

A Peculiar Paradise

a History of Blacks in Oregon, 1788-1940

Chapter Three - The Slavery Debates 1850-1857

Robin and Polly Holmes and their three year old daughter Mary Jane arrived in Oregon Territory in 1844. Typical of the way many black people came to Oregon during this time, they traveled overland in the company of another black man, Scott, as slaves of Nathaniel Ford and his family. Little is known of their earlier life. According to Robin's court testimony, they had been slaves of a Major Whitman, an army paymaster in Howard County, Missouri. In 1841, when Nathaniel Ford was sheriff of that county, they were sold to pay their master's debts. Never delivered to their new master, they became the slaves of the Ford family. In 1844 Ford was in financial difficulties and moved to Oregon. Robin believed that by helping his master establish himself he would eventually earn his freedom and that of his family. While living with Ford in Oregon, Robin and Scott raised vegetables to sell to the neighbors. Three more children were born to Robin and Polly Holmes: a son, James, in 1845, a daughter, Roxanna, in 1847, and a son, Lon, in 1850.

In 1849, Robin asked for his freedom. Ford requested that he go to the California gold fields with Mark Ford, promising him freedom and a share of the gold when they returned. Robin agreed and went to California, where he served as camp cook. He also mined gold worth \$900. On the return trip, Mark Ford and Scott were drowned.

In 1850, Robin and Polly and their infant son Lon moved five miles away to a house near Nesmith's Mills. Ford refused to allow Mary Jane, James and Roxanna to leave with their parents. Two years later, Robin, a poor and uneducated man, but mindful that Oregon was free territory, began a long legal battle to regain custody of his children.

Ford was served with a summons to appear at the next term of the District Court in April, 1852, to answer the charge that he was holding the Holmes children unlawfully. The case was not heard until one year later, when Ford and Holmes appeared in court to present their arguments. Ford claimed that he was the legal owner of Robin, Polly, and Mary Jane, and that he had brought them to Oregon as his slaves. He argued that James and Roxanna were his wards by an agreement he made with Robin after his return from California, which gave him custody of Mary Jane and Roxanna until they were eighteen, and James until he was twenty-one. Ford said he had raised the children at great expense when they were too young to be of any value to him, and now he had a right to their services as compensation. He claimed he could take the family back to Missouri and sell them as slaves. He said finally that the children would suffer if they were to live with their parents, as Robin was poor, ignorant, and unfit to care for them.

Robin told the court the circumstances under which he and his wife became Ford's slaves, repeated Ford's promise of freedom in Oregon, and related the circumstances which led him to seek legal redress against his former master. He said that whenever he asked Ford for his freedom, Ford threatened to take the family back to Missouri and sell them. Robin denied the

agreement concerning his children, and said he was able to support them.

The judge, Cyrus Olney, ruled that Ford must bring the children to the court, where they would be held until their status was decided. He failed to bring them to a hearing in April, 1853, promising instead to give Holmes a \$3,000 bond to guarantee that the children would not be taken out of Oregon. He requested a delay until Joseph Lane, witness to the agreement about the children, could return to Oregon to testify. Lane was then in Washington, D.C.

Two months later, Holmes renewed his petition to the courts. He feared that the children were mistreated and that Ford intended to send them back to Missouri. He complained of the long delay and the reluctance of the presiding judge to make a decision. Cyrus Olney ruled that Ford must release the children either to the court or to the local sheriff. Ford ignored this court order and, two weeks later at the next court appearance, the children were still in his custody.

Justice Olney attempted to postpone the case for another six months. In the meantime, he ruled that Mary Jane would be free either to stay with Ford or to go to her parents. He awarded temporary custody of Roxanna to Ford, and James to his father. Both were required to post a \$1,000 bond to insure that the children would be produced at the trial date.

Robin, being poor, did not have the bond money, and remained dissatisfied with the delaying tactics of the judge. He presented his case to Justice George H. Williams, who had just arrived in Oregon, appointed chief justice of the Supreme Court of Oregon Territory by President Zachary Taylor.

