

How Slavery Radicalized Lysander Spooner

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How does a radical libertarian abolitionist attorney from the North go from passionately defending the United States Constitution—arguing that the document prohibited slavery from its ratification—to declaring the United States Constitution “unfit to exist” two decades later?

Lysander Spooner wrote [The Unconstitutionality of Slavery](#) in 1845 as a response to William Lloyd Garrison, who opposed the Constitution due to its apparent preservation of slavery. Garrison was a [Northern disunionist](#) who advocated separation from the South after the *Dred Scott* decision.

Conversely, Spooner argued that, according to a textualist interpretation, the United States Constitution outlawed slavery. He argued that the original meaning of the document’s text at the founding, and not the founders’ original intent at the Constitutional Convention, is determinative of the law. Spooner’s argument famously won over former slave and abolitionist Frederick Douglass, who was previously a Garrisonian disunionist.

In an 1864 [letter](#) to Charles Sumner, Spooner criticized the South for its pro-slavery stance but blamed the senator for the Civil War and for preventing the “peaceful abolition of slavery” by continuing to propagate the belief that the Constitution was pro-slavery while being one of the most prominent voices of the antislavery North.

In 1867, however, just two years after Northern troops ordered the people of Texas to free all slaves on June 19th, 1865, or "Juneteenth," in accordance with the Emancipation Proclamation, Spooner wrote [No Treason: The Constitution of No Authority](#). In these essays, Lysander Spooner argued that the abolition of slavery was not the primary goal of the Civil War but simply "a war measure" to preserve the national government and enslave the entire population by other means:

"The pretence that the "abolition of slavery" was either a motive or justification for the war, is a fraud of the same character with that of "maintaining the national honor." Who, but such usurpers, robbers, and murderers as they, ever established slavery? Or what government, except one resting upon the sword, like the one we now have, was ever capable of maintaining slavery? And why did these men abolish slavery? Not from any love of liberty in general—not as an act of justice to the black man himself, but only "as a war measure," and because they wanted his assistance, and that of his friends, in carrying on the war they had undertaken for maintaining and intensifying that political, commercial, and industrial slavery, to which they have subjected the great body of the people, both white and black. And yet these impostors now cry out that they have abolished the chattel slavery of the black man—although that was not the motive of the war—as if they thought they could thereby conceal, atone for, or justify that other slavery which they were fighting to perpetuate, and to render more rigorous and inexorable than it ever was before. There was no difference of principle—but only of degree—between the slavery they boast they have abolished, and the slavery they were fighting to preserve; for all restraints upon men's natural liberty, not necessary for the simple maintenance of justice, are of the nature of slavery, and differ from each other only in degree."

Notably, Abraham Lincoln's Emancipation Proclamation, commonly

understood to have freed all slaves during the Civil War, only applied to the Confederacy and did not apply to Missouri, Delaware, Kentucky, and Maryland. Abraham Lincoln believed these border states would have joined the Confederacy if it applied to them. Therefore, "[Juneteenth](#)" did not mark the end of slavery in the US; instead, it signaled victory in war and the defeat of the South, while Northern states continued to permit slavery after the Civil War ended until December 6, 1865, when the 13th Amendment was ratified.

These facts and the totality of the Civil War radicalized Spooner. He was still ferociously anti-slavery—he had once [advocated](#) plotting with slaves to violently overthrow plantation owners and compensate the freedmen with the plantation property—but the Civil War also made him an anarchist, concluding that the federal government was worse than a highwayman robber, and had enslaved all of its subjects:

"A man is none the less a slave because he is allowed to choose a new master once in a term of years. Neither are a people any the less slaves because permitted periodically to choose new masters. What makes them slaves is the fact that they now are, and are always hereafter to be, in the hands of men whose power over them is, and always is to be, absolute and irresponsible."

Spooner was alarmed by the growth of the federal government during the Civil War. Jim Powell, in [The Triumph of Liberty](#), writes:

"In the North, there was military conscription; paper money inflation ("Greenbacks"); tariffs as high as 100%; excise, sales, inheritance and income taxes; censorship of mail, telegraphs and newspapers; jailing people without filing formal charges. The Lincoln administration imprisoned some 14,000 civilians. Many of these measures were taken without Congressional approval. Most fighting took place in the

South which was devastated. The overall death toll exceeded 625,000. After the war, the federal government maintained a standing army 50% higher than before the war began. Federal spending as a proportion of the national economy was twice as high after the war than before. The national debt, which was about \$65 million when the Civil War began, largely a consequence of the Mexican War, skyrocketed to \$2.8 billion, and interest on it accounted for about 40% of the federal budget through the mid-1870s.”

After observing these perceived abuses, Spooner [suggested](#) that, despite abolishing chattel slavery, “there is not a single natural, human right, that the government of the United States recognizes as inviolable; that there is not a single natural, human right, that it hesitates to trample under foot, whenever it thinks it can promote its own interests by doing so.”

He particularly took issue with the North’s use of [conscription](#), which he viewed simply as a different form of slavery:

“The government does not even recognize a man’s natural right to his own life. If it have need of him, for the maintenance of its power, it takes him, against his will (conscripts him), and puts him before the cannon’s mouth, to be blown in pieces, as if he were a mere senseless thing, having no more rights than if he were a shell, a canister, or a torpedo. It considers him simply as so much senseless war material, to be consumed, expended, and destroyed for the maintenance of its power. It no more recognizes his right to have anything to say in the matter, than if he were but so much weight of powder or ball. It does not recognize him at all as a human being, having any rights whatever of his own, but only as an instrument, a weapon, or a machine, to be used in killing other men.”

His comments on conscription are increasingly important,

especially with recent efforts in Congress to automatically register males for Selective Service and ongoing [efforts](#) to include women in the draft.

Once a staunch defender of the Constitution before the Civil War, after the observed abuses by the federal government, Spooner declared: “[W]hether the Constitution really be one thing, or another, this much is certain – that it has either authorized such a government as we have had or has been powerless to prevent it. In either case it is unfit to exist.”

Others have since [argued](#) that Americans should not blame the Constitution itself for the loss of liberty and an ever-growing federal government. Instead, as Thomas Jefferson said, “The price of liberty is eternal vigilance.”

But, as a strong opponent of slavery who lived through the Civil War and influenced historical figures like Frederick Douglass, Spooner’s radical transformation should make us ponder the very nature of slavery and whether it truly has been eradicated in the United States, or if it has continued to be employed by other means.

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1780 caricature of a press gang – a group of men employed by the British Royal Navy to forcibly recruit (enslave) sailors into naval service during the 18th century