Slavery, Sectionalism, and the Constitution of 1787

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Because the conflict between slavery and liberty drives to the heart of the meaning of the United States, questions involving slavery, the Constitution, and the founders continue to generate heated but frequently trite debate. With a presidential election looming, it is all but certain that politicians and pundits will be asked about race, slavery, and the founding.

1. Map of East and West Florida, Georgia, and Louisiana, engraving by John Lodge (London, 1781). Courtesy of the American Antiquarian Society, Worcester, Massachusetts.

Their responses are predictable. Pundits on the far left frequently claim that the Constitution of 1787's treatment of slavery amounted to a betrayal of the American Revolution's promise of liberty and equality. In this reading of the Constitution and slavery, the Founding Fathers were petty hypocrites who sacrificed the Revolution's promise of freedom for all on the altar of self-interest and racism. While liberals, Democrats, and the left more generally prefer to put off discussions about race, slavery, and the founding, conservatives have embraced the challenge with zeal. Informed by the demands of Christian nationalists and the precepts of American exceptionalism, pundits and politicians on the right have turned the founders into demigods, conflating the Declaration of Independence and the Constitution into a single document, and then elevating both to sacred text. Indeed, nary a week passes without some conservative politician, pundit, or celebrity attributing authorship of the Constitution to God or Jesus. "Our Bible and our Constitution both come from God. They are both sacred scriptures," proclaimed conservative media superstar Glenn Beck in his applause line in February, while stumping for presidential candidate Ted Cruz. Conservatives and Christian nationalists who have adopted these precepts worship the Constitution as a divinely inspired, sacred text. GOP politicians, fearful that they cannot win an election without the base's support, readily affirm these essential truths.

Despite ample evidence to the contrary, many conservatives continue to insist that the founders were committed abolitionists who directly or indirectly abolished slavery. As presidential candidate Michele Bachmann erroneously and embarrassingly claimed in 2011, "the very founders that wrote those documents worked tirelessly until slavery was no more in the United States." In the same vein, conservatives incorrectly but fervently maintain that the Constitution inevitably put slavery on the road to abolition, a claim that requires one to ignore nearly the entire political history of the United States from the Revolution through the Civil War. These understandings of the founding and the Constitution reflect the ideological convictions of their proponents, wishful thinking, and ample amounts of cynical opportunism. They possess, however, no grounding in historical reality.

A careful analysis of the Constitution produced by the founders in Philadelphia in 1787 demonstrates that it was neither wholly antislavery nor wholly proslavery. Nor was it solely the product of a singular group of demigods or hypocrites, acting in a singular moment in time. The Constitution of 1787—like nearly every other significant outcome of the American Revolution—was the product of prolonged and contentious conflict, debate, and accommodation. Conflicts and debates about slavery and government preceded the Philadelphia convention by decades and continued well into the 1860s. Likewise, the Constitution's provisions regarding slavery were the product of a series of conflicts, accommodations, and compromises. The emerging sections were badly divided before and after the Philadelphia convention, and voters, politicians, and delegates from both sections failed to

obtain all that they might have sought when it came to slavery. Opposition from northerners produced a Constitution that stopped short of creating a slaveholders' republic or union, whose primary purpose was to protect and promote the interests of slaveholders. But at the same time, the demands of southerners produced a constitution where slavery's existence in some states was euphemistically acknowledged, where slaveholders were recognized as a powerful interest, and where slave states and slaveholders were granted distinct privileges.

2. In the Chesapeake region from the 1760s through the 1780s, free and enslaved blacks challenged slavery, economic changes undermined the region's plantation system, and the emergence of political ideologies opposed to slavery put slaveholders on the defensive. Nonetheless, by the late 1780s, slaveholders, the system they maintained, and white supremacy emerged from the American Revolution stronger and more dynamic than ever. Beginning in the 1790s, the Chesapeake plantation system would spread rapidly to the trans-Appalachian West, while the sons and slaves of Chesapeake planters established the first wave of cotton plantations in the Georgia and South Carolina interior, forming the basis for slavery's later expansion into the Cotton Kingdom.
"A Map and Chart of those Parts of the Bay of Chesapeak York and James Rivers," engraving by John Lodge (London, 1781). Courtesy of the American Antiquarian Society, Worcester, Massachusetts.

