

Black History Corner: Washington's Shameful History

by John Hope Franklin

To understand Washington's current racial tensions, it would be helpful to go back to the beginning. From its earliest days, the Nation's Capital was marked by a legalized racism, sanctioned by Congress, that denied basic rights to free Blacks as well as to slaves. Not only were free Blacks barred from voting, holding office and serving on juries, but they were also required to observe a special curfew designed to keep them off the streets after 10 p.m.

The District of Columbia, like the rest of early America, simply could not accept the idea of full rights for free Blacks. By 1860 Washington, seen as a haven for runaway slaves, was home to more than 11,000 free Negroes, and yet Black people here were denied even the semblance of equality.

The legal foundation for racial discrimination dates back to the Constitutional Convention of 1787, which protected the institution of slavery and the slave trade in a variety of ways, including one provision for the return of fugitive slaves, another that determined apportionment for representation by counting five slaves as equal to three white persons and one that barred the closing of the slave trade before 1808. Such provisions made it possible for Washington to become "the very seat and center" of slavery and the slave trade early in the 19th century.

But not all of the District's Black residents were slaves even at the time of Thomas Jefferson's inauguration in 1801. There were some 783 free Negroes in Washington in 1800 compared to 3,244 slaves. By 1810 the number of free Blacks had increased to 2,549; it reached 4,048 by 1820 and 6,152 by 1830, when for the first time free Blacks outnumbered slaves.

The existence of slaves and free Blacks in the same community posed problems that taxed the creativity and ingenuity of the most gifted statesmen. The situation was especially difficult in Washington, a city created by a national government that would remain reluctant to give local authorities the power to determine the future of slaves and free Negroes as well as a host of other issues.

In 1787 the framers of the Constitution made no distinction between free persons, white and Black, and one could have reasonably assumed that free Blacks enjoyed the same rights and privileges as whites who, by this time, were not generally encumbered by indentures—contracts binding one to work as an apprentice or servant for a specified period in payment of an obligation. But while the Constitution was silent on the treatment of free Blacks, both early congresses and the municipal government of the new capital placed restraints on their participation in civil and political activities. The First Congress decreed in 1790 that only white persons could become naturalized citizens of the United States. The Second Congress restricted membership in the militia to white males. A few years later, when Congress enacted a fugitive-slave law, it did not bother to protect free Blacks who might be falsely accused of being fugitive slaves.

In that same period, Benjamin Banneker, a free Black mathematician, astronomer and almanac-writer, helped Maj. Pierre Charles L'Enfant, the French engineer, survey the area that would become the District of Columbia. Whatever role Banneker played in executing the final plans for the city, it did not succeed in making his existence in the capital any easier than in his native Maryland. Indeed, the founders of the new city, members of Congress and those in other positions of influence went to extraordinary lengths to see to it that Blacks enjoyed none of the rights and privileges associated with citizenship.

In some ways, however, free Blacks in the District were better off than they would have been if Congress had not replaced the laws of Virginia and Maryland. When the District was first created, Congress permitted Maryland laws to continue in force in the segment ceded by that state, while Virginia laws prevailed in its former territory.

Soon afterwards, however, both states increased their control over the free Negro population. After a slave plot was uncovered in Richmond in 1800, the Virginia Assembly declared that any slave brought into the state and kept for a year had to be seized and sold, and the person who had brought the slave into the state was to be fined \$400. In 1806, Virginia decreed that any free Black who remained in the state for a year following his emancipation would forfeit his freedom.

Meanwhile, Maryland barred free Negroes from entering the state and remaining more than two weeks. At the end of that time the free Black was liable for a fine of \$10 for every week he remained in the state. If the person did not pay the fine, he was jailed and liable to be sold for a term sufficient to pay the fine and cost. From legislation such as this, precedents and experience were established that would facilitate the enactment of vagrancy laws during the Reconstruction era and peonage laws of a still later period.

But the laws of Virginia and Maryland did not long prevail in the District of Columbia. The Constitution of 1787 has assigned to

Congress authority to "exercise exclusive legislation in all cases" in the District. As plans for the District matured, Congress began to enact legislation affecting all of its residents, Black and white, slave and free, replacing the laws of Virginia and Maryland with laws of its own. Yet if the situation was improved, some inhabitants, especially free Blacks, had difficulty in appreciating it.

As with all other immigrant Blacks, those migrating into the District had been excluded from citizenship by the First Congress, which specified that only white aliens could become naturalized citizens of the United States. This did not prevent traders from bringing in slaves from Africa and the West Indies to sell on the lively markets of the District. Likewise, Blacks were excluded from service in the militia by an act passed by the Second Congress. Having performed valiantly in the War for Independence and in the critical years following the war, the 5,000 Black veterans watched with obvious dismay as Congress limited service in the militia to "free able-bodied white male citizens" between the ages of 18 and 45. It was indeed remarkable that only white men could defend a country whose independence had been won by men of many races and nationalities.

The District of Columbia did distinguish itself from its neighbor states in the way it permitted slaves to obtain their freedom. Emancipation was relatively easy—granted either because of heroic deeds, humanitarian owners, purchase or misrepresentation; once freed, residence for ex-slaves was permitted. Furthermore, Blacks who had been freed in other states could come into the District with relative ease. This made it possible for runaways to enter the District and "lose" themselves in the growing free Black community. It is small wonder that by 1860 there were 11,131 free Negroes and only 3,185 slaves in the capital.

