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Supreme Injustice: Slavery in the Nation's Highest Court

by Paul Finkelman (review)

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runaway slave studies, but it may also contribute to discussions of race, region, and borderlands that can inform broader understandings of both American slavery and American freedom.

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ANDREW KETTLER

Supreme Injustice: Slavery in the Nation's Highest Court. By Paul Finkelman. The Nathan I. Huggins Lectures. (Cambridge, Mass., and London: Harvard University Press, 2018. Pp. [xii], 287. \$35.00, ISBN 978-0-674-05121-8.)

In addition to editing, coediting, and cowriting volumes on topics in U.S. cultural, political, and legal history, Paul Finkelman is the author of several books on the politics of slavery. In *Supreme Injustice: Slavery in the Nation's Highest Court*, he turns to the proslavery decisions of Chief Justice John Marshall, Associate Justice Joseph Story, and Chief Justice Roger B. Taney, the U.S. Supreme Court's most famous antebellum jurists. Although historians have looked closely at Taney's superfluously racist defense of slavery in *Dred Scott v. Sandford* (1857), Finkelman maintains that that case was the culmination of proslavery judgments that began in 1801. Together the justices facilitated the deterioration of sectional harmony and, by extension, the deaths of more than 600,000 Americans. Any of them could have, Finkelman argues, taken advantage of language in the Constitution that could have been used to combat slavery, protect the rights of free African Americans, and effectuate a peaceful, political resolution of slavery.

Finkelman provides concise yet informative examinations of the justices' proslavery jurisprudence through case law, statutes, speeches, letters, archival and historical society collections, newspapers, and scholarly literature. Each chapter contains a short biography and a historiographical discussion that explain how historians have insulated Marshall, Story, and to an extent, Taney from slavery. This trend is especially odd in Marshall's case, since he was a Virginia slaveholder who crafted jurisprudence that protected criminal slave traders, wrote court opinions to reverse successful lower court freedom suits, sending freed persons back to slavery, and belonged to the American Colonization Society.

Story was more complex. He was a New Englander, did not own slaves, and publicly opposed slavery. His time on the Court began during Marshall's tenure and ended nearly a decade after Taney's appointment in 1836. Even Story's early opinions while he was on the Court opposed slavery, including a vote to free the *Amistad* Africans. However, Story's ruling in *Prigg v. Pennsylvania* (1842) nationalized slavery and left free African Americans open to kidnapping. He was labeled the "slave-catcher-in-chief" by abolitionists (p. 170).

Taney, like Marshall, was a southern slaveholder who was castigated for the *Dred Scott* decision. But Taney even experienced a brush with scholarly expiation in the early twentieth century, when historians tried to revise his image. Finkelman debunks these revisions by presenting the proslavery decisions and racist statements that Taney made throughout his career. A welcomed addition is Finkelman's exposure of Taney's flawed historical thinking in his *Dred Scott* opinion. Regrettably, history is still often viewed through a lens that ignores the diverse history of the founding, which included

African Americans' right to vote in several states and the antislavery position of many of the Framers.

Supreme Injustice accomplishes its primary goal by exposing how each justice furthered the interests of slavery. It also introduces readers to freed persons, slaveholders, governors, kidnappers, and abolitionists to exemplify the human cost of Supreme Court rulings. General readers, college students, and professional historians will gain a deeper understanding of the Court and the crisis over slavery. Yet the book is not without shortcomings. Finkelman never fully explains how the justices, especially the slave owners, could have drawn antislavery conclusions from a proslavery Constitution. Additionally, conclusions about Story's views of Virginians and his transformation from an antislavery to a proslavery position are less than satisfying. In the chapter dedicated to Story, Finkelman determines that Story's nationalism and fears over disunion instigated the justice's proslavery rulings after the Nullification Crisis of 1832–1833. However, in the book's coda, Finkelman questions the validity of a similar interpretation offered by a leading biographer of Story. These flaws do not diminish the book's contributions. *Supreme Injustice* is readable, well-documented, and amply researched scholarship that offers a fresh look at the nineteenth-century Supreme Court, with an impressive chronology of cases, annotations, and references that will encourage further research.

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DINAH MAYO

The Field of Blood: Violence in Congress and the Road to Civil War. By Joanne B. Freeman. (New York: Farrar, Straus and Giroux, 2018. Pp. xviii, 450. \$28.00, ISBN 978-0-374-15477-6.)

Joanne B. Freeman's richly contextualized portrait of violence in Congress in the decades leading up to the Civil War is a book for the times in which we live. Polarized politics; clashing cultural values; a Congress defined as much by human failings as by lofty idealism; the workings of emotion; the complicated relationships among politicians, the press, and popular opinion; new technologies for spreading information; and the debates over free speech that helped launch a crisis of union in the nineteenth century—all resonate powerfully in the public sphere that present-day Americans inhabit. Weaving together these threads of public discourse and technological development into a deadly brew in the antebellum United States was violence: slights and slurs, brawls and riots, mobbing, caning, dueling, and killing. Violent encounters extended from the murderous landscapes of Indian removal and the lynch mobs that targeted abolitionists, black people, and immigrants, through Bowie-knife-happy state-houses, all the way to Congress.

As the author notes at the outset, her subject poses a methodological quandary. The Washington, D.C., press, beholden to the government for printing contracts, was inclined to suppress news that cast lawmakers in a negative light. At the same time, newspapers outside the nation's capital tended sometimes to sensationalize and bend the truth. How then to unveil the hidden true histories of violence in Congress? Freeman skillfully deploys the art of historical detection to expose the full scale of the unsavory underbelly of