

Constitutional Roots of the Civil War

Hilary Kersteen

Nauset Regional High School

2008

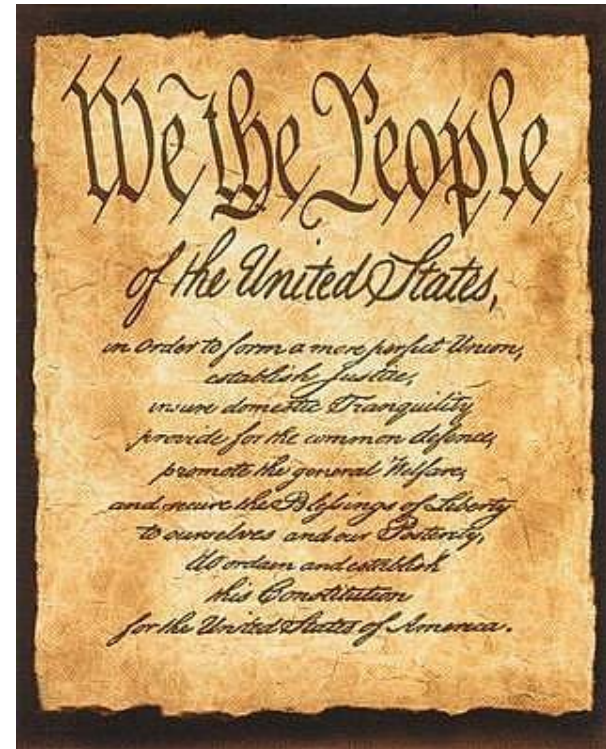
Historical Questions

- Was the US Constitution a document that protected and codified slavery?
- Did the compromises in the Constitution over the issue of slavery sow the seeds of the Civil War?

Historical Questions

OR

- Was the Constitution a collection of brilliant compromises which were absolutely necessary to build a strong central government?



HISTORICAL VIEWPOINTS

- 200th Anniversary of the US Constitution
- Thurgood Marshall, first African American to sit on the Supreme Court said that the Constitution was “defective from the start”
- Left out the majority of Americans when wrote “We the People”
- Objectors to slavery “consented to a document which laid the foundation for the tragic events which were to follow”

(“The Constitution and Slavery”)

Thurgood Marshall

- Argued *Brown v. Board of Education of Topeka, Kansas*
- Served on the Supreme Court from 1967-1991



HISTORICAL VIEWPOINTS

- On the other hand Gibson writes:
- The Founders saw slavery as a states rights issue
- And believed that the institution would soon fade away
- So no aggressive tactics were needed to deal with it

(Gibson 79)

**WHAT WAS THE STATUS OF
SLAVERY DURING THE 1770'S
AND 1780'S?**

The Issue of Slavery: 1770's-80's

Declaration of Independence stated
“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness..”

- <http://neatorama.cachefly.net/images/2007-07/john-trumbul-declaration-of-independence.jpg>



The Issue of Slavery: 1770's- 80's

- These words are a brilliant summary of many Enlightenment ideals
- However...the reality in America was quite different

The Issue of Slavery: 1770's-80's

In 1776

- More than 500,000 black Americans were slaves
- 1790 there were slaves counted in nearly every state
 - Exceptions: Massachusetts and the “districts” of Vermont and Maine

(“Constitutional Topic: Slavery”)

The Issue of Slavery: 1770's-80's

- Entire population 3.8 million people; 700,000 slaves; 18% of population of nation
 - South Carolina: 43%
 - Maryland 32%
 - North Carolina 26%
 - South Carolina 43%
 - Virginia 39% (300,000 slave population)

("Constitutional Topic: Slavery")