Joseph Lane presented his testimony to the court, but his recollections were vague. He remembered offering a job to Robin and Polly and that his offer had led to the conversation with Ford concerning the children. Lane was only able to say that he was left with the impression that the children were to remain with Ford.

Two days after Justice Williams heard the evidence in the case, he awarded full custody of the three children to their parents and the family was reunited. How close they came to a permanent separation is indicated in a letter Nathaniel Ford wrote to a friend in Missouri, a year before the case was finally decided.

You know I brought some negroes with me to this country which has proved a curse to me . . . Robin and his wife done verry well untill the spring of '50 when the abolitionists interfered-and the country is full of them--the interference was so great that I had to let them go... you know Crigler the sheriff had leveyed an execution on the negroes and they were brought off to this country. I am of the opinion that the execution may be so renewed as to send it here and take the negroes back to Missouri under the fugitive slave law... Robin and his wife Polly are very likely--they have five likely children if you can make the arrangement you may make some 1500 to 2000 out of them and do me a great favor. If the negroes can be taken under the fugitive slave law I will make the arrangements to send them to you in short order.., if the ca~e of the negroes can be attended to it will releave me and my fambly of much trouble and you may be benefitted by it . . . I should like if there can anything be done to have the writ here by the first of October next--that is the time of the setting of our district court.

Williams written decision does not reveal the legal grounds for his decision, nor did it cite earlier anti-slavery laws as the legal basis for freeing the children. Later, he was to reveal his reasoning.

Whether or not slaveholders could carry their slaves into the territories and hold them there as property had become a burning question, and my predecessors in office, for reasons best known to themselves, had declined to hear the case... I so held, that without some positive legislative establishing slavery here, it did not and could not exist in Oregon, and I awarded the colored people their freedom.. So far as I know, this was the last effort made to hold slaves in Oregon by force of law. There were a great many pro-slavery men in the territory, and this decision, of course, was very distasteful to them.

The decision was based on a strict interpretation of the law, using essentially the same arguments proposed by Senator Stephen O. Douglas, Williams' personal and political friend, and did not establish a precedent for further anti-slavery legislation. In 1857, Williams publicly admitted that he had no moral or ethical objections to slavery. Echoing Peter Burnett's sentiments, he proposed to stay as far away from this troublesome issue as possible? The reluctance of other judges to rule on this case is one indication of how complex the issue of slavery had become in the ten years that intervened between the passage of the first anti-slavery law in 1843 and the decision that gave the Holmes children their freedom.

In early 1843, a temporary government evolved out of local meetings held to discuss the control of predatory animals. These "Wolf Meetings" evolved into a Legislative Committee which began to draft a code of laws for the government of the region. Hoping to be annexed by the United States and mindful of the Ordinance of 1787 which had been invoked to exclude slavery from northern U.S. territories in the Midwest, the Legislative Committee proposed an anti-slavery law, based on the Northwest Ordinance. This was approved in June, 1843. No opposition was recorded, but evidence presented in a legislative session fourteen years later suggests that the law was not always observed. The boundary between the United States and Canada was settled in 1846, and Oregon became a part of the United States. By 1848, when it was officially organized as a territory, Oregonians had witnessed the first of a number of congressional debates in which the status of Oregon was linked with the slavery issue. Already, Oregonians who were isolated and free from local conditions that required a discussion of slavery were drawn into the controversy.

The bill to create Oregon Territory was coupled with the Wilmot Proviso, which required that any territory acquired from Mexico be free. David Wilmot, the author of the bill, believed that Congress possessed the power to regulate slavery in the territories, and should use it for total exclusion. He wanted to bring the issue of slavery in the territories to a final resolution. Other formulas on slavery more favorable to southern interests were evolving, and southern Senators, hoping to maintain a balance between slave and free territories, hoped to trade the admission of Oregon as free territory for the defeat of the Wilmot Proviso.