The Constitution included a series of compromises involving slavery. Those compromises added an element of complexity to the Constitution that defies any effort to reduce it to Twitter-sized proslavery or antislavery soundbites that implicate or exonerate the founders. Within those complex compromises, slaveholders gained certain, specific privileges, most importantly the three-fifths clause, the fugitive slave clause, and the international slave trade clause. More broadly, contemporaries agreed that the Constitution restrained the federal government from taking action against slavery in the states where it already existed. At the same time, however, voters and politicians agreed that the Constitution permitted federal action when slavery was a national issue or a national matter (rather than merely a state issue or state matter). The Constitution also created a republic that acknowledged slavery's existence in some states. It stopped short, however, of making the United States a slaveholders' republic, as was the case in the southern states, which possessed state governments whose primary purpose was to protect and promote the interests of slaveholders. The Constitution also failed to explicitly define slaves as property, or to identify slavery as a race-based condition. Finally, the Constitution deferred to normal political processes, the manner by which the federal government would use its powers regarding slavery. Even if the government *could* act against slavery, the decision to do so would be required to move through normal political channels: passage of a law by Congress and the president.

Overall, the Constitution produced by the fifty-five delegates in Philadelphia in the summer of 1787 recognized the existence of slavery as a powerful sectional interest and granted slaveholders important privileges. At the same time, it allowed for important state and federal action against slavery, and stopped short of constitutionally establishing the United States as a slaveholders republic or union, whose paramount purpose would be to protect and promote the rights and interests of slaveholders. How that came to pass involved far more than fifty-five demigods or hypocrites meeting in Philadelphia in the summer of 1787.

Prelude to the Philadelphia Convention: War, Revolution, and Slavery, 1774-1787

As American independence turned into multiple American Revolutions in the 1780s, Americans black and white, northern and southern, found themselves badly divided over slavery. In the wake of the Imperial Crisis, the War for Independence, and the American Revolution, ordinary people and sympathetic elites in the North seized the Declaration of Independence's thundering phrase "that all men are created equal." In the process, they fashioned a decidedly egalitarian ideology that elevated equality, personal and family independence, and democratic self-government to the highest ideals of republican government and society. Middling whites and sympathetic elites used these egalitarian ideologies to chip away at hierarchy and privilege in the North in principle if not always in practice. In doing so, they opened crucial spaces for slaves, free blacks, and antislavery whites to claim natural rights for

enslaved blacks, and to begin the process of state-level abolition. Across the North, state-level abolition was ideologically grounded in free and enslaved black claims to the natural rights claimed by whites. By the time the Philadelphia convention met to forge a new constitution, every northern state except for New York and New Jersey had passed legislation that provided for at least the gradual abolition of slavery in their states (New York and New Jersey would do so in 1799 and 1804 respectively). By 1787, even when northern whites denied black claims to equality and citizenship, they generally accepted the legitimacy of black claims to freedom. White northerners also generally agreed that enslaved blacks possessed a natural right to freedom, even if slaveowners possessed competing and equally valid property rights.

3. "The Looking Glass for 1787: A House Divided Against Itself Cannot Stand," etching of the adoption of the Constitution (1787). Courtesy of the American Antiquarian Society, Worcester, Massachusetts.

In the South, the situation was markedly different. Slaves, free blacks, and antislavery whites (typically small groups of Baptists, Methodists, and Quakers) were simply no match politically for ordinary whites heavily invested in racial subordination, or in the South's ruling class, planters whose wealth and place in society was grounded in slavery. For southern politicians, the purpose of government had long been to empower the gentry. The gentry then governed those beneath them according to their race, gender, and rank. Through the Imperial Crisis, war, and revolution, southern elites met popular challenges to their rule and authority—from both black slaves and non-gentry class whites—in various ways. Southern slaveholders used the Revolution's emphasis on property rights to blunt popular attacks on slavery and gentry political power. They emphasized white supremacy and insisted that free blacks and whites could never live together peacefully in the United States. When pressed by lesser whites for democratic reforms, southern planters created an imagined gentry of all white men, emphasized the authority and mastery that all white men were to exercise over all black people, and wrote protections for themselves as a class into state constitutions and laws.

