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Interview

CWBR AUTHOR INTERVIEW: FREEDOM NATIONAL: THE DESTRUCTION OF SLAVERY IN THE UNITED STATES, 1861-1865

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Interview with James Oakes, Distinguished Professor of History and Graduate School Humanities Professor at the City University of New York Graduate Center

Interviewed by Michael Frawley

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Civil War Book Review (CWBR): Today, I'm discussing with Professor James Oakes his new published *Freedom National: The Destruction of slavery in the United States, 1861-1865*, which was recently awarded the 2013 Gilder Lehrman Lincoln Prize. Congratulations Dr. Oakes and thank you for joining us today.

James Oakes (JO): Thank you very much. It's a pleasure to be here.

CWBR: You review in your book the drive of Republicans to make freedom national since the 1830s. How did the Republican Party find such a level of freedom in the Constitution when the Democrats did not?

JO: Well, that's a long and complicated question. They went back to the records of the Constitutional Convention and to the records of the founding era and discovered to their own satisfaction. They were satisfied to discover that the founders had left an anti-slavery legacy that was more powerful than most contemporary historians actually believe was there and also that one wing of the anti-slavery movement, the Garisonian wing, belief was there specifically they saw in the language of the Constitution the repeated reference to slaves as persons rather than property and from that they deduced that the Constitution did not recognize slaves as property from the anti-slavery rulings of English courts

that were extremely influential in revolutionary America. They deduced that slavery could only be created by statutory or positive laws they called it and that in the absence of such statutory the universal presumption of the natural law was freedom since slavery was strictly a state institution. It could not exist anywhere outside the boundaries of a state that had slave codes on its books and created slavery by positive law this would have been true in all of the northern states. But, it was also true in all of the western territories and any areas where the Constitution itself was sovereign. There was positive law recognizing the existence of slavery again that meant not only the northern states that had abolished slavery but also the high seas, Washington D.C., the western territories. And, if properly followed that constitutional logic would lead to a series of policies that would as you put it and I put it in my book make freedom national and slavery merely local, a state institution, on the assumption that slavery was a weak and inefficient and backwards institution. The republicans, or antislavery people, assumed that once these policies were implemented the slave South was surrounded, not allowed to expand, no more new slave states, abolished in Washington D.C., suppressed on the high seas. All those things, once you do that, you surround the South with what they called according to freedom. Slavery would die of its own accord a natural death so the logical outcome of the policies associated with the doctrine of freedom national was that slavery would ultimately be extinguished. That's the language Lincoln used all the time. We wanted to put slavery on a course of ultimate extinction.

CWBR: Based on this plan do you believe that slavery could have ended as many Republicans seemed to hope, without war?

JO: I don't know. That's a hypothetical question and I've gone back and forth with it. I guess if I had to come down again, it's a hypothetical question, it's a counterfactual. I don't know, and nobody really knows, but I've gone back and forth about this with some friends who disagree. If pushed I would say I don't think it would work. I think they underestimated slavery's strength. I think they underestimated slavery's economic vitality and, also I'm not sure that how long it would have taken for the Republicans anti-slavery party to gain enough congressional strength to be able to implement that kind of policy to its fullest. So, it requires too many assumptions about the potential power of the Republicans in the national power of the anti-slavery northern party and of slavery's intrinsic weakness and its likelihood that it would die. But, that said, it's almost impossible to find a Republican who doesn't believe that slavery will be put to death if these policies are implemented you get different estimates.

Thaddeus Stevens said do this, implement these policies, and it will be gone in 25 years. Secessionist during the secession crisis said if we let the Republicans implement these policies slavery will be dead in 10 years. When Lincoln proposed these policies for the Border States, the policies of gradual abolition, his preferred time table was 10 years. But, Owen Lovejoy the anti-slavery Congressman, the abolitionist Congressman, from Illinois, said at one point during a speech in the 1850s, look we'll give you 25 years if you do this, just start it now and if it takes 25 years that's fine. In fact if it takes 50 years that's fine. So Republicans did uniformly believe that if you implemented these policies slavery would eventually die. But, I don't know if I really can say that I doubt that that would have happened, and I doubt that that would have happened based on not so much on my ability to see the counterfactual but because of what I saw happen in the Civil War. That is slavery did not die even under 4 years of intense overwhelming military bombardment by the north, and a concerted campaign of military emancipation alongside the policy of building according to freedom. Even with that I believe slavery would have survived the Civil War and I believe that's the position most Republicans eventually came to by the end of the war.

CWBR: During the war you show that Republicans still work within Constitutional limit when working to end slavery, especially in the Border States, how important was the reaction of slave holders in the Border States to Republican's emancipation plans?