John C. Calhoun, one southern Senator, argued that Congress had the responsibility to protect the property of all citizens. Since slaves were property, Congress could not prohibit slavery in any territory, as it would deny to a portion of its citizens their fundamental right to travel to any

territory with their slave property. A proposal to let the courts decide the status of slavery in the territories indicated the depth of disagreement developing in Congress. A proposal to extend the Missouri Compromise line to the Pacific Ocean was offered by Stephen O. Douglas. It included a more specific admission that slavery would be allowed south of the line, but was defeated by northern Congressmen anxious to win the support of the newly organized, anti-slavery Free Soil party.

The Wilmot Proviso was defeated after much debate, and there was no resolution of the issue of slavery in the territories. The Oregon Bill was adopted with an anti-slavery clause. Oregon was to be free, but only during territorial status. Statehood was inevitable, and would occasion another series of debates over slavery.

Territorial status meant that Oregonians were no longer free to elect their leaders; officials were now appointed by the federal government. Jesse Applegate voiced the frustrations of Oregonians over their lack of self government in a letter critical of the kind of officials being appointed to govern Oregon.

It really appears Mr. Fillmore considers Oregon as a kind of Botany Bay to which he banishes all the worthless needy and recreant of his party, with us they have no fellow feeling and so they appear to consider their life short [and] are determined to make use of every moment of it to fill their pockets. I have been agrieved by some of them but I shall make no complaint, nor tell tales unless in self-defense .

Ironically, a doctrine concerning slavery called popular sovereignty provided Oregonians with a formula that best suited their desire to retain control of local government and their dissatisfaction with federal interference in local affairs.

First formulated by Lewis Cass of Michigan in his "Nicholson letter," written in December, 1847, the doctrine of popular sovereignty attempted to provide a solution to the extension of slavery into the territories by declaring that the issue should be decided by each territory in a popular election. The doctrine was ambiguous because it did not specify at which point in the process of organization the territories would be allowed to put the issue to a vote. This ambiguity lent itself to a favorable interpretation by both northern and southern Democrats. Northern Democrats could promise that popular sovereignty would allow pioneer legislatures to keep their territory free, and southern Democrats could predict that this doctrine would allow slavery to establish a foothold in a territory before the question was settled by a vote at the end of territorial status.

The doctrine was further confused in the minds of Oregonians by the peculiar meaning they attached to it. Untroubled by a serious threat that slavery would be supported by the majority of voters, they pushed the doctrine to its logical conclusion. Not only should territories be allowed to decide the question of slavery, but all other local issues as well.

To them it meant the fulfillment of their hopes and demands for complete self-government, for election of all territorial officers. It meant the end of imported officials?

Offered as an alternative solution during the Oregon debates of 1848, the doctrine was first applied to the territories of Utah and New Mexico in 1850. The privilege of popular sovereignty was granted to the rest of the western territories, including Oregon, in the Kansas-Nebraska Act, passed by Congress in 1854. The bill was sponsored by Stephen O. Douglas, who was primarily interested in a scheme for a western railway system. He was able to gain support for his bill by pointing out to southern Senators that slavery would now be possible in any area of the West. The Kansas-Nebraska Act was intended to provide a permanent solution to the problem of slavery in the territories, but its results were far different than Douglas imagined. He was reputedly opposed to the extension of slavery, although favoring the preservation of the Union over the abolition of slavery. After the bill was passed, he was permanently discredited in the minds of anti-slavery supporters, the doctrine was contaminated by pro-slavery implications, and a strong reaction against slavery split the national Democratic party.

In Oregon, the Kansas-Nebraska Act was praised as an end to federal interference in local affairs. It was the subject of a resolution introduced in the Oregon legislature by Delazon Smith, who also declared that the act implied an automatic repeal of Oregon's anti-slavery law. He added, however, that he believed that slavery would never be legalized in Oregon because of adverse economic conditions and local opposition. R.J. Ladd proposed an amendment to Smith's resolution which would prevent discrimination against anyone wishing to bring and hold slaves in Oregon. His amendment was narrowly defeated.

Clearly, at first the bill was applauded for its wider implications of local control of government. The polarization of beliefs on slavery which split the national Democratic party took more time to develop in Oregon, but as it developed the local party fostered a planned policy of silence on slavery in order to maintain party unity.