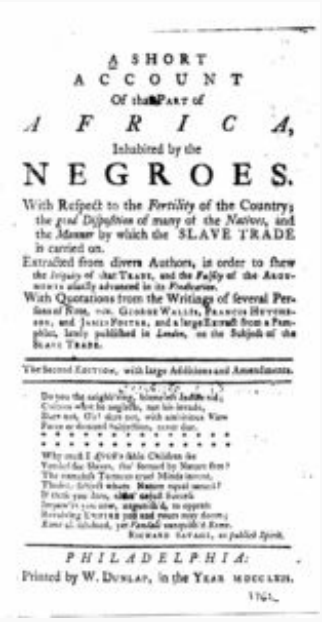
In the chaos and ferment of imperial crisis, war, and revolution, some slaves were able to take advantage of circumstances to gain individual freedom for themselves. Overall, however, efforts to abolish slavery at the state level in the South got nowhere. In the Chesapeake states of Virginia and Maryland, upwards of 10,000 slaves managed to gain their freedom during the war. In Georgia, perhaps one-third of the enslaved population managed to escape during the war, as did thousands in South Carolina. Slavery nonetheless remained the singularly most important institution in the slave states, and white southerners fiercely fought against any suggestions that their individual state should enact some type of gradual abolition plan. In addition, with the war's end in 1781, southern whites began the process of reconstructing their slave societies and re-asserting white supremacy with force, violence, and terror. Escaped slaves in places such as South Carolina and Georgia were hunted down and either killed or returned to slavery. While some states such as Virginia passed laws allowing for individual slaveowners to free slaves, in general, southern states passed new laws that increased the power that slaveowners and other whites wielded over blacks, and made it more difficult for conscientious slaveowners to free slaves. By 1787, southern whites had met and bested efforts to disrupt and dismantle the slave societies of the South.

Between 1765 and 1787, southern whites and slaveholders confronted a shifting array of challenges to slavery. They responded by fighting strenuously to maintain their sovereignty over slavery as an institution, and their claims of mastery over black people as individuals and as slaves. Through it all, they also insisted on protecting their interests and the basis of their power: slavery. Southern slaveholders and whites expected nothing less from the delegates gathered to write a new constitution in Philadelphia in the summer of 1787.

Slavery, Sectional Differences, and Constitutional Compromises at the Philadelphia Convention

Initially, slavery played no real role in the determination of national-minded elites such as James Madison, George Washington, and Alexander Hamilton on the need for a new national government. The immediate goal of the Philadelphia convention was to create a government powerful enough to maintain the two great gains of the American Revolution: independence and republican forms of government at the state level. At the same time, politicians who supported the Philadelphia convention hoped that a more powerful government would prove able to exact more favorable commercial treaties from European powers. While many Americans today assume that the United States was predestined to become a stable, global superpower, the fifty-five delegates faced an entirely different situation. In 1787, the United States was an incredibly diverse continental confederation consisting of thirteen independent states, two very different sections, and multiple regions (New England, Middle States, Upper South, Deep South, and trans-Appalachian West). These United States were weakly united in an ill-defined "union," and governed by a Confederation Congress that exercised no real power. Native Americans, African Americans, and European powers all threatened invasion or rebellion. Sectional and regional differences perpetually placed the union on the verge of disintegration. The weak, ineffective central government seemed to foster the emergence of anarchy and tyranny in the states. Finally, the weak, discordant union enjoyed no respect from European powers; shut out from the lucrative European and Caribbean markets, American commerce and its economy languished in the 1780s.

Despite vast disagreements that separated politically active white male voters, nearly all agreed that union of some sort was necessary to maintain independence and republican forms of government at the state level. As the delegates understood their task, it was to forge a workable central government that would preserve republican government and independence for a vast continental union in a hostile world, while simultaneously negotiating commercial treaties to alleviate the painful, post-war economic depression.


