H-Net Reviews
in the Humanities & Social Sciences

**George William Van Cleve**. *A Slaveholders' Union: Slavery, Politics, and the Constitution in the Early American Republic.* Chicago: University of Chicago Press, 2010. 388 pp. $39.00 (cloth), ISBN 978-0-226-84668-2.

**Reviewed by** Padraig Riley (Dalhousie University)
**Published on** H-SHEAR (April, 2012)
**Commissioned by** Caleb McDaniel

## One Nation, Under Slavery

George William Van Cleve has written a very important new book. Building on the recent work of historians like Robin Einhorn, David Waldstreicher, Mark Graber, Leonard Richards, Paul Finkelman, and many others, Van Cleve argues that the American Revolution and the founding of the United States reinforced the power of slavery. Slavery was not tested by Revolutionary ideology to the extent that other scholars have claimed; northern emancipation was deeply compromised by racism, and never led to sustained efforts to consider emancipation on a national scale; and northerners repeatedly appeased the South, granting slaveholders protection for slave property and endorsing plans for national expansion that allowed slavery to grow dramatically from 1770 to 1820. Meanwhile, slaveholders from the Revolution onwards sought to limit external control over slavery. They demanded and won both "local autonomy" over the institution and national-level protections for slave property.

Van Cleve eschews analysis of ideology in order to focus on "the political and economic processes that made it possible to create a functioning American government" (p. 5). In effect, this is institutional history, broadly conceived, and the major focus and source base are the words of political elites. *A Slaveholder's Union* also provides an insightful, if episodic, analysis of the law of slavery from the late colonial to the early national period. Much of Van Cleve's evidence will be familiar to political historians, as he reviews a number of classic debates over slavery at the national level, from the Constitutional Convention to the Missouri Crisis. Van Cleve does offer new evidence from manuscript collections, particularly in his discussion of northern abolition and the northern response to the Missouri Crisis, but his real contribution lies in his rigorous and persuasive argument. The short version of the book is his summary judgment on the Constitution: "it was proslavery in its politics, its economics, and its law." The long version is very much worth reading, as Van Cleve analyzes in close detail how northern passivity and southern power combined to build a proslavery nation.

Van Cleve begins with the 1772 *Somerset* case. Extending Waldstreicher's claim in *Slavery's Constitution*, he argues that *Somerset* was a major challenge to the security of slave property in the British Empire. Lord Mansfield's decision held that there was no natural or imperial law protecting slavery, which could only be established by "positive law" (p. 32). This meant that a slave's status depended on the jurisdiction he or she was in, and that a master's right to control a slave was likewise variable. Van Cleve contends that this aspect of the *Somerset* ruling applied (by implication, not intention) to the jurisdictional differences between separate colonies as well as between any given colony and England, effectively opening the door to similar cases in intercolonial travel. In the eyes of slaveholders, then, *Somerset* was "an arbitrary ruling that destroyed their valid property rights" (p. 37).

Slaveholders fought the Revolution in good part to defend their "untrammeled ability to control slavery" (p. 38). They did so successfully, emerging from the Revolution as powerful members of a new political union "that was far less capable of controlling slavery than the British Empire had been" (p. 19). But slavery still faced legal and political challenges, represented now not by an imperial center, but by the diverse legal regimes of the new American states. Under the Articles of Confederation, Van Cleve argues, slaveholders "minimize[d] Confederation authority over their states" and fought successfully for "limits on the power of all states to interfere with slavery," through protections for fugitive slave "recaption" and slave transit across state lines (pp. 50; 53-56). The Constitutional Convention raised the issue of central authority and interstate conflict over slavery once

again, but slaveholders successfully achieved a proslavery government. For Van Cleve, northern racism and indifference were as important to this outcome as southern power. In a withering review of northern abolition efforts, Van Cleve argues that northern states made major concessions to slaveholders within and outside their jurisdictions. They compensated slaveholders through gradual emancipation schemes; they created loopholes that allowed masters to sell slave property southwards rather than emancipate; they were slow to protect free blacks from kidnapping; and they were eager to protect southern slaveholder property rights, making allowances for recapturing fugitive slaves and for slaveholders to "sojourn" with their slave property for extended periods of time in the northern states (p. 61).