The Democratic party had been organized in Oregon in 1852. The party with which most Oregon settlers identified, it quickly dominated local politics. It was strengthened by the presence of Joseph Lane, the appointed territorial governor and a Democrat himself, who had adapted himself to local interests and was widely admired as a veteran of the Mexican War. Well known as a Southerner, he was sympathetic to slave-owning interests, but in the 1850's remained silent on the subject of slavery.

Party leadership centered around a nucleus of powerful men, primarily interested in the pursuit of high office and control over the distribution of political spoils. Dubbed the "Salem Clique" by its critics, the group included Asahel Bush, publisher of the Oregon Statesman; Delazon Smith, James W. Nesmith, R.P. Boise, and Lafayette Grover. All were later to be appointed or elected to high public office.

Quick to applaud the doctrine of popular sovereignty, primarily as it offered more political power to the local party, the Democratic leadership downplayed the slavery issue, hoping to avoid the divisive effects of controversy that had weakened their national organization. Discussion of slavery by free state Democrats was equated with slavery agitation, labeled "Black Republican" or "abolitionist," and slavery agitation meant disloyalty to the party. As one observer of the political scene recalled,

According to the theory of squatter sovereignty, a Democrat might vote for or against slavery,

when a Territory is emerging to statehood; he could express his individual opinion by ballot at this time, but he could not promulgate it and give the reason for it or try to influence others and maintain his standing as a Democrat. If he did, he was thereafter considered a heretic, out of line of promotion or patronage, a punishment the dullest Democrat could feel and understand?

Many of the leaders of the Democratic party were pro-slavery by reputation. This planned silence worked to their advantage, effectively forbidding a anti-slavery wing to establish itself within the party and relieving them of the need to defend or define their own position concerning slavery for Oregon.

By 1857, when the agitation over slavery had reached its height in Oregon, the strength of the "Salem Clique" had weakened perceptibly. In an early caucus held that year, the party split into two factions. Those who broke away were critical of the "Salem Clique," and some, in addition, were outspoken in their support of slavery. The regular party was able to maintain control despite these defections, and in a later caucus held to elect delegates to the constitutional convention the following resolution was offered and approved:

That each member of the Democratic party in Oregon may freely speak and act according to his individual convictions of right and policy upon the question of slavery in Oregon, without in any manner impairing his standing in the Democratic party on that account--provided that nothing in these resolutions shall be construed in toleration of black republicanism, abolition, or any other factor or organization arrayed in opposition to the Democratic party.

The second political party, the Whigs, offered a weak challenge to the Democrats. Traditionally the party of aristocracy and wealth, it had few advocates in Oregon. It was loosely organized and differed little in point of view from the Democratic party. It supported the peculiar interpretation of popular sovereignty favored by most Oregonians, but on the question of slavery deferred to the authority of the federal government. Failure to offer a strong party platform opposing slavery prompted anti-slavery Whigs to organize independent of the party.

In June, 1855, an anti-slavery convention was held in Albany. Attended by Whigs, members of the clergy, and other citizens opposed to slavery, the convention adopted eight resolutions condemning the Fugitive Slave Act, the repeal of the Missouri Compromise, and vowed to fight any attempt to introduce slavery into Oregon. A program was prepared to initiate the campaign: county meetings were proposed to bring public attention to the evils of slavery, and the election of antislavery candidates and the publication of anti-slavery newspapers was supported. A meeting was planned for the following October to prepare a formal platform.

In May, 1856, a group of Jackson County residents opposed to slavery met to create a Republican party organization. Their platform called on the federal government to prohibit slavery in the territories, but another resolution affirmed the right of the local populace to elect their public officials. Clearly, it was an attempt to redefine the doctrine of popular sovereignty in terms that would appeal to Oregonians, without taking a stand on the issue of slavery. Other political organizations opposed to slavery met, also calling themselves Republicans. Sensitive to critics that called them radicals, these Republicans modified their position on slavery, opposing it in Oregon but favoring non-interference in areas where it already existed.

