows the relations of the individual to the government and those of government to the individual. The Declaration not only regulates the nature of government as far as the individual is concerned, but also its nature, so far as other nations are concerned.⁵²

I think Birney's point was that the Declaration was actually

⁵⁰Kraditor, op. cit., p. 190.

⁵¹tenBroek, op. cit., pp. 84-85. Dumond, op. cit., p. 72. Kraditor, op. cit., p. 190.

⁵²tenBroek, op. cit., p. 304, f. n. #3.

re important than the Constitution because it dealt with the fundamental "nature of government" which would directly influence the nature of a country's constitution as well as the rights of its citizens.

The views of Gerrit Smith, a philanthropical abolitionist from New York, exemplify the influence which constitutional abolitionists exerted. By the late 1840's Smith made strong use of the Declaration of Independence in his constitutional arguments. Believing slavery to be wrong because it deprived men of their natural rights, he often cited the Declaration to sustain his beliefs. In an 1850 address to the New York State Assembly he declared that for the purposes the Declaration was "the highest Constitutional authority in the Nation." One such purpose was slavery. He asserted that if slavery had ever been legal in America it was definitely abolished when Americans proclaimed in their Declaration the principles of equality and inalienable rights. Smith also noted that if the revered document "is our authority for the self-government of a people, equally is it our authority for maintaining, that freedom is the birthright of all."⁵³

One of the most important developments of the anti-slavery movement during the 1840's was the organization of

⁵³Gerrit Smith, Substance of the Speech Made By Gerrit Smith in the Capitol of the State of New York, on the 11th and 12th, 1850 (Syracuse, N. Y.: V. W. Smith Co., 1850), pp. 11, 12, 13.

a political party dedicated to abolition. Men in both major political parties, especially the Whig party, had of course always held antislavery views, but since these were national organizations, slavery was an issue to be avoided and compromised. In the late 1830's politically minded abolitionists such as Alvan Stewart, Gerrit Smith, James G. Birney, Joshua Leavitt and William Goodell had become more interested in political action. One of the primary causes which split the American Anti-Slavery Society in 1840 was in fact this issue of political activity.⁵⁴

Many antislavery men were against organizing along political lines because they feared such action would entail compromising on principles, resulting in a loss of moral purpose.⁵⁵ Nevertheless, interest in politics was quite evident at the American Anti-Slavery Society Convention held in Albany, New York in 1839. While the convention did not advocate the organization of a new political party it did reaffirm the principle that antislavery men should only vote for candidates committed to emancipation. The convention's position paper also noted that many representatives in Congress did not support nor understand the principles of the Declaration of Independence.⁵⁶

⁵⁴Louis Filler, The Crusade Against Slavery, p. 135.
tenBroek, op. cit., p. 136.

⁵⁵Filler, The Crusade Against Slavery, p. 153.

⁵⁶Dumond, op. cit., p. 295.

During the spring of 1840 the politically minded abolitionists succeeded in organizing the Liberty party, with James G. Birney as its presidential candidate in that year's election. Although Birney did not make a strong showing his candidacy served notice that slavery was going to play an increasingly important role in the nation's politics.

From its beginning, the Liberty party strongly identified with the principles of the Declaration of Independence. This is clearly evident from an examination of the party's platforms and resolutions. In 1843, for example, the party adopted a set of resolutions which proclaimed: (1) the concept of natural equality, (2) that the Declaration's principle of inalienable rights "was made the fundamental law of the land by the Fifth Amendment," and (3) that slavery was a violation of man's natural rights. Most important of these resolutions was the second because it clearly equated the principles of the Declaration with the Constitution and the public law of the United States. The Liberty party's platform in 1844 contained similar statements.⁵⁷

⁵⁷Wright, op. cit., p. 213. The second resolution mentioned read as follows: "The fundamental truth of the Declaration of Independence, that all men are endowed by their Creator with certain unalienable rights, among which are life, liberty and the pursuit of happiness, was made the fundamental law of our National Government by that amendment of the Constitution which declares that no person shall be deprived of life, liberty or property without due process of law." See tenBroek, op. cit., p. 139.

In his book, tenBroek also noted that Liberty party

Liberty party men frequently referred to the Declaration support their aims and ideas. Charles D. Cleveland, addressing the Liberty party of Pennsylvania in Philadelphia declared that the party's principles were the same as those expressed in the Declaration.⁵⁸ One of the more important antislavery gatherings held during the 1840's was the Southern and Western Liberty Convention sponsored by the Liberty party in June of 1845. At that convention anti-slavery men such as Elihu Burritt, Henry B. Stanton, William Seward, Gerrit Smith, Horace Greeley and Lewis Tappan and Salmon P. Chase give the keynote address. According to Chase, the founding fathers proclaimed in the Declaration of Independence, the fundamental principles upon which they intended to establish the country's government. The concepts of equality and inalienable rights were "solemnly proclaimed The Basis Of A National Faith." Chase also stated that those who drew up the Constitution intended it to be an

who believed that since the principle of inalienable rights was made a part of the Constitution by the Fifth Amendment, the federal government had a positive mandate, without "specific constitutional directives" to protect men in their fundamental rights. See pp. 139, 140. Kirk H. Porter and Donald B. Johnson, eds., National Party Platforms: 1840-1864 (Urbana, Ill.: Univ. of Illinois Press, 1966), p. 5.

⁵⁸ Charles D. Cleveland, Anti-Slavery Addresses of 1844 and 1845 (Phila.: J. A. Bancroft & Co., 1867), p. 12.

expression of the Declaration's doctrines.⁵⁹

In 1846 Alvan Stewart wrote a public letter to the Liberty party expressing some of his views on the Declaration.⁶⁰ He suggested that Americans had been so captivated by the Declaration's principles during the past seventy years, especially praising it at July 4th celebrations, that they had failed to act upon it. Americans had not put the principles of that document into practice. It was therefore the duty and responsibility of a movement such as the Liberty party to make sure the Declaration became a reality in American life. Stewart also stated that abolitionists in the Liberty party

hold the Declaration of Independence to be an elementary law, the law of laws, the rock of first principles, to which the nation descended, and on which it built in the honest hour of its agony; and that every other institution or constitution contravening its great essentials is null and void,⁶¹

Concluding his remarks, Stewart asserted that if the Declaration had not expressed the idea "that all men were created free and equal," and had instead recognized the legitimacy of slavery, American independence could not have

⁵⁹Ibid., pp. 79, 84. It appears that Chase was influenced by the ideas of the constitutional abolitionists, but it should be noted that there is little historical evidence to support his contention that the framers of the Constitution intended that document to be an expression of the Declaration's principles.

⁶⁰Alvan Stewart was one of the first men to urge the organization of a political party dedicated to abolition. See tenBroek, op. cit., p. 281.

⁶¹Marsh, op. cit., pp. 42, 44.

men won. He distinctly suggested that equality was what the Revolution was all about and that Negroes were intended to be included within the meaning of that concept.⁶²

It is interesting to note that other antislavery groups adopted platforms and passed resolutions in which the Declaration played a significant part. At the Honeoye Liberty Mass Meeting in upper New York during December of 1846 a Declaration of Sentiments was adopted which quoted from the second paragraph of the Declaration's preamble.

The Convention also adopted a resolution which stated:

That the Constitution of the United States was based upon the fundamental principles of common law already cited and upon the self-evident truths of the Declaration of American Independence - that in the light of those fundamental principles and self-evident truths, it is to be construed, as well as in the light of its declared objects, as set forth in its preamble . . .

The next resolution declared that since the Constitution should be interpreted in light of the Declaration and its preamble, it was obvious that slavery was unconstitutional and illegal.⁶³

That all men and groups within the antislavery movement

⁶²Ibid., pp. 44-45. Like many men deeply committed to a cause, Stewart tended to exaggerate at times. To begin with, the Declaration did not proclaim "all men are created free and equal." It stated "all men are created equal." His assertion that the Revolution could not have been won without that expression of freedom and equality and in the Declaration is certainly open to question, as is his contention regarding the Negro and equality.

⁶³tenBroek, op. cit., p. 142. The page cited also contains other resolutions bearing upon the Declaration and the Constitution.

were not solely interested in Negro emancipation can be seen from the objectives of the Liberty League. At the League's New York Macedon Convention in 1847, for example, tariffs and land monopolies were held to be in violation of man's inalienable rights. Similar resolutions can be found in the Honeoye Liberty Mass Meeting's Declaration of Sentiments.⁶⁴

Many antislavery men in the mid 1840's came to believe that the Liberty party needed a broader base. By 1846, for example, James G. Birney was convinced that the party would have to expand its platform if it was to gain the support of most Northerners.⁶⁵ In 1848, "conscience" Whigs, dissatisfied Democrats and a substantial number of Liberty party men joined together in support of the Free Soil party. Whether or not that party was an expansion or absorption of the Liberty party and its principles is a moot question.⁶⁶ Regardless of the answer, slavery continued to be an important political issue.

⁶⁴Ibid., p. 138. See f. n. #2 on the page cited which lists resolutions passed at these meetings.

⁶⁵Dumond, op. cit., pp. 301, 302; Kraditor, op. cit., p. 152.

⁶⁶Dumond in his book Antislavery, p. 304, maintains that the Free Soil party represented "an expansion of the Liberty party under a new name." For an opposing point of view see Filler's, Crusade Against Slavery, pp. 190-191.

It should also be noted that while a substantial number of Liberty party men joined the Free Soil coalition, many refused to lend their support because the new party did not take a positive stand on the abolition of slavery. See Kraditor, op. cit., pp. 180-182.

Free Soilers frequently made references to Jefferson and the Declaration of Independence. In 1848 the Free Soil party adopted the so-called "Jefferson Proviso," expressing the idea that Jefferson in his Northwest Ordinance of 1784 supported the exclusion of slavery from the territories.⁶⁷

Owen Lovejoy, brother of the famous abolitionist martyr, was an example of a Liberty party man who supported the Free Soil coalition. An Ottawa, Illinois newspaper reported in July of 1848 that Lovejoy had stated that Congress had an obligation to prevent slavery from spreading to the territories, and that he used the Declaration, and Preamble of the Constitution to support his opinion.⁶⁸ Four years later the Free Soil party platform contained a resolution which stated that governments received their power and authority from the consent of the governed and that the purpose of government was to protect men in their inalienable rights.⁶⁹

One Free Soiler in particular who strongly identified with the Declaration's principles was Charles Sumner. In earlier years he had been a "conscience" Whig, and by 1848

⁶⁷Merrill D. Peterson, The Jefferson Image in the American Mind (New York: Oxford Univ. Press, 1960), pp. 190, 191.

⁶⁸Edward Magdol, Owen Lovejoy: Abolitionist in Congress (New Brunswick, N. J.: Rutgers Univ. Press, 1967), pp. 84, 85.

⁶⁹tenBroek, op. cit., p. 140, f. n. #4.

was one of the leaders of the Free Soil party in Massachusetts. At a political rally in June of 1848, he declared that the Whig party was no longer "the party of Humanity" and that he now belonged to a party which was based upon the Declaration of Independence and the Constitution.⁷⁰ Speaking to a group of citizens that same month in Worcester, Massachusetts, he noted that the crucial question before the nation involved the Slave Power and its attempt to extend slavery. The Free Soil Movement had risen to meet this challenge. The Movement was in fact a continuation of the American Revolution. It was "an effort to carry into effect the principles of the Declaration of Independence . . . - to bring back the Constitution to the principles and practice of its early founders" The aims of slaveholders were in contradiction to the inalienable rights of men proclaimed in the Declaration and reaffirmed in the preamble to the Constitution. Sumner contended that "the Constitution was the crowning labor of the men who gave us the Declaration of Independence. It was established to perpetuate, in organic law, those rights which the Declaration had promulgated, and which the sword of Washington had secured."⁷¹

Following the National Free Soil Convention at Buffalo

⁷⁰Sumner, op. cit., II, 76.

⁷¹Ibid., pp. 85, 78.

in August of 1848, Sumner played an important role in promoting the party's cause. In a letter dated October 26, 1848, addressed to the Free Soil party of Ward County Massachusetts he referred to the Buffalo convention proposals as the party's Declaration of Independence. Paraphrasing the Declaration, he wrote:

Now in the course of human events, it has become our duty to dissolve the political bands which have hitherto bound us to the old organizations, and to assume a separate existence. Our Declaration of Independence was put forth at Buffalo. Let us, in the spirit of the fathers, pledge ourselves to sustain it with lives, fortunes, and sacred honor. Our cause is holier than theirs, inasmuch as it is nobler to struggle for the freedom of others than for our own.⁷²

Just as the colonists had to cut the bonds of allegiance to the mother country, so too did opponents of slavery have to sever ties with ineffective political parties. Sumner in essence was emphasizing the right and duty of citizens to band together for the purpose of changing society.

That slavery was the crucial issue in Sumner's mind can also be seen from his remarks at a party convention in the fall of 1849. Addressing the delegates assembled, he maintained that Jefferson was one of the country's earliest abolitionists and that the principles of both the Declaration and the Constitution were clearly opposed to the pernicious practice.⁷³

⁷²Ibid., p. 159.

⁷³Ibid., pp. 291-292.

Sumner's views require some comment and qualification. While Jefferson believed slavery was a destructive practice, he cannot be considered an abolitionist, at least not in the mid-nineteenth century sense of the term. Sumner's attitudes on the Declaration and the Constitution are also interesting not only because they are questionable, but because they indicate that he was influenced by the ideas of constitutional abolitionists. He referred to the Constitution, for example, as an antislavery document whose purpose was to perpetuate the principles of the Declaration.⁷⁴

This brief review of antislavery political activity during the 1840's reveals some significant points about the Declaration. To begin with, it is clear that the document played an important role in the rhetoric of antislavery politics. It is also quite apparent that the ideas of the constitutional abolitionists, regarding the Declaration, influenced Liberty party men, Liberty Leaguers and others. Not only was the Declaration viewed as standing in contradiction to slavery, but its principles were held to be the basis of American government. Many abolitionist supporters believed that the Declaration should serve as an interpretive guide to the Constitution, and that the latter document was a reaffirmation of the first. The Declaration's doctrines were considered by many to comprise an essential part of the

⁷⁴Ibid., pp. 292, 78.

fundamental law of the land.

As an addendum to political party activity in the 1840's it should be noted that the two major parties, Democrat and Whig, tended to avoid the Declaration. The Whig national party platforms during the 1840's never referred to the Declaration. From 1840 to 1856 the Democratic party in its national platforms did include a reference to the Declaration, but it was vague and meaningless.⁷⁵ This was of course not unexpected since the Declaration was a controversial document and national parties required cohesiveness and not controversy to be effective.

⁷⁵Porter and Johnson, op. cit., pp. 1-24.

CHAPTER IV

GLITTERING GENERALITIES OR ABSOLUTE TRUTHS?: 1850's

Throughout the 1850's the controversy over slavery, while experiencing brief respites, continued to intensify and promote sectional animosity. Certain basic questions such as the function and purpose of government, the nature of citizenship, and the rights of the individual continued to be sources of contention. And because these questions were debated the Declaration of Independence continued to be a disputed document in the politics of the period. In fact, the most revealing aspects of the Declaration's history during the 1850's can be found in studying controversial historical events and developments. Of primary importance in this regard were the Compromise of 1850, the Kansas-Nebraska debates, the Dred Scott case, the Lincoln-Douglas debates and the emergence of the Republican party.

By the years 1849-1850 sectional conflict between the North and South reached a new high due to a variety of factors: (1) the Wilmot Proviso alarmed Southerners because it attempted to restrict the slaveowner's mobility, (2) the delicate balance between free and slave states was about to

be upset by the admission of California into the Union, and (3) the antislavery crusade continued to attack the "peculiar institution" and its possible expansion. To soothe these tensions, congressional legislators produced the Compromise of 1850 which was basically an attempt to reduce sectional strife by alleviating southern and northern anxieties over slavery.¹

Early in 1850 when the House of Representatives resumed discussion on the question of slavery in the territories, many southern congressmen voiced the opinion that the new territories did not have the right to prohibit slavery. For this reason they opposed the admission of California as a free state. Speaking to the House on this subject in February of 1850, Horace Mann, who had replaced John Quincy Adams in Congress, maintained that by their devotion to slavery, Southerners were repudiating the fundamental principles of American government. With a note of cynicism he suggested that southern congressmen use the following parody of the Declaration to support their cause:

We hold these truths to be self-evident that men are not created equal; that they are not endowed by their Creator with inalienable rights; that white men, of the Anglo-Saxon race, were born to rob, tyrannize, and enjoy; and black men of the African race to labor, and

¹James G. Randall and David Donald, The Civil War and Reconstruction (2nd ed.; Boston: D. C. Heath & Co., 1961), pp. 83-86.

suffer, and obey;²

Representative Charles Durkee of Wisconsin, speaking in the same chamber several months later echoed Mann's thoughts and referred to the Wilmot Proviso as being in harmony with the Declaration's precepts.³

One of the most controversial figures of the Compromise debates was William H. Seward of New York who believed in the existence of a higher law which to him was synonymous with the law of God. Such law was paramount to statute law and even the Constitution. Seward supported the Wilmot Proviso because he believed slavery violated the higher law.⁴ In a July 1850 speech on the Compromise bill he noted that many of his colleagues argued that because of natural conditions of climate and geography slavery did not have to be officially excluded from territories like New Mexico. They believed that to urge passage of legislation similar to the Ordinance of 1787 was to deal in abstractions. Seward's reaction to this argument was that all acts and

²U. S., The Debates and Proceedings of the Congress of the United States, vol. 94-Append., 31st Cong., 1st Sess., 1850, pp. 219, 223. Hereafter the congressional record will be cited as the Congressional Globe.

³W. G. Bean, "Anti-Jeffersonianism in the Ante-Bellum South," North Carolina Historical Review, XII (April, 1935), p. 105.

⁴The Wilmot Proviso which was introduced in the House of Representatives on August 8, 1846 by Representative David Wilmot, a Pennsylvania Democrat, sparked the controversy over slavery and the territories.

declarations expressing human rights dealt with abstractions. The Declaration of Independence, for example proclaimed the concepts of natural equality and inalienable rights. Seward went on to say, however, that such "abstractions of human rights are the only permanent foundations of society. It is by referring to them that men determine what is established because it is Right, in order to uphold it forever; . . .".⁵ Seward clearly saw the principles of the Declaration as being an essential part of the higher law.

Theodore Parker, the Unitarian minister and a leading Boston abolitionist also frequently used the ideas of the Declaration in arguing against those who denied the authority of higher law. Parker believed that the idea of freedom as expressed in the Declaration of Independence was "derived from human nature; it rests on the immutable Laws of God; it is part of the natural religion of mankind." According to Parker the supreme law of the land was not found in the Constitution, but in God's law.⁶

The views of men such as Seward and Parker were often subjected to criticism. Lewis Cass of Michigan rejected

⁵Benjamin F. Wright, American Interpretations of Natural Law (Cambridge, Mass.: Harvard Univ. Press, 1931), p. 221. George E. Baker, ed., The Works of William H. Seward (5 vols.; Boston: Houghton, Mifflin and Co., 1884), I, 100, 101, 102.

⁶Theodore Parker, Additional Speeches, Addresses and Occasional Sermons (2 vols.; Boston: Horace B. Fuller, 1855, 1867), II, 251-252. Henry S. Commager, Theodore Parker (Boston: Little, Brown & Co., 1936), pp. 205, 210

the higher law doctrine because he felt it allowed men to arbitrarily decide when to obey or disobey certain laws. Cass admitted that there were certain inalienable rights given to man by God as proclaimed in the Declaration of Independence. But he also stated that "Among these is the right to institute governments - as the Declaration asserts - and there this principle stops - when once instituted, it is the duty of every man to obey the laws, unless the oppression is such to justify a revolution."⁷ Cass was directly criticizing Seward and others who would use the Declaration of Independence to subvert the constitutional law of the land.

A major element of the Compromise of 1850 which antagonized antislavery supporters was the new Fugitive Slave law. Rufus W. Clark, a Boston abolitionist minister, believed that obedience to the new law was a violation of the Declaration and the Constitution. Reiterating this point in a Senate speech, Charles Sumner asserted that important political acts such as the Fugitive Slave act and documents like the Constitution should be interpreted in light of the Declaration's principles of equality and inalienable rights. Joshua Giddings, a leader of the abolitionist bloc in Congress, who had been strongly influenced by John Quincy Adams, also spoke out against the

⁷Congressional Globe, vol. 106, 33rd Cong., 1st Sess., 1854, p. 279.

new law. Giddings, however, went one step further than his congressional colleagues. In a December 1850 speech before the House, he maintained that passage of the Fugitive Slave act involved Northerners as well as Southerners in the crime of perpetuating slavery. Continuing in this vein, he warned his colleagues that if the Union ever became an instrument which degraded the people of the United States they would reject it, just as their forefathers had rejected union with Great Britain. For when government failed to protect men in their inalienable rights and sustain the principles of equality, the people had the right to adopt a new form of government - they had the right to revolution.⁸

That all Americans did not interpret the Declaration as did Giddings is obvious from an article apparently written by Thomas Kettell, editor of the United States Magazine and Democratic Review. In the May 1851 issue of this publication, Kettell argued that compromises of the Constitution, especially with respect to slavery, should "be respected and held inviolable" unless they were disapproved "by the common consent" of the people. In other words, slavery could only be abolished by the consent of the governed. Kettell was also very critical of so-called "philosophical

⁸Rufus W. Clark, A Review of the Rev. Moses Stuart's Pamphlet on Slavery, Entitled Conscience and the Constitution (Boston: C. C. P. Moody, 1850), pp. 82, 83. Charles Sumner, The Works of Charles Sumner (15 vols.; Boston: Lee and Shepard, 1870-1882), III, 111, 112. Joshua R. Giddings, Speeches in Congress (Boston: John P. Jewett & Co., 1853), pp. 441, 442.

legislation" and maintained that to dissolve the Union over a moral question was absurd and served no constructive purpose. To support this view he again referred to the Declaration by quoting from its second paragraph. He wrote that "Prudence, indeed, will dictate that governments, long established, should not be changed for light and trifling causes;" ⁹

The congressional debates of 1850 indicate that the Declaration of Independence often became the focus of attention. Besides being discussed with respect to the specific questions of slavery, it was also associated with the principles of the Wilmot Proviso, higher law, and the right to revolution. And while the Declaration was most often used by antislavery supporters, its principles were also used by men such as Thomas Kettell to condone slavery.

The relief which a majority of Americans appear to have experienced after the enactment of the Compromise of 1850 was short lived. Not only were abolitionists and secessionist-minded Southerners dissatisfied with the settlement, but by 1854 the slavery controversy flared anew

⁹Thomas P. Kettell, "Constitutional Compromises," The U. S. Magazine and Democratic Review, XXVIII (May, 1851), pp. 387, 388, 389. Kettell was also the author of a book entitled Southern Wealth and Northern Profits in which he argued that the South was the most productive section in the United States and that the North exploited the South economically, enjoying, for example, the major share of profits. He also rejected the claim that the southern economy suffered because of slavery.

in the Kansas-Nebraska debates. In its original form the Kansas-Nebraska act simply attempted to organize the Nebraska territory, but as modified by its guiding force, Senator Stephen A. Douglas of Illinois, it incorporated the concept of popular sovereignty and also repealed that part of the Missouri Compromise which had excluded slavery north of 36° 30' in the Louisiana territory. This latter modification especially antagonized the antislavery forces. Northerners, who did not necessarily hold antislavery views, were also disturbed by the bill and accompanying debates because they believed the slavery question had been finally settled in 1850. Many feared that the issue would again become a disruptive force threatening the Union.¹⁰

Congressional debate on the Kansas-Nebraska bill began in January of 1854. Antislavery men were opposed to the measure, while moderates and proslavery forces generally favored it. Benjamin Franklin Wade, the fiery senator from Ohio, opposed the bill and in a February 6th speech maintained that he did not acknowledge the slaveowner's right to own property in slaves because he was a believer in the Declaration of Independence, which referred to the equality and inalienable rights of all men. Senator Archibald Dixon

¹⁰ Allan Nevins, Ordeal of the Union: 1852-1857 (2 vols.; New York: Charles Scribner's Sons, 1947), II, 94, 95, 98, 108. Randall and Donald, op. cit., pp. 95-96. Paul M. Angle, ed., Created Equal? : The Complete Lincoln-Douglas Debates of 1858 (Chicago: Univ. of Chicago Press, 1958), p. ix.

of Kentucky challenged Wade's statement and asked him if he believed slaves were equal to the free laborers of the North. Wade responded by stating that slaves were equal to everyone else; equal before the law and equal before God, but degraded by the oppressive institution of slavery. Dixon pressed Wade on this point and asked if he believed the free Negroes of Ohio were equal to the whites of that state. Wade answered that free Negroes were equal to whites in the sight of God and in the language of the Declaration, but admitted that their wealth, living standard and influence were not comparable to that of whites.¹¹

Apologists for slavery often used the technique adopted by Senator Dixon to indicate the contradictions in the antislavery arguments. Speaking to the Senate on February 24th, Andrew P. Butler of South Carolina suggested that Wade and other antislavery supporters had taken a contradictory position by maintaining "that the black man, under the sentimental idea contained in the Declaration of Independence, has a right to claim an equality with the white man." The South Carolinian had clearly taken notice of Wade's admission that free Negroes, even in the North, were not on the same level as whites. Butler also argued "that Abolitionists cannot make those [Negroes] equal

¹¹Congressional Globe, vol. 103, 33rd Cong., 1st Sess., 1854, p. 339.

whom God has made unequal."¹²

In a February 20th speech before the Senate, John Pettit of Indiana, a supporter of the Kansas-Nebraska bill, expressed his dissatisfaction with abolitionist opponents of the measure, their use of the Declaration of Independence and their claims that all men were created equal. Pettit noted that no matter how unpopular, egotistical, or absurd his actions might be, he would have to contradict the words of the Declaration. He stated that

I cannot in the first place, believe that Mr. Jefferson ever intended to give the meaning or force which is attempted now to be applied to this language when he said: 'We hold these truths to be self-evident, that all men are created equal.' I hold it to be a self-evident lie, there is no such thing.

