

**Discussion of the
lack of
Documentary Evidence of Paternity
of the Hemings Family**

**for consideration by
The Monticello Association**

by
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In order for the descendants of Sally Hemings to become members of The Monticello Association, they must demonstrate with clear and convincing evidence that they are in fact lineal descendants of Thomas Jefferson. For most applicants, this means furnishing a birth certificate that shows descent from a parent who can be traced through genealogical records back to Thomas Jefferson. In practical terms for most of us to be considered to be acknowledged “lineal descendants” of Thomas Jefferson, generally that has meant being a descendant of one of his two daughters, Martha (who married Thomas Mann Randolph), and Maria (who married John Wayles Eppes), since Martha and Maria are the only children acknowledged by Thomas Jefferson who survived to adulthood and who could bear additional offspring. If in fact, however, any persons presented themselves for membership and could provide authentic evidence that they were descended from an illegitimate child of Thomas Jefferson, that person should be entitled to membership.

Obviously, proof of descent for descendants of an illegitimate child is much more difficult than for a legitimate descendant. In modern times, even an illegitimate child has a birth certificate, which may, or may not, indicate who is the natural father. In addition, an illegitimate child may be acknowledged by the father in a formal document or may be certified through other means specified by law, including DNA tests. Although The Monticello Association presumably might accept any members its wishes and might not be restricted by law to the kinds of evidence it will accept as proof that the applicant is actually a lineal descendant of Thomas Jefferson, the criteria applied in the courts surely must be considered a just and reasonable way for The Monticello Association to judge paternity, and one that would produce a determination that should be fair for all parties concerned. On the other hand, the determination of property rights, such as the right to burial in our family graveyard, is a different matter, where strict legal proof of property ownership is required.

Of course the ancestors of the descendants of Sally Hemings, who are alleged to have been the children of Thomas Jefferson, were born into slavery, and there are no public documents, such as birth certificates or other records, that would support their connection to Thomas Jefferson. Mr. Jefferson never acknowledged any of them as his children, and the DNA tests which have been conducted so far on living descendants of Sally Hemings are inconclusive, since those tests only indicate that any one of eight or more Jeffersons in the vicinity of Monticello could have been the father of Sally Hemings’ last child, i.e. Eston, but provides no information on the father(s) of her other children. Furthermore, DNA tests have not been performed on the descendants of another alleged son of Thomas Jefferson, Beverly Hemings, because his descendants are unknown. And finally, the Hemings family has refused to allow DNA tests to be performed on the remains of William Hemings, a deceased son of a third alleged

son, Madison Hemings, whose grave has been found and upon whom scientific testing might yield some important results. (Please see the DNA article in the forthcoming book of The Thomas Jefferson Heritage Society for more detail).

In our present stage of technology, none of these DNA tests are, or could be, specific in determining if Thomas Jefferson himself was the father of any of these alleged sons of Sally Hemings. At most, DNA tests of later generation males can only demonstrate with high probability whether their ancestor was or was not a lineal descendant in the Jefferson family male line. Those tests, employing only the Y chromosome, cannot specifically identify the father out of the whole family of Jefferson males living at the time who might have had access to Sally Hemings. Thus, a negative DNA test using only the Y chromosome can absolutely determine that a male descendant is not a part of a given family, but a positive test cannot absolutely determine if any particular male within the family was the father. Only a test using all the chromosomes of both the father and his child can produce such a specific determination, and at this time this particular test among later descendants, as compared to being between father and son or mother and daughter, cannot be precise from a clear and convincing perspective. That means that with the kind of DNA testing performed on the present-day descendants of Eston Hemings, which only includes a Jefferson Y haplotype, any Jefferson male living at the time of Eston's conception (as many as 25 of them) could have been the father, since they possessed that same Y haplotype, and the results would be exactly the same as it would be if Thomas Jefferson had been the father.

For these reasons, there exists no reliable scientific or documentary evidence to demonstrate conclusively that the Hemings descendants are in fact descendants of Thomas Jefferson. The only "evidence" that relates to the question is the oral tradition from several branches of the Hemings family and some rather ambiguous circumstantial evidence. To complicate the matter further, the different strands of family oral tradition do not agree with, or have been conclusively proven wrong by, the scientific DNA evidence. For example:

The acknowledged descendants of Thomas Jefferson believed that the children of Sally Hemings were fathered by one of the Carr brothers, who were sons of Thomas Jefferson's sister, but the DNA tests proved this to be wrong with respect to Eston, though this may be right concerning the other children of Sally Hemings.

The descendants of Eston Hemings believed that Eston was fathered by an uncle or nephew of Thomas Jefferson, and the DNA tests demonstrated a high likelihood (in one test) that he was indeed fathered by some male-line member of the Jefferson family, although this test cannot indicate which Jefferson.