But freedom did not solve all or even most problems. In early Washington, the free Black community was subject to what the late George Washington University Prof. Letitia Woods Brown, in describing the nation as a whole,

called "periods of harsh repression accompanied [by] explosions of prejudice. Even in interludes of relative calm, the pressure of community efforts to restrict and contain could be felt at all times."

One way to restrict and contain the free Black community was to disenfranchise it at the outset. Thus the Seventh Congress, meeting in 1801-1802, reached the conclusion without serious debate that no Blacks should vote in the District of Columbia; suffrage in City Council elections was restricted to "free white male inhabitants of full age who have resided 12 months in the city and paid taxes the preceding year." Likewise, only free white males were eligible to be mayor or to sit on the Board of Aldermen or the Board of the Common Council. Free Blacks, moreover, could not testify in court against white people or serve on juries. The Board of Aldermen and other officials were to "restrain and prohibit the nightly and other disorderly meetings, of slaves, free Negroes and mulattoes."

Especially reprehensible to free Blacks was the rigid registration system with its requirement of posting a bond for good behavior. Another galling requirement was that all Blacks be in their places of abode by 10 p.m. They vigorously contested the legality of these restrictive measures but without much success. One long-time resident, William Costen, a free Black, did get some relief when he refused to register and post bond, arguing that he was living in the District before the obnoxious laws went into effect. The court agreed that the board could not prescribe the terms upon which residents who already lived in the city when the laws went into effect could continue to reside. It could, however, apply the law to subsequent settlers. Even earlier free Black settlers, however, were required to be off the streets by 10 p.m.

Perhaps the principal reason that free Negroes were merely slaves without masters, as University of Maryland Prof. Ira Berlin refers to them, was that neither Congress nor the town fathers could conceive of Blacks except as slaves. While giving due attention to slaves and slavery, the framers of the Constitution gave no attention whatever to free persons of color. They merely bequeathed to the government of the new capital the onerous task of trying to establish a policy to deal with Black people who were not slaves, but who were denied citizenship and equality by white people at every level.

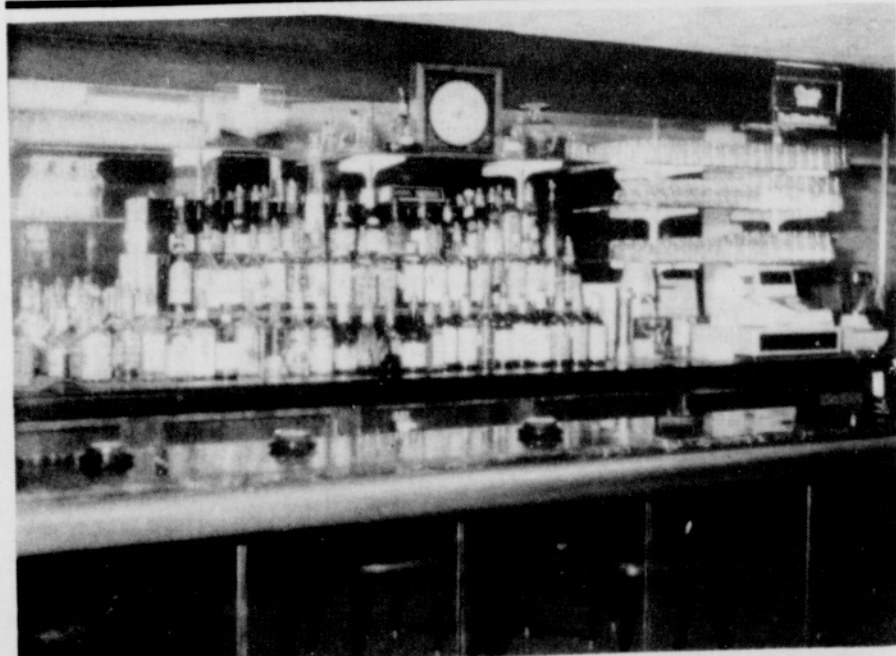
In failing to face the issue and to solve it where it had the authority to do so, namely in the Dis-

trict of Columbia, Congress sent a signal to all states and other jurisdictions that they could do whatever they wished to Blacks who were not slaves.

In barring persons who were free but not white from voting and holding office and in requiring them to register, post bond and be off the streets by 10 p.m., the city of Washington—with the blessing of Congress and the presidents—made a mockery of the democratic process and the principles of equality. This was as profoundly incongruous in a democracy as slavery itself, and it made it infinitely more difficult for a country to find its way, groping and halting, toward equality and justice for all.



IN SUPPORT OF THE SCHOMBURG—Ossie Davis, the renowned actor-writer-director, center, discusses fundraising plans for the Harlem-based Schomburg Center for Research in Black Culture with John P. Mascotte, right, chairman and chief executive officer, The Continental Corporation and with Howard Dodson, chief of the Schomburg Center. Mascotte was the host at a recent luncheon for close to a hundred corporate executives who were made aware of the Schomburg's goals at Continental's headquarters in the Wall Street area, as a part of the Continental Community Commitment Series. Davis, who is co-chairman of the Schomburg Commission for the Preservation of Black Culture, was the master of ceremonies. Founded in 1925 by Arthur Schomburg, a Puerto Rican historian of African descent, the Center is a part of the New York City library system and houses more than five million historical items available to the public. It is currently in a \$14.5 million, five-year fund-raising campaign that started in March, 1987.



On June 24th 1988, the Royal Esquire Club, at 1708 N.E. Alberta, Portland, Oregon opened its newly constructed downstairs lounge to its members and their guests. Jeff Parks, general manager of the establishment, observed the difficulty some of the senior members experienced climbing the stairs and hopes the new addition will make their visits more pleasurable!

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