

The Problem of Abolition in the Age of Nation Building:  
New York's Founding Fathers Reconsidered

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In September 1780, John Jay, overseas on a wartime diplomatic mission for a struggling young nation, wrote to his friend, political associate, and fellow King's College alumnus Egbert Benson:

The State of New York is never out of my mind and heart. An excellent law might be made . . . for gradual abolition of slavery. Till America comes into this measure, her prayers to Heaven for liberty will be impious. This is a strong expression, but it is just. Were I in your legislature, I would prepare a bill for the purpose with great care, and I would never leave moving it till it became a law or I ceased to be a member. I believe God governs the world, and I believe it to be a maxim in his as in our court, that those who ask for equity ought to do it.<sup>1</sup>

Jay's service to the nation as a diplomat, member of the continental congress, and inaugural Chief Justice of the U.S. Supreme Court precluded him from taking on such a legislative mission. But nineteen years later, as New York's governor, Jay enjoyed the opportunity to endorse the state's "Act for the Gradual Abolition of Slavery," which finally sent this unjust institution on its slow but sure path to extinction.

Joseph Ellis entitled the third chapter of his remarkable, Pulitzer-Prize winning book *Founding Brothers* "The Silence," to convey the revolutionary generation's pattern of avoidance with regard to the looming "problem of slavery."<sup>2</sup> A reconsideration of New York's founding fathers, who overlap all too seldom with Ellis's select company of brothers, reveals repeated confrontations with the issue of slavery, as an issue of both immediate and future consequence for the state and nation. The words and deeds of Alexander Hamilton, John Jay, Gouverneur Morris, and Robert Livingston offer an invaluable opportunity for appraising the relationship of slavery, abolition, and nation-building in the late

eighteenth century that our national preoccupation with Jefferson and his fellow Virginians has often obscured.<sup>3</sup>

For Hamilton, Jay, Livingston, and Morris, fighting against slavery was not necessarily at odds with the goal of building a strong nation—in part because building a strong nation required great attention to the building of strong, viable societies at the state level. To be sure, the beliefs of New York's founders led them to act differently when building their state than when constructing the nation. But even at the national level, some of them, particular Hamilton and Morris, were quite capable of thinking with great clarity and foresight. The problem of abolition—stemming from a clear recognition of slavery's essential immorality—presented itself to these sons of Columbia as a shape-changing conundrum. They responded to this conundrum not with silence, but with mixed messages. Hamilton, Jay, and Morris were certain that a state could grow stronger by gradually abolishing slavery, but uncertain as to how to move the rest of the nation in the direction of New York, Pennsylvania, and New England on this critical issue. They were inclined to believe that the claims of slaveholders were not morally equivalent to the claims of slaves, but also found that advancing the claims of slaves was only sometimes expedient and, in any event, could be spread over an extended period of time.<sup>4</sup>

Perhaps the great abolitionist William Lloyd Garrison, not a Columbia graduate, was right that the founding generation's vaunted U.S. Constitution was in reality "a covenant with death."<sup>5</sup> But New York's founding father's believed, not entirely wrongly, that the U.S. Constitution was not the only covenant they had made with the nation and its future generations. The Constitutional covenant did

not bind their consciences nor enjoin them from acting against slavery. As an examination of a series of political episodes reveals, the problems of slavery and abolition repeatedly confronted New York's leading founders as they built state and nation. As often as not, they confronted these problems, in the process playing a crucial role in laying the cornerstones of Lincoln's proverbial "house divided against itself."<sup>6</sup>

Our first episode occurs in spring 1777. New York State's provisional congress deliberated in the Hudson Valley town of Kingston, while the British occupied New York City and hovered menacingly to the north and west. The state constitution that emerged combined the era's high principles—the new state charter reproduced the Declaration of Independence verbatim as part of a lengthy preamble—with customary assumptions about the link between property-holding and civic responsibility.<sup>7</sup> Had Gouverneur Morris had his way, New York's constitution would have endorsed gradual abolition as a goal for the new state government. Even though Morris's wealthy father, Lewis, had possessed perhaps the largest number of slaves of any man in colonial New York and even though Morris was less impressed than many of his peers with egalitarian revolutionary rhetoric, slavery, to Morris, perpetuated the most egregious aspects of aristocracy. Despite objections of delegates from slave-rich Ulster County and New York City, Morris won temporary support for a resolution proposing that "future Legislatures of the State . . . take the most effectual measures, consistent with the public safety and private property of individuals, for abolishing domestic slavery . . . so that in future ages every human being who breathes the air of this State shall enjoy the privileges of a freeman."

