

The Underground Railroad: The Context is Slavery in the US

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In 1619, the first 20 African slaves were sold to settlers in Jamestown. In the early days, we were equal opportunity en-slavers. In 1652, two hundred seventy Scots-men captured at the battle of Dunbar, were sold into slavery in Boston. By 1790, there were between 500,000 and 700,000 slaves in the United States. In 1787, the U.S. Constitution had been adopted and Article IV Section 3 provided that people escaping their contracts to perform labor *i.e.* slaves, should be returned. This fugitive slave provision in the Constitution was not enforced, so in 1793 Congress adopted The Fugitive Slave Act. A slave owner or his agent had merely to capture a person and go before a magistrate to swear that the alleged fugitive belonged to him. The captured person could not speak in his or her own defense. People assisting a fugitive could be fined.

In the late 1700s there was a plantation economy in the South. South Carolina slaves were used on plantations in the rice fields. In North Carolina, Virginia and Kentucky slaves were used on tobacco plantations. In 1790, only 1,000 tons of cotton were produced in United States, but in 1792 Elie Whitney invented the cotton gin. By 1860 there were 4 million slaves in the United States and United States produced one million tons of cotton. In Georgia and the new states of Alabama and Mississippi the plantations were insatiable in their demands for slaves to produce cotton.

In 1791 there had been a successful slave rebellion in Haiti and a number of the Haitian slave owners brought their slaves with them to settle in United States. The Haitian slaves spread the word about the rebellion and afterwards there were a number of bloody but unsuccessful slave rebellions in the South. Southern officials and plantation owners responded with increased repression. Virginia came to have over 100,000 men in its militia --about 10% of its population. There were slave patrols throughout the South, and, for instance, anyone who helped a slave escape in Kentucky could be imprisoned for up to 21 years.

Slaves were treated as property. They could be whipped daily, kept in fetters in conditions that are reminiscent but were probably worse than what Dostoyevsky wrote about in his novel *The House of the Dead*, based on his own prison experiences in the early 1850's. Slaves could be killed or raped without fear of retribution and members of families could be separated by sales and slaves

were often worked to death. Slaves had very short average life expectancies.

In 1787, the same year that the Constitution was adopted, Congress enacted the Northwest Ordinance which provided that all of the Northwest territory would be free of slavery. This territory became the states of Ohio, Indiana and Illinois. Because of its slavery-free status, many freed slaves or escaping slaves came to settle in southern Ohio. One man, Gist, freed over 300 slaves upon his death and land was purchased for them in southern Ohio.

The new state of Ohio had a 385 mile border with the states of Virginia and Kentucky. West Virginia did not come into being until the Civil War. Marietta, Ohio was no more than about 100 yards across the Ohio River from one of the largest plantations in the South. No place south of the river was more than about 200 miles from Lake Erie, and at one point Canada was only 90 miles from Virginia through Ohio. Western Pennsylvania was much more mountainous and hard to traverse. There were fewer people in western Pennsylvania to provide aid to fugitives, and, in the west, Ohio was the main route to Canada.

However, Ohio was not the promised land. In 1804, in Ohio, as one of its first acts, the legislature enacted its first "black law." Pursuant to the black laws, a black person's word could not be accepted as evidence in court. Therefore a black person had to have white witnesses in order to prevail in court in either a criminal or civil matter. It was also a requirement that black persons had to carry certificates as their authenticity as a free black person and post a bond that they would not become wards of the state. Black people in Ohio took countermeasures. In riots that occurred in the first half of the 19th-century in Cincinnati, black people banded together with arms and repelled rioters by force. Other black people in Ohio banded together in free settlements and together provided for their joint defense.

Most people trying to escape slavery in the South did not stop in Ohio or other northern states but hoped to settle in Canada. Why Canada? In 1791 an abolitionist was elected as vice counsel of the province that later became Ontario. As time passed Canada became less and less receptive to slavery. After the war of 1812 slavery was pretty much a dead issue in Canada, a generation before slavery was outlawed in England.

Fugitives were welcomed so as to populate the southern borders of Canada to be a buffer against possible invasions from United States. In fact, when there was a rebellion in Ontario, all of the thousand or so black citizens residing in the area joined the militia and helped rebel invaders

from New York who were attempting to aid the rebellion.