Pettit was also critical of Jefferson for not qualifying his statement on equality and pointed out that such a notion was obviously false. This criticism of the equality clause did not go unnoticed. Antislavery men were sorely provoked, and Pettit long remained the butt of their criticism.¹³

One of the first to respond to Pettit's remarks was Charles Sumner of Massachusetts, a leading opponent of the bill, who believed that such criticism was a disservice to

¹²Congressional Globe, vol. 106, 33rd Cong., 1st Sess., 1854, p. 233.

¹³Ibid., p. 214. It is interesting to note that many of Pettit's critics stressed the fact that he had called the Declaration "a self-evident lie," when in reality he only referred to the famous equality clause as such. It should be pointed out, however, that he did imply that the other so-called self-evident truths were also open to question.

the founding fathers and the revered document. He strongly resented Pettit's implying that the truths of the Declaration were lies and absurdities. In regard to the question of equality he argued that the founding fathers did not claim all men were equal in strength, beauty and intellect, but held that they believed all men were equal in the sight of God and in respect to certain "natural inborn rights."¹⁴

Several days after Sumner made these remarks, Senator Albert Gallatin Brown of Mississippi suggested that if the Massachusetts senator wanted to see an example of the kind of equality mentioned in the Declaration, he should visit Mississippi. Brown declared that "In the South all men are equal. I mean, of course, white men; negroes are not men, within the meaning of the Declaration." He noted that since menial work in the South was performed by Negroes, whites did not have to lower themselves and therefore equality among the latter was preserved. The unique aspect of Brown's view was that he appeared to believe in the kind of equality which most proslavery writers rejected.¹⁵

Further evidence that antislavery opponents of the Kansas-Nebraska act were disturbed by the criticism that Pettit and others leveled at the Declaration can be found in the congressional debates of March and April. Addressing

¹⁴Sumner, op. cit., III, 293.

¹⁵Congressional Globe, vol. 106, 33rd Cong., 1st Sess., 1854, p. 230.

the Senate on the second day of March, Salmon P. Chase of Ohio noted that the Declaration of Independence had been openly questioned and criticized. He stated that "its doctrines are deemed hypocritical; and that which our forefathers believed was a self-evident truth, the defenders of this bill have discovered to be a self-evident lie."

On March 3rd, Benjamin Wade, who considered the Declaration to be his main weapon in opposing the Kansas-Nebraska act stated that the proponents of the bill had repudiated the renowned document. Principles of human rights which he had assumed "were universally acknowledged" had been referred to as "self-evident falsehoods."¹⁶

Gerrit Smith, the New York abolitionist who served less than one full term in the House of Representatives (1853-1854) became one of the leading opponents of the Kansas-Nebraska bill. One reason for this was his belief that the Declaration of Independence had made slavery illegal. He was therefore especially bothered when pro-slavery supporters subjected the celebrated document to ridicule. In a speech on the disputed bill before the House on April 6th, 1854 he touched upon the Declaration. According to Smith, the Constitution as some claimed was not a higher authority than the Declaration. On the contrary, the Constitution derived its "legitimacy and authority

¹⁶Ibid., pp. 299, 300, 310.

from the Declaration of Independence" and the latter document was "the very soul of every legitimate American Constitution - the Constitution of Constitutions - the Law of Laws." Smith maintained that the central truths of the Declaration, i. e., the concepts of equality and inalienable rights should be the most important factors "in all the shaping and interpretation of American politics." He also asserted the idea that if the Declaration had not contained the central truths referred to, there would not have been an American nation or successful revolution.¹⁷

William Lloyd Garrison, delivering an Independence Day oration before a large crowd at Framingham, Massachusetts on July 4, 1854, also commented upon criticism directed against the Declaration. He noted with great indignation that the thoughts of men such as George Washington, Patrick Henry and Thomas Jefferson were labeled "fallacies" and "dangerous heresies," and that in "the American Senate, the Declaration of Independence has been scouted as a tissue of lies and absurdities." Garrison believed that such actions discredited both the nation and the founding fathers. According to Garrison, July 4, 1776 symbolized the greatest

¹⁷Gerrit Smith, Speeches of Gerrit Smith in Congress (New York: Mason Brothers, 1855), pp. 131, 132, 130, 133. This last point was of course exactly what Alvan Stewart had said in his public letter to the Liberty party in 1846. The influence of the constitutional abolitionists can be readily seen in Smith's remarks on the Declaration. For Stewart's comments see Chapter III, p. 108.

political event in world history. For the Declaration proclaimed "equality of Rights" for all men. Such a radical political document could and should be used to relieve oppression not only in America but everywhere in the world.¹⁸

In an October 16, 1854 speech in Peoria, Illinois, Abraham Lincoln, a relatively unknown lawyer and one-term congressman, indicated his displeasure with attacks waged against the Declaration of Independence. He first mentioned why he opposed the Kansas-Nebraska act. To begin with, it fostered the institution of slavery which he believed was contrary to the principles of the Declaration, especially the concept of equality. According to Lincoln the issue of slavery also "forces so many really good men . . . into an open war with the very fundamental principles of civil liberty - criticising the Declaration of Independence, and insisting that there is no right principle of action but self-interest." He noted, for example, that when Senator John Pettit referred to the Declaration as a self-evident lie that none of the other supporters of the bill criticized

¹⁸The Liberator, July 7, 1854, p. 106. This same issue of The Liberator reported that upon completing his July 4th address at Framingham, Garrison proceeded to burn a copy of the Fugitive Slave law, several fugitive slave court decisions and a copy of the Constitution. As he burned the Constitution he reportedly branded it "a covenant with death, and an agreement with hell." In Garrison's eyes the Constitution repudiated everything which the Declaration stood for.

Pettit for his remarks.¹⁹

During the course of the Senate debate over the controversial bill on March 3, an informative dialogue developed among Benjamin Wade, John Pettit and Andrew P. Butler over the principles and meaning of the Declaration, which vividly captures the manner in which Americans of varying persuasions interpreted the famous document. Senator Wade broached the subject by suggesting it was quite understandable that supporters of the bill criticized the Declaration because one could not really believe in the ideas of Jefferson's celebrated paper and also support an act which would extend and promote slavery. He concluded his opening speech by asking Senator Pettit of Indiana if he believed that one man had an inalienable right to govern another and take away his liberty. Pettit's response was evasive. He noted that if the Declaration had stated that "all men ought to have been created equal" he would have no objections to the document. Wade countered by stating that the Declaration's doctrine of equality referred to men's inalienable rights and not their physical or intellectual capacities. All men were equal in terms of rights and "no man has a right to trample upon another."²⁰ This was what the equality clause

¹⁹Roy P. Basler, ed., The Collected Works of Lincoln (9 vols.; New Brunswick, N. J.: Rutgers Univ. Press, 1953), II, 255, 275.

²⁰Congressional Globe, vol. 106, 33rd Cong., 1st Sess., 1854, pp. 310, 311.

was all about according to Wade.

Answering his adamant colleague, Pettit suggested that the Declaration's importance rested with its statement of rights: (1) that the Colonies had the right to claim independence as a nation, and (2) that Americans possessed the right of self-government. In his reply, Wade admitted that the Declaration proclaimed the rights Pettit mentioned, but maintained that the document did more than this. It was an expression of men's personal rights and equality. Wade also expressed the opinion that "without the influence of those soul inspiring principles [equality and inalienable rights] it would have been impossible for the patriots of that day [1776] to have achieved our independence."²¹ In short, one of Benjamin Wade's primary objections to Pettit's conception of the Declaration was that it was too narrow and restrictive.

Immediately following the Wade-Pettit debate, Senator Andrew P. Butler of North Carolina placed Wade on the defensive by asking whether the people of Ohio considered the Negro to be morally and politically equal to the white man. Wade responded by admitting that Negroes were discriminated against and did not fully enjoy the Declaration's principles, as did whites. But he added that "He [the Negro] has every other privilege that I have, except it is

²¹Ibid. Wade's last assertion was the same questionable point which Alvan Stewart made some eight years earlier, in his public letter of 1846 to the Liberty party.

the very doubtful privilege of holding office and giving a vote."²²

It is indeed difficult to refrain from questioning Wade's interpretation of the Declaration of Independence, especially his insistence upon its references to personal rights and equality. For Wade's conception of the Declaration was in essence no broader than Pettit's or Butler's. How could Wade seriously speak of equality and rights for the black man if he was unwilling to allow the Negro two of the most important political rights needed to achieve such objectives? Wade was symbolic of many antislavery supporters who spoke of Negro equality in the abstract but who in practice entertained racist views. Like many other Northerners and Westerners, Wade opposed the extension of slavery because he feared and disliked the thought of living in close proximity to Negroes.²³

To find further evidence of the discrepancy between the rhetoric of northern, antislavery politicians and their actual intentions and beliefs one need only look at the

²²Ibid., p. 311.

²³Eugene Berwanger in his book The Frontier Against Slavery (Urbana, Illin.: Univ. of Illinois Press, 1967) discusses northern and western prejudice and discrimination against Negroes. The author also describes measures taken to prevent Negroes from migrating to these areas. See, e. g., pp. 30-59, 125, 127, 139, 140. Benjamin Wade's views are mentioned on p. 127. V. Jacque Voegeli in Free but Not Equal (Chicago: Univ. of Chicago Press, 1967), found the same kind of prejudice and discrimination for the Midwest during the Civil War. See pp. 18-20, 181.

remarks of nationally known Republicans such as Abraham Lincoln and Lyman Trumbull. Although these men frequently used the principles of the Declaration of Independence to criticize slavery, they were unfortunately a product of the same racist milieu as Benjamin Wade. Lincoln, for example, appears to have had mixed views on the question of Negro equality. While he believed the Declaration's doctrines applied to Negroes, it is apparent from a speech delivered in Springfield on June 26, 1857 that he opposed the extension of slavery not only because he wanted to contain and eliminate the institution, but also because he believed the races should be kept separate. At one point in his speech he asserted that "as an immediate separation [of the races] is impossible the next best thing is to keep them apart where they are not already together. If white and black people never get together in Kansas, they will never mix blood in Kansas."²⁴

During a December 8, 1859 Senate debate over John Brown's raid on Harpers Ferry, Lyman Trumbull of Illinois maintained that Republicans believed in the concept of equality and the basic natural rights of all men to life, liberty and the pursuit of happiness. To this he added statements such as: "the negro has the same natural rights

²⁴Balser, op. cit., II, 408. Lincoln's views on the Declaration of Independence and Negro equality will be discussed in greater detail in the section on the Lincoln-Douglas debates.

that I have" When criticized by Andrew Johnson of Tennessee several days later, however, Trumbull qualified his position and admitted that equality was an abstract truth and that in reality all people did not have equal rights. He declared, for example, that

When we organize our society, we will infringe as little on that great natural right [equality] as possible; but no government is perfect and therefore we do in Illinois make a distinction between whites and blacks; and we make a distinction between the political rights of men and women. While we do that, we admit the great God-given truth that all are created equal.

Johnson continued to press Trumbull and asked him if in establishing a community in one of the territories, bearing in mind the ideas of liberty and equality proclaimed in the Declaration of Independence, whether he would make Negroes equal to whites in regard to rights. Trumbull's response was "I would not give to the negro population the same political rights that I would to the white population in every case. I do not know that I would in any case." Trumbull also stated that he did not believe whites and blacks could live together in peace and happiness. He therefore was in favor of "separating these races by a system which shall rid the country of the black race, as it becomes free."²⁵ Wade, Trumbull and even Lincoln to a certain extent, were representative of many northern, anti-slavery politicians, who used the doctrines of the

²⁵Congressional Globe, vol. 121, 36th Cong., 1st Sess., 1859, pp. 54, 56, 102.

Declaration of Independence to promote their own cause, but who in reality held views far short of what their rhetorical references to the Declaration implied.

The Kansas-Nebraska debates as discussed thus far have followed a somewhat logical pattern. Antislavery men who opposed the bill used the Declaration of Independence to reinforce their position, while supporters of the bill, many of whom held proslavery views, often challenged and criticized the document and its concepts. A more revealing aspect of the debates with regard to the Declaration, however, can be found in concentrating upon the question of popular sovereignty. For in advocating this doctrine many of the bill's proponents actually used the Declaration to support their position. The ideas of self-government and consent of the governed were often identified with popular sovereignty.

Lewis Cass in a February 20th speech before the Senate suggested that new communities such as the territories had "an inalienable right to manage their internal affairs for themselves." Senator John R. Thomson of New Jersey speaking to the same august body on February 28th strongly supported the Kansas-Nebraska act and felt that the main principle of the bill was that of self-government, which was also the basis of the Declaration of Independence. Several days later Stephen A. Douglas became involved in the Senate debate and stated:

It is apparent that the Declaration of Independence had

its origin in the violation of that great fundamental principle which secured to the people of the Colonies the right to regulate their own domestic affairs in their own way; and that the Revolution resulted in the triumph of that principle, and the recognition of the right asserted by it.²⁶

Douglas' main point was that the basic principle of the Declaration and the Kansas-Nebraska bill was the same. Both documents were based upon the idea of self-government, that the people of a community or territory had the right to manage their own domestic affairs. And since section eight of the Missouri Compromise hindered this objective, it had to be repealed. He also noted that the abolitionists by demanding congressional control over slavery in the territories were violating the concept of self-government which was the basis of the American system of government. During the same debate William C. Dawson of Georgia similarly stated that the principles of the bill were consistent with the ideas upon which the nation was founded - the right to self-government. Addressing the House of Representatives on March 15th, Samuel A. Bridges of Pennsylvania asserted that letting the people of a territory decide on the question of slavery themselves "would be only to carry out the idea of popular sovereignty and of self-government." According to Bridges, these principles were clearly expressed in the Declaration of Independence.

²⁶ Congressional Globe, vol. 106, 33rd Cong., 1st Sess., 1854, pp. 279, 255, 337.

Samuel Caruthers of Missouri, speaking to the House on April 7th, noted that the great men of 1850, seeking to preserve the Union, searched for a great principle which could be used as a basis of compromise. He declared that

they [the men of 1850] found in the very cornerstone - embodied in the Declaration of Independence - a strong and vigorous principle . . . the principle contained in the grand and solemn declaration that 'Governments claim their just powers From the Consent of The Governed.'²⁷

The main point which Caruthers and the others just mentioned stressed was that the principles of self-government and consent of the governed, proclaimed in the Declaration, were consistent with those of the bill in question. The Declaration of Independence and the Kansas-Nebraska act were clearly harmonious documents in their eyes.

There were those, however, who did not see the apparent harmony. In a speech delivered on October 16, 1854 in Peoria, Illinois, Abraham Lincoln noted that one of the main arguments used to support the repeal of the Missouri Compromise restriction on slavery was the people's right to self-government. Lincoln affirmed his belief in this right, but maintained that it had been erroneously applied in the Kansas-Nebraska debates. He believed that the Negro was a man like any other and stated "that no man is good enough to govern another man, without that other's consent. I

²⁷Ibid., pp. 304, 354, 501.

say this is the leading principle - the sheet anchor of American republicanism." According to Lincoln, governing a man without his consent violated the principle of self-government. Frederick Douglass, the Negro abolitionist, speaking to a Chicago audience in November of 1854, suggested that the only aspect of popular sovereignty contained in the bill was the power of the people in the territories to buy and sell human beings. And such power was a denial of the concept of popular sovereignty, at least for black people. He maintained that "the only intelligible principle on which popular sovereignty is founded, is found in the Declaration of American Independence" which proclaimed the truths of equality and inalienable rights of all men. The Kansas-Nebraska act in Douglass' mind was a repudiation of true popular sovereignty.²⁸

In an article primarily devoted to the Kansas-Nebraska bill and the slavery question a Vermont abolitionist named Leonard Marsh noted that the more cautious proslavery supporters of the act did not criticize the Declaration's principles, but on the contrary used the concept of self-government to justify their position. Marsh rejected the argument presented by Stephen Douglas and others that the bill was in harmony with basic American principles and the

²⁸Basler, op. cit., II, 265. Philip S. Foner, ed., The Life and Writings of Frederick Douglass (4 vols.; New York: International Publishers, 1950-1955), II, 329, 330, 331.

Declaration of Independence. He maintained that applying the idea of self-government as the proslavery forces did would result in the same kind of oppression which the founding fathers fought against in the Revolution. According to Marsh, the Declaration symbolized resistance to the kind of oppression which the Kansas-Nebraska act promoted. Marsh asked whether Kansas and Nebraska should be communities in which the inalienable rights of all men were protected or just those who were white. Continuing this line of thought, he posed the following question: Was it one of man's sacred and inalienable rights to create "A human brothel wherewithal to breed children for market?"²⁹

Charles Sumner, discussing the concept of popular sovereignty some years later, in a speech before a Republican state convention in Massachusetts noted that the doctrine was recognized by the Declaration of Independence. But he pointed out that the document placed restrictions on that concept. For popular sovereignty to be valid it had to be consistent with the other principles of the Declaration. As a sanction for slavery, popular sovereignty was being misused since slavery violated other principles of the Declaration such as the equality and inalienable rights of

²⁹Leonard Marsh, A Bake-Pan For the Dough-Faces (Burlington, Vt.: C. Goodrich, 1854), pp. 21, 22, 23, 24, 25, 35, 36.

all men.³⁰

Perhaps the most significant factor regarding references to the Declaration during the Kansas-Nebraska debates was that its principles were used by both supporters and opponents of the bill, by proslavery as well as anti-slavery men, by Northerners, Southerners and Westerners. This fact further demonstrates the diversity of purposes which the Declaration served. It also substantiates the point that men repeatedly used the Declaration to conform to their own views and objectives.

Another event during the 1850's which focused attention upon the Declaration of Independence was the well known

³⁰Sumner, op. cit., V, 250, 251, 252. Also see Sumner's February 21, 1854 speech in the Senate on this subject, III, 323, 324.

The principle of popular sovereignty continued to be a debatable issue, involving the Declaration of Independence throughout the 1850's and up to the Civil War. Stephen A. Douglas, for example, wrote an article on the question which appeared in the September, 1859 issue of Harper's Magazine. Douglas pointed out that his concept of popular sovereignty was in harmony with "the Jeffersonian plan of government for the territories," and that the main point of the American Revolution concerned "the inalienable right of each colony to self-government." Douglas made strong use of the Declaration to support his position. Carl Schurz, a Lincoln Republican from Missouri, strongly criticized Douglas' views in a January 4, 1860 speech delivered in Springfield, Massachusetts. One of Schurz's main points was that Douglas had grossly misinterpreted the Declaration of Independence and the N. W. Ordinance of 1787. Schurz argued that both Jefferson's plan of 1784 and the Ordinance of 1787 promulgated the true principles of the Declaration by attempting to abolish slavery. See Merrill D. Peterson, The Jefferson Image in the American Mind (New York: Oxford Univ. Press, 1960), pp. 195, 196, 197. Frederic Bancroft, ed., Speeches, Correspondence and Political Papers of Carl Schurz (6 vols.; New York: G. Putnam's Sons, 1913), I, 103.

Dred Scott case. In March of 1857 the Supreme Court handed down a decision stating that Negroes were not citizens of the United States and that the federal government had no authority to prohibit slavery in the territories. The case was extremely important because it dealt with the controversial questions of citizenship and the nature of the Union.

Delivering the majority opinion of the Court, Chief Justice Roger B. Taney noted that one of the basic questions in the case was whether Negroes were citizens within the meaning of the Constitution. It was in regard to this question that Taney made significant use of the Declaration. He asserted that the histories of the Revolutionary period and the language of the Declaration indicated that neither slaves nor free Negroes were considered to be citizens at the time independence was declared. Furthermore, in the century before independence, Negroes were seen as an inferior race by the western world. They were, according to Taney, viewed primarily as property in every one of the Colonies which signed the Declaration. After quoting the second paragraph of the document, Taney stated that

The general words above quoted would seem to embrace the whole human family, and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute, that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted this declaration; for if the language, as understood in that day, would embrace them, the conduct of the distinguished men who framed the Declaration of

Independence would have been utterly and flagrantly inconsistent with the principles they asserted;³¹

Taney also added that the founding fathers could not have possibly intended to include the Negro within the meaning of the Declaration because the black man "by common consent had been excluded from civilized Governments and the family of nations, and doomed to slavery." As further evidence to support his contention, Taney noted that many of the States passed laws before and after the Declaration's adoption, assigning the Negro to an inferior status. In conclusion, he asserted that the language of the Declaration of Independence and the Constitution, plus the laws of the federal government and the States all supported the position that Negroes were not considered citizens according to the Constitution.³² The Court's decision was especially significant for the antislavery cause because it legally refuted the argument that Negroes were included within the meaning of the Declaration and therefore slavery should be abolished.

It is also interesting to note Taney's statement that if the words of the Declaration's famous second paragraph were used today [1857] in a similar document, they would

³¹Vincent C. Hopkins, Dred Scott's Case (New York: Fordham Univ. Press, 1951), p. 64. A Report of the Decision of the Supreme Court of the U. S. in the Case of Dred Scott vs. John F. A. Sandford (New York: D. Appleton & Co., 1857), pp. 403, 407, 408, 410.

³²Report of the Supreme Court in the Case of Dred Scott, pp. 410, 412, 426.

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be construed "to embrace the whole human family." Why Taney believed this to be so he did not make clear. Perhaps the amount of antislavery sentiment in the country had reached the point where such an interpretation was possible. Nevertheless, he chose to interpret the document, and justifiably so, in light of its purpose in 1776.

Opposed to Taney's majority opinion were the dissenting opinions of Justices Benjamin Curtis and John McLean. The more revealing of the two in terms of the Declaration was Justice Curtis'. To begin with, Curtis rejected the majority's view that the Negro could not be considered a full-fledged citizen. He pointed out that at the time of the ratification of the Articles of Confederation Negroes held the right to vote in five States and were viewed as citizens of those States.³³

With regard to the Declaration, Curtis stated that he would not discuss attitudes toward Negroes at the time of the Revolution, nor the meaning of the second paragraph of the Declaration of Independence. But he did refer to the ideas of that document as "universal abstract truths." Curtis also argued that the signers could not be accused of inconsistency for proclaiming the great truths of the Declaration. They were willing to implement such ideas, but not if such action effected changes which did more harm

³³Ibid., pp. 572, 573, 582.

than good. According to Curtis, the founding fathers did not believe that the natural rights expressed in the Declaration belonged to the white race exclusively. Curtis concluded his argument, however, by stating that it did little good to argue about the intentions of the founders and the meaning of the celebrated document. The justices should instead pay more attention to the constitutions and the laws of the states in dealing with questions such as Negro citizenship.³⁴ Curtis' remarks indicate that while he viewed the Declaration as a distinguished document, expressing fundamental principles, he did not appear to believe that it carried the force of constitutional law.