Just as Thomas Jefferson's fellow delegates to the continental congress excised his lengthy denunciation of the slave trade from the Declaration of Independence, Morris's moderate statement of antislavery intentions ultimately did not find a place in New York's constitution, thwarted by Robert R. Livingston's opposition.<sup>8</sup> Jay, who played a central role in designing the plan of government that emerged from Kingston, conveyed his regret to fellow framers Morris and Livingston—"I should also have been for a clause against the continuation of domestic slavery"—a modest expression delivered among other displeasures which conveyed none of the zeal he professed to Egbert Benson two years later.<sup>9</sup>

The new state constitution would have held little significance to these men or to history had the Americans not secured victory on the battlefield. Alexander Hamilton, not long removed from his studies at King's College and serving as George Washington's aide-de-camp, displayed a striking willingness to advocate positions which credited slaves with the same freedom-seeking impulses as their white countrymen. In the Valley Forge winter of 1778, he envisioned employing a cadre of southern blacks from the South as wagoneers, in order to make the army more efficient and hold costs down; in Hamilton's view, these men must "be freemen," as members of an enslaved workforce would surely seek their freedom with the British. The next year, in a long letter to John Jay, Hamilton outlined his argument in favor of organizing two or more battalions of South Carolina slaves, granting "freedom with their muskets." He disdained the prejudice his plan sometimes encountered, commenting "their natural faculties are probably as good as ours" and noting that "prejudice" had its roots "neither in reason nor

experience." Not only would the grant of liberty "secure their fidelity" but it would also "have a good influence upon those who remain, by opening a door to their emancipation." Hamilton acknowledged that his plan grew "equally" from "the dictates of humanity and true policy." If not exactly acts of conscience, Hamilton's suggestions nonetheless indicated a promising open-minded pragmatism toward the issue of slavery that complemented the antislavery goals of Morris and Jay.<sup>10</sup>

New York, the state with the largest number and highest percentage of slaves north of Maryland, would prove to be a remarkably difficult place to fight for abolition, requiring commitment and persistence from emancipation's advocates. The challenge was made abundantly clear in 1785, when the state legislature passed a gradual abolition bill containing a provision permanently denying subsequent free people of color the right to vote. This bill prompted a prescient veto message from the Council of Revision, the unique constitutional brainchild of Robert Livingston, for reviewing all legislation before it became law. The Council included the governor, the state's Supreme Court justices, and the chancellor of the court of equity—which is to say, Livingston himself.<sup>11</sup> The Council assailed the bill as "shocking those principles of equal liberty, which every page of th[e] constitution labours to enforce." Moreover, the Council accused the legislature of "lay[ing] the foundation of an aristocracy of the most dangerous and malignant kind" and projected a future in which even limited intermarriage would over the generations exclude a huge percentage of future citizens from the franchise. Some historians have attributed this veto message directly to the Chancellor himself. In any event, the veto message's sharp

assertion that political citizenship was essential to the meaning of freedom killed the race-baited gradual abolition bill for the session.<sup>12</sup>

Even as the New York legislature was taking up the subject of slavery in 1785, opponents of slavery in New York City began to organize formally to advance the cause of black freedom. The New-York Manumission Society selected John Jay as its first President. Hamilton and Livingston also were among the earliest members of the Society. Under President Jay's name, the Society petitioned the legislature in the midst of that body's deliberations over gradual abolition.<sup>13</sup> Although Jay had expressed great optimism just prior to the Council of Revision veto, broader reflection of the antislavery cause several months later found Jay more philosophical, as he informed a correspondent: "All the best men can do is, to persevere in doing their duty" and not become "discouraged by disappointments however frequent and mortifying."<sup>14</sup> The NYMS has been criticized for its conservatism—they were unapologetic in their embrace only of gradual not immediate abolition—and for their generous tolerance of slaveholding members, including Jay and Livingston. Yet the second organized antislavery society in the nation proved to be persistent in its advocacy of the cause of black freedom, not only lobbying for legislation, but also founding a school for African Americans and representing black clients who had been illegally held in bondage or whose masters had violated new laws designed to cordon off New York slavery from both international and interstate trading and transportation.<sup>15</sup>