In spite of the infant party's retreat from strong antislavery statements, Republicans were labeled as abolitionists and often called "Black Republicans," and most Oregonians were at first unwilling to join this party, regardless of their personal convictions on slavery in Oregon. In 1856, David Logan, a pioneer attorney, commented,

.. the Whigs are all dead out here--they call themselves the Republican party--which means negro worshippers . . . I'll see the Republicans to the devil before I'll vote with them. I don't know what I am exactly, but anything but an abolitionist?

In the early years of the 1850 the issue of slavery was the subject of an occasional article in the local newspapers. These were characteristically either attacks on the eastern abolitionist movement, or theoretical discussions of the evils of slavery. In 1851, the Oregon Statesman reprinted an article published in the Richmond, Virginia Examiner, "by request". Spread over four columns of a seven column page, the article condemned abolitionists who were working for civil rights for black people.

Their assertions that Negroes are entitled to approach our polls, to sit in our courts, to places in our Legislature are not more rational than a demand upon them that they let all adult bulls vote at their polls, all capable goats enjoy a chance at their ermine, all asses (quadruped) the privilege of running for their General Assemblies and all swine for their seats in Congress.

The same year, the Oregon Spectator published a lengthy letter from a local reader, predicting that Oregon would very soon become a state, and that the people would have to decide on several issues, the most important being slavery.

I am opposed to the principle of slavery, and in this enlightened age of civilization, and more especially in a government like ours, whose boast is its republican principles, and its free institutions, to hold in bondage (and that perpetual) a part of the race of man, is revolting in the extreme?

The author went on to say that those opposed to slavery had been able to do nothing more than keep the issue alive in the press. He maintained that anyone who sought to prevent the migration of black settlers to free states in the West was as guilty of prejudice as those who supported slavery.

If men feel so much for the race, let them endeavor to make their condition better and not endeavor to pen them up in stalls like brutes.

He concluded by proposing that those who talked about freeing slaves should buy one, bring him to Oregon and give him his freedom ...

.. not until then can the sectarian, the philanthropist, and the man that boasts of his charity say that he has done all that he could, to relieve suffering humanity.

When slavery became possible if not likely in Oregon after the passage of the Kansas-Nebraska

Act in 1854, the slavery issue in the press took on a more distinctly local character. Articles were often the products of rival editors engaged in political and personal warfare. The Oregon Statesman was particularly vicious in condemning outspoken anti-slavery groups, which it called "abolitionist" whether or not these groups actually advocated the total prohibition of slavery in the United States. After the anti-slavery convention held in Albany in 1855, the Oregon Statesman called the delegates "old grannies," and "nigger-struck dames," and refused to publish the resolutions passed by the convention. The editor concluded, "If anything could make the people of Oregon desire slavery, it would be the agitation of the subject by such fanatics as these. A letter from Delazon Smith, who claimed to have attended the convention, was also published.

In my humble judgement there is about as much danger--about as fair a possibility of slavery's going to the moon.., as there is of its being precipitated upon our Territory. There can be no reasonable question but that at this moment, nineteen-twentieths of the people of Oregon, would, if called upon to decide the question at the ballot box, vote against establishing slavery here?

Smith declared that there were no slaves within 3,000 miles of Oregon, and that there was no disposition among Oregonians to own them. He concluded by warning that if slavery were introduced, it would be as a reaction to the abolitionists. Thomas Dryer, editor of the Portland Weekly Oregonian, As if thoroughly sick of the issue, he concluded:

Let us have a state government and make the issue at once. If we are to have slavery forced upon us, let it be by the people here and not by the slavery propagandists at Washington City. If the majority of the people in Oregon, fairly expressed, desire slavery, we are too much of a democrat to further oppose introduction.

Thomas Dryer continued to criticize the Democratic party, commented on the appearance of pro-slavery newspapers, criticized outspoken supporters of slavery and urged his readers to decide on the issue independent of party affiliation. His editorial tone was frequently shrill and repetitive; as a representative of the minority political party he spent a good deal of energy engaged in private warfare with the Democrats. Dryer's small press had sat on the Portland dock for months, delaying the first issue of the newspaper, where he complained that Captain Hall of the Navigation Company had said he didn't care when he delivered the freight for the "little damn Whig paper in Portland.