Justice Curtis was, of course, not the only American who dissented from the Court's 1857 decision. In a speech made on June 27th at Springfield, Illinois Abraham Lincoln perceptively pointed out that Justice Taney admitted that the language of the Declaration of Independence could be interpreted in a more comprehensive sense to include all races of men. According to Lincoln, Taney and men like Stephen A. Douglas insisted "that the authors of that instrument [D. of I.] did not intend to include negroes, by the fact that they did not at once, actually place them on an equality with the whites." Lincoln noted, however, that the signers also did not immediately place all whites on an equal basis after adopting the document. Lincoln

³⁴Ibid., pp. 574, 575.

maintained that the founding fathers meant to include all men within the meaning of the Declaration of Independence, but that they did not mean "to declare all men equal in all respects." He also noted that while all men did not have equal intelligence, morality and physical ability, they were equal in respect to their inalienable rights.³⁵

Roger B. Taney's comments about the Negro and the Declaration are especially interesting if compared with those he made some years earlier in the Gruber case (1818). In defending Jacob Gruber, Taney clearly used the Declaration to demonstrate that slavery was inconsistent with American principles. The interpretation, however, which he gave to the Declaration in 1857 indicated that his ideas had changed.³⁶

This point was forcefully made in an article written by an anonymous author in 1865, a year after Taney's death. The writer was not only critical of Taney's reasoning in the Dred Scott case, but also of his inconsistent use of

³⁵Basler, op. cit., II, 405, 406.

³⁶Carl B. Swisher, Roger B. Taney (New York: The Macmillan Co., 1935), pp. 95, 96, 97, 98. Anonymous, The Unjust Judge: A Memorial of Roger B. Taney, Late Chief Justice of the U. S. (New York: Baker and Goodwin, 1865), pp. 8, 9. Taney's role in the Gruber case is discussed in Chapter II. His later views on the Declaration and Negroes had actually been formulated much earlier than 1857. As Attorney General under Andrew Jackson in 1832 he expressed the opinion that Negroes whether free or slave did not have a legal right to citizenship, nor was the Declaration intended to apply to those of the African race. See Swisher, op- cit., pp. 154, 157, 158.

the Declaration. He noted that in the Gruber case, Taney spoke of slavery as being imposed on the Colonies by Great Britain, and in the Dred Scott case contended that slavery was readily accepted by the Colonies, as well as in England and the rest of western civilization. The anonymous author also argued that in 1818 Taney used the Declaration to support the view that slavery was a national disgrace and in 1857 the famous justice maintained that slaves were not meant to be included within the meaning of the Declaration. Taney's critic asserted that when the signers used the words "all men are created equal" that is exactly what they meant. The anonymous author also believed that the Declaration of Independence served as America's conscience and that in the Dred Scott case, Taney had betrayed the nation in violating that conscience. Taney had perverted the meaning of the Declaration.³⁷

The charges of betrayal and perversion are somewhat severe. Taney's inconsistent use of the Declaration can perhaps be better explained by changing circumstances. In 1818 he was a young man and perhaps more idealistic and optimistic about effecting change. His involvement in the colonization movement may have also influenced his thinking. And in 1818 the preservation of the Union was not at stake, nor was slavery such a crucial issue. Like so many others he interpreted the Declaration to conform to his immediate

³⁷Anonymous, The Unjust Judge, pp. 43, 44, 15, 47.

concerns and purposes.

As has been indicated, Justice Taney's decision caused another famous American to comment upon the Declaration of Independence. Abraham Lincoln, the Illinois lawyer and politician, in discussing such issues as the Kansas-Nebraska act and the Dred Scott case made numerous references to the Declaration. It was within the context of his famous debates with Stephen A. Douglas in 1858, however, that his most extensive, although not necessarily most important, discussion of the Declaration can be found. Lincoln's interpretation of the Declaration and its principles was probably one of the most important expositions of its meaning since 1776.

It is apparent from Lincoln's many comments on the Declaration that he deeply respected the document and was concerned that this fundamental expression of the American creed was in danger. In a eulogy to Henry Clay, delivered in July of 1852, he expressed his disappointment over the growing ridicule and criticism leveled against the Declaration. Some years later, in a letter to Henry L. Pierce and other Boston citizens concerning a Jefferson Day celebration, he referred to the principles of the Declaration as the "definitions and axioms of a free society." Further along in the letter he stated that labelling the Declaration's principles as "glittering generalities" and "self-evident

lies" threatened the basis of America's free society.³⁸
In Lincoln's eyes such attacks represented an attempt to subjugate free government with slavery.

One of Lincoln's clearest and most important statements regarding the meaning and purpose of the Declaration of Independence can be found in a June 26, 1857 speech he gave in Springfield, Illinois. Lincoln maintained that when the founding fathers spoke of the concepts of equality and inalienable rights

they meant simply to declare the right, so that the enforcement of it might follow as fast as circumstances should permit. They meant to set up a standard maxim for free society, which should be familiar to all and revered by all; constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people of all colors everywhere.

According to Lincoln, the signers had set up an ideal which they hoped would some day be realized in practice. Lincoln believed the Declaration "contemplated the progressive improvement in the condition of all men everywhere." In his eyes the document was not limited in application solely to the case of colonial separation from England, as men like Stephen A. Douglas suggested. Such an interpretation was far too narrow. Lincoln, to the contrary, believed that the Declaration contained a universal quality which

³⁸Basler, op. cit., II, 130; III, 375.

applied to all men at all times.³⁹

The differing views of the Declaration held by Abraham Lincoln and Stephen A. Douglas became quite obvious during the famous debates these two senatorial candidates waged in the summer and fall of 1858. The political campaign conducted by Lincoln and Douglas was not only important because of the issues discussed, but also because their speeches and debates became the focus of national attention. This was the first election campaign to be reported in modern fashion. Correspondents, for example, accompanied the candidates on the campaign trail and complete copies of the debates and speeches usually appeared in newspapers all over the country.⁴⁰

Returning from Washington on July 9th, Douglas officially opened his campaign with a speech in Chicago. On the following day, Lincoln spoke in the same city and discussed, among other things, the expression of equality found in the Declaration of Independence. He maintained that the idea "that all men were created equal" was a moral principle which applied to all men and not just the colonists as Douglas had implied the previous evening. Lincoln suggested that exceptions to the honored document weakened its

³⁹Ibid., II, 405-406, 407.

⁴⁰Paul M. Angle, ed., Created Equal? : The Complete Lincoln-Douglas Debates of 1858 (Chicago: Univ. of Chicago Press, 1958), p. xxv.

influence. For "if one man say it [D. of I.] does not mean a negro, why not another say it does not mean some other man?" Lincoln attempted to clarify his thoughts on the question of equality in his concluding remarks when he stated "let it [principle of equality] be as nearly reached as we can. If we can not give freedom to every creature, let us do nothing that will impose slavery upon any other creature."⁴¹

One week later Douglas spoke in Springfield, Illinois and rejected Lincoln's contention that the Declaration's equality clause applied to all men. Douglas argued that the founding fathers only intended the doctrine to apply to white men of European ancestry and that they used it to defend colonial political and religious rights. Under no circumstances, according to Douglas, did the signers mean to include Negroes or Indians within the scope of the equality clause. To support his argument, Douglas pointed out that every signer of the Declaration represented slaveholding constituents, and asked why Negroes were not elevated to political and social equality if they were meant to be included within the Declaration's meaning.⁴²

⁴¹Ibid., pp. 40, 41, 42.

⁴²Ibid., pp. 62, 63. Douglas was unequivocal in his opinion concerning the founding fathers' intentions. In an October 7, speech at Galesburg, Illinois he stated that "this government was made by our fathers on the white basis. It was made by white men for the benefit of white men and their posterity forever, and was intended to be administered

Speaking in Springfield on the evening of July 17, Lincoln attempted to answer several of the points made by Douglas earlier that same day. He admitted that all men were not equal in all respects, but stressed their equality with regard to inalienable rights. The Negro while not equal to whites in many ways still had the right to work for himself and keep what he earned. Lincoln viewed the tendency to exclude the Negro from the Declaration's purpose as an effort "to dehumanize the negro - to take away from him the right of ever striving to be a man."⁴³

Lincoln avoided answering Douglas' question concerning the elevation of Negroes to a level of political and social equality comparable to that of whites, but other speeches and writings during this period shed light upon his ideas regarding this question. In a letter to a constituent named James N. Brown dated October 18, 1858, Lincoln admitted that while the idea of equality expressed in the Declaration was a fundamental principle of American government, it did not have the legal force of law. And upon another occasion Lincoln noted that the doctrine of equality did not have any practical value in supporting the colonial claim for independence. The principles of equality and

by white men in all time to come." See Angle, op. cit., p. 294. Douglas made the same statement several weeks earlier at Jonesboro, Illinois on September 15, adding that he did not believe Negroes were capable of self-government. See Angle, op. cit., p. 200.

⁴³Angle, op. cit., pp. 81, 82, 382.

inalienable rights were placed in the Declaration for a "future use." According to Lincoln, their purpose was to act as a deterrent to possible oppression in the future, especially from groups or factions within the country.⁴⁴

Harry V. Jaffa, a present day historian who has contributed to the Lincoln bibliography, has attempted to explain the emphasis which Lincoln placed upon including the Negro within the meaning of the Declaration's principles. Jaffa believes that Lincoln realized the heterogeneous composition of the American people could seriously weaken the nation, and therefore stressed the universality of the Declaration in order to promote national unity. Only such principles could effectively transcend the diverse religious and ethnic strains in American life. According to Jaffa, Lincoln perceived that if the ideas of the Declaration did not apply to Negroes, the same claim could be used to exclude other groups from the full benefits of American life.⁴⁵

As has been indicated, the Lincoln-Douglas debates

⁴⁴Basler, op. cit., III, 327; II, 406. Angle, op. cit. p. 101. Carl Schurz, however, did attempt to answer Douglas' question for Lincoln. In a January 4, 1860 Springfield, Massachusetts speech Schurz maintained that the founding fathers could not be accused of hypocrisy because they did in fact try to implement the principles of the Declaration by supporting gradual emancipation. According to Schurz, it was not the signers, but succeeding generations who failed to live up to the Declaration. See Bancroft, op. cit., I, 96, 97.

⁴⁵Harry V. Jaffa, Crisis of the House Divided (New York: Doubleday & Co., 1959), pp. 360, 361.

demonstrate that Lincoln repeatedly reaffirmed his belief that the principles of the Declaration applied to all men, white or black. Lincoln's views, however, are open to question for there is evidence which suggests that he did not fully realize the contradictions within his own thought or was a victim of the same racist mentality which enslaved the majority of his fellow citizens. Speaking before an Ottawa, Illinois audience in August of 1858 he clearly stated that he was opposed to political and social equality between the races, and admitted that real equality for the Negro would probably never be achieved. Perhaps Lincoln's most revealing thoughts can be found in a joint debate held at Charleston, Illinois some weeks later. Commenting upon the question of equality Lincoln declared that

I am not nor ever have been in favor of making voters or jurors of negroes, nor of qualifying them to hold office, nor to intermarry with white people; and I will say in addition to this that there is a physical difference between the white and black races which I believe will for ever forbid the two races living together on terms of social and political equality.⁴⁶

At Galesburg, Illinois on October 7th Lincoln and Douglas engaged in another joint debate at which time Douglas accused his opponent of being inconsistent in his speeches. Douglas noted that in northern Illinois where there was a lot of antislavery sentiment, Lincoln stressed

⁴⁶Angle, op. cit., pp. 117, 235. For further evidence of Lincoln's opposition to granting the Negro social and political equality with whites see Basler, op. cit., II, 408, and Angle, op. cit., p. 268.

the fact that the Declaration proclaimed equality to all men, but that in the southern part of the state, where there was more proslavery sentiment he emphasized the point that he was opposed to social and political equality between the races.⁴⁷ Douglas' charges cannot be easily dismissed. Any careful study of the debates indicates that Lincoln followed the pattern described.

While Douglas' comments cannot be ignored it should also be pointed out that his own campaign positions are open to question. Carl Schurz, a Lincoln Republican from Missouri, in a Springfield, Massachusetts speech delivered in January of 1860, noted that Douglas in order to avoid alienating either the North or the South would not state whether slavery was right or wrong. Commenting upon Douglas' interpretation of the Declaration of Independence, Schurz perceptively remarked that

To interpret the Declaration of Independence according to the evident meaning of its words would displease the South; to call it a self-evident lie would certainly shock the moral sensibilities of the North. So he [Douglas] recognizes it as a venerable document, but makes the language, which is so dear to the hearts of the North, express a meaning which coincides with the ideas of the South.

Schurz's criticism is valid. Douglas did praise the Declaration for the purpose of satisfying Northerners and then interpreted its principles in a manner which would not alienate the South. He stressed, for example, the fact

⁴⁷Angle, op. cit... pp. 291, 292

that the document represented a rationale for American actions against Great Britain, and that its principles clearly did not apply to Negroes.⁴⁸

Returning to Lincoln and his interpretation of the Declaration of Independence, it is apparent that the problem with his position was similar to that of Wade's, Trumbull's and other antislavery men. How could one speak of equality and inalienable rights for the blackman if one was unwilling to grant the political and economic power necessary to realize such principles in practice? Without political rights the "standard maxim" and "progressive improvement," which Lincoln spoke of, would be extremely difficult to achieve. Lincoln tried to reconcile the principles of the Declaration with public attitudes toward the Negro and with the existing legal structure. In one sense he failed in this endeavor as did the antislavery crusade in general. Failure was inherent in such a reconciliation because the hearts and minds of men could not accept true political, social and economic equality.

⁴⁸Bancroft, op. cit., I, 91, 92, 95, 98. It is quite obvious from Schurz's remarks on the Declaration that he was strongly influenced by Lincoln. In his January 4, 1860 Springfield, Massachusetts speech he viewed the Declaration as an attempt to remold "human society upon the basis of liberty and equality." He also stated that "It [D. of I.] is the summing up of the results of the philosophical development of the age; it is the practical embodiment of the progressive ideas which . . . pervaded the very atmosphere of all civilized countries." See Bancroft, op. cit., I, 98.

In another sense Lincoln succeeded. While believing Negroes were inferior to whites he did not completely close the door to improvement and change. He also gave the Declaration of Independence a more humanitarian and universal interpretation than did Douglas and the Democrats. His restatement of the Declaration's meaning gave new life to the ideal formulated in 1776. The Declaration was a tangible statement of rights which men could reach out for when they became "sufficiently dissatisfied with what is, with the existing regime of positive law and custom." In essence, Lincoln's interpretation of the Declaration's principles reinforced the theoretical framework necessary to sustain an open and fluid society.⁴⁹

Abraham Lincoln became of course one of the leading figures of the new Republican party. One of the crucial political developments of the 1850's, which had an important influence on the Declaration's history, was the emergence

⁴⁹The question of Lincoln's use of the Declaration has been discussed by various historians. Many of the so-called Civil War revisionist historians such as James G. Randall and Avery Craven are critical of Lincoln's use of the Declaration. They charge or imply that Lincoln used the document to further his own interests and those of his party. See Jaffa, op. cit., p. 363. Richard Hofstadter in his essay on Lincoln in The American Political Tradition (New York: Vintage Books, 1948) perceptively points out the contradictions in Lincoln's views regarding the Negro, equality and the Declaration of Independence. See pp. 111-113, 116-117. For an opposing view see Harry V. Jaffa's Crisis of the House Divided, pp. 321, 322, all of Chapter XVII and especially p. 378. Jaffa is essentially an apologist for Lincoln and attempts to explain the apparent inconsistencies stressed by Lincoln's critics.

of that party. The debate and passage of the Kansas-Nebraska act had in fact been the most important element in the party's development. The new party was basically composed of "conscience" Whigs, avid antislavery men and free soil Democrats. These diverse groups were able to unite and achieve a semblance of unity because of their common opposition to the extension of slavery.

During its early years the Republican party closely identified with the principles of the Declaration of Independence. This can be seen from the party's first national convention held in Philadelphia in June of 1856. The platform adopted at that convention made important use of the Declaration's political philosophy. The first resolution stated that "the maintenance of the principles promulgated in the Declaration of Independence, and embodied in the Federal Constitution, are essential to the preservation of our republican institutions" The second resolution affirmed the party's belief in the inalienable rights of all men and the fact that government's primary purpose was to protect such rights. The resolution also clearly invoked the Declaration's principles and the Fifth Amendment of the Constitution to demonstrate the illegality of extending slavery to the territories.⁵⁰

⁵⁰John Tweedy, A History of the Republican National Conventions From 1856 to 1908 (Danbury, Conn.: John Tweedy, 1910), pp. 16, 17. These resolutions became the source of much controversy. The 1st resolution stated: That the

One of the key figures involved in drawing up the Republican platform of 1856 was Joshua Giddings, the veteran antislavery congressman from Ohio. Giddings was most instrumental in getting the party to adopt the resolutions referring to the Declaration. Using the ideas of the Declaration in the fight against slavery was not new to Giddings. As early as 1849 he used the document to endorse the Wilmot Proviso. Speaking before the House of Representatives, in February of that year, he asserted that in establishing governments in newly acquired territories, the United States should follow the guide lines expressed in the Declaration. Noting that "governments are instituted among men to secure the enjoyment of life and liberty," he argued that the Declaration clearly spoke out against slavery and the federal government should therefore

maintenance of the principles promulgated in the Declaration of Independence, and embodied in the Federal Constitution, are essential to the preservation of our republican institutions and that the Federal Constitution, the rights of the states, and the union of the states, must and shall be preserved. The 2nd resolution stated: That with our republican fathers, we hold it to be a self-evident truth, that all men are endowed with the inalienable right to life, liberty and the pursuit of happiness, and that the primary object and ulterior design of our federal government were to secure these rights to all persons under its exclusive jurisdiction: that as our republican fathers, when they had abolished slavery in all our national territory, ordained that no person shall be deprived of life, liberty, or property, with out due process of law, it becomes our duty to maintain this provision of the Constitution against all attempts to violate it for the purpose of establishing slavery in the territories of the U. S. by positive legislation, prohibiting its existence or extension therein.

not allow the institution to exist in newly acquired territories. In 1856 Giddings believed that it was equally as important to reaffirm the principles of the Declaration in establishing the foundations of a new national party. He declared that the Declaration of Independence was the basis of his Republicanism and that it was the "first anti-slavery document."⁵¹

It is interesting to note that the Republican party's identification with the principles of the Declaration elicited a wide range of criticism. Many Whigs, Democrats and Southerners reacted unfavorably to Republican references to the document. One of the leading critics of the party's use of the Declaration, especially in respect to its 1856 national platform, was Rufus Choate, the Massachusetts lawyer and politician. Choate, whose sympathies lay with the old Whig party, did not favor any of the presidential candidates in 1856 and believed that the Republican party was a grave threat to the security of the Union. In an August 9, 1856 letter addressed to the Whig

⁵¹George W. Julian, The Life of Joshua Giddings (Chicago: A. C. McClurg & Co., 1892), pp. 335, 336. Joshua R. Giddings, Speeches in Congress (Boston: John P. Jewett & Co., 1853), p. 345. Bean, op. cit., p. 105. It is interesting to note that George W. Julian author of the book on Giddings was himself a leading abolitionist, and important Republican in the 1850's and 1860's. He believed getting the Republican party to adopt a resolution quoting the principles of the Declaration of Independence was an important achievement because many southern politicians and some Northerners had gotten into the habit of criticizing and ridiculing those principles. See p. 336.

Central Committee of Maine he noted that while Republicans espoused the doctrines of human rights found in the Declaration, they were attempting to create fear and hatred between North and South.⁵²

On several occasions Choate became involved in critical analyses of Republican use of the Declaration. In his letter of August 9th to the Maine Whigs, he referred to the Republican party's doctrines as those "glittering and sounding generalities of natural right which make up the Declaration of Independence." He also raised the question: "Is it man as he ought to be, or man as he is, that we must live with . . .?"⁵³ His point was simply that the ideals of the Republican party were fine in theory, but not in practice.

In a speech before a Lowell, Massachusetts audience on October 28th, Choate went into greater detail regarding

⁵²Samuel G. Brown, The Works of Rufus Choate With a Memoir of His Life (2 vols.; Boston: Little, Brown & Co., 1862), I, 211, 212, 214. While known primarily for his brilliance and success as a lawyer, Choate was also an influential figure in Massachusetts politics, especially with regard to the Whig party. Although he believed slavery was morally wrong he never supported abolitionism. Claude M. Fuess, Rufus Choate: The Wizard of the Law (New York: Minton, Balch and Co., 1925), pp. 65-89, 191-218.

Choate's views were often publicized and his remark describing the Declaration as "glittering and sounding generalities" received considerable attention, particularly in later years. See, for example, Basler, op. cit., III, 375 and Peterson, op. cit., pp. 201, 202.

⁵³Ibid., pp. 215, 214.

Republicans and the Declaration. Commenting upon references to that document in the 1856 party platform, he criticized and resented the idea that Republicans had derived some new and important meaning or understanding from Jefferson's famous paper, something which other Americans supposedly had not achieved. He wanted to know upon what basis the party claimed "some special and characteristic relation" to the Declaration. How were Republicans going to interpret the document in a new and significant manner? And just what did Republicans mean when they stated that they were "going to execute their constitutional powers in the spirit of the Declaration"?⁵⁴

Choate believed there were blatant contradictions in the way Republicans applied the Declaration. Quoting from the first resolution of the 1856 platform, he asked how certain principles could be "promulgated" in the Declaration of Independence and "embodied" in the Constitution if the former document spoke of equality and inalienable rights, and the latter, in its fugitive slave clause, demanded that runaway slaves be returned to their masters.⁵⁵

The Massachusetts critic was not the only person who leveled such criticism at Republicans. During the Lincoln-Douglas debates the "Little Giant" attacked Lincoln's use

⁵⁴Brown, op. cit., II, 403, 404, 405, 406.

⁵⁵Ibid., p. 405.

of the Declaration. In December of 1859 during a Senate debate on the Harpers Ferry incident, the question of Republican party principles again came under attack. Lyman Trumbull, an antislavery Republican from Illinois, was asked by Senators Clement Clay of Alabama and David L. Yulee of Florida to explain the principles of the Republican party, especially the meaning of the first part of the 1856 party platform. Trumbull stated that the principles were those proclaimed in the Declaration and embodied in the Constitution. In regard to the party platform, he declared that it expressed the basic natural rights of all men to life, liberty and the pursuit of happiness, and a belief in the concept of equality. According to Trumbull, the founding fathers in adopting the Declaration of Independence were attempting to organize a government as close as possible to the great principles of natural rights. Challenging Trumbull's interpretation, Senator Clay asked him to explain the apparent contradiction evidenced by the founding fathers' ownership of slaves. Trumbull rather weakly replied that although they proclaimed great principles, the signers had to be practical, and ownership of slaves did not detract from the validity of the Declaration's principles.⁵⁶

The relationship between the federal government, the

⁵⁶Congressional Globe, vol. 121, 36th Cong., 1st Sess., 1859, pp. 54, 56.

Constitution and the Declaration was a subject which also received criticism from anti-Republicans. In his October 28th remarks at Lowell, Rufus Choate argued that if Republicans maintained that the federal government received any powers from the Declaration of Independence they were wrong. The national government received its authority from the Constitution. And if Republicans contended that the Declaration should be used "to interpret the language of the Constitution," they were also in error. According to Choate, the two documents were written at different times for different purposes and could not be used to interpret one another. As far as Choate was concerned "Independence was the work of the higher passions. The Constitution was the slow product of wisdom."⁵⁷

This kind of criticism did not abate in the years before the Civil War. Speaking before the Senate on April 11, 1860 Senator James Chesnut of South Carolina remarked that one of the major reasons for sectional hostility in the country was the Republican party's belief that the Constitution was based on the Declaration of Independence and that the federal government derived its authority from the latter document. Another mistaken notion which Republicans held, according to Chesnut, was that the main purpose of the federal government was to insure that the

⁵⁷Brown, op. cit., II, 405, 406; I, 230.