JO: Well, the Republicans had two distinct emancipation plans. The Border State plan is often mistaken as the primary plan. So, that we get a certain positive trajectory that says the Republicans began by advocating gradual compensated emancipation and ended up by advocating universal uncompensated military emancipation. In fact, military emancipation was a distinct policy, and it was applied to the disloyal seceded states almost as soon as the war began and the other policy of pressuring the loyal slave states to abolish slavery was applied subsequently because it was a peace time policy. It couldn't begin to be implemented until Congress came into session for the first time during the war, full regular session, beginning in December '61. So, almost immediately at the moment Republicans hit the ground in December 1861, they began noticing the Border States were resisting. That there was a problem with the Border States and within a few months' time they had come to the conclusion that there was far less unionism in the Border States than they had believed. There would be and that they were going to have to pursue a much more aggressive policy to force those states to abolish slavery on their own. So, the reaction of the Border

States accentuated and accelerated the aggressiveness of the Republican policy with regard to the loyal slave states. But, it did not impede the development of the universal emancipation of military emancipation in the succeeded states. What changed over time was the relationship that Republicans understood between those two policies, that is going into the war, Republicans, all Republicans, all antislavery people, for decades had assumed that slavery was weak. Weak everywhere. Weakest in the Border States. That the Border States would be the first to abolish slavery and once it was abolished there it would seep further and further into the South as the intrinsic weaknesses of the system became more and more evident. The shrinking power of each new Free State, Border State transformed into a free state, further weakens the power of the slave states as a block, and they believed that it would start in the upper South and then move to the lower South. But, by the spring of 1862, they begin to reverse that premise. Having implemented a policy of military emancipation in the seceded states they began to say to the Border States you know you better start abolishing slavery quickly. Because if you don't, military emancipation will seep northward into the loyal Border States and slavery will be disintegrated by, as Lincoln put, it the mere friction and abrasion of war. So, I don't accept the standard interpretation that says Lincoln's concern for the Border States inhibited his acceptance of emancipation. He, in fact, had accepted military emancipation long before, months before, he made his first proposal for gradual compensated abolition in the border states and, if anything, the war accelerated and made more aggressive the approach to the Border States that would have been there in a naturally peace time situation.

CWBR: You show a Republican Party bent on ending slavery, but how widespread were these ideas among the general northern population? Does Lincoln's re-election show that they understood and supported emancipation as much as Congressional Republicans did and did the average American understand the Constitutional issues involved?

JO: I think more qualified historians than myself have amply demonstrated that in this period of American history all issues, all major political issues, all sources of political division whether it be the Bank of the United States, the internal improvements, or slavery were framed in constitutional terms. It was simply normal for Northerners and Southerners alike to frame all their arguments about slavery in constitutional terms and, it was universally insisted upon among republicans that they would never over step the bounds of the constitution by having the Federal government abolish slavery directly in the state where it was

already legal. That was simply understood across the board. It's almost impossible to find anyone in the United States in 1860 who believed that the Constitution allowed the Federal government to abolish slavery in a state where it already exists. So that is simply the consensus of pro-slavery and anti-slavery people, Democrats and Republicans. So all debate over slavery takes place within that consensus about the Constitution. So I would have to say after that long winded answer that the short answer to your question is yes, Northerners did understand the constitutional limits within which the debate over slavery took place.

CWBR: Can you explain how the impending end of the war impacted Republican plans, were Republicans really as nervous about slavery returning in a post war United States that did not have a Constitutional amendment that ended the institution?

JO: Yes, this was a surprising discovery for me. I actually began this book inspired by an event that was central to my last book which was the second meeting of Frederick Douglas and Abraham Lincoln that took place in August of 1864 when Lincoln looked he was going to lose his bid for reelection and he called Frederick Douglas to the White House for a second meeting and said to him looks like I'm going to lose and slavery is not yet dead. We need your help to organize a cadre of blacks who can move unnoticed through the South to inform as many slaves as possible that they are freed because once I lose and go out of office the Emancipation Proclamation process will end and Douglas did not dispute that and I remember when I first started thinking about that discussion between the two of them I said well if that's correct and Lincoln historians who say Lincoln freed all the slaves with a stroke of his pen by affixing his signature to the Emancipation Proclamation have got it wrong. That Lincoln himself did not believe he had done that and that side who claim that the slaves freed themselves, that slavery was deteriorating, and that no force on earth could have stopped the revolution from completing itself, they must have been wrong also if these two guys very smart guys meeting in August of 1864 in the closing year of the war are agreed that slavery wasn't dead and would survive the war if Lincoln and the Republicans were not re-elected. Then I was going to have to investigate that and see what was going on there and when I did I discovered that in the book I've just finished, I discovered that this was actually a widespread assumption among Republicans. That by late 1863 after the two anti-slavery policies had been implemented completely and fully the pressure on the Border States, the loyal slave states, to abolish slavery on their own. All those policies had been