Such relative disregard to the fate of enslaved or free blacks meant that northern delegates to the Constitutional Convention "faced very limited home-state pressure to address the problem of slavery at the national level" (p. 109). Yet southerners remained anxious about northern attitudes towards slavery, and sought "a central government that they could control, or at least permanently prevent from damaging their interests" (p. 114). Following Graber, Van Cleve sees the constitutional compromises over slavery as a "political security" arrangement for the South. The three-fifths clause granted representation to slave wealth in the new federal government, the slave trade/commerce clause bargain allowed the Deep South to augment the slave population through the international trade, and the fugitive slave clause checked the threat of an American *Somerset* case by "requiring that the status of the slave be determined by the law of the slave state's origin" (p. 171). Van Cleve believes there was also an unstated compromise made at the convention, in which leading northerners and southerners agreed that "each section would be able to pursue western expansion on its own terms to maximize its economic development" (p. 162). Northerners withdrew their support for the proposed Jay-Gardoqui treaty of 1786, which would have sacrificed American navigation rights on the Mississippi in exchange for commercial access to Spanish markets. Effectively, this was a promise to support southwestern expansion and the expansion of slavery. In exchange, southerners agreed to adopt the Northwest Ordinance. Although this Spanish treaty/Northwest Ordinance bargain is based only on inference, Van Cleve's reasoning is persuasive. The new United States both protected slave property and bound itself to a policy of slavery expansion.

Van Cleve's final two chapters trace the ongoing conflict over slavery in the early national period. Under the Constitution's protection, slavery grew both demographically and geographically, while the politics of slavery remained very much the same. Northerners never mounted a significant challenge to southwestern slavery expansion, they agreed to the fugitive slave act of 1793, which enhanced slaveholder power, and they were consistently racist. But southerners remained wary. In contrast to Lacy Ford and William Freehling, Van Cleve sees the slave South as fundamentally unified. Virginia and South Carolina may have differed over the merits of the international trade and their respective imagined futures for slavery, but "all of the major slave states, including Virginia, saw slavery as a long-term institution that needed constitutional protection against federal authority" (pp. 201-202). After winning that protection at the convention, they fought to maintain it, as Van Cleve demonstrates through analysis of familiar congressional episodes, such at the 1790 debate over Pennsylvania antislavery petitions and the 1804 debate in the Senate on the status of slavery in the Louisiana Purchase. As his review of early congressional debates concludes, antislavery action was trumped by southern power and "a national political commitment to Jeffersonian republican expansion." Combined with the Constitutional protections for slavery, these political dynamics "made slavery's southwestward movement virtually unstoppable" (p. 223).

Partisan politics play a limited part in Van Cleve's analysis here; indeed, they do not enter his narrative in any significant way until the conclusion of his final chapter, on the Missouri Crisis. He likewise bypasses the significant congressional debates over ending the international slave trade and partisan conflict over slavery during the War of 1812, moving from the Louisiana debates directly to the Missouri Crisis. Readers may find this relatively abrupt transition jarring, but whatever the book loses in chronological consistency, it makes up for in analytical richness. With the Missouri Crisis, Van Cleve once again treads familiar ground in an innovative way. When northerners challenged the South over slavery expansion, they reopened, advertently or not, the constitutional dilemma of slavery's political security. Ultimately, the crisis of 1819-20 was as much about the "long-term control of the federal government and national policy," as it was about the status of slavery in Missouri (p. 237). The Missouri Crisis demonstrated that such a contest could only be resolved by political force, since both sections employed fundamentally different conceptions of the Constitution and the Union (p. 256). This conflict was not (and perhaps could not be) resolved; instead both sides accepted a "stalemate" which created temporary sectional peace, while allowing for "the largely un-

restrained growth of slavery for two more generations" (p. 266).

This is a serious and sobering account of the institutional power of slavery in the early United States. There is no American paradox here, in part because Van Cleve is not interested in ideology, democratic or otherwise; in part because his narrative amply demonstrates the overwhelming power of slavery in the early nation. Although the book has a national perspective, northern motivation and action receive more analysis, particularly in the closing chapter on Missouri. Like Gary Nash, Van Cleve finds the North equally responsible for the political victories of slaveholders. "The segment of American society in 1787 that had the largest degree of political and economic freedom of action on slavery–the northern white majority–saw the containment and eventual abolition of southern slavery as a problem almost wholly external to their region's interests and concerns." At most, northerners viewed restricting slavery as "an abstract goal" and they proved pliant when it came to bargaining over slave imports at the convention and the expansion of slavery to new states from 1790 onwards (p. 180). They attacked slavery during the Missouri Crisis, but only to defend "free labor and free land" for whites. With the Missouri Compromise, northern whites once again "temporized" and "deferred the 'poisonous' problem of slavery's expansion for further generations leaving it to be resolved by fields of blood" (p. 266).