A SHORT
ACCOUNT
Of that PART of
AFRICA,
Inhabited by the
NEGROES.
With Respect to the Fertility of the Country; the good Disposition of many of the Natives, and the Manner by which the SLAVE TRADE is carried on.
Extracted from divers Authors, in order to shew the Iniquity of that TRADE, and the Folly of the ARGUMENTS usually advanced in its Production.
With Quotations from the Writings of several Persons of Note, viz. GEORGE WALLIS, FRANCIS HUTCHESON, and JAMES FOSTER, and a large Extract from a Pamphlet, lately published in London, on the Subject of the SLAVE TRADE.
The Second Edition, with large Additions and Amendments.
PHILADELPHIA:
Printed by W. DUNLAP, in the YEAR MDCCLXII.

4. Title page, *A Short Account of that Part of Africa, Inhabited by the Negroes*, by Anthony Benezet, second edition (Philadelphia, 1762). Courtesy of the American Antiquarian Society, Worcester, Massachusetts.

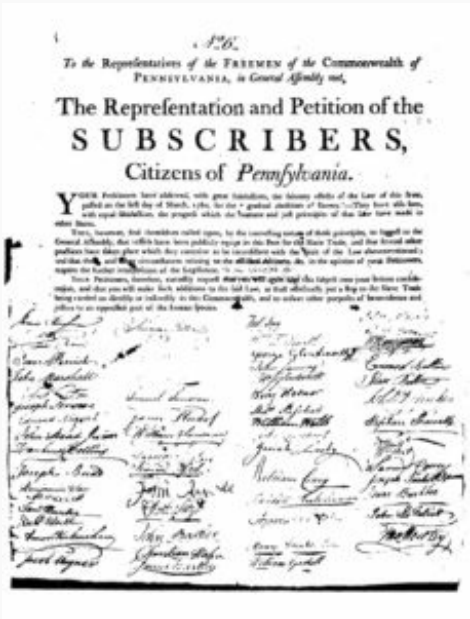
While slavery and sectional interests were central to all of these issues, the personal proclivities of the delegates had little bearing on the ways in which they addressed the realities of slavery. While the delegates to the Philadelphia convention assumed to themselves the authority to draft a new constitution, their handiwork had to be ratified in state-level ratifying conventions. That meant that any constitution drafted in Philadelphia had to pass the scrutiny of voters and state-level politicians at home. The necessity of ratification at the state level severely shaped how the Philadelphia Constitution addressed slavery.

For one, state-level ratification meant that any provision for abolition at the national level was politically impossible. Many northern voters and politicians—along with perhaps a few prominent southern founders such as George Washington—would have endorsed a constitution that provided for the eventual abolition of slavery. Such considerations never even made it to discussion. Southern delegates to the Philadelphia convention made clear that voters and politicians in the southern slave states would surely reject any constitution that allowed for any kind of federally directed emancipation, in any form. Black slavery was simply too important to white social, political, and economic life in the southern states. In the late 1780s there were nearly 600,000 slaves in the southern states. Those 600,000 slaves accounted for roughly 40 percent of the section's overall population. In the politically and economically powerful regions of the southern states where slavery was most entrenched and important, slaves accounted for at least 50 percent of the population. Slaves amounted to the single most valuable class of property in the southern states; and slaveholders formed the most powerful single class in the United States and in the individual southern states. Southern voters would reject any constitution that allowed for any federal interference in slavery in the states

where it already existed.

At the same time, however, the drafters of the Constitution recognized that northern voters and politicians would just as surely reject any constitution that made slavery a national institution, extended too many concessions to slaveholders, or turned the United States into a slaveholders republic. Yet, the Constitution had to be ratified in slave states by planters who proved perpetually leery about ceding any power and authority to a government that they did not exercise direct control over. That meant that the Constitution had to acknowledge the reality of slavery and provide some guarantees for slaveholders if it were to stand any chance of ratification in the southern states.