Jay soon paid a political price for his association with the Manumission Society; his known support for the antislavery cause became a political issue that

may have cost him crucial votes in his razor-thin loss in the 1792 gubernatorial election. Political allies worried over Jay's identification with the emancipationist cause. And strikingly, a fictional dialogue published in a New York City newspaper between two farmers puzzling over their electoral choices included the remark by Farmer David that Jay "is for making the negroes free . . . that they mix their blood with white people's blood, and so make the whole country bastards and out-laws. . . ." In the final tally incumbent Governor George Clinton significantly outpolled Jay in several of the counties with the most slaves.<sup>16</sup>

Integrating opposition to slavery at the state level into the larger process of nation-building proved to be an even more difficult challenge and here New York's founding fathers themselves dealt blows to their own antislavery principles. As committed Federalists, Morris and Hamilton inside the convention and Hamilton and Jay as advocates for ratification, embraced a document rife with concessions to southern slaveholders, thus embedding pro-slavery interests in the core of national political culture and political economy through to the Civil War.<sup>17</sup> It can be stated simply: in this direct conflict between the claims of nation building and the claims of antislavery, nation building won out. Hamilton and Jay joined James Madison as authors of the famed pro-Federalist Publius essays, and it is but little comfort to note that the New Yorkers left it to the Virginian to author alternately evasive, logical, subtle, and deceptive defenses of the three-fifths, domestic insurrection, and slave trade clauses. At the state ratification Hamilton proved more than up to the task of defending constitutional concessions to slaveholders. Hamilton defended on practical grounds the clause apportioning representation to states based on the total free population plus



three-fifths of their slave populations: he called the vast southern slave population an "unfortunate situation" that had to be accommodated. That accommodation, moreover, would serve the entire nation's economic interest in securing profits from trade in southern "staples." Like Madison in Federalist 54, Hamilton emphasized that the formula flowed from conventional political wisdom that representation should reflect and protect property-holding rights. The "laws of nature" understood slaves to be "persons" but insofar as slaves were taxed as property, Hamilton asserted, southerners should receive a compensating increase in their representation. In a contest between higher law and pragmatic calculations, Hamilton awarded the victory to practical logic of politics.<sup>18</sup>

Gouverneur Morris, who participated in the U.S. constitutional convention as a member of the Pennsylvania delegation, played a more ambiguous and therefore emblematic role in mid-wiving the proslavery constitution. He raised some of the most telling objections to the demands of southern slaveholders. Morris denounced the three-fifths clause, stating that if "he was compelled to declare himself reduced to doing injustice to the Southern States or to human nature . . . he . . . must do it to the former," drew sharp comparisons between the ruinous effects of slavery on economic development, and decried the fact that by keeping the slave trade open, southern states would gain political advantage from violating "the most sacred laws of humanity." Yet Morris also sought to cajole the South into accepting federal regulation of commerce, employed his noted skills as a draftsman to polish the language of the final document and work out compromises, and signed the final document himself. Ten years earlier Morris had failed to insert antislavery language in New York's constitution. In

Philadelphia, he did not merely bow down to superior numbers, he helped frame a result quite compatible with the interests of slaveholders.<sup>19</sup>

Deeply compromised though these men may have been in their concessions to the interests of southern slaveholders, such accommodations did not always preclude fighting claims of slaveholders in debates on national policy. Indeed, Hamilton's refusal to give quarter to race-baiting, pro-slaveholding arguments during the Republican assault against the Jay Treaty showed once again Hamilton's impressive ability to apply steadfast moral reasoning to politically sensitive matters. In 1795, Republicans, Robert Livingston writing as "Cato" prominent among them, savaged the treaty Jay forged with Britain in order to avert war. Treaty opponents claimed that the national honor had been sullied by the Chief Justice's inability to extract meaningful concessions from the former mother country and current high seas tormentor. Among the charges leveled at Jay was that he failed to wring any compensation from Britain for the thousands of African Americans who were evacuated under British auspices at the end of the Revolutionary War in alleged violation of the Peace of Paris. Livingston's Cato did not find any irony in denouncing British violations of the "personal liberty" of American sailors while clamoring for compensation for the loss of slaves whose freedom the British had helped secure. "What satisfaction has Mr. Jay procured . . .?" demanded Livingston's Cato.<sup>20</sup>