In spite of the invective that passed between Dryer and Bush, their position regarding slavery was similar. Both were motivated strictly by local self-interests rather than high moral or ethical ideals. Neither supported the introduction of slavery into Oregon; both sought to appeal to their readers and gain support for their own political party.

Most of the avid supporters of slavery were Democrats, and Bush pacified them by a strong condemnation of antislavery agitators. His opposition to slavery was based on economic considerations. In March, 1857, he predicted that the voters would not be influenced by moral or judicial considerations, but would vote in terms of the economic advantages or disadvantages of slavery. He admitted that Oregon would probably come into the Union as a free state, but warned again that if abolitionists flocked to Oregon the citizens would react by supporting slavery. He stated:

We have no slaves here. A very few blacks who were slaves in the states have been brought by their owners, but they have understood they were free. The courts, when appealed to, have declared them free, by virtue of the act of Congress. We have but few free niggers here, but quite as many of that class as we wish ever to see? In a later editorial Bush expressed the desire to see constitutional provisions which would exclude black people from Oregon, and make it a crime for any white person to bring blacks into the state. In addition, he suggested that laws be passed which would prevent them from buying real estate, bringing a suit in court, or enforcing any contracts or agreements. Black people should not be allowed to become citizens in any real sense, he believed, and would be placed under such disadvantages as would tend to discourage them from trying to come to Oregon.

With these restrictions, disabilities and consequent prohibition of negroes and mulattoes, we are for a free state in Oregon . . . In arriving at this conclusion we are not influenced by hostility to the institution of African slavery per se. We are of the opinion that in the sugar and cotton growing states it is a necessary, if not indispensable system of labor. We believe, also that the African, whatever his "nominal" condition, is destined to be the servant and subordinate of the superior white race and that it is best for both races that the servitude and subordination should be regulated by law. And we believe, also that the wisdom of man has not yet devised a system under which the negro is as well off as he is under that of American slavery. Still we think that our climate, soil, situation, population, etc., render [it] to any useful extent an "impossible" institution for Oregon?

Bush encouraged his readers to contribute letters on slavery which he printed, as well as editorials from other newspapers which expressed his philosophy. One citizen, F.S. Martin, argued in favor of slavery in a letter published in August, 1857. Martin stated that slaves would thrive in Oregon's mild climate and that crops could be easily harvested by them. He predicted that Oregon could not reach its agricultural potential without slave labor, and that the population would quickly double if they were introduced.

Other letters published during 1857 opposed or favored slavery on economic grounds. Those opposed feared that the state would be flooded with abolitionists if slavery were introduced, and the close proximity of free areas would make it difficult to retrieve slaves if they ran away. Some opposed slavery because it would create a slave owning aristocracy, reminiscent of the "poor white" fears expressed by Jesse Applegate. One correspondent wrote,

I see no reason why the scarcity of women in Oregon should cause us to bring here the withering blighting curse of slavery--to create style and establish an aristocratic spirit in our midst--to cause the rich man with his slaves to lord it over his poor neighbor--to see our sons working side by side with the rich man's slave?

Politics in the early months of 1857 had become a confusing spectacle of rival factions intent on breaking the stranglehold of the Salem Clique, thought to be in control of the majority of Oregonians, still silent on the issue of slavery. But when the Supreme Court handed down its decision in the case of Dred Scott v. Sanford, declaring that only a sovereign state could legally prohibit slavery, one thing became clear. Oregon must vote for statehood, and soon if slavery

was to be avoided. The process for calling a convention was conducted with amazing speed, and without the consent of the federal government. Application for statehood was approved in June, 1857, and delegates convened in August to write the constitution. By the time of the constitutional convention, the slavery issue had substantially eroded the power of the "Salem Clique," and onethird of the delegates were independent of its control.

McLagan, Elizabeth. *A Peculiar Paradise: A History of Blacks in Oregon 1788-1940* (available online at <http://guesswhoto.com/paradise-index.html>).