Declaration's principles were realized.⁵⁸

Republicans who maintained that the Declaration's doctrines clearly applied to Negroes were also challenged and criticized. Addressing the Senate on December 12, 1859, Andrew Johnson, a Democrat from Tennessee, questioned the remarks made by Senator Lyman Trumbull several days earlier. Johnson declared that the Republican party's claim that they were following the principles of Jefferson and the Declaration was erroneous. The senator from Tennessee rejected the Republican notion that Jefferson and the founding fathers meant to include Negroes within the meaning of the Declaration of Independence. This, according to Johnson, was quite obvious to anyone who carefully studied the circumstances under which the document was written. He pointed out that Jefferson and many of the founding fathers owned slaves, and that even the Constitution recognized Negroes as property. To further support his argument that the doctrines of the Declaration did not apply to Negroes, Johnson referred to the laws and constitution of Trumbull's native state. Johnson perceptively noted that Negroes in Illinois were not allowed to serve in the militia, did not have the right to vote, could not serve as witnesses against whites, and were not allowed to intermarry with whites. Johnson's cogent argument also

⁵⁸Congressional Globe, 36th Congress, 1st Sess., Part II, 1860, p. 1617.

contained the point that one could not interpret the principles of the Declaration in a literal sense.⁵⁹ This was exactly what many critics saw as the main problem with Republican references to Jefferson's famous paper.

As has been indicated, the question of the Declaration's applicability to Negroes was a controversial issue between Republicans and Democrats. During the Lincoln-Douglas debates Lincoln charged that Democrats, in recent years had begun to attack the Declaration of Independence in a sly and cowardly manner. Lincoln asserted that Democrats, especially men like Douglas and Taney, claimed to believe in its principles, but had clearly stated that it was not meant to apply to Negroes. In a speech to a Galesburg, Illinois audience on October 7, Lincoln claimed (incorrectly) that from 1776 up until about 1855 there was no record of anyone, including Presidents and members of Congress, stating "that the Negro was not included in the Declaration of Independence." According to Lincoln, the Democrats had invented the claim to further their own goals.⁶⁰ He believed that they were intentionally misinterpreting and abusing the document.

One week later while addressing a rally in Alton,

⁵⁹Congressional Globe, vol. 121, 36th Cong., 1st Sess., 1859, pp. 100, 101. Andrew Johnson also suggested that many of the doctrines of the Republican party were responsible for such incidents as John Brown's raid on Harpers Ferry.

⁶⁰Angle, op. cit., p. 298

Illinois, Lincoln qualified his charge. He admitted that before 1855 proslavery men had denied that the Declaration of Independence applied to Negroes. For example, John C. Calhoun and others had made this point. But these men, according to Lincoln did not pretend to believe in the Declaration and then contradict themselves by saying that it was not intended to include Negroes.⁶¹

Lincoln's statements and qualification must in turn be challenged and qualified. To begin with, there were men who earlier than 1855 maintained that the Declaration of Independence did not apply to Negroes, e. g., James R. Burden, James Kirke Paulding, William Drayton, Daniel Whitaker and William Harper. And many of those who held such views also expressed a belief in the Declaration. That is, as long as it was properly interpreted.⁶² Lincoln's argument that many proslavery men such as Calhoun who denied the Declaration's application to Negroes and were not hypocrites pretending to believe in the document - is misleading. Many proslavery men, including Calhoun, did not reject the Declaration. On the contrary, they often used it to support their own views and only rejected it as interpreted by abolitionists.

The real reason why Stephen Douglas and other Democrats

⁶¹Ibid., pp. 379, 380.

⁶²See Chapter II of this dissertation pp. 65-67.

attacked Republican references to the Declaration, and especially the notion that its principles applied to blacks as well as whites, was that the document served as the basis for the Republican argument against slavery and its extension. To discredit the Republicans and weaken their political power, the Democrats struck at the foundation of the Republican position - the ideas of the Declaration of Independence.⁶³ Furthermore, the Democrats were upset by the results of the 1856 elections which presented the Republicans as a real threat, and they also did not want continuing conflict over slavery. They realized that such an explosive issue could destroy what semblance of national unity their party still possessed.

An example of extreme reaction to the Republican party's use of the Declaration of Independence can be found in an article written by George Fitzhugh which appeared in the August 1860 issue of DeBow's Review. Fitzhugh maintained that the principles of the Declaration adopted by the Republicans in Chicago in 1860 threatened the institutions of slavery, marriage and private property. He pointed out that marriage involved the loss of so-called inalienable rights and liberty since wives were subject to the authority

⁶³Lincoln in an October 16, 1854 speech noted that when John Pettit, the Democratic senator from Indiana, attacked the Declaration of Independence, no supporters of the Kansas-Nebraska bill and no Democrats challenged Pettit's remarks. See Basler, op. cit., II, 275.

of their husbands. The same thing was true for laborers employed by landlords. According to Fitzhugh, the purpose of the Republican platform was to establish "free love, free lands and free negroes." He also pointed out that such a platform contradicted the Declaration of Independence because all governments by their nature "deprive the larger part of mankind of liberty and equality, and to such deprivation they have not by express or implied contract consented." Fitzhugh's main point, however, was that inequality was the natural condition of man, and that the logical consequence of the Republican party principles was the destruction of institutions basic to American life.⁶⁴

To describe the criticism leveled by Southerners, Democrats and Whigs against the Republican party's use of the Declaration of Independence, is only to tell part of an interesting story. For perhaps the most significant criticism of all came from within Republican ranks. One of the main reasons for this was dissension between the

⁶⁴George Fitzhugh, "The Declaration of Independence and the Republican Party," DeBow's Review, XXIX (August, 1860), pp. 175, 177, 180. Fitzhugh was one of the more publicized proslavery writers of the 1850's, who was very critical of abolitionist doctrines and northern society in general. He actually, however, only represented an extremely conservative element of southern thought. In his books Sociology For the South (1854) and Cannibals All (1857) he was extremely critical of Jefferson, and completely rejected the Declaration of Independence and its principles.

original, idealistic, abolitionist founders of the party and later adherents who were more expedient and pragmatically oriented. Republicans such as Thurlow Weed, William Seward and David K. Cartter had learned that government worked through adjustment and compromise. They came into conflict, however, with some of their more idealistic and committed colleagues, including Charles Sumner, Joshua Giddings and George W. Julian.⁶⁵

This conflict between conservatives or moderates and the so-called radicals was one of the major reasons why there was a floor fight over the inclusion of references to the Declaration of Independence in the 1860 party platform. In seeking to gain control of the party from the radicals, the conservatives and moderates attempted to tone down the radicalism of the 1856 platform, and thereby broaden the base of the party.⁶⁶

The national committee which drew up the 1860 platform chose to exclude any reference to the Declaration in the

⁶⁵David M. Potter, Lincoln and His Party in the Secession Crisis (New Haven, Conn.: Yale Univ. Press, 1942), pp. 22, 24.

⁶⁶Ibid., pp. 30, 31. Jeffery J. Auer, ed., Antislavery and Disunion, 1858-1861 (New York: Harper & Row Publishers, 1963), p. 204. The 1860 Republican convention definitely tended to move away from the radicalism of 1856. The platform of 1860 was more diversified, e. g., it did not solely rely on the slavery issue as the 1856 platform had. And a definite attempt was made to exclude references to the Declaration of Independence. The 1860 platform also pledged to support states in their rights to control their own domestic institutions.

draft which they submitted to the convention for approval. Joshua Giddings vehemently opposed such an omission and made a passionate speech proposing an amendment to the first resolution which stated

That we solemnly reassert the self-evident truths that all men are endowed by their creator with certain inalienable rights, among which are those of life, liberty and the pursuit of happiness, that governments are instituted among men to secure the enjoyment of these rights.⁶⁷

Many of the delegates apparently felt Giddings' amendment was unnecessary. David K. Cartter, chairman of the Ohio delegation opposed the amendment referring to it as "all gas", and stated sarcastically that "we might as well insert the Golden Rule as the Declaration of Independence." Eli Thayer, a delegate from Oregon, remarked that he believed in the Ten Commandments, but did not wish to see them included in the platform. John Oyler of Indiana suggested that if one included the Declaration of Independence, it would be appropriate to include the entire Bible.⁶⁸

Prevailing opinion was against Giddings and his amendment was voted down. Shortly thereafter, however, George W. Curtis of New York gained the floor and, in a passionate and eloquent speech, moved the convention to accept a second resolution reaffirming the principles of the Declaration of Independence as expressed in the 1856 platform.

⁶⁷Tweedy, op. cit., p. 43.

⁶⁸Julian, op. cit., p. 372.

Curtis' strategy was to ask the convention whether they were prepared to vote "down the words of the Declaration of Independence." In other words if the principles of the Declaration were good enough for the founding fathers in 1776 were they not good enough for Republicans in 1860?⁶⁹

While Curtis succeeded in getting his amendment adopted, it was obvious from the proceedings that the majority of convention delegates did not attach the same meaning and importance to the Declaration and its tenets as did men like Giddings and himself. Such differences of opinion concerning the celebrated document are also apparent if one analyzes the actions and remarks of other Republicans during the late 1850's. Writing to Edward L. Pierce, a Massachusetts lawyer and reformer in March of 1859, Carl Schurz criticized the Republicans of Massachusetts for supporting increased suffrage restrictions on immigrants. According to Schurz the right to vote was just as much an inalienable right as life, liberty and the pursuit of happiness. The right of suffrage was an integral and necessary part of the concept of self-government. Schurz forcefully stated that "A political party, [the Republican party] which professes devotion to the rights of man in the abstract, and violates them in practice, will seldom possess

⁶⁹Ibid., pp. 373, 374. Tweedy, op. cit., pp. 44, 45. The resolution adopted into the 1860 platform was quite similar to resolutions #1 and #2 of the 1856 platform. See Tweedy, op. cit., pp. 16, 17, 45.

and can never preserve the confidence of the people."

Schurz's point was simply that the Republicans of Massachusetts were being hypocritical by claiming to believe in the Declaration's principles and then violating them in practice.⁷⁰

Other contemporaries also saw the inconsistencies between Republican party doctrines in theory and in practice. The black abolitionist, Frederick Douglass, speaking in August of 1860 at a celebration in honor of West Indian emancipation, suggested that abolitionist sentiment was declining among Republicans. He then pointed out that the resolution reaffirming the principles of the Declaration of Independence had almost been voted down at the 1860 national convention. Douglass also implied that the Declaration was losing its force as an antislavery weapon in general.⁷¹

During the election campaign of 1860, Thomas Ewing, running for reelection to Congress under the Republican banner, gave credence to Douglass' thoughts. Ewing appears to have been representative of many conservative Republicans who resented the so-called radicalism and abolitionism of men like Sumner, Giddings and Julian. In a campaign speech

⁷⁰Bancroft, op. cit., I, 41, 42. Schurz also believed that the action taken by the Republican party in Massachusetts hurt the antislavery cause.

⁷¹Foner, op. cit., II, 514.

at Chillicothe, Ohio, he criticized the inclusion of references to the Declaration in the 1860 national party platform. He declared

that the adoption of that portion of the Declaration of Independence which embodies its self-evident truths was not in good taste, and that it is only true in a vague and general sense in which it was used by the framers of the Declaration, who were, three fourths of them, slaveholders.⁷²

Much of the criticism leveled against the Republicans regarding their use of the Declaration merits strong consideration. It is quite apparent from studying the remarks and actions of many Republicans, both the so-called radicals and moderates, that their rhetoric far exceeded what they were ready and willing to do in practice. While most Republicans believed Negroes were entitled to certain rights and legal protection, such belief did not include political and social equality for blacks. Republicans were willing to use the principles of equality, inalienable rights and consent of the governed to show that slavery was wrong and to prevent the extension of that institution, but were unwilling to use the Declaration for the purpose of granting Negroes rights comparable to those of whites.⁷³

⁷²Julian, op. cit., p. 377

⁷³Excellent secondary sources which discuss Republican attitudes on the question of the Negro and equality are Leon F. Litwack's North of Slavery: The Negro in the Free States, 1790-1860 (Chicago: Univ. of Chicago Press, 1961), see e. g., pp. 216, 270, 271. Also Eugene H. Berwanger's The Frontier Against Slavery (1967), see pp. 128-133.

How can one explain the Republican mentality concerning the Declaration and the Negro? To begin with, it must be realized that the great majority of Republicans, like their fellow Americans, subscribed to the popular belief that Negroes were inherently inferior to whites.⁷⁴ Second, the Declaration and its principles served as an effective weapon to check the spread of slavery and the so-called slave power. Because of its basic statement of natural rights, and the reverence it commanded, the Declaration was the most convenient American document Republicans could use to promote their cause. A third point worth considering is an argument presented by Avery Craven. He contends that antislavery men and Republicans turned increasingly to the Declaration as it became obvious in the 1850's, especially after the Dred Scott decision, that the southern interpretation of the Constitution was prevailing.⁷⁵

After studying the Republican party's identification with the Declaration of Independence, two conspicuous trends come into focus: (1) that many Republicans did not completely comprehend, or were unwilling to accept, the full implications of that document, and (2) that a

⁷⁴Dwight L. Dumond, Antislavery Origins of the Civil War in the United States (Ann Arbor, Mich.: Univ. of Michigan Press, 1959), pp. 14, 52. Litwack, op. cit., p. 271.

⁷⁵Avery Craven, "The Civil War and the Democratic Process," The Abraham Lincoln Quarterly, IV (June, 1947), pp. 283, 284.

substantial number of Republicans by the late 1850's became openly critical of making the Declaration the party's political Bible.

This review of the Declaration of Independence during the 1850's indicates that the document continued to be a source of controversy, especially with regard to the issue of slavery and the Negro. The main reason for this was of course due to the fact that antislavery supporters continued to use the Declaration as their primary rationale against the peculiar institution and its extension. One notices, however, that antislavery men did not have a monopoly on the Declaration. Thomas Kettell, the northern magazine editor, used its principles to condone slavery, and proslavery sympathizers used its political philosophy to support the Kansas-Nebraska act.

The 1850's also found Northerners publically discussing and disagreeing over the Declaration as never before. This was quite apparent during the Kansas-Nebraska debates when northern politicians such as Charles Sumner, Benjamin Wade, Gerrit Smith, John Pettit, John Thompson and Samuel Bridges strongly disagreed over the Declaration's meaning. Similar differences of opinion occurred during the Compromise of 1850 and the Lincoln-Douglas debates. The history of the Republican party during the 1850's also indicates that Northerners both within and outside the party disagreed over the meaning and importance of the

Declaration's principles.

One of the major controversies concerning the Declaration of Independence was the applicability of its principles to the Negro. Not only did Northerners and Southerners disagree over this question, but it divided Northerners as well. The abolitionist movement had made many Americans aware of the inconsistency between the concept of equality in theory and in practice, especially in respect to the Negro. The North, in fact, became increasingly concerned about slavery and its extension during this period. But the majority of its citizens were not ready to assert that the concepts of the Declaration applied to Negroes in the same way as they applied to whites. In this sense the Declaration has always been a problem for Americans. On one hand it served to bolster American pride by symbolizing freedom and independence, and yet it remained a source of embarrassment because most Americans did not believe in political, social, and economic equality for all men.

CHAPTER V

THE DECLARATION REALIZED?: 1860'S

During the 1860's antislavery men continued their efforts to rid the nation of what they believed was its most serious moral problem: the institution of slavery. Although the Civil War created exigencies which modified their efforts, the movement continued. Many abolitionists, in fact, believed that the primary purpose of the war was to bring freedom to the black man. During these same years radical Republicans pressed their campaign to win civil equality for the Negro. In 1865 they succeeded in passing the Thirteenth Amendment and when this fell short of their aims they passed a civil rights bill and other constitutional amendments granting the Negro citizenship, equal protection under the law, the right to vote, and access to public accommodations. One of the primary arguments used by antislavery men in behalf of their cause continued to be the principles expounded in the Declaration of Independence.

As in previous decades, the 1860's also witnessed criticism of the Declaration. And as in the past such criticism was not limited to Southerners attempting to defend

their way of life, but also included Northerners concerned about trends and views present in their own society.¹

Evidence of such criticism can be found in the remarks of John Quincy Adams' son Charles Francis Adams, a Lincoln Republican and staunch critic of slavery from Massachusetts. In an 1860 July 4th oration he noted that there had been criticism of the Declaration of Independence from all parts of the country and the reason for this was that the document "enunciates certain propositions touching human liberty as maxims beyond contradiction, the truth of which it is no longer convenient in some quarters to acknowledge." According to Adams, many people were modifying the Declaration's meaning in order to strip it of its force and authority. While addressing the House of Representatives one month earlier, Adams maintained that during the Revolutionary period no one misunderstood the meaning of the Declaration and during the first fifty years of its existence no great American statesmen ever questioned the "universality" of the document's principles. Adams suggested that during the nation's first fifty years the Declaration was viewed as proclaiming liberty for all men, but in 1860 it was being interpreted in such a way as to perpetuate the institution of slavery. In his remarks of June and July of 1860, Adams gave the impression that he

¹See, for example, my discussion of conservative northern intellectuals on pp. 185-187 of this chapter.

believed the force and influence of the Declaration was diminishing. He also suggested that one reason for this was the widespread ridicule of the document.²

Addressing a political rally in Worcester, Massachusetts on November 1, 1860 Charles Sumner noted that America's most important historical document was frequently being attacked and criticized. Sumner maintained that the Declaration was not only being attacked for its alleged generalities and so-called "self-evident lies," but it was also being denigrated by men who were using its principles to support the doctrine of popular sovereignty, and hence the extension of slavery. Adams and Sumner were reacting not only to southern criticism, but also to comments made by Democrats during the bitter presidential campaign of 1860.³

Despite the ridicule and criticism of the Declaration, antislavery men continued to use its principles to support their objectives. They believed that slavery was inconsistent with such principles and repeatedly asserted that the

²Charles F. Adams, An Oration Delivered Before the Municipal Authorities of the Fall River, July 4, 1860 (Fall River, Mass.: Almy & Milne, 1860), pp. 5, 15, 14. Congressional Globe, 36th Cong., 1st Sess., 1860, Part III, pp. 2514, 2515. Adams' statement that the universality of the Declaration was never questioned before 1826 must be qualified. As was discussed in Chapter II, the document was challenged upon several occasions during the Missouri debates of 1819-1821. See Chapter II, pp. 29-33.

³Charles Sumner, The Works of Charles Sumner (15 vols.; Boston: Lee & Shepard, 1870-1882), V, 322.

Declaration's doctrines were intended to apply to all men, white and black.

Charles Francis Adams, for example, in his remarks of June 2, 1860 to the House of Representatives, was critical of what he called the "new version" of the Declaration of Independence which applied only to white men and held that all men were not equal. His response to this so-called "new version" was that "Mr. Jefferson thought it was human nature itself that possessed these most sacred rights which he denominates inalienable, and not the small portion of it included in the white population." Adams believed that America's purpose should be to spread the fundamental principles of the Declaration throughout the world.⁴

The idea of the Declaration's universality was advanced by other critics of slavery. George Bancroft, the Jacksonian Democrat and historian, completing the eighth volume of his History of the United States in 1860, maintained that the statement of rights in the Declaration of Independence applied to all mankind and not just the colonists. And speaking at Independence Hall on February 22, 1861 in regard to the idea of liberty in the Declaration, Abraham Lincoln stated:

It was that which gave promise that in due time the weights should be lifted from the shoulders of all men, and that all should have an equal chance. This is

⁴Congressional Globe, 36th Cong., 1st Sess., 1860, Part III, pp. 2514, 2515.

the sentiment embodied in that Declaration of Independence.

In January of the following year William Lloyd Garrison gave a lecture at the Cooper Union Institute in New York City in which he equated the Declaration of Independence with abolitionism and remarked that "all I ask is that this declaration may be carried out everywhere in our country and throughout the world."⁵

The Declaration's applicability to Negroes continued to be advanced by antislavery supporters during the Civil War years. In an oration delivered on July 4, 1862 in upstate New York, Frederick Douglass declared that the principles of the Declaration were intended to free the slaves, but that this was prevented by the proslavery forces who perverted the document's universal truths. Douglass stated that the purpose of the Declaration was not to proclaim all men equal in all respects but rather to declare "the equal and sacred rights of mankind." William Goodell, the constitutional abolitionist from New York, writing in 1863 stated that the Declaration's second paragraph referred to "all men" and not just "all white men." Horace Greeley appears to have adopted the same view in his famous two volume history of the United States entitled The American

⁵George Bancroft, History of the United States (10 vols.; Boston: Little, Brown & Co., 1834-1874), VIII, 472. Roy P. Basler, ed., The Collected Works of Abraham Lincoln (9 vols.; New Brunswick, N. J.: Rutgers Univ. Press, 1953), IV, 240. The Liberator, January 24, 1862, p. 14.

Conflict. He contended that the Declaration's preamble was an expression of fundamental human rights and implied that its principles should apply to all men, including Negroes.⁶

One of the primary reasons why abolitionists and antislavery Republicans continued to stress the Declaration's applicability to Negroes was to support their arguments for black emancipation. Abolitionists were aided in this endeavor because their popularity and influence had increased considerably by late 1861 and 1862. What had formerly been viewed as fanaticism by most Northerners was now seen as an acceptable course of action. Part of the reason for this was related to the changing public attitude toward Negro emancipation. Increasing support for such action was primarily based upon military considerations. And although abolitionists supported emancipation for moral reasons they were in accord with and substantiated growing popular sentiment.⁷

One of the earliest congressional supporters of Negro

⁶Philip S. Foner, ed., The Life and Writings of Frederick Douglass (4 vols.; New York: International Publishers, 1950-1955), III, 248. William Goodell, Our National Charters (New York: J. W. Alden, 1863), p. 104. Horace Greeley, The American Conflict (2 vols.; Hartford, Conn.: O. D. Case & Co., 1864-1866), I, 34, 35, 254.

⁷James M. McPherson, The Struggle for Equality (Princeton, N. J.: Princeton Univ. Press, 1964), p. 82. George M. Fredrickson, The Inner Civil War: Northern Intellectuals and the Crisis of the Union (New York: Harper & Row, 1965), pp. 114, 116.

emancipation, by legislative action, was the radical Republican from Pennsylvania, Thaddeus Stevens. The first move which Stevens made when Congress assembled in December of 1861 was to introduce a resolution calling for "immediate and unqualified emancipation," and in a January 22, 1862 speech before the House of Representatives he defended his resolution by asserting that the practice of slavery represented a repudiation of the Declaration of Independence. During the course of his speech he declared that "this government is fighting not only to enforce a sacred compact, but to carry out to final perfection the principles of the Declaration of Independence," ⁸

When Lincoln signed the Emancipation Proclamation on January 1, 1863 one of the document's most enthusiastic supporters was William H. Furnace, a Unitarian minister and veteran abolitionist. Furnace believed that the Civil War had demonstrated that the Declaration was a living force. With the abolition of slavery, America could fulfill its providential mission of setting a moral example for the rest of the world. Another Unitarian minister equally as pleased with the Proclamation was the Rev. David A. Wasson who believed that "the promise of the Declaration of

⁸ Alphonse B. Miller, Thaddeus Stevens (New York: Harper & Brothers, 1939), pp. 178, 179, 183.

Independence," was about to be realized.⁹

In May of 1863 the Women's Loyal National League, which had been organized by Elizabeth C. Stanton and Susan B. Anthony to promote loyalty and Negro emancipation, passed a resolution associating the Emancipation Proclamation with the Declaration. The resolution, which was sent to President Lincoln, declared that an important step had been taken towards achieving true liberty and equality in America.¹⁰

In October of 1864, Carl Schurz speaking in Brooklyn, compared the Declaration of Independence and the colonial fight for freedom with the Emancipation Proclamation and the struggle for the Union. At one point in his address he stated that

The emancipation proclamation is the true sister of the Declaration of Independence; it is the supplementary act; it is the Declaration of Independence translated from universal principle into universal fact The fourth of July, 1776, will shine with tenfold luster, for its glory is at last completed by the first of January, 1863.

In respect to criticism of the Emancipation Proclamation, Schurz admitted that the document did not completely

⁹William H. Furnace, The Declaration of Independence: A Discourse Delivered in the First Congregational Unitarian Church in Phila. (Phila.: C. Sherman & Sons, 1862), p. 13. Fredrickson, op. cit., pp. 118, 119.