Of course, northern "freedom of action" on slavery also entailed a considerable lack of real power over the institution. Some of Van Cleve's counterfactuals seem farfetched: if northern states had adopted a "legal regime that freed fugitive slaves," he contends, they "would have sharply increased the cost of slavery to the slave states and thus would have helped to discourage its continuance" (p. 205). It is hard to believe that southerners would have remained in the Union under those conditions. Accommodation of slavery and southern control over the institution, as Van Cleve demonstrates time and again, was the price of union for the North. Southerners made this clear at the convention and in almost every congressional debate over slavery. Under such conditions, northern action against slavery would inevitably be limited and marginal. But it was not nonexistent, nor was it always compromised by racism. In contrast to Van Cleve's rather dismal portrait of northern appeasement, Stanley Harrold's recent *Border War* documents that some white northerners opposed slavery on the ground from the very beginning of the United States. Harrold goes so far as to argue that the Mason-Dixon line and the Ohio River were "boundaries in racial thinking," not simply borders between putatively "free" and "slave" regimes unified by racism. Free black northerners certainly lived in duress, subject to racial proscription in the North and lack of protection from kidnappers and southern power. Yet as many scholars have shown recently, early national black Americans transformed democratic ideology in antislavery and even radical directions, helping to sustain a long fight against the political power of American slaveholders.[1] For all of their racist indifference, northern white majorities allowed enough political space for such criticism of slavery to survive, alongside more popular and racist arguments that sought to protect white freedom against slaveholders. Southerners were right to be anxious about their ability to govern slavery in such a context.

Northern inability to constrain slavery in the early republic was no doubt due to moral cowardice, racism, and indifference, but it was mostly due the power of slavery as an economic and political institution. Taking the long view, one might choose to emphasize that initial compromises and "temporizing agreements" led to the expansion of slavery and, eventually, to catastrophic bloodshed, as Van Cleve does (p. 275); or one might note how a minority opposition to slavery maintained itself from one generation to the next, and eventually helped dismantle one of the most powerful slaveholding regimes in the history of the world. Van Cleve is as skeptical of Whiggish narratives as he is of ideology (p. 5), and one is disinclined to put much faith in either by the conclusion of this rigorous book. Yet the final sentence of *A Slaveholder's Union* strikes a somewhat false note, once again evoking the "terrible costs that were involuntarily imposed on posterity by such intergenerational transfer of profoundly vexing problems, even by a republic committed to human freedom" (p. 275). As Van Cleve shows time and again, the republic was not committed to human freedom. It was committed to slavery. Overcoming that commitment required a long and arduous struggle, culminating in sustained military conflict. One hopes that this counternarrative of American history will not be lost in the ongoing effort to demonstrate the power of slavery in the early nation. From the beginning of the United States, numerous individuals fought to undermine the proslavery union and reconstruct a better one. With works like *A Slaveholder's Union*, we are beginning to develop a more accurate appraisal of just what they were up against.

Note

[1]. Stanley Harrold, *Border War: Fighting Over Slavery Before the Civil War* (Chapel Hill: University of North

Carolina Press, 2010), 27. For African American political thought see, e.g., Richard Newman, "Protest in Black and White: The Formation and Transformation of an African-American Political Community in the Early Republic," in *Beyond the Founders: New Approaches to the Political History of the Early American Republic*, ed. Jeffrey Pasley, Andrew W. Robertson, and David Waldstreicher (Chapel Hill: University of North Carolina Press, 2003); and Manisha Sinha, "An Alternative Tradition of Radicalism: African American Abolitionists and the Metaphor of Revolution," in *Contested Democracy: Freedom Race and Power in American History*, ed. Manisha Sinha and Penny Von Eschen (New York: Columbia University Press, 2007).

If there is additional discussion of this review, you may access it through the list discussion logs at:
http://h-net.msu.edu/cgi-bin/logbrowse.pl.

**Citation**: Padraig Riley. Review of Van Cleve, George William, *A Slaveholders' Union: Slavery, Politics, and the Constitution in the Early American Republic*. H-SHEAR, H-Net Reviews. April, 2012.
**URL**: http://www.h-net.org/reviews/showrev.php?id=34008

This work is licensed under a Creative Commons Attribution-Noncommercial-No Derivative Works 3.0 United States License.