The drafters of the Constitution responded to these conflicting concerns by creating a complex constitution that sought to satisfy the demands of very different groups of people in an enormous and diverse continental republic. And while southern slaveholders won an enormous swath of concessions and privileges in the Constitution, it failed to go as far as many of them hoped or expected. Furthermore, those privileges always came with certain limitations, limitations that would allow for numerous challenges to southern slavery in the future.


To the Representatives of the FREEMEN of the Commonwealth of PENNSYLVANIA, in General Assembly met,

The Representation and Petition of the

SUBSCRIBERS,

Citizens of *Pennsylvania*.

5. The abolition of slavery was a long and tortuous process in the northern states. Though Pennsylvania began the process of gradual abolition in 1780, slaveholders and others continued to benefit from slavery. Early northern abolitionists, whose ranks were dominated by free blacks and Quakers, worked tirelessly to close loopholes that allowed northern whites to profit from slavery's gradual abolition in the North and its expansion in the broader Atlantic World. Broadside, "To the Representatives of the Freemen of the Commonwealth of Pennsylvania," a petition to end slavery, by the Pennsylvania General Assembly (Philadelphia, ca. 1780). Courtesy of the American Antiquarian Society, Worcester, Massachusetts.

For one, the words "slave," "slavery," or "negro" appear nowhere in the Constitution. In place of the words "slave" or "slavery," the Constitution uses euphemisms such as "other persons" or "persons held to service." The drafters of the constitution deliberately avoided using these words. Some objected that the direct acknowledgement of slavery in the Constitution would stain both the document and the nation. They also recognized that the presence of those words in the Constitution would likely lead to its rejection in at least some of the northern states. Likewise, the Constitution failed to directly identify black people held as slaves as property. Importantly, in omitting the words "slave" and "slavery" from the Constitution, and in failing to identify slaves as property, the Constitution established a union that offered indirect recognition of slavery's existence in some states. Indeed, as southern opponents of ratification—the Anti-Federalists—repeatedly pointed out in state ratifying conventions, the Constitution failed to define slaves as property or to cast the institution in explicitly racial terms by using the term "negro."

Euphemistic terminology did not stop slaveholders from demanding and gaining privileges and protections under the Constitution. Most notable of these protections was the Three-fifths Clause, which granted slave states extra representation in the House of Representatives. Contemporary Americans have badly misunderstood the meaning and importance of this clause, mistakenly believing that it served as a commentary on the perceived worth of African Americans. In reality, the clause was the product of raw calculations of state and sectional political power in the legislative branch. Representatives of the slaveholding states insisted on the full inclusion of slaves in the allocation of representatives to each individual state. Northern delegates responded by insisting that African Americans should not count at all, given that the laws of southern states recognized slaves as property, not persons. Because 40 percent or more of the population of the slave states was black and enslaved, this was no idle issue. Control of the House of Representatives and influence over the election of the president were both at stake.

The determination of how slaves would be counted in allotting representation in the House of Representatives would determine which section would dominate the legislature. Southern delegates feared that the southern states would

be overwhelmed in the legislative branch if slaves went uncounted for purposes of representation. As a political matter, they also understood that the Constitution stood no hope of ratification in the southern states unless they could count on parity, if not supremacy, in the legislative branch. Under no conditions would state-level southern politicians cede control over slavery to a legislative branch that they did not control. With this issue threatening to break up the Philadelphia convention, a compromise was reached: slaves would count for three-fifths of their population in determining the number of seats allocated to each state, as was done for purposes of taxation under the Articles of Confederation. This was an important concession made by northern delegates to the southern states. Without it, southern states would assuredly have rejected the Constitution in the state ratifying conventions.

With the additional clout in the House of Representatives granted by the three-fifths clause, southern politicians could block any antislavery laws they opposed, provided that the slave states remained united and unanimous in their opposition. The three-fifths clause granted the southern states a de facto sectional veto that could be used if the South acted in unison. Despite the advantages granted by the three-fifths clause, southern Anti-Federalists identified significant deficiencies in the Constitution. As they repeatedly pointed out in state ratifying conventions, the clause provided political rather than constitutional protections for slavery in the states. Southern Anti-Federalists also recognized that the advantages conferred by the clause would prove effective only so long as the South maintained parity with the North in terms of population.