¹⁰Elizabeth C. Stanton, Susan B. Anthony and Matilda Gage, eds., History of Woman Suffrage (6 vols.; Rochester, N. Y.: Charles Mann, 1881-1920), II, 67.

abolish slavery. But he was also quick to point out that although the adoption of the Declaration did not win the Revolutionary War, its principles were secured upon the war's completion and so likewise by capturing Richmond would the Proclamation's principles be realized. Echoing sentiments similar to Schurz in a June 1, 1865 eulogy to the late president, Charles Sumner remarked that Lincoln had done more than any other man to make the promises and principles of the Declaration of Independence a reality.¹¹

One of the fundamental principles of the Declaration which became a significant source of controversy during the Civil War and Reconstruction was the concept of consent of the governed. This was true for several reasons. To begin with, the withdrawal of the southern states from the Union raised a basic question: did a state, or several states, or a group of people within the nation have the right to withhold their consent and form a new government?¹²

Closely related to this central issue was the concern of such conservative northern intellectuals as Horace Bushnell,

¹¹Frederic Bancroft, ed., Speeches, Correspondence, and Political Papers of Carl Schurz (6 vols.; New York: G. P. Putnam's Sons, 1913), I, 233, 237. Schurz's admission regarding the Emancipation Proclamation and the abolition of slavery was based on the fact that the document only applied to slaves in states that were in rebellion. Loyal slave states and Union states were exempt from its measures. Sumner, op. cit., IX, 428.

¹²Fredrickson, op. cit., p. 132.

Charles J. Stillé and Orestes Brownson over what they termed the growing problem of disloyalty. One way in which they expressed their apprehension over conscription riots, peace Democrats speaking out against the war, and persons being arrested for aiding the rebel cause was to challenge and attack natural rights philosophy and the principles of the Declaration of Independence. Horace Bushnell, for instance, attacked the principle of consent of the governed upon numerous occasions. By 1864 the Connecticut clergyman hoped that the pressures of the war would cause people to reaffirm their respect for "established authority" and replace the abstract ideal of "government by consent" with his own "Doctrine of Loyalty."¹³

In The American Republic (1866) Orestes Brownson suggested that the Civil War had demonstrated the inadequacy and errors inherent in the Declaration's political philosophy, especially as interpreted by the abolitionists. According to Brownson, Americans after the war were less sympathetic to such principles as consent of the governed because they saw how it could be used to support insurrections and rebellions. The primary purpose of government, according to Brownson, was to rule, and the duty of its citizens, to obey. Brownson's views indicate that he was not only concerned with the problem of disloyalty, but with the manner in which

¹³Ibid., pp. 130, 131, 141, 146, 76, 139, 140.

abolitionists used the Declaration's principles.¹⁴

Another important reason why the principle of consent was a controversial issue was because antislavery men used it to advance the cause of emancipation and Negro rights. This was true not only for the war years, but especially during the debates over the Fifteenth Amendment.¹⁵

William Goodell was representative of those who used the doctrine of consent to support Negro rights and equality. In a book called Our National Charters published in 1863 he noted that the doctrine was one of the fundamental principles proclaimed by the Declaration of Independence. Using this as a premise, he argued that since slaves were part of the governed their consent was necessary for government to function properly. And since slavery prevented men from exercising such consent, it repudiated both the Declaration and the fundamental principles of American government.¹⁶

Proslavery Southerners of course rejected the logic

¹⁴Henry F. Brownson, ed., The Works of Orestes A. Brownson (20 vols.; Detroit: Thorndike Nourse, Publisher, 1882-1887), XVIII, 7, 29. Fredrickson, op. cit., pp. 144, 145, 186, 187. By 1838 Brownson had become extremely critical of abolitionists and their ideas. He theoretically believed slavery was evil, but also that abolitionist claims were not realistic and in fact posed a threat to true liberty. See, e. g., Arthur M. Schlesinger, Orestes A. Brownson, A Pilgrims Progress (New York: Octagon Books, 1939, 1963), pp. 79, 80.

¹⁵The relationship between the principle of consent of the governed and the Fifteenth Amendment will be discussed later in this chapter.

¹⁶Goodell, op. cit., p. 105.

used by abolitionists such as Goodell. George Fitzhugh, for instance, did not subscribe to the idea that governments derived their power and authority from the consent of the governed. In an article written after the war, he not only attacked the abolitionist concept of equality, but stated that both men and animals

submit to be governed, but do not consent to be governed; a consent government is no government, for it implies that all shall think alike, consentio. But to constitute a government at all, the rulers must think for those who are ruled.

Fitzhugh's point was obviously a refutation of antislavery use of the Declaration.¹⁷

Robert Lewis Dabney, the Virginia theologian, teacher and author, writing in 1867, criticized abolitionists for using the concepts of equality, inalienable rights and consent of the governed to support their objectives. To maintain that the meaning of such concepts was that all men should have equal privileges was an erroneous assumption. Dabney did not reject the principle of consent as expressed in the Declaration, but maintained that it had to be interpreted properly. In discussing what the founding fathers meant by the doctrine he stated that they

never intended the consent of each particular human being, competent and incompetent. They intended the representative commonwealth as a body, the 'populus,' or aggregate corporation of that part of the human

¹⁷George Fitzhugh, "Revolutions of '76 and '61 Contrasted" De Bow's Review, Series II, Vol. IV (July, 1867), pp. 38, 40.

beings properly wielding the franchises of full citizens, their proposition is general, and not particular.

To support his argument that the founding fathers did not intend the consent clause to mean individual consent, Dabney noted that they sanctioned limited suffrage, did not allow women to vote and recognized the institution of slavery.¹⁸

A particularly interesting interpretation of the consent principle, especially when considered in regard to Dabney's views, was expressed by Lysander Spooner in an article entitled "No Treason" which appeared in DeBow's Review in 1867. Spooner, it will be recalled, was one of the leading constitutional abolitionists of the antebellum period. After the war, however, he apparently felt that Negro slavery was no longer an important issue, and firmly supported the Constitution and reconciliation with the South.¹⁹

In his article Spooner argued that the North had not fought the war to free the slaves, but to force men to obey a government to which they refused to grant their consent. And as a result, "chattel slavery" was being replaced with "political slavery." Spooner strongly asserted

¹⁸Robert L. Dabney, A Defence of Virginia, (and Through Her of the South,) in Recent and Pending Contests Against the Sectional Party (New York: E. J. Hale & Sons, 1867), pp. 266, 267, 268, 269.

¹⁹Lysander Spooner, "No Treason" De Bow's Review, Series II, vol. IV, (Sept., 1867), p. 161.

that Southerners could not be held and tried as traitors for resisting a government to which they refused to swear allegiance. In supporting this position he stressed the idea of individual consent. According to Spooner the Declaration's consent of the governed clause meant "the separate individual consent of every man who is required to contribute, either by taxation or personal service to the support of the government." And since Southerners never consented to support the federal government when the Civil War began they could not be held and tried as traitors.²⁰

Spooner's views are significant for several reasons. To begin with it is interesting to note how two men, supporting a southern viewpoint, interpreted the consent principle in different ways. Dabney rejected the notion of individual consent as advanced by abolitionists in support of Negro rights, and Spooner stressed individual consent in supporting the rights of proslavery minded Southerners. It is also revealing that by 1867 such a bitter antislavery advocate came to emphasize the paramount importance of the rights of white Southerners, and to regard Negro slavery as a dead issue. Spooner appears to be representative of a majority of Northerners who by the 1870's were willing to

²⁰Ibid., pp. 161, 166, 167. Spooner in the same article also declared that "It was also . . . , only as separate individuals, each acting for himself and exercising simply his natural rights as an individual, that the people at large assented to and ratified the Declaration [D. of I.] ," See p. 167.

sacrifice Negro equality and rights for reconciliation with a white South.

Robert Lewis Dabney of Virginia deserves attention not only for his views on such principles as consent of the governed, but because he was representative of southern thinking on the Declaration of Independence in general. Even after the South was defeated he found it difficult to believe that a day at Appomattox had vitiated basic southern principles. In a book entitled A Defence of Virginia (1867) he adamantly rejected the Declaration of Independence as interpreted by antislavery men, and especially such notions that the document's principles were intended to apply to Negroes as well as whites.

According to Dabney, abolitionists had seriously misinterpreted the doctrine of equality. If that concept, however, was interpreted in the sense that all men were God's children and should be equally treated according to the golden rule - then the Declaration expressed a great truth. And what was really meant by man's inalienable right to liberty was the "privilege to do what each man, in his peculiar circumstances, has a moral right to do." This latter thought was especially reminiscent of proslavery thinking as found in the writings of William Gilmore Simms, which conveniently gave Negroes certain rights, but emphasized the idea of men maintaining their proper place in

society.²¹

Dabney also made it quite clear that while Southerners did not reject the Declaration per se, they also did not especially revere it. He remarked, for example, that "we regard it [D. of I.] as no political revelation. When we formed a part of the United States, it was no article of our constitution; and still less are we responsible for it now."²² As usual, the Declaration's prestige or usefulness often depended on how it was interpreted.

The fact that the Declaration's principles were often questioned and sometimes ridiculed did not prevent anti-slavery supporters from using them to further the cause of civil rights for the black man. This was readily apparent in the movement to amend the Constitution, which began during the war and ended with the ratification of the Fifteenth Amendment in March of 1870.

As early as 1863 many antislavery men became convinced that questions might be raised concerning the legality of the Emancipation Proclamation since it was passed as a wartime measure. It was therefore thought desirable to obtain a constitutional amendment which would insure the abolition of slavery.²³ Such an amendment was first introduced

²¹Dabney, op. cit., pp. 73, 266, 267, 268. For a discussion of Simms' views see Chapter II, pp. 59-60.

²²Dabney, op. cit., p. 271.

²³McPherson, op. cit., pp. 125, 126.

in the House of Representatives in December of 1863. In the following spring, after sharp debate the amendment passed the Senate, but failed in the House. Not until January of 1865 was it adopted by both houses of Congress.

One of the significant factors surrounding the Thirteenth Amendment was that many of its supporters viewed it as a victorious culmination of the antislavery movement. They tended to believe that the measure would secure two objectives: (1) that all men, both white and black would obtain equal protection under the law, and (2) that all citizens would be protected in respect to their rights under the Constitution. One of the main purposes then of the amendment was to put into practice the principles of equality and inalienable rights. The Thirteenth Amendment would hopefully "bring the Constitution into avowed harmony with the Declaration of Independence."²⁴

Some of the most heated debate over the proposed amendment occurred during January of 1865, and one of the controversial issues was the meaning of the Declaration of Independence. Some of the amendment's supporters contended that the Declaration applied to blacks as well as whites,

²⁴Jacobus tenBroek, Equal Under Law: The Antislavery Origins of the Fourteenth Amendment (2nd ed. rev.; New York: Collier Books, 1965, 1951), pp. 196, 169, 197, 167. Another motivation behind the amendment was the Republican desire to maintain control of the South through political power which the measure supposedly would give to the Negro. The fact that the proposal was aimed at enfranchising the Negro, was, however, never admitted publicly, even by radical Republicans. See tenBroek, pp. 169, 170.

but northern Democrats and proslavery Southerners often took exception to this.

On January 6, Congressman Andrew J. Rogers, a Democrat from New Jersey who opposed the amendment, began a speech to the House by noting that the Constitution gave the states the right to control slavery.²⁵ Rogers continued by declaring that the right of Negroes to citizenship was a weak argument. He maintained that the founding fathers did not intend to include Negroes within the meaning of the Declaration. Rogers believed this was obvious because Negroes did not possess political rights in 1776. He also pointed out that in the Dred Scott case Negroes were not held to be citizens under the Constitution.²⁶

Rejecting the arguments presented by Rogers, Congressman Thomas T. Davis, a Unionist from New York, maintained that the Declaration of Independence proclaimed that civil and religious liberty were the "inalienable inheritance of every man." According to Davis the principles of the Declaration were clearly in harmony with the aims of the proposed amendment.

²⁵ Congressman Rogers' objection was typical of those Democrat and slave state representatives who opposed the measure because of their proslavery and state rights views. In fact, the main argument used by opponents of the Thirteenth Amendment was that it represented a violation of state rights and an attempt to increase the power of the federal government at the expense of the states, See tenBroek, op. cit., p. 160.

²⁶ Congressional Globe, 38th Cong., 2nd Sess., 1865, Part I, p. 152.

He also asserted that the founding fathers saw slavery as a temporary condition to be eliminated as soon as possible. Addressing the House of Representatives one week later, James S. Rollins of Missouri declared that he was a believer in the Declaration of Independence, especially in the principle of equality. Rollins asserted that when the signers referred to "all men" they meant both white and black. He also noted that the failure to realize the objectives of the Declaration immediately did not mean that the founding fathers never intended to include Negroes within its meaning.²⁷

Although opponents of the measure continued to voice their opposition, Congress officially adopted the Thirteenth Amendment by the end of January. This enabled supporters of the amendment to hold victory celebrations in various cities. One of the most publicized was a "jubilee" meeting in the Boston Music Hall at which William Lloyd Garrison was a principal speaker. During the course of his speech, Garrison raised the question of what was the real significance of the Thirteenth Amendment. Answering his rhetorical query he stated that

In fine, it is the Declaration of Independence no longer an abstract manifesto, containing certain 'glittering generalities,' simply to vindicate our Revolutionary fathers for seceding from the mother country; but it is that Declaration CONSTITUTIONALIZED - made The Supreme Law of the Land - for the protection

²⁷Ibid., pp. 154, 260.

of the rights and liberties of all who dwell on the American soil.

According to Garrison then, the passage of the Thirteenth Amendment meant that the tenets of the Declaration had finally become part of the constitutional law of the land.²⁸

While the Declaration's principles were not the most important element in the debates over the Thirteenth Amendment, they were used as a justification for the proposal, and as in the past they failed to elicit a consensus of opinion regarding their meaning and significance.

By 1866 many Northerners, especially abolitionists, had come to feel that the Thirteenth Amendment was ineffective, and their apprehensions were reinforced by President Johnson's veto of the Civil Rights bill of that year. Antislavery men believed that an additional constitutional amendment was needed to make sure that proslavery Southerners would not return to power and destroy the gains and victory of the Civil War. Thus supporters of the Fourteenth Amendment generally agreed that further steps were needed to safeguard the Negro's rights. Exactly what should be done, however, was a question on which there were differences of

²⁸Wendell P. Garrison and Francis J. Garrison, William Lloyd Garrison, 1805-1879, The Story of His Life Told By His Children (4 vols.; Boston: Houghton, Mifflin & Co., 1885-1889), IV, 127, 129.

opinion.²⁹

As in the debates over the Thirteenth Amendment, advocates of the Fourteenth Amendment invoked the Declaration of Independence to achieve their aims. Section one of the proposed amendment, which provided that states could not "abridge the privileges or immunities of citizens of the United States," nor "deprive any person of life, liberty or property without due process of law," nor "deny to any person . . . the equal protection of the laws," elicited the greatest amount of discussion in respect to the Declaration.

Thaddeus Stevens, the radical Republican from Pennsylvania, speaking before the House of Representatives on May 8, 1866, remarked that the time had finally come when the principles of the Declaration of Independence should be fulfilled, and this could be accomplished by adopting the Fourteenth Amendment. He stated that the provisions of the first section of the amendment were "all asserted in some form or other, in our Declaration or organic law." Representative George F. Miller another Republican from Pennsylvania, addressing the House on the following day declared that the first section of the proposed amendment was clearly in

²⁹Some proponents of the amendment favored an outright grant of suffrage, while others felt that northern popular opinion would not support such action and therefore favored a more indirect means of securing Negro rights. This question is discussed later in this chapter.

harmony with the Declaration of Independence and should therefore receive unanimous approval. In commenting upon this same first section, Congressman John F. Farnsworth, a Republican from Illinois, stated that the concept of "equal protection of the laws" was a basic principle of republican government and without such protection a man could not enjoy his fundamental rights to "life, liberty and the pursuit of happiness." Senator Luke P. Poland of Vermont in a June 5th speech before the Senate referred to section one as "the very spirit and inspiration of our system of government It [Section I] is essentially declared in the Declaration of Independence and in all the provisions of the Constitution."³⁰ Antislavery Republicans such as Stevens, Miller, Farnsworth and Poland tended to envision the Fourteenth Amendment and especially its first section as turning the principles of the Declaration into reality. They also hoped that such principles would thereby take on the force of law.

One significant aspect of the debates over the Fourteenth Amendment which involved the Declaration was the question of Negro suffrage. Many abolitionists and some antislavery Republicans believed that the Thirteenth Amendment was inadequate because it did not give the Negro the right to vote. Such men hoped the Fourteenth Amendment would rectify

³⁰Congressional Globe, 39th Cong., 1st Sess., 1866, Part III, pp. 2459, 2510, 2539; Part IV, p. 2961.

this situation. Unfortunately it did not. Fearing that northern public opinion would oppose a direct grant of suffrage, moderate Republicans supported an amendment which penalized states which denied men the right to vote on the basis of race, by reducing a state's representation in Congress.³¹

Advocates of Negro suffrage were not, however, always solely concerned about protecting the black man's political rights. Many Republican supporters of such action were not above realizing the advantage to themselves and their party by developing a loyal black vote in the South.³² Whatever their reasons for supporting Negro suffrage, many of the backers of the Fourteenth Amendment used the Declaration of Independence to justify extending the franchise.

As early as July of 1865, for example, Representative James Garfield argued for Negro suffrage. On July 4th at Ravenna, Ohio he expressed the view that the truths of the Declaration such as equality and consent of the governed could not be realized until all men had the right to vote. Opposition to Negro suffrage in Garfield's view was a repudiation of the Declaration's principles.³³

³¹McPherson, op. cit., pp. 351, 352.

³²Ibid., p. 361. Andrew C. McLaughlin, A Constitutional History of the United States (New York: Appleton-Century-Crofts, 1935), p. 655. tenBroek, op. cit., pp. 169, 170.

³³Burke A. Hinsdale, ed., The Works of James A. Garfield (2 vols., Boston: James R. Osgood & Co., 1882), I, 86, 87.

In his famous speech, *The Equal Rights of All*, before the Senate in February of 1866, Charles Sumner made a passionate plea for an amendment which would enact Negro suffrage. To support his argument Sumner drew heavily upon the Declaration of Independence. Enfranchising the black man would simply fulfill the principles and promises of Jefferson's famous paper. Sumner suggested that the most important self-evident truth of all was the concept of equality; even the right to life, liberty and the pursuit of happiness were subordinate to this principle. Without equality men could be deprived of their right to impartial laws and participation in government, and without such rights government was a failure.³⁴

Supporting Sumner's views, Senator Richard Yates an Illinois Republican stated that he wanted to see Congress make the Declaration into a reality. By granting the Negro the right to vote true equality finally could be achieved. George W. Julian of Indiana was another antislavery Republican who strongly supported Negro rights and suffrage. Like his colleagues he urged that the principles of the Declaration be turned into a reality. While addressing the House of Representatives on June 16, 1866 he stated that

³⁴Sumner, *op. cit.*, X, 128, 173, 174. Sumner also emphasized in his February speech that it was a weak argument to note that the founding fathers did not always live up to the principles they proclaimed. He stated, e. g., that "their failure can be no apology for us, on whom the duty is now cast." See p. 299.

If all men are equal in their inborn rights, every man has the right to a voice in the governing power It is not a privilege, but a right, [suffrage] and you insult republicanism and brand the great Declaration [D. of I.] as a lie, when you dispute it.³⁵

Although many of the amendment's supporters stressed the Declaration's doctrine of equality when calling for Negro suffrage, the concept of consent of the governed was also referred to. Julian mentioned this principle in his address of June 16 before the House, and John Farnsworth of Illinois speaking to the same audience several weeks earlier stated that when all men, black and white, had the right to vote, only then would the nation be able to practice the self-evident truths of the Declaration, especially the principle that governments "derive their just powers from the consent of the governed."³⁶

While supporters of the Fourteenth Amendment were numerous they were not without critics. Following Julian's speech on June 16, for example, William E. Niblack, a Democrat from Indiana, addressed the House and stated that he was opposed to both the Civil Rights bill and the Fourteenth Amendment because he believed such measures were infringements upon the rights of the states. Niblack also contested the actions of men like Julian who quoted from the second paragraph of the Declaration of Independence to demonstrate

³⁵Congressional Globe, 39th Cong., 1st Sess., 1866, Part IV, pp. 3037, 3209.

³⁶Congressional Globe, 39th Cong., 1st Sess., 1866, Part IV, p. 3209; Part III, p. 2539.

that Negroes were also citizens. He noted that at the time of the Constitution's adoption only whites were considered to be citizens and quoted from the Dred Scott case to support his point. Niblack was representative of both northern and southern Democrats, such as Andrew Rogers of New Jersey and George Vickers of Maryland, who not only sought to protect state's rights, but also rejected the interpretation given to the Declaration by antislavery Republicans. In February of 1866, for instance, a group of Democrats who supported President Johnson's Reconstruction proposals and his veto of the Freedman's bill adopted a resolution at a Washington Day celebration which stated that "the grand old declaration that 'all men are created equal' was never intended by its authors . . . [to place] the African race in this country on a civil, social or political level with the Caucasian."³⁷

After considerable debate, the Fourteenth Amendment was adopted by Congress on June 16, 1866, minus, however, a direct grant of Negro suffrage. While this displeased some antislavery Republicans many of the bill's supporters emphasized its positive points. The amendment not only reenacted the Thirteenth Amendment in a more forceful and comprehensive manner, but provided natural protection to all

³⁷Congressional Globe, 39th Cong., 1st Sess., 1866, Part IV, p. 3216. McPherson, op. cit., p. 348. See pp. 211-212 of this chapter for Senator Vickers' views.

men, white and black with respect to their fundamental rights. An important part of the Republican argument to obtain passage of the amendment was the principles of equality, inalienable rights and consent of the governed. And as has been demonstrated by numerous references, many antislavery Republicans hoped and believed the Fourteenth Amendment would bring about a realization of the Declaration's principles.³⁸ Those Republicans who used the Declaration in support of constitutional amendments tended either to be members of the party's radical wing or men holding strong antislavery views. Conservative Republicans and those Republicans supporting a moderate program of Reconstruction apparently avoided the controversy over the Declaration and made no significant use of the document.³⁹

³⁸In the first Slaughter House cases which came before the Supreme Court in 1873, Justice Field in his dissenting opinion maintained that the Fourteenth Amendment "was intended to give practical effect to the declaration of 1776 of inalienable rights, rights which are the gift of the Creator, which the law does not confer, but only recognizes." According to Field, the purpose of the amendment was to protect men in their inalienable rights to life, liberty and the pursuit of happiness. Philip F. Detweiler, "The Declaration of Independence in Jefferson's Lifetime," (unpublished Ph.D. dissertation, Tulane University, 1954), p. 217. Also see Ralph H. Gabriel, The Course of American Democratic Thought: An Intellectual History Since 1815 (New York: The Ronald Press, 1940), pp. 222-224.

³⁹Men such as Thaddeus Stevens, Charles Sumner, George W. Julian, Richard Yates, and William Loughridge, for example, were all radical Republicans. My reading of the congressional debates over the Thirteenth, Fourteenth and Fifteenth Amendments reveals no significant use of the Declaration by conservative Republicans or those holding moderate views on Reconstruction. Part of the reason for

Jacobus tenBroek in his perceptive study of the antislavery origins of the Fourteenth Amendment notes that "ninety years after the Declaration of Independence, Jefferson's self-evident truth made its way explicitly into the Constitution." In other words, one of the basic ideas in section one of the amendment was the doctrine of equality.⁴⁰ tenBroek argues very persuasively that a large measure of credit for the principles incorporated into the amendment must go to constitutional abolitionists such as Gerrit Smith, William Goodell, George Mellen, Lysander Spooner and James G. Birney, who several decades earlier proclaimed constitutional ideas which were influential in the 1860's. The author also suggests that the idea that government had an obligation to provide for "equal protection of the laws" was common to all of these men. According to tenBroek, almost all of the constitutional abolitionists tied the idea of protection "specifically to the Declaration of Independence as part of the constituent and binding law of the United States." These men stressed the fact that government's purpose was to protect all men equally in their inalienable rights.⁴¹

this probably was that such individuals had strong state's rights views, and were not particularly interested in advancing the cause of Negro rights.

⁴⁰tenBroek, op. cit., p. 15.

⁴¹Ibid., pp. 89, 117, 118.

As has already been indicated in Chapter III, the constitutional abolitionists also emphasized that the Constitution should be interpreted in light of the Declaration's principles, and that such principles were or should be part of the fundamental law of the land.⁴² The adoption of the Thirteenth and Fourteenth amendments indicates that some of their ideas were coming to fruition. The Fourteenth Amendment clearly interjected into the Constitution major elements of the Declaration's political philosophy. American history has demonstrated, however, that it took a long time before that philosophy could be effectively used to advance the black man's cause.