The descendants of Tom Woodson believed that he was fathered by Thomas Jefferson, but the DNA tests demonstrated conclusively (in six tests) that he was not fathered by any Jefferson. Moreover, there is not even any substantial evidence that Tom Woodson was the son of Sally Hemings, other than the strong oral tradition of the Woodson family itself and the statements published by the scandalmonger James Callender.

The descendants of Madison Hemings believe Madison was fathered by Thomas Jefferson, but there are no living male line descendants of that branch. Descendants of Madison's collateral descendants currently refuse to have William Hemings, Madison's son, scientifically DNA tested. There are therefore no scientific tests that would

demonstrate that Madison was fathered by any Jefferson, and the family is in the position of making a claim but deliberately preventing any action that might support or discredit that claim.

It is therefore evident that there exists no substantial credible evidence such as is ordinarily acceptable to prove paternity that would demonstrate clearly and convincingly that the Hemings descendants have Thomas Jefferson as an ancestor. There are no acknowledgments of parentage by Thomas Jefferson. There are no official records that would document parentage. There is no mention of a liaison by any of the various relatives of Jefferson, many of whom lived at Monticello, nor by any of the uncounted visitors, and none wrote a note to anyone, in or outside the family, about what would have been the single most dramatic aspect of Jefferson's life. There are no documents or writings of any kind written by any of the children of Sally Hemings that would support the allegation that Thomas Jefferson was their father. There exists only an interview of Sally Hemings' son, Madison, written by a newspaper reporter 47 years after Jefferson's death, in which Madison is reported to have asserted this claim, but the interview contains no direct quotations by Madison, and it apparently was not certified by him. Moreover, this interview cites no sources for the information that Madison reportedly provided, even though all of it that was relevant to settling the question of paternity could not have been part of Madison's direct knowledge and had to come from some other source.

Therefore, the problem for the Hemings descendants becomes, how can they assert a claim to be recognized as descendants of Thomas Jefferson when there is no ordinarily acceptable evidence to support that claim?

In lieu of such ordinarily acceptable evidence, the Hemings descendants have asserted their claim based on such evidence as it exists today. They assert that the slave laws of the time were so written as to prevent their forebears from making and keeping records that would support their claim, such as birth certificates and privately written documents. They suggest that Thomas Jefferson would never have acknowledged these children as his own, because that would have opened him to the charge of miscegenation, hence it is unreasonable to ask for such evidence. Although the burden of proof is on the Hemings descendants when they seek membership in The Monticello Association, they complain that they are unable to furnish ordinary proof, and that therefore the requirements should be altered to permit their admission on the basis of such proof as they have.

Unfortunately for this claim, there is a great deal of equally valid evidence from the acknowledged Jefferson family itself that contradicts the evidence asserted by the Hemings family. Thomas Jefferson was accused of having fathered these children in the public press, but he denied it in private correspondence. His daughter, Martha, denied Sally Hemings' children were her father's children. His grandson, Thomas Jefferson Randolph, denied it and asserted that he heard Peter Carr confess that he was the father of Sally Hemings' children. Ellen Coolidge, Jefferson's granddaughter who lived at Monticello for many years, in a famous letter brought to public attention at a Monticello Association meeting by Harold Coolidge in 1974, gave a first hand account of the absence of any such liaison. Jefferson's overseer, Edmund Bacon, denied Thomas Jefferson was the father, stating that he saw the real father coming from Sally Hemings' room early in the morning on several occasions.

Thus, The Monticello Association is faced with the problem of contradictory evidence, with the ancestors of the acknowledged descendants of Thomas Jefferson, and statements by his overseer, all denying the claim, and only the enemies of Thomas Jefferson and perhaps one son of

Sally Hemings, together with other persons in no good position to know, asserting the claim. There is also a considerable amount of circumstantial evidence, but none of it is clear and convincing or would even pass a preponderance of the evidence test. All of it has been refuted with equal or better justification by the acknowledged lineal descendants.

The question thus becomes, shall The Monticello Association admit the Hemings descendants into membership based on an evaluation of evidence that is not clear and convincing? Shall The Monticello Association accept the fact that this evidence could not, under the circumstances, be produced, and will it accept other kinds of information, such as oral history that has largely been disproved by scientific DNA evidence, as sufficiently convincing?