In Hamilton's ultimately triumphant *Camillus* and *Philo-Camillus* essays, written in defense of the Jay Treaty, he countered these charges with a combination of legal reasoning and moral principle. Hamilton lectured, "In the interpretation of Treaties things *odious* and *immoral* are not to be presumed."

Renewed bondage for escaping slaves "who had been induced to quit their Masters in the faith of Official [British] proclamations promising them liberty . . . is as *odious* and *immoral* a thing as can be conceived." Hamilton suggested that black slaves had recognizable contractual claims that superseded white American claims. The moral imperative of freedom trumped the ambiguous treaty language of 1783 and should not be allowed to distort the treaty of 1795. "The feelings of every real friend of liberty must be in unison" that re-enslavement in 1783 would have been wrong and that, by implication, grievances over compensation in 1795 had no moral standing. Hamilton steadily explained, under his pseudonyms, that Americans had neither right nor reason to expect such compensation for human beings who followed the path of liberty. He thus exposed such critics as morally narrow-minded and pathetically self-interested, giving no quarter in this facet of his much broader, successful case for the treaty.<sup>21</sup>

Hamilton's arguments resonated beyond the Treaty debate to the ongoing contest over abolition in New York. Belittling compensation, Hamilton cleared away rhetorical, political, and psychological debris. The compensation issue, a longstanding source of resentment in New York, should be regarded as both a moral and practical dead letter according to Hamilton. Stoking resentment over this issue, in fact, afforded no subsequent partisan advantage in New York. Moreover, debating the 1783 evacuation of former slaves had provided a new opportunity for championing the idea of black freedom and prevented compensated domestic manumission from acquiring the sanction of precedent.

Fittingly, Jay himself began the first of his two terms as New York's governor in 1795 and, perhaps not coincidentally, this was the same year that the

state legislature took up the issue of gradual abolition for the first time in several sessions. Slaveholders erected obstacles, such as demands for compensation, which stalled legislative action. In 1799, however, a gradual abolition law finally passed—with the imprimatur of the Governor Jay and his Council of Revision, having garnered significant support from both Federalist and Republican legislators. Gradual abolition, especially in retrospect, represented an uneasy moral compromise, as it demanded that blacks technically born free, work well into adulthood for their mothers' masters. But the long record of maneuver and debate suggests that no more immediate alternative bore even a remote chance of becoming law.<sup>22</sup> In any case, New York became the second to last and the most important slave state north of Maryland to initiate abolition, ensuring that a historically rare slaveless democracy would eventually prevail in the northern half of the nation.<sup>23</sup>

1799 was not the end of the story for slavery in the United States, in New York, nor in the careers of the four men we are today remembering. Paradox and compromise pursued these men and the nation into the nineteenth century, although Aaron Burr's infamous bullet soon put an end to Hamilton's part of the story. Gouverneur Morris remained an idiosyncratic figure: in subsequent years, he inveighed against southern influence in national politics through the three-fifths clause and the presidential electoral process, ultimately deciding that the whole nation-building project should be repudiated. Yet he also regarded with alarm the slave insurrection in the French sugar colony of St. Domingue and supported various schemes in which the U.S. might help suppress the rise of the black republic of Toussaint L'Ouverture and his successors. Livingston, as

ambassador to France, helped to broker the Louisiana Purchase, the massive territorial expansion that whetted the appetite of southern slaveholders for new lands and occasioned dramatic sectional confrontations in subsequent years. Yet, seven years before Livingston's will provided for the manumission of any of his slaves over the age of thirty.<sup>24</sup>