After the Fourteenth Amendment was adopted many anti-slavery men believed that the South could be coerced into granting Negroes their civil and political rights. It once more became apparent, however, that the amendment failed to do what many hoped it would accomplish - provide the black man with political power in the South. Therefore, during the winter of 1868-1869 antislavery men and radical Republicans began a campaign for a new constitutional amendment which would specifically enact Negro suffrage and provide the machinery to enforce such a measure. Many Republicans had a genuine concern for protecting the black man's civil rights, but as has already been indicated,

⁴²See Chapter III, pp. 88-104, 114-115.

one of the primary reasons for such concern was the desire to control the South politically.⁴³ For many Republicans such an amendment would allow them to combine idealism with political expedience.

One radical Republican who kept up the fight for Negro suffrage even after the Fourteenth Amendment was adopted by Congress in 1866 was Thaddeus Stevens. His views were indeed radical for in a public letter (March 28, 1868) to John W. Forney he stated that

I have long . . . reflected on the subject of the Declaration of Independence, and finally have come to the conclusion that universal suffrage was one of the inalienable rights intended . . . by our fathers, and that they were prevented from inserting in the Constitution by slavery alone.

Stevens' letter received much newspaper publicity and shortly thereafter a New York Times editorial criticized his views stating that "the whole theory which he lays down is utterly absurd" The Times was not really criticizing the Declaration, but only the notion that universal suffrage was one of the inalienable rights intended by the signers.⁴⁴ It was such references to the Declaration's

⁴³Carl B. Swisher, American Constitutional Development (2nd ed.; New York: Houghton, Mifflin Co., 1943, 1954), p. 334. McPherson, op. cit., pp. 424, 378. Also see p. 199 of this chapter. William Gillette in a book entitled The Right to Vote: Politics and the Passage of the Fifteenth Amendment (Baltimore: John Hopkins Press, 1965) presents a new thesis regarding the Fifteenth Amendment. He contends that the primary aim of the amendment's supporters was to enfranchise Negroes in the North, in order to keep that section of the country under Republican control. See pp. 89, 90, 114, 115.

⁴⁴Miller, op. cit., pp. 366, 367.

principles, however, that caused the document to be a source of controversy during the debates over the Fifteenth Amendment.

The major debates over the Fifteenth Amendment in Congress occurred in January and February of 1869. While state's rights and the meaning of the Constitution were the primary issues of controversy, there was also substantial reference to and discussion of the Declaration of Independence. Proponents of the amendment who used the Declaration to support their position continued to invoke the concepts of equality and inalienable rights. But, the principle which received by far the most attention and criticism was that "Governments are instituted among Men, deriving their just Powers from the consent of the governed."

Speaking before the House of Representatives on January 28, 1869, Benjamin F. Whittemore, a Republican from South Carolina, pointed out that the American system of government was founded on the principles of inalienable rights, equality and consent of the governed, and therefore all men, black and white should have the right to vote. Echoing Whittemore's views, another South Carolinian, Christopher C. Bowen declared that "it is absurd to speak of self-government as belonging to one who is denied the ballot, for without the ballot no man governs himself." Bowen also implied that the founding fathers did not make distinctions regarding race because the word "white" was

nowhere to be found in the Declaration.⁴⁵

In a speech supporting the proposed amendment before the House on January 29th William Loughridge, an Iowa Republican, asserted that the Declaration of Independence clearly proclaimed the concept of consent and that a government could not be just which did not give one fifth of its population a voice, but yet expected those people to obey its laws and pay taxes. Loughridge also repeated Bowen's assertion that the Declaration did not make distinctions of race in regard to men's fundamental rights.⁴⁶

Orris S. Ferry of Connecticut addressing the Senate on February 4th argued that every man should have the right to vote and that this truth came from "our fundamental charter [D. of I.] which proclaimed that 'governments derive their just powers from the consent of the governed.'" According to Ferry the Fourteenth resolution of the Republican Party platform of 1868 also recognized this basic principle and was intended to support Negro suffrage.⁴⁷ The senator

⁴⁵Congressional Globe, 40th Cong., 3rd Sess., 1869, Part III, Append., pp. 93, 95. Both Whittemore and Bowen were Northerners who later moved to the South and became leaders of the Republican party in South Carolina during Reconstruction.

⁴⁶Ibid., p. 200.

⁴⁷Congressional Globe, 40th Cong., 3rd Sess., 1869, Part II, pp. 858, 855. Ferry's interpretation of the Fourteenth resolution in the Republican party platform of 1868 is misleading. The resolution itself is rather vague and does not specifically refer to the principle of consent of the governed. See, e. g., Kirk H. Porter and Donald B. Johnson, eds., National Party Platforms: 1840-1964 (Urbana, Illin.: Univ. of Illinois Press, 1966), p. 40.

from Connecticut also noted that Democrats currently ridiculed the Declaration of Independence as interpreted by Republicans. His response to their criticism was that none other than Jesus Christ proclaimed similar principles of "human brotherhood and human equality" some 1800 years earlier.⁴⁸

In a speech before the Senate early in February, Charles Sumner contended that men could not be disfranchised on the basis of color because the Declaration of Independence "announced that all men are equal in rights, and that just government stands only on the consent of the governed." Other Republican members of the Senate such as Waitman T. Willey of West Virginia and Joseph C. Abbott of North Carolina presented similar arguments in support of Negro suffrage.⁴⁹

The opinions of Republican congressmen such as Whittemore, Bowen, Loughridge, Ferry, Sumner and others supporting the Fifteenth Amendment indicate that they made strong use of the consent principle. The simple logic employed by these men was that Negroes were part of the governed, paid taxes, and were required to obey laws, and therefore should have the right to participate in government and exercise their consent. To deny them this right was

⁴⁸Congressional Globe, 40th Cong., 3rd Sess., 1869, Part II, p. 855.

⁴⁹Ibid., pp. 903, 911, 980.

to repudiate both the Declaration of Independence and the basic principles of American government.

Not all those who referred to the principle of consent, however, used it to support the Fifteenth Amendment.

Thomas L. Jones, a Democrat from Kentucky addressing the House on January 29, expressed his opposition to the amendment because he believed it violated the rights of the states. According to Jones the power to control suffrage qualifications resided with the people within the individual states and not the federal government. In support of this argument he cited the consent of the governed clause found in the Declaration. Several weeks later another Democrat, George W. Woodward from Pennsylvania, also expressed opposition to the Fifteenth Amendment, stating that Negroes had never been partners in the American social compact. He maintained that the Pennsylvania Supreme Court decision of 1790, which held that the state constitution did not grant Negroes the suffrage, was based on

the great principle of the Declaration of Independence, that all just Governments should be founded in the consent of the governed. A subject, inferior, ignorant, and idolatrous race, introduced into a country against their will to be slaves, would be greatly wronged in being treated as having consented to the government of that country. The African race has never consented to the government of this country.⁵⁰

Woodward failed to note, however, that the Negro was never given a chance to grant or offer his consent. The remarks

⁵⁰Ibid., Part II, p. 723; Part III, appendix, p. 205.

of Jones and Woodward indicate that Democrats were not above using the Declaration, especially if they could utilize the document in support of their own views.

One of the most detailed and revealing arguments raised against references to the Declaration of Independence in support of the Fifteenth Amendment was voiced by Senator George Vickers, a Democrat from Maryland. In a Senate speech on February 5, Vickers asserted that the right of suffrage was a power of government which did not originate with the people; there was no such thing as a natural right to vote. Quoting from the second paragraph of the Declaration he asked if the right of suffrage was one of the inalienable rights proclaimed therein. Vickers was of course begging the question since the Declaration made no specific reference to suffrage. He also posed another question: if the right to vote was inalienable why had so many signers owned slaves?⁵¹

Referring to Senator Ferry's references to the Declaration on the previous day, Vickers asked just what really were the document's principles? Answering his own question, he stated that "they are abstract enunciations of principles, and form no part of the Constitution which was framed afterward." Vickers continued this line of thought and made an extremely perceptive comment regarding the way

⁵¹Ibid., Part II, pp. 904, 905.

in which the Declaration was used by abolitionists and radical Republicans. He maintained that

whenever a party or an individual is desirous of exercising a power which is doubtful and cannot be found in the Constitution a resort is always had to the general terms of the Declaration of Independence.⁵²

This is exactly what Carl Becker meant when he referred to the Declaration as a rationale for action when men found that existing custom and law did not support their objectives.

While discussing the Declaration's principles Senator Vickers asserted that the document's true purpose could be found by examining its last paragraph which declared that the colonies had the right to be "free and independent States." His reference to this paragraph was typical of Democrats and Southerners who did not reject the Declaration per se, but who in fact used it to support their own beliefs and objectives such as state's rights.⁵³

An interesting addendum to the debates on the Fifteenth Amendment can be found in a Senate exchange that occurred on February 9th between Charles Sumner and Senator George H. Williams, a Union-Republican from Oregon. Their remarks are revealing in terms of American attitudes regarding the relationship between political equality and immigration. In the discussion Sumner suggested that the word "white"

⁵²Ibid.

⁵³Ibid., p. 905.

should be struck from American statute books. This was necessary if American laws and institutions were ever going to be in harmony with the Declaration's principles. According to Sumner, that document made no distinctions with regard to color. Senator Williams took exception to Sumner's views. He stated that he believed in the ideas of the Declaration, but this did not mean that foreigners coming to America should have the same political power and rights as native-born citizens. To give such an interpretation to the Declaration was a mistake. According to Williams the United States had the right to protect itself from Chinese and other foreigners. Williams stated, for example, that

in protecting itself [U. S.] from these hordes of foreigners, who may come here either from selfish or hostile motives; in protecting itself from these people . . . it does not in any respect violate the Declaration of Independence.⁵⁴

Nativists such as Williams apparently had no problem in endorsing the Declaration on one hand and then excluding from its principles certain so-called undesirable elements.

Several concluding remarks regarding the Declaration and the Fifteenth Amendment merit consideration. First, one of the primary arguments used by antislavery Republicans in support of Negro suffrage was the Declaration's principle of consent. The argument presented was that the power of

⁵⁴Ibid., pp. 1034, 1035.

government should be derived not from just a part, but from all of the governed, and that this was one of the intentions of the founding fathers. While some Republicans such as Charles Sumner and Thaddeus Stevens may have believed this to be so, one must also recognize that the consent principle served as a convenient rationale in support of the Republican party's political objectives.

But Republicans were not the only ones to use the Declaration's principle of consent. Democrats such as Thomas Jones and George Woodward used this concept to oppose the amendment, indicating that political parties tended to interpret the Declaration in different ways to promote their own objectives. George Vickers invoked the document to support the state's rights doctrine, demonstrating that Southerners did not always reject the Declaration, but often used it to serve their own aims. These facts again illustrate the diversity of purposes which the Declaration of Independence served.

The debate over and passage of the Thirteenth, Fourteenth and Fifteenth Amendments brought attention to two significant questions regarding the Declaration of Independence which tended to intensify the controversy surrounding the document. In short these questions concerned: (1) the relationship between the Declaration and the Constitution, and (2) the legality of the Declaration's principles.

During the congressional debates over the Fifteenth

Amendment both Richard Yates of Illinois in the Senate and William Loughridge of Iowa in the House maintained that the Constitution had been framed and adopted with the intention of advancing the principles of the Declaration. Speaking of the founding fathers, Yates asserted that "not in the Constitution of the United States, nor in any act of Congress, did they ever ignore the Declaration of American Independence" Such views, however, did not go uncontested. During the same debate, for example, George Vickers, the Democratic senator from Maryland, declared that

the practical interpretation which has been given to this instrument [D. of I.] from that period [1776] down to 1860 has been that it had no relation to the Constitution of the United States, and could not control any of its provisions.⁵⁵

Concerning the issue of the Declaration's legality, it will be recalled that after the passage of the Thirteenth Amendment, William Lloyd Garrison stated that the principles of the Declaration had finally become part of the constitutional law of the land. Many antislavery Republicans believed that the constitutional amendments would effect a realization of the Declaration's doctrines. As has already been suggested, and as will be further demonstrated, such views were openly questioned and challenged.

While the issues of the Declaration's legality and

⁵⁵Ibid., Part II, p. 1004; Part III appendix, p. 200; Part II, p. 905.

its relationship to the Constitution were re-emphasized during the amendment debates, they had already been points of contention before the Civil War. And since these questions are fundamental to an understanding of the Declaration's history, it will be useful to briefly review their background in the pre-war decades.

Constitutional abolitionists and other antislavery men often asserted that the founding fathers in drawing up the Constitution attempted to realize the principles of the Declaration. The latter document was viewed as an ideal to be referred to, and in a real sense it was thought to be an interpretive guide to the Constitution.

During the early 1840's, constitutional abolitionists such as George Mellen and James G. Birney contended that the Constitution was in harmony with the Declaration's doctrines. They argued that both the preamble and Fifth Amendment of the Constitution reaffirmed the concepts of equality and inalienable rights.⁵⁶ Charles Sumner and William Seward echoed these thoughts in the late 1840's and early 1850's. Seward argued that it was inconceivable that the founding fathers in adopting the Constitution would establish a system based upon a political philosophy

⁵⁶G. W. F. Mellen, An Argument on the Unconstitutionality of Slavery (Boston: Saxton & Peirce, 1841), pp. 52, 53, 56. tenBroek, op. cit., p. 75, f. n. #12. Aileen S. Kraditor, Means and Ends In American Abolitionism (New York, Pantheon Books, 1967), p. 190.

entirely different from that expressed in the Declaration. And in 1865 an anonymous critic of Roger B. Taney and the Dred Scott case viewed the two documents as being in perfect harmony, reinforcing one another.⁵⁷

Such views of course did not remain unchallenged, especially with respect to anti-Republicans and proslavery Southerners. In 1856 Rufus Choate asserted that to maintain that the Declaration should be used "to interpret the language of the Constitution" was a serious error. According to Choate, the two documents were written at different times and for different purposes and could not be used to interpret one another. The Massachusetts Whig also contended that the Constitution was definitely the higher authority of the two documents.⁵⁸

Addressing the Senate on April 11, 1860 on the subject of state rights and slavery, James Chesnut of South Carolina criticized the antislavery view that the Constitution was based on the Declaration of Independence and that the purpose of the federal government was to realize the Declaration's principles. Chesnut declared that besides

⁵⁷Sumner, op. cit., II, 78. Julia Griffiths, ed., Autographs For Freedom (Auburn, N. Y.: Alden, Beardsley & Co., 1854), p. 202. Anonymous, The Unjust Judge: A Memorial of Roger B. Taney, Late Chief Justice of the United States (New York: Baker & Godwin, 1865), pp. 18, 19.

⁵⁸Samuel G. Brown, The Works of Rufus Choate With a Memoir of His Life (2 vols.; Boston: Little, Brown and Co., 1862), II, 405, 406; I, 230.

justifying colonial independence, the Declaration had no other purpose. He also noted that from a historical perspective there was little evidence to support the anti-slavery contentions regarding the relationship between the two documents. Robert L. Dabney in his Defence of Virginia, while discussing the legality of slavery, reinforced Senator Chesnut's views when he succinctly stated that "the Constitution made no reference to it [D. of I.]; did not ground itself upon it, and did not reenact it."⁵⁹

From a historical point of view there is much validity in what Chesnut, Dabney, Vickers and other proslavery men said about the relationship between the Declaration and the Constitution. During the Constitutional Convention of 1787 the Declaration was only referred to once or twice, and the voluminous political writing about the Constitution in 1787 and 1788 contains few references to the 1776 document. The views of Chesnut, Dabney and Vickers are also substantiated by the fact that courts in both state and federal slavery cases did not view the Declaration as the recognized interpretative guide to the Constitution.⁶⁰

⁵⁹Congressional Globe, 36th Cong., 1st Sess., 1860, Part II, p. 1617. Dabney, op. cit., p. 72.

⁶⁰Philip F. Detweiler, "The Changing Reputation of the Declaration of Independence: The First Fifty Years," William & Mary Quarterly, 3rd Series, XIX (1962), pp. 562, 563. Benjamin F. Wright, American Interpretations of Natural Law (Cambridge, Mass.: Harvard Univ. Press, 1931), p. 125. Also see the last section of this chapter pp. 224-230.

Another controversial issue regarding the Declaration which arose during the pre-Civil War decades was the question of its legality. As early as the 1830's men such as John Quincy Adams and the German-born abolitionist Charles Follen suggested that the principles of the Declaration were as much a part of the fundamental law of the land as the Constitution, and that the former document should serve as a standard to test the validity of the nation's laws.⁶¹

By the 1840's and 1850's some antislavery men began to assert that the ideas found in the Declaration of Independence were much more than abstract generalities; they were in fact fundamental tenets of American government. The Constitution and entire American legal system should therefore be in harmony with these principles. Some proponents of this view argued that in essence the Declaration's principles carried the binding force of law.

One must credit the constitutional abolitionists with developing the strongest and most persuasive argument that the principles of the Declaration were part of the country's fundamental law and had the binding force of such law.

⁶¹George A. Lipsky, John Quincy Adams, His Theory and Ideas (New York: Thomas Y. Crowell Co., 1950), pp. 212, 213. Benjamin J. Lossing, Biographical Sketches of the Signers of the Declaration of American Independence (New York: George F. Cooledge & Brothers, 1848), pp. 369, 370. Charles Follen, The Works of Charles Follen, With a Memoir of His Life (5 vols.; Boston: Hilliard, Gray & Co., 1841-1842), V, 208, 209, 211.

Both Alvan Stewart and James G. Birney expressed this view in their writings on slavery, Stewart as early as 1838 and Birney in a series of articles published in the Albany Patriot in 1847. The Liberty party platform of 1843 also reinforced this concept when it proclaimed that the Declaration's doctrine of inalienable rights "was made the fundamental law of the land by the Fifth Amendment."⁶²

In 1845 Lysander Spooner published an essay called The Unconstitutionality of Slavery in which he contended that since the colonists deemed the act of independence lawful they must have considered the principles justifying such action as also being legally valid. Spooner argued that the self-evident truths of the Declaration, i. e., that men have an inalienable right to life, liberty and the pursuit of happiness had never been constitutionally rejected by the American people and were therefore still part of the constitutional law of the land.⁶³

Gerrit Smith, who was strongly influenced by the constitutional abolitionists, touched upon this question while addressing the House of Representatives on the Nebraska

⁶²Luther R. Marsh, ed., Writings and Speeches of Alvan Stewart on Slavery (New York: A. B. Burdick, 1860), pp. 142, 143. Dwight L. Dumond, Antislavery; the Crusade For Freedom in America (Ann Arbor, Mich.: Univ. of Michigan Press, 1961), p. 72. tenBroek, op. cit., pp. 84, 85, 139, 140. Wright, op. cit., p. 213.

⁶³Lysander Spooner, The Unconstitutionality of Slavery (Boston: Bela Marsh, 1845), pp. 42, 45.

bill. Smith asserted that the Declaration was the paramount authority in American politics and that "the Congress of the Confederation and the Convention, which framed the Constitution, derived all their legitimacy and authority from the Declaration of Independence." And William Goodell, the New York abolitionist, not only maintained that the Declaration's principles were part of the constitutional law, but insisted that they were the highest constitutional authority in the land.⁶⁴

Proslavery Southerners of course continually rejected any antislavery interpretation of the Declaration, including that which presented the document as having the power and force of law.⁶⁵ Representative of southern thought on this question was Robert Dabney of Virginia who clearly rejected the idea of the Declaration having "the organic force of constitutional law." Dabney noted that both the Articles

⁶⁴Gerrit Smith, Speeches of Gerrit Smith in Congress (New York: Mason Brothers, 1855), pp. 129, 130, 132, 133. Goodell, op. cit., pp. 111, 112. For more information on Goodell's views see Chapter III, pp. 99-101.

⁶⁵Dwight L. Dumond, Antislavery Origins of the Civil War in the United States (Ann Arbor, Mich.: Univ. of Michigan Press, 1959), p. 77. This is also quite apparent from southern comments on the Declaration as discussed throughout the course of this dissertation. See, e. g., Chapter II, pp. 63-66 for the remarks of men such as William G. Simms, William C. Harper and Daniel K. Whitaker; Chapter III, p. 80 for those of John C. Calhoun and Chapter V, pp. 217-218, 212 for the views of James Chesnut and George Vickers. Also of interest should be George Fitzhugh's, Sociology For the South (Richmond: 1854, Burt Franklin edition, 1966), pp. 175, 177, and his "Revolutions of '76 and '61 Contrasted", p. 37.

of Confederation government and the new national government formed in 1789 never based any legislation on the Declaration.⁶⁶

A significant fact concerning the issue of the Declaration's legality is that critics of such a notion were not only proslavery Southerners. Northerners, both for and against slavery, also rejected the idea that the Declaration and its principles were part of the constitutional law of the land.

Writing in his Quarterly Review on the subject of slavery and the Mexican territories in July of 1847, Orestes Brownson unequivocally stated that the Declaration of Independence "is of no legal force or value, forms no part of the public law of either the states or the Union." He further maintained that the colonial representatives who adopted the Declaration had no authority from the states they represented to proclaim a theory of government, and therefore the political ideas of the document must be considered as individual opinion and speculation.⁶⁷

Wendell Phillips and William Bowditch, Garrisonian abolitionists, both rejected the ideas expressed by Lysander Spooner regarding the Declaration. Phillips declared that

No court has ever held it [D. of I.] to be the

⁶⁶Dabney, op. cit., p. 72.

⁶⁷Henry F. Brownson, ed., The Works of Orestes A. Brownson (20 vols.; Detroit: Thorndike Nourse, 1882-1887), XVI, 35.

'fundamental law' of the country. On the contrary, it is simply a State paper - a political act, - changing the form of government, and having no relation to individual rights.

Bowditch made similar statements rejecting Spooner's contentions. Even Abraham Lincoln, who maintained that the doctrine of equality was the great fundamental principle of the American system, admitted in 1858, that the principle as expressed in the Declaration was not legally binding.⁶⁸

Joel Parker, a New Hampshire jurist and law professor with state's rights leanings, stated in an article on constitutional law in 1862 that the Declaration expressed certain "general political truths," but it was not a binding part of constitutional law. Parker also maintained that such general principles could not limit state authority, and if there were conflicts between the contents of the Declaration and state constitutions, the latter should prevail.⁶⁹

After the Civil War, two other antislavery men contributed to the refutation of the Declaration's legality. The anonymous writer from New York who criticized Taney's views on slavery and the Negro declared that the Declaration

⁶⁸Wendell Phillips, Review of Lysander Spooner's Essay on the Unconstitutionality of Slavery (Boston: Andrews & Prentiss, 1847), p. 87. Kraditor, op. cit., pp. 208, 209. Basler, op. cit., III, 327.

⁶⁹Joel Parker, "Constitutional Law," The North American Review, vol. 94 (April, 1862), p. 443.

"in a legal and technical sense, secured nobody; the Constitution secured everybody within the boundaries of its power." According to Taney's critic the Declaration only made claims which the Constitution finally secured. Even Thaddeus Stevens accepted this viewpoint by admitting that with the adoption of section one of the Fourteenth Amendment the Declaration's principles could finally be realized.⁷⁰

It should be pointed out, however, that Taney's critic and Stevens did not deny that the Declaration of Independence had influenced the content and meaning of the Constitution. They believed that it did. These men and others, like Wendell Phillips and Abraham Lincoln, maintained that the concepts of the Declaration should be considered as fundamental American principles.⁷¹ What they rejected, and justifiably so, was that the Declaration's principles had the legal power and force of law. Ellis G. Loring, a famous Massachusetts trial lawyer, expressed these exact feelings in an 1836 slave case when he stated that

The Declaration of Independence, though not having the force of law, must be considered as the expression of our fundamental policy. It was our initiatory act as a nation, . . . a manifesto in which we set forth to the world the self-evident principles, which were

⁷⁰Congressional Globe, 39th Cong., 1st Sess., 1866, Part III, p. 2459. Miller, op. cit., p. 365.