Thereafter, fugitives from slavery in the U.S. were graciously welcomed in Canada. In Canada, the fugitives enjoyed the freedom that all Americans expected to have under the Constitution. The fugitives settling in Canada could vote, they could be elected to office and they could own land and businesses without fear of harassment by white citizens.

I am focusing on the underground railroad activity in the Midwest and particularly Ohio, but it's hard to ignore some of the heroes of the East. For instance, a black woman barely 5 feet tall, Harriet Tubman, made 19 trips into the South to bring back slaves to freedom, each time carrying her pistol. Her belief was that it was better to die than to remain in slavery and all those people she rescued she required to have the same attitude. John Fairchild, born as a white man to a slave owner in the South, routinely made trips from the North to steal slaves. He often posed as a slave trader and often traveled in the company of a free black person posing as a slave. The counterfeit slave then confided with the slaves in places where Mr. Fairchild visited and together they arranged the escape.

Back in Ohio, one of the most famous "slave stealers" was John Sanders who had purchased his freedom in Virginia. He settled in Cincinnati hoping just to work and cause no trouble for anyone. However, an acquaintance finally convinced Sanders to go South into Virginia with him to try to bring back two young women slaves. Sanders and his friend failed on the first attempt, but Sanders persisted to free the two young women even after his friend had given up. From that date forward, Sanders was a committed slave stealer and he made numerous trips into the South to bring out fugitives.

Sanders re-settled from Cincinnati to Ripley, Ohio where a number abolitionists operated. He organized his own iron forging company and was a successful businessman while carrying on his other activities. Once he was in Kentucky seeking to bring fugitives back when he happened to see hand bills on every tree. As he read the hand bills, he saw that they contained pictures of him, with a \$1000 reward for his capture or death. Thereafter, the other abolitionists in Ripley made him curtail his trips across the river and to channel his passion into organizational activities.

In Ripley, Sanders collaborated with Rev. John Rankin. John Rankin was an abolitionist minister in Kentucky, but his congregation dissipated and the available money for his salary shrank. Therefore, he took his wife and his four children across the Ohio River to Ripley, a

burgeoning shipbuilding, hog-killing and meat packing town of 3,000-- full of saloons and fancy houses. Rankin eventually built a house high on the hill facing the river with a light on every night that could be seen for miles on the southern side of the river. He came to have four daughters and 11 sons-- all of whom helped in the family enterprise.

Early in his ministry in Ripley, Rankin found out that one of his brothers had purchased slaves. Rankin thereafter wrote a number of letters to his brother on why it was wrong to own slaves and he published the letters in the local Ripley newspaper. The letters were later made into a book and the book was one of the centerpieces of abolitionist literature used to organize throughout the North.

John Rankin had moved his family across the river in 1822 and by February of 1838 his reputation was well-established. That month, a woman slave on a plantation in Kentucky overheard that she or her young child would be sold down-river to New Orleans. She immediately left her husband and her other children behind and ran into the night with her child in her arms. She walked 2 ½ miles north to the Ohio River where she found shelter with an older Scotchman or Englishman. He cautioned her against trying to cross the river because the ice was “rotten” and unsafe to cross. But about this time, they heard dogs and the woman ran out of the house with her child.

The man gave her a rail from his rail fence to assist her in crossing the river. Three times she fell through the ice, and three times, she threw her child ahead of her and used the fence rail to secure herself back onto the surface of the ice and to move forward again. As she approached the northern bank, she encountered a man by the name of Chauncey Shaw, a “slave catcher” who frequently patrolled the northern bank of the Ohio River near Ripley. Chauncey sought to catch fugitives and turn them in for the reward. When he heard the baby whimper after seeing the woman’s frantic efforts across the ice, he could not help but tell her, “You have earned your freedom.”

He took her to John Rankin’s house and he pointed up the steps. He said, “at that house the door is always open and the fire is always burning. No nigger has ever returned from there.” John Rankin and his wife found the woman and her child by the fireplace and provided them with warm clothing. They awakened two of their sons. The two sons placed the woman on a horse, one carried her child and the three horses and the four people rode off into night.