During John Jay's long retirement from public life he continued to correspond with fellow opponents of slavery in America and abroad and, as a slaveholder, implemented his own personal gradual abolition plan for Zilpah, one of his last slaves.<sup>25</sup> The great Columbia University historian Richard Morris certainly exaggerated in 1969 when he wrote that John Jay's approach to slavery "anticipated the objectives of the Kennedy-Johnson years!" Yet it is also true that in addition to Jay's own significant antislavery contributions, he nurtured the antislavery views of his children, which bore particularly impressive fruit in the career of his second son William, who, beginning in the 1830s, became a prominent advocate for immediate abolition.<sup>26</sup>

An examination of Jay, Hamilton, Morris, and Livingston underscores the challenge of embracing the founders' legacy when we rightfully place slavery at the center of our historical consciousness. Their legacy with regard to race, slavery, and abolition speaks to the fundamental paradoxes of nation building and nationalism. The antislavery policies Jay, Hamilton, Livingston and Morris supported at the state level could, they believed, only be selectively pursued in the arena of national politics. Where some other political goal, like enhancing troop deployment or defending a treaty, applied, slavery could be criticized; but none of

these men were willing to risk sacrificing the nation on the moral alter of emancipation, however gradual.

At the end of his biography of John Jay, William Jay wrote of his father, "Much as he loved his country, he spurned the principle implied in the sentiment—"Our country, right or wrong."<sup>27</sup> My account makes clear that Jay, Hamilton, Morris, and Livingston at crucial moments chose nation-building over the recognized moral imperative of fighting slavery, leaving, in the long run, a legacy of tragic consequences. At present, the nation's long-term security may well rest on our own ability to spurn the "our country right or wrong" ethos. At their best moments, New York's founding fathers confronted slavery with intellectual honesty and moral imagination. In so doing, these King's College graduates also established a legacy of freedom.

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#### Endnotes

1. John Jay to Egbert Benson, Sept. 17, 1780, in *The Correspondence and Public Papers of John Jay*, ed. Henry P. Johnston (New York, 1890), 1:407; on Benson, see *Dictionary of American Biography*, ed. Allen Johnson (1927; New York, 1964), 1:204.

2. Joseph J. Ellis, *Founding Brothers: The Revolutionary Generation* (New York, 2000), 81–119; David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1770-1823* (Ithaca, N.Y., 1975), remains the most far-reaching, provocative study of these issues.

3. Richard B. Morris, *John Jay, the Nation and the Court* (Boston, 1967), ix, 3, long ago forcefully describes John Jay's under-appreciated significance, an under-appreciation which extends to his associates, except, of course, for Hamilton. For two recent biographies of Gouverneur Morris which explicitly attempt to make room for an expanded brotherhood, see Richard Brookhiser, *Gentleman Revolutionary: Gouverneur Morris—The Rake Who Wrote the Constitution* (New York, 2003), xvi; William Howard Adams, *Gouverneur Morris: An Independent Life* (New Haven, 2003), esp. xi, xvi.

For some recent entries in the ongoing debate about slavery and the founders see: Paul Finkelman, *Slavery and the Founders: Race and Liberty in the Age of Jefferson*, 2nd ed. (New York, 2001); Bernard Bailyn, "Jefferson and the Ambiguities of Freedom," in *To Begin the World Anew: The Genius and Ambiguities of the Founders* (New York,

2003), 37–59, esp. 38–39, 48–49; Robin L. Einhorn, "Patrick Henry's Case Against the Constitution: The Structural Problem of Slavery," *Journal of the Early Republic*, 22 (Winter 2002), 549–73; Francois Furstenberg, "Beyond Freedom and Slavery: Autonomy, Virtue, and Resistance in Early America," *Journal of American History*, 89 (March 2003), 1295–1330; Leonard L. Richards, *The Slave Power: The Free North and Southern Domination, 1780–1860* (Baton Rouge, 2000). For valuable summaries of the major issues, see Roger Wilkins, *Jefferson's Pillow: The Founding Fathers and the Dilemma of Black Patriotism* (Boston, 2002), and Joseph J. Ellis's review of Wilkins, "The Promise of Equality," *William and Mary Quarterly*, 3rd Series, 59 (July 2002), 802–805. A range of scholarly analysis of the Jefferson-Hemings relationship in the wake of recent DNA testing can be found in "Forum: Thomas Jefferson and Sally Hemings Redux," *William and Mary Quarterly*, 3rd Series, 58 (January 2000), 121–210.