⁷¹See, e. g., Chapter III, p. 98 and Chapter IV, pp. 147-148.

to form the basis of our rising institutions.⁷²

An examination of court cases concerning the questions of slavery and Negro rights indicates that the Declaration was not viewed as having the power or force of law. Philip Detweiler, who has studied the Declaration in depth for the first fifty years of its existence notes that in both state and federal Supreme Court cases, during the period of 1789 to 1825, individual judges did sometimes make references to natural rights philosophy, but that the Declaration did not play an important role in such references. In the slave case of Rankin vs. Lydia which occurred in Kentucky in 1820, the presiding judge stated that the court had to be guided not by "the general principle of liberty which we all admire" [as found in D. of I.] but by "the law as it is, and not as it ought to be." In both state and federal slavery cases it appears that the courts have said relatively little about the Declaration of Independence. The state courts have in fact made many more references to state constitutions and state declarations of rights.⁷³

⁷²Report of the Arguments of Counsel and the Opinions the Court in the Case of Commonwealth vs. Aves, tried in the Supreme Court of Massachusetts (Boston: Isaac Knapp, 1836), p. 20.

⁷³Detweiler, Declaration of Independence in Jefferson's Lifetime, pp. 215, 178. Alice D. Adams, The Neglected Period of Antislavery in America: 1808-1831 (Boston: Ginn & Co., 1908), p. 229.

At times justices of the U. S. Supreme Court have

Richard Hildreth, the noted historian and antislavery advocate in his book Despotism in America (1840) maintained that the Massachusetts Supreme Court used, among other arguments, the Declaration of Independence to demonstrate the illegality of slavery in that state. Hildreth was referring to the Jennison Cases of 1783 in which a slave named Nathaniel Jennison sued for his freedom and won a favorable verdict from the court. While the chief justice of the court, William Cushing did declare that slavery was inconsistent with the fundamental law of the state, and the Massachusetts Constitution of 1780 did contain a bill of rights similar in language to the Declaration of Independence, there is no direct evidence that the Declaration was viewed as part of the constitutional law of that state, nor that it was responsible for abolishing slavery in Massachusetts.⁷⁴

given the Declaration some attention. In the first Slaughter House cases of 1873, for example, Justice Stephen J. Field, in his dissenting opinion, maintained that the Fourteenth Amendment "was intended to give practical effect to the declaration of 1776 of inalienable rights," According to Field, the purpose of the amendment was to protect men in regard to their inalienable rights to life, liberty and the pursuit of happiness and make such rights a basic part of the constitutional law of the land. Philip Detweiler notes, however, that while the Declaration played an important role in the opinions of a few Supreme Court Justices such as David J. Brewer and Stephen Field, the Court as a whole never "rose up en masse and embraced" the document. See Detweiler, pp. 217, 215, and Gabriel, op. cit., pp. 222-224.

⁷⁴Richard Hildreth, Despotism in America (Boston: John P. Jewett & Co., 1840, 1854), p. 227. Dumond, Anti-slavery; the Crusade for Freedom in America, p. 30. Arthur Zilversmit, The First Emancipation: The Abolition of

In 1836 another famous slave case came before the Massachusetts Supreme Court. The case of Commonwealth vs. Aves or more popularly known as the Med case involved a young female slave who sued for her freedom, while temporarily living in Massachusetts. The court ruled in Med's favor and in its decision Chief Justice Lemeul Shaw stated that by what specific means slavery was abolished in Massachusetts was difficult to determine.⁷⁵ According to Shaw, it could have been accomplished by the Somerset case, the Declaration of Independence or the Massachusetts Constitution of 1780, and if not by any of these, definitely by the declaration of rights contained in the latter document. Shaw's point was that slavery was considered illegal in Massachusetts and the specific basis for this was not particularly important.⁷⁶ The contention of antislavery men that the Declaration of Independence abolished slavery was therefore left in doubt.

Slavery in the North (Chicago: Univ. of Chicago Press, 1967), pp. 112, 113. The Massachusetts Constitution of 1780 contained a bill of rights which stated that all men were born free and equal, but that same Constitution did not actually mention slavery and there is no evidence that the convention which adopted it intended to abolish slavery. See Zilversmit, pp. 114, 115.

⁷⁵Dumond, Antislavery; The Crusade For Freedom in America, p. 31. Zilversmit, op. cit., p. 103. At the time of the Jennison cases the procedure for reporting court cases was not perfected and Justice Shaw therefore in the Med case did not have detailed records to consult for the court's decision.

⁷⁶Dumond, Antislavery; The Crusade For Freedom in America, p. 31.

More information on the Declaration's legality can be found in the remarks of Ellis G. Loring, the lawyer who represented the slave Med in Commonwealth vs. Aves. At one point in his arguments Loring clearly stated that the Declaration did not have "the force of law", although it should influence the basis of American life and government.⁷⁷

In the early 1840's John Quincy Adams became involved in the Amistad case and in his arguments before the Supreme Court he made use of the Declaration and its principles. There is no evidence, however, that he won the case on such grounds. On the contrary, it appears that he won the release of most of the slaves on various technical points of law.⁷⁸

In the Dred Scott case of 1857 there were several dissenting opinions, one of which was by Justice Benjamin Curtis. While the Massachusetts jurist believed that the Declaration proclaimed certain natural rights belonging to all men, he did not maintain that the Declaration was part of the constitutional law of the United States. On the

⁷⁷Commonwealth vs. Aves, p. 20.

⁷⁸Lipsky, op. cit., pp. 212, 213. William H. Pease and Jane H. Pease, eds., The Antislavery Argument (New York: The Bobbs-Merrill Co., 1965), p. lxxv. The Amistad case grew out of a slave mutiny which occurred on a Spanish ship off the east coast of the United States. The ship was taken into custody and the slaves charged with piracy. When the case finally reached the Supreme Court, John Quincy Adams was brought in for the defense.

contrary, Curtis stated that it did little good to argue over the Declaration's meaning, instead more attention should be paid to state constitutions in attempting to deal with questions involving citizenship and Negro rights.⁷⁹

It might also be pointed out that Article six of the Constitution requires justices of the Supreme Court to support and uphold the provisions of that document, but not the Declaration of Independence. And when the Constitution referred to "the supreme law of the land" it made no mention of the Declaration being the basis of this law. Philip Detweiler has very succinctly said of the Declaration that "at best, [it] has an ill-defined legal status."⁸⁰

During the first 100 years of its existence the Declaration of Independence stood as a general statement of American principles and at times influenced the constitutional law of the land. While some Americans, most notably the constitutional abolitionists, maintained that the Declaration's doctrines were legally binding, the majority of Americans and the judicial system rejected this notion. And while the Declaration was at times identified with

⁷⁹A Report of the Decision of the Supreme Court of the United States in the Case of Dred Scott vs. John F. A. Sandford (New York: D. Appleton & Co., 1857), p. 575.

⁸⁰Detweiler, The Declaration of Independence in Jefferson's Lifetime, pp. 196, 104.

the Constitution, most Americans did not accept it as the supreme interpretative guide to the latter document.

CHAPTER VI
ONE HUNDRED YEARS LATER: THE
DECLARATION IN RETROSPECT

The 1860's were significant years in the history of the antislavery movement. The decade witnessed the abolition of slavery and the adoption of constitutional amendments aimed at granting the Negro political equality. And as was indicated in the previous chapter, the Declaration of Independence played an instrumental role in this endeavor.

During this same period and especially after the war, however, the Declaration in general experienced a decline in prestige and influence. Relatively speaking the document and its tenets were referred to less frequently than in previous decades. This development was primarily caused by the pressures of war and the reverence afforded to the Constitution during and especially after the great struggle between North and South. This trend also affected the Declaration in regard to the questions of slavery and Negro equality, but not in any dramatic and meaningful sense until 1870.

During the Centennial celebrations of 1876 the

Declaration experienced a revival, but even then the document was viewed primarily as a symbol of the nation's birth. The writings and speeches associated with the Centennial contained very little detailed analysis and discussion of the Declaration's political philosophy.

This concluding chapter will attempt to explain the Declaration's decline in influence and also briefly discuss the document in relation to the 1876 Centennial. In addition, some of the major themes and points developed in this dissertation will be summarized.

An examination of the Civil War years reveals that, with the exception of the slavery controversy, the Declaration and its doctrines received very little attention and recognition. Even woman's rights advocates, for example, who had made frequent use of the Declaration, temporarily abandoned their struggle for equality and devoted themselves primarily to the war effort.¹

The Civil War dominated the attention and energies

¹Eleanor Flexnor, Century of Struggle: The Woman's Rights Movement in the United States (Cambridge, Mass.: The Belknap Press, 1959), p. 108. Also see Elizabeth C. Stanton, Susan B. Anthony and Matilda Gage, eds., History of Woman Suffrage (6 vols.; Rochester, N. Y.: Charles Mann, 1881-1920). A comparison of vol. I (1848-1861) and vol. II (1861-1876) of this work indicates a substantial decrease in references to the Declaration by woman's rights advocates. See especially Chapter XVI, pp. 1-89 of volume II which covers the war years.

I have also found no evidence of any group or movement, other than the abolitionists, who made significant use of the Declaration during these years.

of the nation and even affected the Declaration's influence with regard to the issue of slavery. The Emancipation Proclamation, for example, made no mention of the Declaration or its principles, and was based much more upon military considerations than humanitarian concerns.²

Many antislavery Republicans such as Abraham Lincoln, Lyman Trumbull and Benjamin Wade rarely referred to the Declaration during the Civil War period. Before he became President, Lincoln, like Trumbull and Wade, had frequently appealed to the Declaration, but after 1861 such references appreciably declined. Similarly, the national Republican party platform of 1864 omitted any reference to the proclamation of 1776.³ It appears that the pressures of a

²Roy P. Basler, ed., The Collected Works of Abraham Lincoln (9 vols.; New Brunswick, N. J.: Rutgers Univ. Press, 1953) V, 433-436; VI, 28-30. George M. Fredrickson, The Inner Civil War: Northern Intellectuals and the Crisis of the Union (New York: Harper & Row, 1965), p. 114.

³See Chapter IV, pp. 123, 130-135, 137-138, 144-145, 149-156. Basler, op. cit. Volume II and III of Lincoln's papers covering the period of 1848 to 1860 contain numerous, and often detailed references to the Declaration. An examination of volumes IV through VIII spanning the years 1861 to 1865 reveals a substantial decrease in such references.

My reading of primary sources such as slavery pamphlets and congressional debates before, during and after the war leads me to believe that the same thing was true for Wade and Trumbull. Hans L. Trefousse's excellent biography of Wade entitled Benjamin Franklin Wade, Radical Republican from Ohio (New York: Twayne Publishers, 1963), pp. 31, 87, 88, 114, 273 also tends to substantiate this pattern.

Kirk H. Porter and Donald B. Johnson, eds., National Party Platforms: 1840-1964 (Urbana, Ill.: Univ. of Illinois Press, 1966), pp. 35-36.

war-time situation allowed military and political expedience to take precedence over idealistic concerns. Nevertheless, the majority of dedicated abolitionists, as has been indicated in the previous chapter, continued to use the Declaration in their struggle to achieve freedom and equality for the Negro.

Another factor which may have affected the Declaration's general reputation was the criticism leveled against the document by a small but vocal group of conservative northern intellectuals. Men such as Henry W. Bellows, Horace Bushnell, Charles J. Stillé and Orestes Brownson believed that the abstract and fallacious principles of the Declaration exerted a destructive influence upon the nation's growth and stability.⁴

A more important cause of the Declaration's declining prestige was the post-war nationalism which glorified the preservation of the Union and the triumph of the Constitution. To many Americans the Civil War appeared to have been a vindication of the Constitution's importance.

In the pre-Civil War period the most popular expression of the American creed was probably the Declaration of Independence. As one present day historian has noted, the document was "for ceremonial purposes vastly more important than the Constitution. There was no celebration of a

⁴Fredrickson, op. cit., pp. 130, 131, 75, 76, 142, 143, 144, 145.

Constitution Day." After the Civil War, however, the Constitution appears to have replaced the Declaration as the primary expression of American faith and "democratic symbolism."⁵

The anonymous author of an 1865 article criticizing Roger B. Taney touched upon this change when he asked: "Except Fourth of July orators, who speaks now of the Declaration of Independence? Do they speak of it on any other day?" The author went on to note that most people tended to see the Declaration as having been superseded and made ineffective by the Constitution. According to Taney's critic the Declaration had "come to be regarded by too many as something entirely respectable but obsolete; . . . in respect to power and authority, as having outlived both."⁶

Further evidence indicating that the Declaration was

⁵Ralph H. Gabriel, The Course of American Democratic Thought: An Intellectual History Since 1815 (1st ed.; New York: The Ronald Press, 1940), pp. 94, 95, 396, 397. Footnote #10 of this chapter has information regarding the woman suffrage movement's use of the Constitution which further substantiates this point. Also see Fletcher M. Green, "Listen to the Eagle Scream: One Hundred Years of the Fourth of July in North Carolina (1776-1876)," The North Carolina Historical Review, XXXI (October, 1954) p. 541.

⁶Anonymous, The Unjust Judge: A Memorial of Roger Brooke Taney, Late Chief Justice of the United States (New York: Baker and Godwin, 1865), pp. 11, 12. Green, op. cit., p. 541. Green notes that the Civil War changed the attitude of the North towards the celebration of Independence Day. He also maintains that the nation shifted its emphasis from the Declaration to the Constitution.

eclipsed by the Constitution can be found in the attention paid to Alexander Hamilton and the Constitution by nationalist thinkers and historians. Merrill Peterson in his book The Jefferson Image In The American Mind has noted that following the Civil War Hamilton's reputation "waxed" as Jefferson's "waned". The post-war period witnessed the appearance of numerous books which emphasized the importance of Hamilton and the Constitution.⁷

While the Declaration's general influence and status suffered during the 1860's, there was one notable exception to this trend. The document and its principles continued to be used by antislavery supporters to gain freedom and political equality for the Negro. This was most evident in the congressional debates over the Thirteenth, Fourteenth and Fifteenth Amendments. But by 1870 even this most frequent and dominant source of identification with the Declaration virtually ceased to exist.

In 1870 the Fifteenth Amendment was finally ratified

⁷Merrill D. Peterson, The Jefferson Image in the American Mind (New York: Oxford University Press, 1960), pp. 220, 222-226. Some of the publications which emphasized the importance of Hamilton and the Constitution in the post-war period were: C. J. Riethmuller's, Alexander Hamilton and His Contemporaries; or The Rise of the American Constitution (1864), John C. Hamilton's, History of the Republic of the United States of America As Traced in the Writings of Alexander Hamilton (1865), John T. Morse's, The Life of Alexander Hamilton (1876), Hermann E. von Holst's The Constitutional and Political History of the United States (1876-1892), Henry C. Lodge's, Alexander Hamilton (1882).

and made part of the constitutional law of the land. Many abolitionists viewed this as the final victory of their great crusade. Meeting in New York on April 9, 1870, they voted to disband the American Anti-Slavery Society and their regional organizations. This marked the end of organized and militant antislavery activity in the nation.⁸ Some abolitionists believed that efforts would have to be made to secure the victories gained, but this would have to be done on an individual basis.

With the abolition of slavery and the supposed guarantee of Negro political rights, plus the end of organized antislavery activity, there was no longer the need for forceful and persuasive rationales. Hence, the doctrines of the Declaration ceased to be used in any significant way with respect to improving the Negro's position in American society.

Some abolitionists appear to have sensed that the contradiction between American principles and practice still remained, and that the Declaration's concepts had not been truly realized. Wendell Phillips with a note of sadness remarked in April of 1870 that

I am no longer proud, as I once was, of the flag, or the name of an American. I am no longer proud of the Declaration of Independence. My only joy today is that I can look into the face of the world and read the

⁸James M. McPherson, The Struggle For Equality (Princeton N. J.: Princeton Univ. Press, 1964), pp. 429, 430.

first line of the Declaration of Independence without a blush. Still I do not read it with any national pride. I do not read it feeling that we had lifted ourselves up to the sublime level where we had a right to use those words.⁹

During the period between 1870 and 1875 there was very little written or said about the Declaration of Independence. No major group or movement appears to have made any important use of its political philosophy.¹⁰

However, in 1876, the Declaration's reputation experienced a revival. Americans in that year celebrated the one hundredth anniversary of their country's birth. This Centennial aroused a considerable amount of interest in the Revolutionary period and the nation's origins.

Two of the major events of that year were an

⁹Irving H. Bartlett, Wendell Phillips: Brahmin Radical (Boston: Beacon Press, 1961), p. 315.

¹⁰There is an obvious lack of both books and articles on the Declaration of Independence during this period. There were, however, occasional and isolated references to it. For example, Supreme Court Justice Stephen J. Field in his dissenting opinion in the Slaughter House case of 1873 made use of the document, as did farmers in many western states during that same year while protesting the power of monopolies and trusts. See Gabriel, op. cit., pp. 222-224 and Merle Curti, The Growth of American Thought (3rd ed.; New York: Harper & Row, 1943, 1964), p. 599.

Even the woman's rights movement which made numerous references to the Declaration before the war did not make significant use of the document during these years. In fact, from late 1869 until 1876 the primary rationale used by woman's suffrage advocates in support of their objectives was the Constitution and especially the Fourteenth Amendment. See Stanton, et al., op. cit., vol. II, Chapt. XXIII, especially pp. 407-412, 445, 451, 454-458, 493, 499-507; vol. III, 57.

international Centennial Exhibition held in Philadelphia and a grandiose independence day celebration held in the same city. The exhibition opened on May 10th with an elaborate ceremony featuring a Centennial hymn composed by John Greenleaf Whittier, a poem read by Sidney Lanier, and speeches by various dignitaries including President Grant.¹¹

The July 4th celebration held in Philadelphia some two months later was equally as impressive and included a reading of the original Declaration of Independence by Richard Henry Lee, the grandson of one of the original signers. Lee, a Virginian, was chosen to read the Declaration as a symbol of national unity and reconciliation with the South.¹²

The ceremonies in Philadelphia also witnessed a woman's rights protest headed by Susan B. Anthony, Matilda Gage and other leaders of the feminist movement. After Lee had finished his reading of the Declaration the suffragists interrupted the festivities and proceeded to read their own Declaration of Independence in support of woman's rights.¹³ For woman's rights advocates the events of the Centennial year definitely had sparked a renewal of interest in, and emphasis upon, the ideas of Jefferson's paper.

¹¹Dee Brown, The Year of the Century: 1876 (New York: Charles Scribner's, 1966), pp. 2, 126-128.

¹²Ibid., pp. 165, 166.

¹³Stanton, et al., op. cit., III, 2, 18, 19, 27-35.

While the nation's celebration of the Centennial renewed interest in the Revolutionary period and the Declaration of Independence, the majority of articles and speeches in response to that event did not emphasize the Declaration's political philosophy. An examination of centennial works and orations reveals that the Declaration was primarily viewed as a symbol of the nation's birth. Articles appearing in Scribner's Monthly, Potter's American Monthly, The North American Review, Harper's Weekly and other fashionable magazines concentrated on the signing of the Declaration, the document's authors and the historical background leading to its adoption.¹⁴

Such articles and Centennial July 4th orations tended to view the Declaration basically as an act justifying separation from Great Britain rather than as a fundamental statement of political philosophy. The thoughts of Robert C. Winthrop, a Massachusetts political figure and educator, were representative of this view. In a Boston July 4th oration he suggested that Richard H. Lee's July 2nd, 1776 resolution was comprehensive and meaningful enough for Americans and should be read in place of the longer and more

¹⁴See, for example, Potter's American Monthly, IV-VII (1875-1876), The North American Review, CXXII (January, 1876), Scribner's Monthly, XII (July, 1876), pp. 290-301. Harper's Monthly Magazine, LIII (July, 1876), pp. 211-216. Harper's Weekly, July 8, 1876, supplement, pp. 561-562.

tedious Declaration of Independence.¹⁵

Some Centennial essays and speeches, however, did bring attention to the principles of the Declaration, most notably to the doctrine of equality. It is significant to note that those writers and speakers who commented upon this concept almost unanimously maintained that the abolition of slavery and the constitutional amendments of the past decade had turned the Declaration into a reality.

The Unitarian minister and colonial historian, George E. Ellis, believed that by 1876 Americans had freed themselves from the contradiction posed by the Declaration's statement of equality. William Evarts, the distinguished lawyer and future Secretary of State, in his address at Independence Hall declared that the Declaration had been finally realized and that both whites and blacks rejoiced

¹⁵Frederick Saunders, ed., Centenary Orations, Addresses and Poems Commemorative of the One Hundredth Anniversary of Our National Independence (New York: E. B. Treat, 1882), p. 149. Other orations, for example, by William Evarts, pp. 33-61 and Rev. R. S. Storrs, pp. 273-319 also tended to associate the Declaration with separation from Great Britain.

The main part of Richard Henry Lee's resolution stated "that these United Colonies are, and of right ought to be, free and independent States, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved."

Also see Harper's Weekly, July 8, 1876, supplement, p. 561; Thomas W. Higginson, "The Story of the Signing," Scribner's Monthly, XII (July, 1876) pp. 290-301. George Ellis, "Remarks on the Declaration of Independence," Unitarian Review and Religious Magazine, VI (July, 1876), pp. 5-8.

in the document which gave the Negro the "same constituted liberties" as other Americans.¹⁶

Robert Ingersoll, the famous lecturer, lawyer and Republican, addressing a Peoria, Illinois audience declared

At last, we have a national conscience. At last, we have carried out the Declaration of Independence. Our fathers wrote it - we have accomplished it. The blackman was a slave - we made him a citizen.

Ingersoll, like Ellis and Evarts, also implied that the Negro had been raised to a level of equality comparable to that of white Americans.¹⁷

The ideas expressed by these men and others regarding the Declaration and Negro equality were both simplistic and illusory. It would be a long time before there could be a semblance of truth to their statements. As in the past, the rhetoric of many who referred to the Declaration far exceeded the practical realities of American society.

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This study of the Declaration of Independence during its first 100 years has revealed some interesting facts about Americans and their views on equality, race and the

¹⁶Ellis, op. cit., p. 3. Saunders, op. cit., pp. 50, 52.

¹⁷Saunders, op. cit., pp. 707-708. At one point in his oration Ingersoll stated "To-day, the black man looks upon his child and says: The avenues to distinction are open to you - upon your brow may fall the civic wreath - this day belongs to you."

purpose of American society. While the Declaration was referred to for a variety of reasons it was most often discussed with regard to the issues of slavery and Negro equality. The controversy over slavery was the most important factor in making the Declaration itself a subject of dispute. During the Missouri slavery debates and the abolitionist crusade of the 1830's the document's political philosophy was first frequently invoked and subjected to detailed analysis and criticism.

From the 1830's to the passage of the Fifteenth Amendment the Declaration in essence became an antislavery manifesto. Its concepts of equality, inalienable rights and consent of the governed were frequently used to demonstrate that a contradiction existed between American principles and the practice of slavery. When the existing political-legal structure obstructed their efforts, abolitionists found in the Declaration a convenient argument to justify their cause.

During the nineteenth century Jefferson's paper took on new force and meaning. The Declaration's principles, for instance, became an important part of the political and moral arguments presented by antislavery men. But because of the prevalence of racial prejudice in America and the lack of consensus regarding the Declaration's meaning, the abolitionists could not convince the majority of their fellow citizens that Negroes should be included

within the scope of this basic expression of American principles.

This is not to say that antislavery men always agreed upon the Declaration's meaning. Some constitutional abolitionists maintained that the Declaration called for emancipation, while others insisted that it actually did abolish slavery. Most constitutional abolitionists held that the Declaration was an interpretative guide to the Constitution and in essence a fundamental part of the constitutional law of the land. Yet other abolitionists such as William Lloyd Garrison, Wendell Phillips and William Bowditch, while generally agreeing that the document should have such power and influence, denied its alleged constitutional authority.

Constitutional abolitionists nevertheless had an important impact on antislavery thought. Their influence can be seen in the doctrines of the Liberty party and more importantly in the Fourteenth Amendment which contained elements of the Declaration's political philosophy.

The strongest reaction to the Declaration and its principles came from proslavery Southerners. Their criticism was usually based on two major points. First, they criticized the document on philosophical grounds, asserting that the concepts of equality and inalienable rights were nonsense, unattainable and destructive. Second, they maintained that the Declaration was neither intended to abolish slavery

nor to grant Negroes political and social equality. However, Southerners did not usually repudiate the Declaration *per se*. What they essentially rejected was an antislavery interpretation of the document. Furthermore, when it suited their purposes they often used the Declaration to support their own aims and ideas. This was especially true with regard to state's rights and secession, but also demonstrated in the debates over the Kansas-Nebraska act and the Fifteenth Amendment. In most cases, however, when alluding to the Declaration, Southerners associated it with the act of separation from Great Britain; it was a document to be recognized for its historical importance rather than its political philosophy.