6. “We, the People of the United States,” the Constitution, from a bound volume of the Virginia journal (Alexandria, Virginia, 1787). Courtesy of the American Antiquarian Society, Worcester, Massachusetts.

Slaveholders won other important concessions and privileges at the Philadelphia convention. The Constitution contained a fugitive slave clause, which gave slaveholders the right to recover runaway slaves who escaped to free states. Since the 1772 *Somerset* decision in England, southern slaveholders had expressed concerns about the status of runaway slaves in free territory. With states such as Pennsylvania having already abolished slavery, slaveholders demanded protections for their property in slaves. They would not willingly enter into union with states that possessed the power to emancipate southern slaves. Northern delegates who favored union readily made the concession. That being, said, the fugitive slave clause was so poorly worded and phrased that it left undefined which parties were responsible for its enforcement. The hastily drafted clause was a persistent source of conflict between the North and the South from 1793, when the first fugitive slave law was passed, to 1860, when seceding slave states cited the refusal of northern states to implement the clause as justification for leaving the Union.

Beyond these concessions to slaveholders, the Constitution took a vague stance on slavery in complex ways that allowed for action and inaction with regard to slavery. The Constitution was silent about abolition or the continuation of slavery in the states. Nonetheless, as a result of the ratification debates and the first few sessions of Congress, an unwritten consensus emerged about the powers of the federal government over slavery. In general, northern and southern politicians came to agree that the federal government lacked the authority to take action against slavery in the states where it existed.

Thus, though it is written nowhere in the Constitution, by the early 1790s politicians and voters formed a consensus that the Constitution left it to individual states to decide for themselves whether to retain or to abolish slavery within their own state. As part of this unwritten consensus, the founding generation generally agreed that the Constitution treated slavery as a local and state institution, rather than a national institution. The Constitution’s neutrality on slavery at the state level allowed for the continuation of slavery in places such as Virginia. But it also allowed for abolition at the state level in the North. On this basis, states such as New Jersey and New York abolished slavery in their states by passing abolition laws and state constitutional amendments. With the northern and southern states

unwilling to even address what kind of powers the federal government exercised over slavery in the states, the Philadelphia convention did what they did with every other issue of significant disagreement: they sidestepped it and kicked it back to the states. Hardly of deliberate design, federalism, as it applied to slavery and every other issue, was simply the most workable solution to the problem of governing an immense and diverse continental republic composed of semi-sovereign states.

7. “We, the People of the United States,” (cont.) the Constitution, from a bound volume of the Virginia journal, (Alexandria, Virginia, 1787). Courtesy of the American Antiquarian Society, Worcester, Massachusetts.

The neutrality on slavery at the state level was joined by a general agreement that the Constitution granted the federal government authority to take action against slavery when it fell outside the purview of individual states. This was an important power, even if the power was granted silently, informally, and euphemistically. In the 1783 Treaty of Paris, the United States gained the right to most of the territory in the trans-Appalachian west: the enormous swath of territory stretching from the Appalachian Mountains to the Mississippi River, and from Great Lakes in the north to the Gulf of Mexico in the south. In 1787, while the constitutional convention met in Philadelphia, the Confederation Congress passed the Northwest Ordinance of 1787. The Ordinance’s Article VI prohibited slavery in the region that would become Ohio, Indiana, and Illinois, signaling the willingness of national politicians to limit slavery’s western expansion into territories owned by the federal government (rather than in territory owned by individual states). In its territorial clause, the Constitution granted the federal government power to “make all needful rules and regulations” for the territories of the United States. The “territories” were lands claimed by the federal government rather than the already existing states. These lands would be acquired through war and negotiation by the U.S. government from Native American nations. The land would then be organized into territories and open to settlement. Once the population of a territory reached 60,000, it would become eligible to apply for statehood.