4. In part because of the conferences mandate—four founders, twenty minutes—and in part for thematic coherence, I touch only lightly in this paper on these men as slaveholders. For the record, Jay and Livingston owned slaves; Morris came from a slaveholding family and inherited at least one slave (see notes 8 and 24 below). Whether Hamilton ever purchased slaves remains unclear. See Rob Weston, "Alexander Hamilton and the Abolition of Slavery in New York," in *Afro-Americans in New York Life and History*, 18 (1994), 31–45, for a recent investigation of Hamilton's alleged slaveholding and a valuable analysis of Hamilton's opposition to slavery. Jan Horton, "Listening to Clarinda," a report prepared at the John Jay Homestead State Historic Site, offers a comprehensive and critical study of Jay as a slaveholder; Shane White, *Somewhat More Independent: The End of Slavery in New York City, 1770–1810* (Athens, Ga., 1991), 82, 86, is sharply critical of Jay and his fellow abolitionist-slaveholders approach to their holdings.

5. Paul Finkelman, "Making a Covenant with Death: Slavery and the Constitutional Convention," in Finkelman, *Slavery and the Founders*, 3.

6. Abraham Lincoln, Speech to Republican state convention, June 16, 1858, quote in William E. Gienapp, ed., *This Fiery Trial: The Speeches and Writings of Abraham Lincoln* (New York, 2002), 43.

7. *The Constitution of the State of New-York* (Philadelphia, 1777). Alfred F. Young, *The Democratic Republicans of New York: The Origins, 1763–1797* still offers a powerful summary of the constitutional and popular politics of revolutionary New York; see also, Edward Countryman, *A People in Revolution: The American Revolution and Political Society in New York, 1760–1790* (Baltimore, 1981); and John P. Kaminski, *George Clinton: Yeoman Politician of the New Republic* (Madison, Wisc., 1993).

8. Gouverneur Morris quoted from editor's note, *Public Papers of John Jay*, 1:136; see also, Richard B. Morris, ed., *John Jay: The Making of a Revolutionary, Unpublished Papers, 1745–1780* (New York, 1975), 402n; Arthur Zilversmit, *The First Emancipation: The Abolition of Slavery in the North* (Chicago, 1967), 139–140; Mary-Jo Kline,

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*Gouverneur Morris and the New Nation, 1775–1788* (1971; New York, 1978), 79. On Morris, see Leonard L. Richards, *The Slave Power: The Free North and Southern Domination, 1780–1860* (Baton Rouge, 2000), 28–31; Max M. Mintz, *Gouverneur Morris and the American Revolution* (Norman, Oklahoma, 1970), vii–viii, 7, 14–15, 76; Brookhiser, *Gentleman Revolutionary*, 3, 32, 34; Adams, *Morris*, 4, 8–9, 81. For accounts on the Declaration of Independence and the excision of Jefferson's paragraph on the slave trade, see Pauline Maier, *American Scripture: Making the Declaration of Independence* (New York, 1997), 146–47; Gary Wills, *Inventing America: Thomas Jefferson's Declaration of Independence* (New York, 1978), 66–75; Carl L. Becker, *The Declaration of Independence: A Study in the History of Political Ideas* (New York, 1922), 212–21.

9. John Jay to Robert R. Livingston and Gouverneur Morris, Fishkill, New York, Apr. 29, 1777, in *Papers of John Jay*, 1:136 (*Making of a Revolutionary*, 401); Young, *Democratic Republicans*, 17–21; Kline, *Gouverneur Morris*, 72–81.

10. Quotations from: "To the Committee of Congress with the Army," Valley Forge, Jan. 29, 1778, in *The Writings of George Washington*, ed. John C. Fitzpatrick (Washington, D.C., 1933), 10:401; and Alexander Hamilton to John Jay, Middlebrook, New Jersey, March 14, 1779, in *The Papers of Alexander Hamilton*, ed. Harold C. Syrett (New York, 1961) 2:18–19 (same letter in *Public Papers of John Jay*, 1:191–93). See also, Alexander Hamilton to John Laurens, Middlebrook, New Jersey, Apr., May 22, 1779, John Laurens to Alexander Hamilton, Charles Town, South Carolina, July 14, 1779, Alexander Hamilton to John Laurens, West Point, New York, September 11, 1779, in *Papers of Hamilton*, 2:35, 52, 102–3, 166–67; John Laurens to Alexander Hamilton, South Carolina, July 1782, in *Papers of Hamilton*, (New York, 1962), 3:121.