The Declaration of Independence was not only questioned and criticized by Southerners. Northerners and Westerners opposed to abolitionist tactics and objectives adamantly contested the antislavery interpretation given to the document. Jarvis Gregg and Henry Clay, for example, rejected the idea that the Declaration was intended to abolish slavery. Many anti-abolitionists feared that antislavery activities and use of the Declaration threatened the stability of the Union. On occasion Northerners who were either in sympathy with the South or who wished to avoid alienating that section used the Declaration's principles to condone slavery. This was illustrated in the debates over the Compromise of 1850 and the Kansas-Nebraska

act by men such as Thomas Kettell, Lewis Cass, and Stephen Douglas.

The Declaration as has been indicated was most frequently used by antislavery men. Yet it is revealing that the opponents of slavery often applied the document in an inconsistent and contradictory manner. This was vividly demonstrated by the actions and statements of John Quincy Adams, Wendell Phillips and Lysander Spooner. These men clearly interpreted the Declaration to conform to their own ideas and purposes. In addition, an analysis of references to the document by antislavery Republican politicians including Benjamin Wade, Lyman Trumbull and even Abraham Lincoln indicates that their rhetoric often exceeded what they were willing to do in practice.

In the mid-1850's the Republican party distinctly identified itself with the Declaration's doctrines. Republicans found in the Declaration a convenient rationale to support their opposition to slavery and the so-called slave power. Their use of the document, however, created political repercussions. Republicans came under attack from both northern and southern Democrats and conservative Whigs. Much of the criticism leveled against their use of the Declaration was justified. For while many Republicans readily invoked the Declaration's concepts they were unwilling to grant Negroes political, social and economic equality with whites. Not only Republicans, but others

who referred to Jefferson's paper did not appear to be particularly concerned or aware of the inconsistencies between their personal beliefs and use of the document. Many who identified with the Declaration either did not completely comprehend, or were unwilling to accept, its full implications.

While Democrats often criticized Republican usage of the Declaration they were not adverse to citing the document to support their own views as was illustrated by the debates over the Kansas-Nebraska act and the Fifteenth Amendment. In the first instance congressmen such as Lewis Cass, Samuel A. Bridges, and Stephen Douglas associated the Declaration's concepts with popular sovereignty; in the second case Representatives Thomas L. Jones and George W. Woodward used the consent principle to oppose Negro suffrage.

The debates over the Thirteenth, Fourteenth and Fifteenth Amendments indicated that antislavery men continued to call forth the Declaration in behalf of civil rights for the Negro. Many antislavery Republicans, in fact, viewed the amendments as a realization of the Declaration's fundamental ideas. How many of these men were truly committed to an effective implementation of such principles, however, is another question.

One of the major points revealed by this review of the Declaration is the diversity of purposes which the

document served. Its concepts were used by both opponents and advocates of the Kansas-Nebraska act and the Fifteenth Amendment. And while the proclamation of 1776 was most commonly used by antislavery men in behalf of emancipation, suffrage and equality for the Negro, it was also employed at times by Southerners to support slavery, state's rights and secession. The Declaration also became involved in the politics of the period, being used by Liberty party men, Free Soilers, Republicans and even Democrats, for a variety of reasons.

Another significant point concerning the Declaration was that many people, and especially antislavery men, used its principles to justify objectives which the existing political-legal structure failed to recognize. Since the Declaration was viewed by a majority of Americans as a fundamental expression of their political faith, it possessed the potential to serve as a convenient rationale for numerous causes and purposes. This was also possible because of the ambiguity associated with the document.

The doctrines of the Declaration most frequently referred to, during the period under study, were equality, inalienable rights and consent of the governed. But it is quite obvious that such concepts meant different things to different men. Since these ideas had never been specifically and adequately defined there could be no consensus of opinion concerning their importance and meaning. This, of

course, has accounted for much of the controversy surrounding the Declaration. Americans were not able to agree on whether the equality clause applied to all of humanity, only Americans, only whites, or whether such an idea had any validity at all. Hence the meaning of the Declaration has constantly posed a problem for Americans. In one sense the document served to bolster national pride by symbolizing independence, freedom and democracy, and yet it remained a source of embarrassment because most Americans did not believe in political, social and economic equality for all men.

BIBLIOGRAPHICAL ESSAY

There presently exists no full-length study of the Declaration's history since its adoption in 1776. This work represents an attempt to partially fill that void. Some of the most important materials used in this dissertation were articles, pamphlets and books containing the writings and speeches of those concerned with the questions of slavery, race and equality. The Congressional Globe, which records the debates and proceedings of Congress, and Fourth of July orations were also extremely valuable.

General

Several good bibliographies on the Declaration can be found in the following works: The New York Public Library, Exhibition Commemorating the 150th Anniversary of the Declaration of Independence (1926), George E. Ellis, "The Sentiment of Independence, its Growth and Consummation," Narrative and Critical History of America, ed. Justin Winsor (1884), and Robert Ginsberg, ed., A Casebook on the Declaration of Independence (1967).

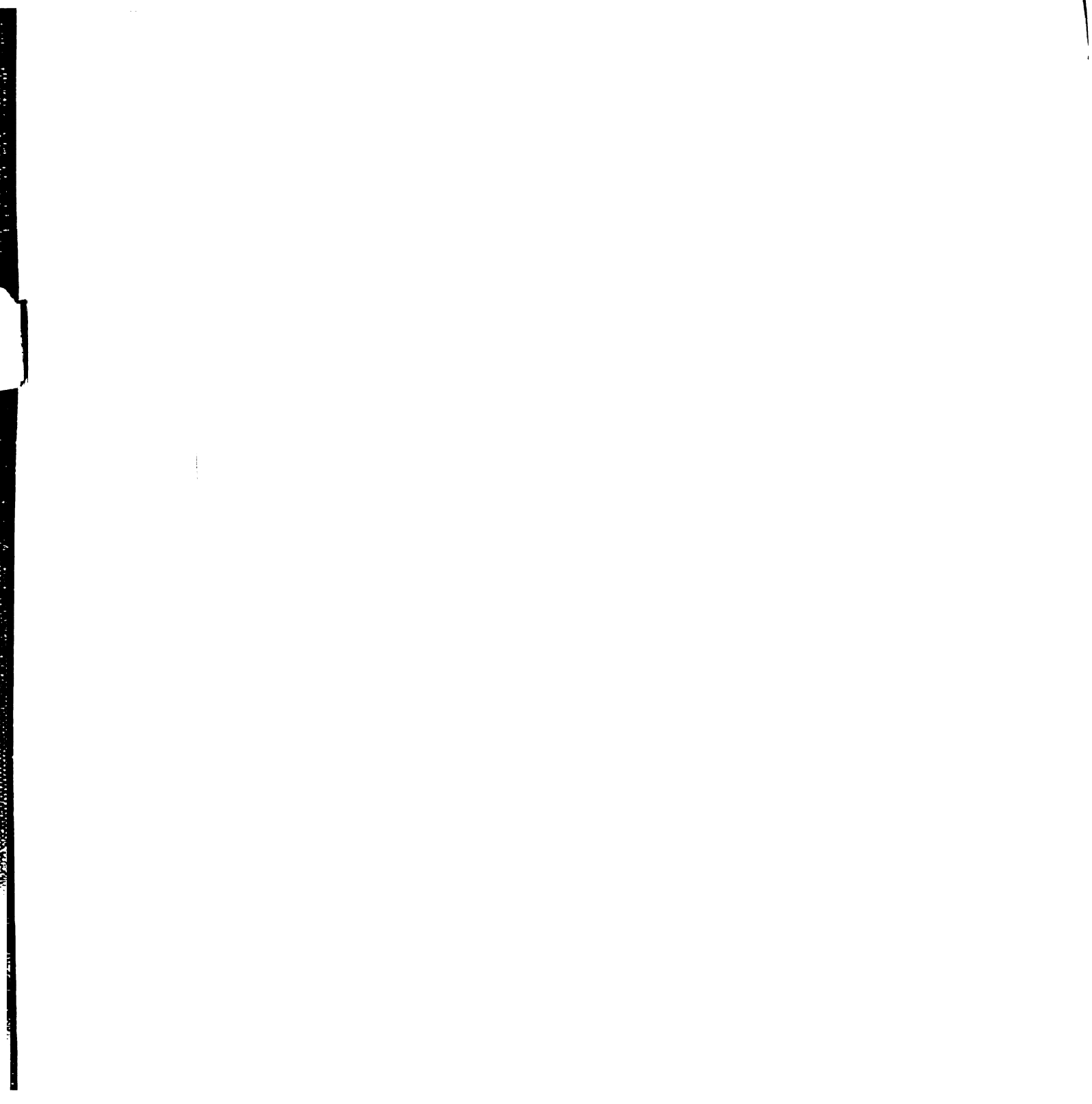
For background and information on the adoption and signing of the Declaration see Dumas Malone, The Story of

the Declaration of Independence (1954) and John H. Hazelton, The Declaration of Independence: Its History (1906). The latter work contains a wealth of information on the events surrounding the document's adoption.

Two worthwhile studies dealing with the meaning and purpose of the Declaration are William F. Dana, "The Declaration of Independence," Harvard Law Review (Jan., 1900), and Edward Dumbauld's The Declaration of Independence and What It Means Today (1950).

Several general works shed light on how the Declaration was viewed and interpreted during the nineteenth century. David Hawke, A Transaction of Free Men (1964) contains a very brief sketch of the Declaration's history from 1776 to the present. Carl Becker's The Declaration of Independence (1922) is a classic work, concentrating on the document's meaning and adoption in 1776, but also commenting on its future use. Merrill D. Peterson's The Jefferson Image in the American Mind (1960) is an involved study of how Americans have viewed Thomas Jefferson, and provides valuable ideas and information on the Declaration. Equally as helpful is Benjamin F. Wright, American Interpretations of Natural Law (1931). This work discusses the Declaration's political thought and its use in relation to natural law philosophy. John C. Fitzpatrick, The Spirit of the Revolution (1924) while worth reviewing for the document's early history needs to be updated and revised.

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The only general history of the Declaration covering the early national period is an excellent unpublished Ph. D. dissertation by Philip Detweiler entitled "The Declaration of Independence in Jefferson's Lifetime" (Tulane Univ., 1954). For evidence of increased interest in the Revolutionary period and the Declaration after the War of 1812 see Detweiler's work, Malone's Story of the Declaration and magazines of the period such as Niles' Weekly Register.

The fiftieth anniversary of American independence and the deaths of Jefferson and Adams are adequately covered in L. H. Butterfield, "The Jubilee of Independence, July 4th 1826," The Virginia Magazine of History and Biography (April, 1953). Various magazines of the period such as Niles' Weekly Register, American Annual Register and American Quarterly Review contain numerous orations and eulogies which mention the Declaration.

Slavery and The Declaration: 1776-1830

A fine survey of the Negro and slavery can be found in John H. Franklin's From Slavery to Freedom (1965). For information on slavery and the Declaration during the Revolutionary period several good studies are available. Arthur Zilversmit's recent work, The First Emancipation (1967) traces the abolition of slavery in the North and discusses the influence which natural rights philosophy had in stimulating abolitionist sentiment. Philip Detweiler in his

dissertation "The Declaration of Independence in Jefferson's Lifetime," provides some valuable insights, but views the document's political philosophy as having less influence during this period. Other secondary works which provide useful information are Jacobus tenBroek, Equal Under Law (1951) and Lorenzo D. Turner's Anti-Slavery Sentiment in American Literature Prior to 1865 (1929).

The best secondary account of the Missouri slavery debates is presented in Glover Moore's The Missouri Controversy, 1819-1821 (1953). Philip Detweiler in an important article "Congressional Debate on Slavery and the Declaration of Independence, 1819-1821," American Historical Review (1958) emphasizes the manner in which the Declaration's principles were used and criticized. The best primary source still available for studying how the Declaration was interpreted during the debates is the Congressional Globe containing the debates and proceedings of Congress.

For a general view of antislavery activity before 1830 see Mary S. Locke, Anti-Slavery in America, 1619-1808 (1901) and Alice D. Adams, The Neglected Period of Anti-Slavery in America 1808-1831 (1908). One of the best studies on southern thought during the period is William S. Jenkins, Pro-Slavery Thought in the Old South (1935) which also contains a detailed bibliography and useful information on antislavery attitudes.

Slavery and the Declaration: 1830-1860

An excellent survey of the antislavery movement for the period of 1830 to 1860 is Louis Filler's The Crusade Against Slavery (1960). Also helpful for gaining background information on the movement is Russel B. Nye, Fettered Freedom: Civil Liberties and the Slavery Controversy, 1830-1860 (1949), Alice F. Tyler's treatment of reform in the North entitled Freedom's Ferment (1944) and Dwight L. Dumond's Antislavery: The Crusade for Freedom in America (1961).

An interesting account of the Virginia slavery debates is presented by Joseph C. Robert in The Road From Monticello (1941). The author also includes extracts from the debates. The best sources concerning references to the Declaration, however, are pamphlets and newspapers, especially the Richmond Enquirer.

The amount of secondary and primary material available on the subject of slavery is enormous. One of the most profitable sources of primary works which I used was the New York Public Library's collection on slavery. This collection contains numerous bound volumes of anti- and proslavery pamphlets and monographs. In using these sources, however, the researcher must deal with material which is neither indexed, nor bound in any logical order.

Another important primary source on the Declaration are Fourth of July orations. The New York Public Library

and the New York Historical Society have excellent collections. July 4th celebrations and speeches were effectively used by abolitionists to further their cause and contain numerous references to the Declaration.

John Quincy Adams' views on the Declaration can be found in the Memoirs of John Quincy Adams (1874-1877) edited by his son Charles Francis Adams, and in Josiah Quincy's Memoir of the Life of John Quincy Adams (1859). Samuel F. Bemis, John Quincy Adams and the Union (1956) amply describes Adams' antislavery career. Several Fourth of July orations are also extremely helpful. See, for example, Adams' 1831 address at Quincy and his 1837 speech at Newburyport, Massachusetts. For William Ellery Channing's use of the document see The Works of William E. Channing (1841-1843) and especially his essay contained in that collection entitled Slavery (1835).

William Lloyd Garrison's interpretation of the Declaration is revealed in William Lloyd Garrison: The Story of His Life Told By His Children (1885-1889) edited by Wendell P. and Francis J. Garrison. While this four volume work is biased in favor of the subject, it contains a considerable amount of primary source material. Also see Selections From the Writings and Speeches of William Lloyd Garrison (1852) edited by R. F. Wallcut, and various editions of the Liberator. A recent book by Aileen S. Kraditor, Means and Ends in American Abolitionism (1969)

sheds additional light on both Garrison and abolitionist use of the Declaration.

References by Wendell Phillips to the document are contained in his Speeches, Lectures and Letters (1863) and also in an important pamphlet entitled Review of Lysander Spooner's Essay on the Unconstitutionality of Slavery (1847). An excellent biography of Phillips is Irving H. Bartlett's Wendell Phillips: Brahmin Radical (1961).

Theodore Parker's views on the Declaration and slavery are presented in his Speeches, Addresses and Occasional Sermons (1855). The best biography of Parker still remains Henry Commager's Theodore Parker (1936).

David Donald's Charles Sumner and the Coming of the Civil War is a good study of Sumner before the war, with strong emphasis on psychological factors. For Sumner's numerous references to the Declaration see The Works of Charles Sumner (1870-1882) and particularly speeches before the Senate such as "The Equal Rights of All" (1866).

Abraham Lincoln's interpretation of the Declaration and his views on slavery are presented in The Collected Works of Abraham Lincoln (1953) edited by Roy P. Basler. This work contains an excellent index. For the Lincoln-Douglas debates Created Equal?: The Complete Lincoln-Douglas Debates of 1858 edited by Paul M. Angle is extremely useful. The bibliography on Lincoln is immense, but works which discuss his use of the Declaration are Richard

Hofstadter, The American Political Tradition (1948) and Harry V. Jaffa, Crisis of the House Divided (1959).

Hofstadter presents a critical view while Jaffa is an apologist for Lincoln's inconsistencies.

The views of antislavery Republicans such as Joshua Giddings, Lyman Trumbull, Benjamin Wade and Thaddeus Stevens on the Declaration can be found in numerous congressional debates on slavery and Negro equality recorded in the Congressional Globe during the 1850's and 1860's. For background material on these individuals see the following works: George W. Julian, The Life of Joshua Giddings (1892), Horace White, The Life of Lyman Trumbull (1913), Hans L. Trefousse, Benjamin Franklin Wade, Radical Republican From Ohio (1963) and Alphonse B. Miller, Thaddeus Stevens (1939). A more recent biography on Stevens is Fawn M. Brodie's Thaddeus Stevens: Scourge of the South (1959)

The best secondary works containing information on the constitutional abolitionists are Jacobus tenBroek's perceptive study of the antislavery origins of the Fourteenth Amendment entitled Equal Under Law (1951), Aileen S. Kraditor's Means and Ends in American Abolitionism (1969) and Dwight L. Dumond's Antislavery: The Crusade for Freedom in America (1961).

For primary sources see the Writings and Speeches of Alvan Stewart, on Slavery (1860) edited by Luther R. Marsh. G. W. F. Mellen, An Argument on the Unconstitutionality of

Slavery (1841), and the Speeches of Gerrit Smith in Congress (1855).

Lysander Spooner's views on the Declaration are most vividly presented in his essay The Unconstitutionality of Slavery (1845); William Goodell's interpretation is expounded in his Views of American Constitutional Law (1845), Slavery and Anti-Slavery (1852), and Our National Charters (1863).

For an illuminating study of proslavery attitudes in the decades before the Civil War see William S. Jenkins, Pro-Slavery Thought in the Old South (1935). Southern interpretation and criticism of the Declaration can be found in numerous primary sources. See, for example, The Pro-Slavery Argument (1852) containing the ideas of men such as James H. Hammond, Chancellor William Harper and William G. Simms. Also see William Drayton's The South Vindicated (1836).

A number of articles and essays also express southern concern over the antislavery interpretation of the Declaration. Daniel K. Whitaker's ideas are presented in his Sidney's Letters to William E. Channing (1837) and "Channing's Duty of the Free States," Southern Quarterly Review (July, 1842). Chancellor William Harper discusses the Declaration in a Memoir on Slavery, Read Before the Society for the Advancement of Learning of South Carolina (1838).

George Fitzhugh, a fierce critic of Jefferson and the

Declaration expressed his views in Sociology For the South (1854), Cannibals All (1857) and "The Declaration of Independence and the Republican Party," DeBow's Review (August, 1860). The Works of John C. Calhoun (1854-1857) edited by Richard K. Cralle is one of the best sources available for Calhoun's references to the document. Included in this six volume collection are his Disquisition on Government and A Discourse on the Constitution. A fine secondary work on Calhoun's thought is August O. Spain, The Political Theory of John C. Calhoun (1951).

A recent study which provides insight into northern criticism of abolitionists and their interpretation of the Declaration is Lorman Ratner's Powder Keg: Northern Opposition to the Antislavery Movement, 1831-1840 (1968). Jarvis Gregg's criticism of the document is contained in an article entitled "Declaration of Independence," The American Quarterly Observer (1834). James Kirke Paulding, the northern proslavery supporter, expressed his views in Slavery in the United States (1836).

Further criticism of the Declaration by Northerners can be found in Richard E. Selden's Criticism on the Declaration of Independence (1846), The Works of Orestes A. Brownson (1882-1887) edited by Henry F. Brownson, and Samuel G. Brown's The Works of Rufus Choate With a Memoir of His Life (1862).

Stephen Douglas' use and criticism of the Declaration's

principles are recorded in the Congressional Globe for the Kansas-Nebraska debates and in Created Equal?: The Complete Lincoln-Douglas Debates of 1858 (1958) edited by Paul M. Angle. For evidence that criticism of the abolitionist interpretation of the Declaration was not limited to Northerners and Southerners see The Life and Speeches of Henry Clay (1859) edited by D. Mallory.

From 1840 to the Civil War several political parties made considerable use of the Declaration. The Liberty and Free Soil party's identification with the document is amply described in the following works: Jacobus tenBroek, Equal Under Law (1951), Dwight L. Dumond, Antislavery: The Crusade for Freedom in America (1961) and Aileen S. Kraditor, Means and Ends in American Abolitionism (1969). Additional information on the Liberty party's use of the Declaration is presented in Charles D. Cleveland's Anti-Slavery Addresses of 1844 and 1845 (1867). The speeches and letters of Charles Sumner also cast light on the Free Soil movement's association with Jefferson's paper. See, for example, The Works of Charles Sumner (1870-1882), especially volume II.

The Republican party's application of the Declaration's doctrines is described in John Tweedy's A History of the Republican National Conventions From 1856 to 1908 (1910) and George W. Julian's The Life of Joshua Giddings (1892). Julian's book is an adequate biography, but is biased in favor of Giddings and abolitionist minded Republicans.

Additional information on Republican use, and Democratic criticism of the Declaration can be found in the slavery debates of the 1850's. The Congressional Globe and Created Equal?: The Complete Lincoln-Douglas Debates of 1858 (1958) edited by Paul M. Angle are profitable sources for such study. National Party Platforms: 1840-1964 (1966) edited by Kirk H. Porter and Donald B. Johnson is also helpful in providing references by political parties to the Declaration for the period under consideration.

The Civil War and Reconstruction

For a general overview of the period see The Civil War and Reconstruction (1961) by J. G. Randall and David Donald. This revised work also contains an excellent bibliography. The best study of abolitionism during the war is James M. McPherson's The Struggle for Equality (1964).

The antislavery view of the relationship between the Emancipation Proclamation and the Declaration of Independence can be found in the Speeches, Correspondence, and Political Papers of Carl Schurz (1913) edited by Frederick Bancroft and in The Works of Charles Sumner (1870-1882). Also see the History of Woman Suffrage (1881-1920) edited by Elizabeth C. Stanton and others. This six volume history is the best single primary source available on the woman's rights movement and contains an enormous amount of data.

The Declaration of Independence was questioned and

criticized by a variety of groups during the 1860's. For the views of conservative northern intellectuals such as Horace Bushnell, Charles J. Stillé and Orestes Brownson see George M. Fredrickson, The Inner Civil War (1965). This provocative study presents useful insights into the intellectual thought of the period. Fredrickson's book should be supplemented by The Works of Orestes A. Brownson (1882-1887) edited by Henry F. Brownson. This useful 20 volume series includes Brownson's works from the 1830's through his death in 1876.

Southern criticism of the Declaration, especially as interpreted by antislavery men, is recorded in Robert L. Dabney's A Defence of Virginia (1867) and George Fitzhugh's, "Revolutions of '76 and '61 Contrasted," DeBow's Review (July, 1867). The Congressional Globe for 1860 and after the war is especially valuable in presenting the opinions of southern senators such as James Chesnut and George Vickers.

For studies of the post-war amendments see Joseph B. James, The Framing of the Fourteenth Amendment (1959), and William Gillette, The Right to Vote: Politics and the Passage of the Fifteenth Amendment (1965). Both of these works are dependable, with Gillette stressing the Republican desire to enfranchise northern Negroes. Also helpful is Carl B. Swisher's judicious American Constitutional Development (1954).

The best primary source on the Declaration's use

regarding the Thirteenth, Fourteenth and Fifteenth Amendments is the Congressional Globe. Jacobus tenBroek's Equal Under Law (1951) offers good insights on the Declaration and the Fourteenth Amendment. Additional worthwhile sources are William Lloyd Garrison, The Story of His Life Told By His Children (1885-1889) edited by Wendell P. and Francis J. Garrison, and The Works of Charles Sumner (1870-1882).

The 1876 Centennial

For a general survey of the Centennial year and accompanying celebrations see Dee Brown, The Year of the Century: 1876 (1966). While well written, Brown's book must be carefully used because of its tendency to popularize. A History of Woman Suffrage (1881-1920) edited by Elizabeth C. Stanton and others, provides a good account of the suffragists' role and use of the Declaration in the Philadelphia July 4th 1876 ceremonies.

A fruitful volume on orations given during the Centennial year is Centenary Orations, Addresses and Poems Commemorative of the One Hundredth Anniversary of Our National Independence (1882) edited by Frederick Saunders. Magazines of the period which illustrate how the Declaration was viewed and interpreted during the festive year are Potter's American Monthly, North American Review, Harper's Monthly Magazine, Scribner's Monthly and the Unitarian Review and Religious Magazine.