John Rankin never knew her name but she stopped again at his house in June of 1841. She had walked about 300 miles from Cleveland with a white Canadian man. He was being paid to help her rescue her daughter and the daughter's four children from across the river. Rankin advised them against attempting to do this-- saying that it was too dangerous. They persisted and the Rankin boys ferried them across the river. One of the Rankin boys also stole a skiff from the southern side of the river and parked it on the northern bank. The woman and her Canadian friend were successful in convincing the daughter and her now six children to leave the plantation. The daughter was also pregnant.

The nine people hid in a cornfield and the plantation owner's people searched the northern bank including Rankin's house to try to find the fugitives after seeing the stolen skiff on the north bank. At night after the Southerners had returned to the southern bank, Rankin's sons rescued the nine people and sent them further north. Some time later Rankin spoke with Harriet Beecher Stowe and told her the story. The young woman was reincarnated into the novel *Uncle Tom's Cabin* as Eliza.

About 100 miles northeast of Ripley then on the Zane Trace roadway which became the "National Highway" (old Route 40) is the small town of New Concord -- in the mid 1800's, a Presbyterian hotbed of abolitionist activity and the location of a number of stations on the underground railroad. (My five brothers and sisters own our parents' old farmhouse located just 12 miles from New Concord and 3 or 4 miles from one of the known stations on the underground railroad. Our farmhouse has a trapdoor under the stairway and the rumors have always been that our house was a station as well.)

In about 1855, a young man from Pennsylvania was visiting relatives in Ohio and Illinois. As he got on the train in Chicago to return to Ohio a man got on with a number of dogs, and the dogs were placed in the freight car. The man explained that he was "a nigger hunter" and he had the dogs on the train with him so when he got word of "escaped niggers" he could take the dogs off the train and catch them. At some station along the trip east the man received a telegram and he took the dogs off-- saying that "niggers" had escaped across the river and he was going to look for them.

The young man from Pennsylvania continued on to see his aunt and uncle until he reached New Concord, Ohio sometime around 11 o'clock at night. As he sat with his aunt going over the

news of the trip, his uncle entered saying that they had seven people ready to go and his aunt and uncle cautioned him to silence. He went out into the barn where he saw a woman and man and five children placed into a farm wagon with runners –it being February. He saw the horses draw the wagon away into the night. The next morning as he went to the barn, the horses were back in their stalls as if nothing had ever happened. As he walked along the Main Street in New Concord that day, he encountered the man from the train with his dogs. The man said he had lost track of the seven fugitives at Barnesville some 20 miles to the southeast. Of course the young man from Pennsylvania knew that the fugitives had left New Concord the night before.

In the Ohio region, there were three main pillars of the underground railroad. There were the freed slaves living in homes in southern Ohio, there were the abolitionists and there were the Presbyterian ministers and their churches. The Scotch Irish of southeastern Ohio were members of Presbyterian sects. Many of them had been sold into slavery by the English and they empathized with the fugitives escaping north from across the river.

In Cincinnati in the early 1850s, a young lawyer, Rutherford B. Hayes, was asked to take a case for a young black woman who had been freed while taking a trip across Ohio. The person who freed her almost immediately changed his mind and attempted to recapture her and take her back south. This case had caused a public stir in Cincinnati and the future President of the United States was successful in obtaining freedom for the young woman. Mr. Hayes was an example of someone who helped every free every fugitive that he could from a legal point of view. Still in his private life was apt to cheerfully refer to black people as “niggers” or “chuckleheads.”

In 1849, an event occurred which had nothing to do with slavery but which changed the history of the country as to the issue. Gold was discovered in California. 90,000 people went to California to find gold and took their politics with them; most were northerners and there were many abolitionists among them. In 1850 California adopted a state constitution prohibiting slavery, and California applied for statehood as a non-slave state.

Three of our then senior senators Senator Clay from Kentucky, Senator Calhoun from South Carolina and Senator Webster from Massachusetts put together the Compromise of 1850 which permitted California to come into the union as a free state and which kept the southern states from leaving the union. The compromise included the enactment of the Fugitive Slave Law.

Under Fugitive Slave Law, commissioners were appointed in every court district. The

commissioners had the power to determine whether an alleged fugitive was to be returned to the alleged owner or to be freed. If the fugitive was freed the commissioner earned five dollars; if the fugitive was returned to his or her purported owner the commissioner received \$10.