Under ordinary circumstances, petitioners seeking membership in The Monticello Association would not be accepted if their evidence of descent from Thomas Jefferson were insufficient. The descendants of Eston and Madison have no better claim based on family tradition than do the descendants of Tom Woodson, yet Tom Woodson was proven conclusively not to be a son of any Jefferson by the DNA results. The Hemings descendants assert, however, that even if they were, in unquestioned reality, descendants of Thomas Jefferson, there nevertheless would not and could not be any evidence that would meet The Monticello Association's requirements, and that this preventive set of circumstances was brought about by the slave laws in effect at the time.

But is this really so? Does the evidence, such as it is, support the possibility that Thomas Jefferson was the father of Sally Hemings' children, but the slave laws have operated in such a way as to eliminate all substantial evidence of the fact? Is it a fact that, but for the slave laws and their preventive action, there would be no question that Thomas Jefferson was the father of Sally Hemings' children?

The only way to answer these questions is to examine these laws, and to determine whether they did indeed prevent the Hemings descendants from possessing sufficient documents and other kinds of evidence that would demonstrate their descent from Thomas Jefferson.

While it is true that the slave laws did indeed mean that there were no public records of slave births or of the parentage of slaves, and that the existence of laws against miscegenation meant that no white man would be likely to make a public record of his fathering children by one of his slaves, why are there no Hemings descendants able to claim that there are other kinds of private records, such as letters, diaries, family Bibles, etc., that provide evidence that Thomas Jefferson was the father of Sally Hemings' children? But it is asserted that here again, the slave laws forbade teaching slave children how to read and write, and therefore also prevented the existence of these kinds of records. But how valid is this claim, especially with reference to the children of Sally Hemings?

As the following information reveals, the slave laws did not prevent any Hemings child from learning how to read and write. In fact, the laws against teaching slaves to read and write were carefully observed only later, after scares of rebellions or news of Caribbean slave uprisings were described in the newspapers. Nevertheless, the Hemings family claim that the slave laws were deliberately designed to prevent the possibility of any descendants of slaves with children by slave owners from having a claim on inheritance of property; and also to prevent slaves from learning how to read and write and thus record the births of their children with the state, their ancestry, etc. Moreover, under the laws of the state of Virginia, Thomas Jefferson allegedly would have committed a felony and could have been punished for admitting to miscegenation.

The alleged affair was carried on while he was President of the United States and it may still have been a felony while he was an ex-President. For these reasons, the Hemings' assert that they have no records, and could not possibly have records, to prove their descent from Thomas Jefferson.

Under the Revised Code of Virginia 1819, it was an unlawful assembly for white persons to gather with Negroes outside their own plantation. The purpose of this statute was to prevent teaching Negroes to read and write. The law further prohibited slaves or freed Negroes from assembling together. VA Code 1819, C. 111 Sec. 15. A white person was punished for intermarrying with a Negro or mulatto, bond or free. Punishment was six months imprisonment with a fine of \$30.00. Code 1819, C.106 Sec. 22. This statute actually dates to 1753 and was reaffirmed on at least five occasions prior to its adoption in 1819. Later the statute made marriages between white persons and Negroes "absolutely void." Although punishment was previously for intermarriage, it appears that the marriage itself was valid until adoption of the 1849 provision. VA Code 1849, C. 109, Sec. 1. The statute which makes miscegenation a felony dates only from 1924, so Thomas Jefferson was not in jeopardy on this point.

It is unclear whether the statutes that prohibited teaching slaves to read and write covered activities occurring solely within the grounds of Monticello. But even if they did, they apparently did not have that effect. For example:

Madison was freed by Jefferson's will in 1826, when Madison was 21 years old. He lived thereafter as a free man, without any prohibition against learning to read and write, and he stated in the newspaper interview he had in 1873 that he did know how to read and write. According to the interview, he said, "I learned to read by inducing the white children to teach me the letters and something more; what else I know of books I have picked up here and there, till now I can read and write." From this, we might assume that Sally Hemings was probably illiterate, else she probably would have taught her children to read herself. But at least one of her children was literate, and probably the others also.

Eston's ability to read and write is not known, though it is likely he learned his letters the same way Madison did. The slave laws would not have prevented Eston from learning to read and write, anymore than they prevented Madison. Both lived for a time in Charlottesville but then went to Ohio, which was a "free" state. Their children would have been born free and raised without any prohibition against education. There is no evidence that the necessary documents to establish genealogy could not have been maintained by these two families.

Robert and James Hemings, brothers of Sally Hemings, were freed by Thomas Jefferson in the mid-1790's. Both of them could read and write. There is no evidence that either of them left any kind of records that would establish the paternity of Sally Hemings' children.