implemented to put the pressure on them and not a single one of them had abolished slavery and military emancipation had been enforced at high tide beginning with the Emancipation Proclamation. Universal emancipation had been decreed, a whole cadre of emancipation agents had been sent through the South to entice slaves off their plantations. Blacks had been admitted into the Union Army by the tens of thousands and yet it looked like the North, the tide of the war, had changed with Gettysburg and Vicksburg in the summer of 1863. It looked like the tide had changed in favor of the North. The North was going to win the war but it also looked like by the end of the year again when republicans came back to Congress it looked as though the war would end with a northern victory but without slavery having been abolished and over the course of the next several months from December of 1863 to about March of 1864 Republicans debated among themselves what was the best way to get slavery thoroughly abolished and since all the various legislative proposals looked as though they ran up against the Constitution the only solution they could agree on was to re-write the Constitution. In March, in the spring of 1864, the Senate endorses the 13th Amendment. In June, the Republican Party endorses the 13th amendment in its platform and the House rejects it. The Democratic minority defeats it in the House and the Republicans go into the 1864 elections committed to that 13th Amendment thoroughly abolishing slavery everywhere. The other fear that I didn't see in my last book but came pouring out of the sources when I went through them this time was not only that most of the slaves would not actually have been physically freed by the war. The war would end with most of them still slaves but, also, the threat that once the war was over the Constitution would be restored, slavery would once again revert to the control of the states and the states would be free not only to perpetuate slavery but to re-enslave those who had ostensibly been freed by the war. This was a threat that was openly made by slave state representatives from the loyal slave states on the floor of Congress and virtually every speech made by every Republican in defense of the 13th Amendment said this will do two distinct things, it will end slavery everywhere in the United States and it will make the possibility of it being revived impossible so the fear of re-enslavement ,the re-establishment of slavery after a northern victory was a crucial aspect of Republican motivations in pushing for the 13th Amendment.

CWBR: Why do you believe that most people today do not seem much in the way of emancipation taking place before the Emancipation Proclamation, is it they myths that have grown up around Lincoln or have historians not gotten the

narrative correct?

JO: That's a tough question and the answer I give ultimately has to do with politics. That is, we should probably explain that one of the things I try to demonstrate in my book is that in the very earliest months of the war when Congress came into a special session five months ahead of schedule, in July of 1861, Republicans began emancipating slaves and that there was an emancipation clause in the First Confiscation Act and the orders for implementing that law were issued by the War Department on August 8th, 1861. From that date on you see emancipation spreading with the Union Army as it moved down into occupied areas of the Confederacy along the southern Atlantic coast and then in 1862 up the Mississippi Valley in Louisiana and ultimately up all the way into Tennessee and the areas occupied by Sherman and Grant's armies. So that by the time the proclamation is issued, tens of thousands if not hundreds of thousands have already been emancipated under the various policies implemented beginning in the summer of 1861 and yet even as even before the Emancipation Proclamation was issued all of that emancipating was obscured by the nature of the debate over slavery. I think the best answer I can give to why people in this secession crisis were saying disunion means abolition, and we are going to abolish slavery. All republicans are saying this despite the fact that they have been in charge of the abolition process in the Sea Islands in the late 1861 and in Louisiana in 1862. Despite that most republicans, began to say it was inconceivable to me that we would ever reach the point where we would emancipate all the slaves with the Emancipation Proclamation. I think the explanation for that has to do with the fact that in 1862 when they are implementing a universal policy of universal emancipation in the seceded states is an election year and the Democrats begin to say, look we said all along that this was the goal of this party, that this was an abolitionist party, not a unionist party. They don't really care about establishing, their primary goal is not restoring the union, the primary goal is abolitionizing the whole United States. Republicans respond by saying it was inconceivable to us that we would ever reach this point. This is entirely the product of unforeseen circumstances in the war and exactly the same thing repeats itself in the 1864 presidential elections when right after the Republicans have committed themselves to a 13th Amendment and once again Democrats begin to say, and say all through the election, you see this is what we told you were going to have, a war without end until the Republicans successfully destroy slavery. This is what they wanted all along and once again Republicans start saying no this was inconceivable to us we

never imagined. That's when you start hearing Lincoln say it was unimaginable to me that we would ever get to this point where we would be abolishing slavery. Everybody knew the war was caused by slavery but nobody could have imagined that the results were so fundamental and astounding. Well, in fact, everybody had imagined it but in the context of the political between northern Democrats and Republicans the Republicans are put in the position of having to deny the charge that they had been going after slavery all along. That was their primary motivation and in the process obscuring the fact that they have been going after slavery all along starting in the early years of the war. That's the best explanation I can have for the peculiar disappearance of all those emancipations in the first years of the war from the historical memory. It would take someone who's better equipped to study historical memory than I am to give a fuller answer.

CWBR: Professor Oakes, I appreciate you taking the time to sit and discuss your most recent work, *Freedom National: The Destruction of slavery in the United States, 1861-1865*.

JO: Thank you very much.