Commissioners were fined \$1,000 if they failed to rule that a fugitive slave had to be returned to his or her master. Persons who helped fugitive slaves were to be fined or imprisoned. The Fugitive Slave Law resulted in a firestorm throughout the North. A Columbus newspaper railed, "We are all slave catchers now."

That was nothing compared to the effect of *Uncle Tom's Cabin* when it was published in 1851. The soul of the North was captured and it became almost totally abolitionist. More copies of *Uncle Tom's Cabin* were sold than any book previously and the books were passed from hand to hand. Once the Fugitive Slave Law of 1850 was passed and *Uncle Tom's Cabin* was published in 1851, there could be no longer an accommodation of slavery between the North and South. It was inevitable that war or secession had to happen.

The fugitive slaves escaping on the underground railroad and publicity about them and the persons who helped the fugitives brought about an important change in thinking about the issue of slavery by the public in the northern part of the country. When I was a civil rights lawyer in Mississippi in 1966, I met Hosea Williams who was one of the two persons who led the people across the Selma Bridge where they were attacked by Sheriff Bull Connor's policemen with fire hoses and police dogs.

Hosea Williams told me that "Bull Connor was the hero of the civil rights movement!" Of course, Bull Connor was not the hero of the civil rights movement but the women and children and other people who followed Hosea Williams and John Lewis across the bridge were the heroes. However, because of Bull Connor's outrageous misconduct and the resulting television coverage, the tide of public opinion in United States was enlisted into the civil rights cause. Such was the effect of *Uncle Tom's Cabin* in 1851.

Individual incidents also profoundly affected individual people in profound ways. Reverend John Rankin's oldest son, Adam Lowry Rankin, had intended to be a boat builder and architect. He apprenticed to study the construction of boats. He visited a large boat docked at Cincinnati to view its construction as a part of his apprenticeship. As he was conducted to the steerage deck he saw before him two rows of handcuffed black people. On the left 25 women

were handcuffed to chains and on the right 25 men were all in handcuffs chained to the side of the deck. They had nothing to sit upon except the deck.

As the scene unfolded before young “Lowry” Rankin, the slave trader appeared with a prospect and pointed to a young woman handcuffed at the head of the line. He said, “I can get \$3,000 for her New Orleans but I’ll give her to you for \$2,500. You can try her out for free in your stateroom. It will cost you nothing.” The slave trader went over to the young woman reached inside of her blouse and exposed her breast to the prospect. The prospect determined to purchase the young woman for \$2,500. She was released from her chains, and she followed the man in tears into his stateroom. From that moment forward, Lowry Rankin determined that he would go into the family business, that he would become a minister, and would work as hard as he could to free slaves.

This reminds me somewhat of the story that I heard from a man whose aunt was a client of mine. He was in town from Israel to settle his aunt’s estate and he and I went to lunch together. As a young man, he had been a “Kinder child.” He explained to me that prior to World War II, a young man was going to go skiing. His friend told him, “Rather than going skiing, please go to Europe and see what Hitler is doing to the Jews.” The young man, Kinder, went to Europe to see for himself. As a result he raised funds or gave himself to bring 10,000 Jewish children from Europe to England.

The man whom I had lunch with was at that time one of the three people who oversaw the ecological health of the Sea of Galilee. His parents and his siblings perished in the Holocaust but because he was a Kinder child, he grew up and was raised in England by two Scotch Presbyterians. He came to United States to be near his aunt and uncle and attend Rutgers.

Kinder was radicalized (profoundly affected) by what he saw in Europe. Lowry Rankin was profoundly affected by what he saw on the boat in Cincinnati. John Sanders had intended, as a free black man to go on with his life and not to be involved in other people’s affairs. Nevertheless once he was enlisted in to rescue the two young women, he was changed. He was never the same and remained a slave stealer to the end of his days.

Today we have a number of terrible mass human rights catastrophes occurring in our world. I have hope from the underground railroad, from Mr. Kinder’s exploits, from Lowry Rankin’s experiences, and from the example of John Sanders that there are people stepping

forward right now to “do the right thing.”