In an article in the July 4, 1999 edition of the New York Times, Barbara Heath, director of archaeology at Poplar Forest, points out that many of the Jefferson family artifacts and those of the slaves were found mixed together in a large refuse deposit in the kitchen yard. The mixing of debris suggests the "informality and intimacy" existing in the plantation household, she says. It is probable that the Jefferson's and their slaves ate the same food and used some of the same dishes to prepare it. "We've learned the slaves had some control over their lives and some privacy,"

says Ms. Heath. Evidence shows the slaves earned money for extra work, like digging out the sunken lawn or selling poultry to Jefferson. The many padlocks and keys found on the site suggest that they were able to accumulate valuables, and lead shot indicates they had access to guns and supplemented rations by hunting. Fragments of slate suggest that slaves who knew how to read tried to teach others." Thus, it is evident that there was considerable interchange between the slaves and the Jefferson family, and the slaves easily could have learned to read and write, and could have left behind written records in the form of letters, diaries, etc.

The following letter was written in 1818 at Poplar Forest by Hannah, Thomas Jefferson's cook. A facsimile of the letter is reproduced on page 119 of the book, "Poplar Forest & Thomas Jefferson" (Corporation for Thomas Jefferson's Poplar Forest, 1993) .

November 15th 1818

Master. I write you a few lines to let you know that your house and furniture are all safe as I expect you would be glad to know. I heard that you did not expect to come up this fall I was sorry to hear that you was so unwell you could not come It greive me many time but I hope as you have been so blessed in this that you considered it was god that done it and no other one. We all ought to be thankful for what he has done for us. We ought to serve and obey his commandments that you may set to win the prize and after glory (run?) Master I doubt my ignorant letter will be much encouragement to you as know I am a poor ignorant creature, this leaves us all well

adieu, I am your
humble sarvent
Hannah

This poignant letter serves as definite evidence that some of Jefferson's slaves could read and write. We would expect those who enjoyed the advantages associated with being house servants and tradesmen were also encouraged to learn how to read and write. For example, Peter Fossett, one of Jefferson's slaves, remarked in a newspaper interview, "Mr. Jefferson allowed his grandson to teach any of his slaves who desired to learn, and Lewis Randolph first taught me how to read." (New York World, 30 Jan. 1898). Thus, there is ample evidence that the children of Sally Hemings were perfectly capable of leaving behind written records of their ancestry in a family Bible or in letters or similar written records. But these records do not exist and cannot be reconstructed now.

The letter of Hannah suggests another kind of record that is missing. Hannah's letter survives because it was sent to Thomas Jefferson, and he saved just about every piece of correspondence he sent and received throughout his lifetime. But we might wonder, if he were the father of Sally Hemings' children, why is it that Beverly and Harriet, having left Monticello several years before their alleged father died, never wrote to him to let their "father" know how they were getting along? It seems reasonable to assume that if Thomas Jefferson were really their father, they would have at least dropped him a note from their new place of abode to let him know they arrived well. And we know that if they had, Jefferson would almost certainly have kept it amongst his papers.

While it is generally true that slaves could not read nor write, it was not true of the Hemings. In fact, their ability to read and write was almost surely part of the reason why any of them were freed, since the ability to function independently was an important factor which

Jefferson considered in granting them their freedom. Although the slave laws did prevent the establishing of public records of the births and lineage of slave children, if the intent was also to prevent their learning to read and write, they were completely ineffectual in the case of the Hemings children. No one has suggested that Monticello was ever searched or that there was a fear it might be searched to enforce a prohibition against slaves learning how to read and write, nor is there any suggestion that this was the practice at that time.

Based on this review of the circumstances surrounding the lack of proof of lineal descent, it is apparent that there is no substantial evidence that Thomas Jefferson was the father of Sally Hemings' children and there were no family records of his parentage, even though there was no legal restriction or otherwise preventing the existence of such records. Reason tells us there was no such information about Thomas Jefferson to communicate. There are no examples where these "slave law" arguments have ever been used to overturn a current law concerning paternity or property rights.

The only thing supporting these allegations are DNA tests that cannot identify a specific Jefferson male as the father; family oral traditions, the strongest of which have been proven wrong beyond a reasonable doubt; rumors and gossip that are the products of Jefferson's political enemies; and circumstantial evidence that is easily refuted.

We sympathize with the hopes of Hemings descendants who rely upon handed-down stories whose sources are lost in the misty fogs of the past, and whose assertions are not unlike those of many others who have attempted to identify their family origins with a great man whom they would like to claim as their ancestor. Admission of the descendants of Sally Hemings into The Monticello Association might be viewed as a symbolic acknowledgment of the truth of the charges made by the enemies of Thomas Jefferson. Our loyalty to our own family and heritage, and our pledge to uphold the name and honor of our acknowledged ancestor Thomas Jefferson, requires that we not accept the flimsy grounds upon which the Hemings petition is lodged.

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