Politicians from both sections agreed that the euphemistic territorial clause granted the federal government the authority to prohibit slavery’s expansion in territories. The territorial clause, in conjunction with the Northwest Ordinance of 1787, contained important antislavery powers. Congress would use these powers immediately: In one of its first acts in 1789, Congress re-passed the Northwest Ordinance of 1787, once again prohibiting slavery in what would become the states of Ohio, Indiana, and Illinois. Reflecting the kinds of sectional horse-trading necessary to preserve union, the first federal Congress also voted to permit slavery in the Southwest Territory, which would become the slave state of Tennessee in 1796. Reflecting the haphazard emergence of federalism as a constitutional principle, North Carolina agreed to cede this territory to the federal government in 1790 only on the condition that Congress abstain from using its powers to prohibit slavery there.

The politics and geopolitics of union manifested themselves in the Constitution’s international slave trade clause. In the Philadelphia convention and later in ratification debates, a consensus emerged that the federal government possessed the power to prohibit the international slave trade on the grounds that it was a form of international commerce. This power was also recognized on the grounds that the importation of additional slaves to the United States was a matter of national rather than state interest. Thus, Congress should possess the authority to regulate or abolish it. Slaveholders from Georgia and South Carolina objected to granting Congress these powers. In 1787 South Carolina and Georgia were simultaneously recovering from the War for Independence while undergoing a rapid expansion into the interior as slaveholders increasingly planted cotton. Planters in those states feared that the federal government would immediately prohibit the international slave trade, cutting those states off from the importation of additional slaves. In response, delegates from those two states warned that they would refuse to endorse the Constitution, and that their states would fail to ratify the Constitution, if they did not have access to the

slave trade. Fearing that South Carolina and Georgia would join the British or Spanish Empires, who would then pose a more menacing threat to American independence, the delegates at Philadelphia struck a compromise with Georgia and South Carolina. Congress would be barred from prohibiting the international slave trade for twenty years. But in gaining this exemption, South Carolina and Georgia created a near-universal agreement in the other states that Congress could and would prohibit the international slave trade at the earliest possible date.

Like so many other clauses in the Constitution that dealt with slavery, the slave-trade clause was complex and the product of numerous threats, demands, and compromises. On the one hand, it permitted the international slave trade to continue for 20 years. On the other hand, it gave the federal government the power to end the slave trade, a power that no previous U.S. government possessed. By granting Congress authority to legislate on slavery when it was a national issue—mainly in regards to the international slave trade and the expansion of slavery into the territories—the Constitution granted Congress antislavery powers that it could use at its discretion and subject to normal political processes. More broadly, the important proslavery victory won by South Carolina and Georgia was tempered by an important antislavery victory that led to a near-consensus agreement from the other states that Congress should act to close the international slave trade as soon such action was constitutionally permissible.

The Place and Significance of Slavery in the Constitution

While slaveholders failed to have all of their demands met at the Philadelphia convention, they almost always came out ahead. This was due to several factors that would continue to shape sectional politics straight through to 1860. Southern delegates to the Philadelphia convention always acted in unity whenever they perceived a real and tangible threat to slavery. They made concessions on issues unrelated to slavery to gain northern votes in support of southern interests. When all else failed, they threatened disunion and promised that whatever calamities followed would rest in the hands of northerners who unreasonably issued demands that no southern slaveholder would accept.

Threats of disunion proved effective against even the most committed northern abolitionists who believed that perpetual union was more important than immediate action against slavery. For them, republican self-government and natural rights could only be preserved in union; if disunion transpired, then all hopes of abolition went with it. Thus, while Philadelphia Quakers and their allies such as Benjamin Rush lamented the concessions made to slaveholders in the Constitution, they accepted them as the necessary price of union, which they hoped would be the mechanism by which they could nudge the nation toward gradual emancipation. Likewise, northern Anti-Federalists universally condemned constitutional concessions to slaveholders from every conceivable angle, in every state ratifying convention. But like Abraham Lincoln seven decades later, they preferred to “nobly save” rather than “meanly lose the last best hope of earth:” union. For northern Anti-Federalists and abolitionists, union—even the necessarily imperfect one created by the Philadelphia convention—remained the only means by which republican government and the values of the Revolution could be maintained and then more perfectly realized. Southern slaveholders and northern supporters of ratification always stood ready to cynically exploit northerners’ pragmatic and increasingly sentimental devotion to union.

