

O Say, Can't You See?—Why Legislating American Patriotism is a Slippery Slope

By

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Before anyone decides to draw their own misinformed conclusions about me (or the title of this article), let me set the record straight; I am very patriotic. Being the niece and cousin of veterans who have served in every military action since the Korean War, my love for service members and appreciation for their sacrifice is second to none. What I am not, is blind. I'm not blind to history, past or present, that would seek to ignore, diminish, or revise the experiences of African Americans and other people of color in the United States, and that is why I did not vote to mandate the playing of the national anthem at all sporting events in the state of Wisconsin.

My issue with the “Star Spangled Banner” has more to do with its lyrics and ideology of its author than any assessment of my (or any other American's) perceived patriotism. Quite frankly, if one was to assess and measure anyone's patriotism, they should begin with the author of the “Star Spangled Banner”, Francis Scott Key.

Key, a former lawyer and amateur poet, was born to massive slaveholding wealth in Maryland. When he penned the poem in September 1814, after the Battle of Fort McHenry, America had been at war for over two years. Key knew what America was fighting for—Northern and Westward expansion, continued interests in the transatlantic slave trade (Great Britain abolished slavery in 1807), and to establish itself as a world power; all of which would be achieved by the war's end. Consequences of the war of 1812 included: establishment of a separate Canadian state (with current borders intact), continued participation in the brokerage of enslaved people, and broken treaties with American Indian nations in the North West which paved the way for western expansion of the US.

Perhaps this is what Key meant when he wrote the fourth stanza, which says:

*And where is that band who so vauntingly swore,
That the havoc of war and the battle's confusion
A home and a Country should leave us no more?
Their blood has wash'd out their foul footsteps' pollution.
No refuge could save the hireling and slave
From the terror of flight or the gloom of the grave,
And the star-spangled banner in triumph doth wave
O'er the land of the free and the home of the brave.*

Enslaved people fought for both the Americans and British during the War of 1812. According to historian Alan Taylor, nearly five thousand enslaved Blacks took their chances with the freedom-promising British invaders during the War of 1812, providing strategic

intelligence, access to supplies, general labor, and even military might in the form of organized units of black marines serving under white officers (Taylor, 2013).

By his fifties, Francis Scott Key became an adviser to President Andrew Jackson, who was also a wealthy southern slave owner. According to Jamie Stiehm of *The Undefeated*, “Key was named the U.S. district attorney for the nation’s capital, where he prosecuted race and slavery laws to the fullest extent, even to the death penalty. He also aggressively prosecuted early abolitionists, who had founded the anti-slavery movement in 1833” (Stiehm, 2018).

Achieving political patronage for himself not being enough, Francis Scott Key was influential and eventually compelled Andrew Jackson to name his brother-in-law, Roger Taney, to his Cabinet and then as Chief Justice of the United States Supreme Court. Roger Taney, who is principally remembered for adjudging the Dred Scott decision in 1857, which determined that Dred Scott, who had lived in the free state of Illinois and the territory of Wisconsin did not entitle him to his freedom. In essence, the decision argued that, as someone's property, Mr. Scott was not a citizen and could not sue in a federal court. The majority opinion authored by Roger B. Taney also stated that Congress had no power to exclude slavery from the territories (thus invalidating the Missouri Compromise of 1820) and that African Americans could never become U.S. citizens.

Even in the present age, the lyrics of the “Star Spangled Banner” still speak to the “peculiar institution” of slavery and the “otherness” historically levied upon African Americans. When we assess patriotism, we often do so by counting the number of and size of American flags displayed and through the knowledge of words and songs dedicated to memory. But to honor and understand the truest form of patriotism, we must judge it by telling the truth of America. Acknowledging that we are an imperfect union of deeply complex personalities, and that we have never truly reconciled with the fact that race (and racism) has had a prominent place within the making and maintenance of our nation.

This is why James Armstrong carried the American flag across the Edmond Pettus Bridge on Bloody Sunday; why John Carlos & Tommy Smith raised their fists in protest during the Olympics in 1968; it is why Colin Kaepernick took a knee; why Congressman James Clyburn introduced legislation to change the national anthem to “*Lift Ev’ry Voice and Sing*”; and why I voted “no” last Wednesday on the assembly floor. Because we, the people must develop within ourselves our own authentic relationship with this country and from it exude our own definition of patriotism, anything else would be un-American.