11. George Dangerfield, *Chancellor Robert R. Livingston of New York, 1746–1813* (New York, 1960), 90.

12. *Journal of the Assembly of the State of New-York*, 8, pt. 2 (New York, 1785), 119–20). The most complete account of this and subsequent legislative battles over gradual abolition in New York will be found in *Inescapable Discourse: The Abolition of Slavery in New York and the Origins of Modern Abolitionism, 1777–1827* (Baton Rouge: Louisiana State University Press, forthcoming), based on dissertation of similar title (Northwestern University, 1997). Zilversmit, *First Emancipation*, 148–49, remains a ready and valuable reference to these proceedings as well. On Livingston's purported role in this veto, see Dangerfield, *Chancellor Robert R. Livingston*, 451–52; and Edgar J. McManus, *A History of Negro Slavery in New York* (Syracuse, 1966), 164.

13. The Papers of the Society for Promoting the Manumission of Slaves in New York City, New-York Historical Society, New York City, vol. 6, Jan. 25, Feb. 4, Feb. 10, 1785, 1–17; *Journal of the Senate of the State of New-York*, 8, pt. 2 (New York, 1785), Feb. 17, 1785, 20; McManus, *Negro Slavery*, 168.



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14. John Jay to Benjamin Rush, Mar. 24, 1785, and John Jay to Dr. Richard Price, Sept. 27, 1785, in *The Correspondence and Public Papers of John Jay*, ed. Henry P. Johnston (New York, 1890–93), 3:140, 169.

15. The Papers of the Society for Promoting the Manumission of Slaves in New York City are an invaluable source for studying the activities and attitudes of the Manumission Society. For overviews of the Manumission Society, some more critical than others, see Thomas Robert Moseley, "A History of the New-York Manumission Society, 1785–1849" (Ph.D. diss., New York University, 1963); McManus, *Negro Slavery*, 168–72; White, *Somewhat More Independent*, 81–86; Leslie M. Harris, *In the Shadow of Slavery: African Americans in New York City, 1626–1863* (Chicago, 2003), 61–65; Weston, "Alexander Hamilton." For a recent overview of the approach of early northern abolitionists that focuses primarily on Pennsylvania, but captures the spirit of the times, see Richard S. Newman, *The Transformation of American Abolitionism: Fighting Slavery in the Early Republic* (Chapel Hill, 2002).

16. *New-York Journal*, Apr. 21, 1792; J. C. Dongan to Jay; and Jay to Dongan, Feb. 27, 1792, in *Public Papers of John Jay*, 3:413 n, 413–15; Josh Mersereau to Alexander Hamilton, Apr. 29, 1792, in *Papers of Hamilton*, 11:344. Kaminski, *Clinton*, 201–17; Young, *Democratic Republicans*, 277–304.

17. Richards, *Slave Power*; Finkelman, "Covenant with Death"; James Oakes, "'The Compromising Expedient': Justifying a Proslavery Constitution," *Cardoza Law Review*, 17 (1996), 2023–56.

18. *Papers of Hamilton*, 5:23–24. The relevant Publius essays include, Federalist Nos. 38, 42, 43 54; for further analysis, see Oakes, "Proslavery Constitution," 2043–51; and Ellis, *Founding Brothers*, 114–15.

19. Winton U. Solberg, ed., *The Constitutional Convention and the Formation of the Union*, 2nd ed. (1958; Urbana, 1990), quotation "he was compelled . . .," 213, general account, 215, 278, 285, 300, 303; Brookhiser, *Gentleman Revolutionary*, "sacred laws," 85, general account, 83–91; Richards, *Slave Power*, 31–34; Adams, *Morris*, 148–65.

20. Dangerfield, *Robert R. Livingston*, 268–272; Cato No. II, *New York Argus*, July 17, 1795; see also Cato No. III, July 22, 1795, and the *Argus* more generally in July and August 1795, for denunciations of the Jay Treaty.