The result of these debates, conflicts, and compromises was an exceedingly complex constitution that allowed individual states to decide for themselves what to do with slavery. It also included clauses and provisions that could be used to protect and promote slavery, to attack and abolish slavery, to remain neutral on slavery, or to forge compromises regarding slavery. Over the next seven decades, it would be used in all of those capacities. It was a constitution that granted important concessions to slaveholders, but in failing to provide them with explicit protections, it invited a never-ending series of challenges from northerners. In sum, it was a constitution designed to govern an immense, diverse, and expanding continental union with imperial ambitions, a union where slaveholders stood as the single most powerful class both within their states and in the nation, but where those slaveholders were constantly challenged by white northerners and black southerners.

Whether or not the Philadelphia convention produced a proslavery constitution that created a proslavery nation-state

has become an irreducible matter of teleology and terminology centering on how one defines “proslavery.” It also engages in a form of essentialism that ignores the conflicting positions that went into the construction of both the Constitution and the clauses regarding slavery and slave state political power. The clauses addressing slavery were the product of too much conflict and compromise to bear the weight of any singular intent, purpose, or effect. These clauses were also suggestive rather than definitive, and they left their implementation to normal political processes in Congress. These clauses also proved limited enough, vague enough, and imprecise enough to allow for multiple positions on what actions were permissible under the Constitution, as seven decades of sectional politics, culminating in Civil War, would demonstrate. Finally, these clauses were ambiguous enough to allow for endorsement and quick ratification of the Constitution in places such as Pennsylvania and South Carolina, states that possessed wildly divergent interests and positions on the place of slavery in the federal union. Nonetheless, what remains clear when the Constitution is situated in the larger Revolutionary period is that its slavery and sectional clauses were the product of conflict, accommodation, and compromise. As with just about every sectional conflict in this period, the slave states gave up a little and received much in return. The little that they did give up, however, allowed for a multitude of challenges to slavery.

In the end, the Constitution maintained the status quo of an expanding continental union, where one section remained committed to slavery’s maintenance and growth while the other section became increasingly committed to abolition. The Constitution also put off profound disagreements about the place of slavery in a republican government and national development. It failed to address the most fundamental conflict of all: the rights of individuals to be free versus the rights of slaveholders to their property in slaves. Above all else, then, the Constitution put off—at least temporarily—the need to address these problems in favor of stronger union and effective federal government. The Constitution failed to address, let alone solve, the problem of slavery, because the founders were neither hypocrites nor demigods. Instead, much like ourselves, the founders proved entirely incapable of looking into our own hearts of darkness and addressing the seemingly intractable problems of liberty, slavery, and race in these United States.

Further Reading

My interpretation of the Constitution is heavily influenced by five works, though my interpretation differs from all of them. See, Matthew Mason, “Slavery and the Founding,” *History Compass* 4 (2006); Earl M. Maltz, “The Idea of a Proslavery Constitution,” *Journal of the Early Republic*, 17 (Winter 1997): 37-60; Don Fehrenbacher, *The Slaveholding Republic: An Account of the United States Government’s Relations to Slavery* (New York, 2001); David Waldstreicher, *Slavery’s Constitution: From Revolution to Ratification* (New York, 2009); George William Van Cleve, *A Slaveholders’ Union: Slavery, Politics, and the Constitution in the Early Republic* (Chicago, 2010).

For recent popular debates about the place of slavery in the constitution, see David Waldstreicher, “How the Constitution Was Indeed Pro-Slavery,” *The Atlantic,* Sept. 19, 2015, and Sean Wilentz, “Constitutionally, Slavery Is No National Institution,” *New York Times*, Sept. 16, 2015.

John Craig Hammond is associate professor of history at Penn State University in New Kensington, Pennsylvania. He is co-editor, with Matthew Mason, of *Contesting Slavery: The Politics of Freedom and Bondage in the New American Nation* (2011) and author of *Slavery, Freedom, and Expansion in the Early American West* (2007), in addition to numerous articles and chapters in edited collections. He is also a candidate for the Pennsylvania House of Representatives, 28th District, in the upcoming November election.