21. Camillus, "The Defence No. III," July 29, 1795, *Papers of Hamilton*, 18:517–21 [italics in original]; "Philo Camillus No. 2," Aug. 7, 1795, *Papers of Hamilton*, 19:99–105, quotation, 102; Stanley Elkins and Eric McKittrick, *The Age of Federalism: The Early American Republic, 1788–1800* (New York, 1993), 375–449, offer a thorough discussion of the Jay Treaty and its ratification, including an analysis of Hamilton's essays; see 401 on Jay's and Hamilton's essential indifference on compensation; as well as William Jay, *Life of John Jay: With Selections from his Correspondence and*

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*Miscellaneous Papers* (1833; Freeport, New York, 1972), 326–27.

22. For more on these judgments and a review the extended final battle for a gradual abolition law at great length in chapter 8 of my forthcoming book *Inescapable Discourse* (Chapter 6 of the dissertation). See also, William Jay, *Life of John Jay*, 390–91, 407; "An Act for the gradual abolition of Slavery," Mar. 29, 1799, *Laws of the State of New-York. Passed at the twenty-second session, second meeting, of the Legislature, begun and held at the city of Albany, the second day of January, 1799*, 22 (Albany, 1799), 721–23; Young, *Democratic Republicans*, 524–33; Zilversmit, *First Emancipation*, 176–84.

23. Joyce Appleby, *Inheriting the Revolution: The First Generation of Americans* (Cambridge, Mass., 2000), 45–46.

24. Mintz, *Morris*, 221, 231, 235, 237–38; Richards, *Slave Power*, 40–45; Brookhiser, *Gentleman Revolutionary*, 170–172, 203–4, 207; Adams, *Morris*, 277–79, 291–92; Dangerfield, *Robert R. Livingston*, 5, 309–94, 451–52; Jed Handelsman Shugerman, "The Louisiana Purchase and South Carolina's Reopening of the Slave Trade in 1803," *Journal of the Early Republic*, 22 (Summer 2002), 263–90, esp. 272–73, for Livingston's remarks on the importance of slavery to Louisiana's future; and John Craig Hammond, "'They Are Very Much Interested in Obtaining an Unlimited Slavery': Rethinking the Expansion of Slavery in the Louisiana Purchase Territories, 1803–1805," *Journal of the Early Republic*, 23 (Fall 2003), 353–80.

25. Jay to John Murray, Jr., October 18, 1805, Jay to William Wilberforce, Nov. 8, 1809, Jay to Elias Boudinot, Nov. 17, 1819, Jay to Daniel Raymond, Dec. 21, 1819, in *Papers of John Jay*, 4:302–304, 324, 430–432; Horton, "Listening to Clarinda," 109–110, and more generally, offers an extremely thorough investigation of the Jay family as slaveholders.

26. Richard B. Morris, Introduction to Matthew T. Mellon, *Early American Views on Negro Slavery: From the Letters and Papers of the Founders of the Republic* (New York, 1969), xi; see also, Morris, *John Jay, the Nation and the Court*, 14–15, where Morris reiterates this claim and misleadingly states that William Jay and his brother Peter "worked in close collaboration with William Lloyd Garrison." For John's influence on William regarding slavery, see William Jay to Joseph Coerten Hornblower, July 17, 1851; William Jay to John Jay II, June 3, 1835, John Jay Papers, Rare Book and Manuscript Room, Butler Library, Columbia University, New York. William Jay bristled at any suggestion that he departed from his father's example; see William Jay, *Reply to remarks of Rev. Moses Stuart, lately a professor in the theological seminary at Andover, on Hon. John Jay, and an examination of his Scriptural exegesis, contained in his recent pamphlet entitled, "Conscience and the Constitution"* (New York, 1850). For a revealing glimpse of William Jay's youthful identification with his father, see his cousin Susan Sedgwick's 1860 recollection, reproduced in Robert A. Trendel, Jr., *William Jay: Churchman, Public Servant and Reformer* (New York, 1982), 19–20.

27. William Jay, *Life of John Jay*, 460–63, offered a summary assessment of his father's

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character that tied together many of the themes of his documentary biography; see also, 291–94.