The Issue of Slavery: 1770's-80's

- Of the 55 Constitutional Convention delegates: about 25 owned slaves

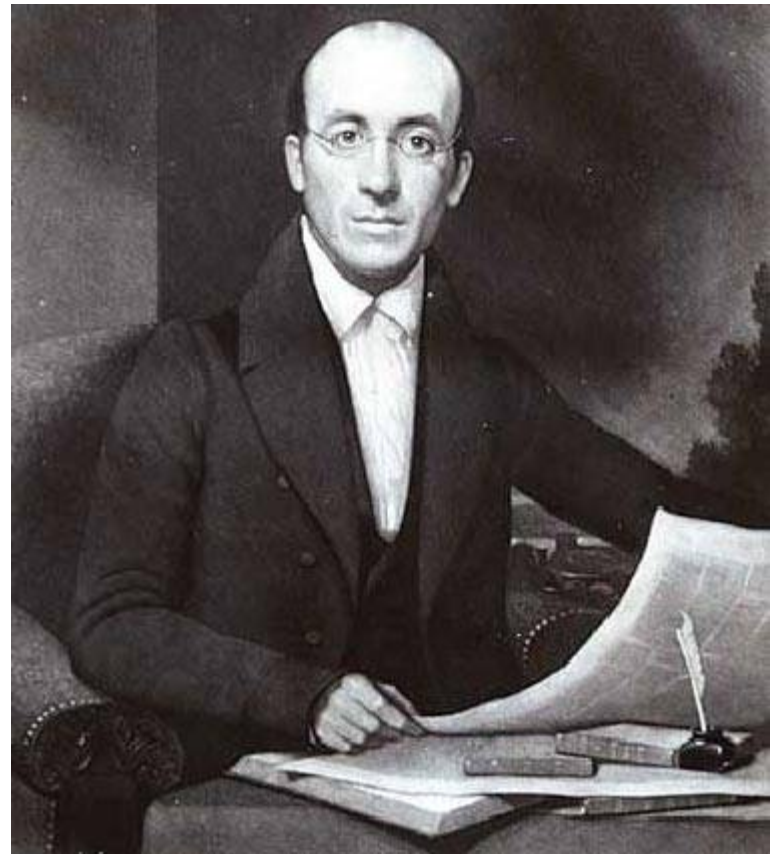


<http://usinfo.state.gov/products/pubs/historybrf/images/cons1787.jpg>

The Issue of Slavery: 1770's-80's

During the 1780's

- No great movement in America to abolish slavery
- Abolition movement did not get under way until 1830's with the American Anti-Slavery Society founded by William Lloyd Garrison



The Issue of Slavery: 1770's-80's

On the other hand:

- 1774 Rhode Island passed legislation saying all slaves imported thereafter should be freed
- 1776 Delaware prohibited the slave trade and removed restraints on emancipation, Virginia too 1778
- 1779 Pennsylvania passes legislation for gradual emancipation (NH, RI and CT as well)

(Spalding)

The Issue of Slavery: 1770's-80's

By 1787, time of the Constitution, every state except Georgia had banned or suspended the importation of slaves

(Spalding)



<http://www.spartacus.schoolnet.co.uk/USASauction.jpg>

SUMMARY

- Although espousing liberty and equality for all
- The Founders lived in a society that tolerated slavery which, as an institution, violated these very principles of liberty and equality

WHAT WERE THE VIEWS OF
THE FOUNDERS ON THE
ISSUE OF SLAVERY?

Founding Fathers & Slavery

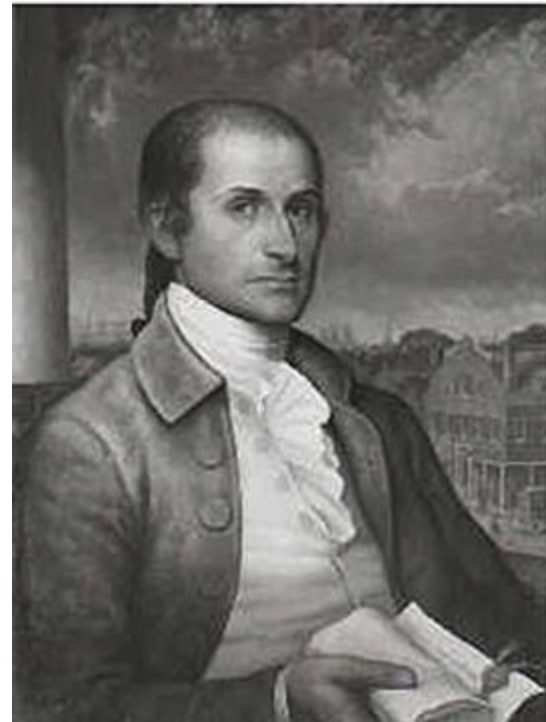
John Jay: Supporter of the Constitution and author of The Federalist:

“The honour of the states, as well as justice and humanity...call loudly upon them to emancipate these unhappy people

To contend for our liberty, and to deny that blessing to others, involves an inconsistency not to be excused”

(“Constitutional Topic: Slavery”)

- <http://www.americanrevolution.com/images/JohnJay1.jpg>

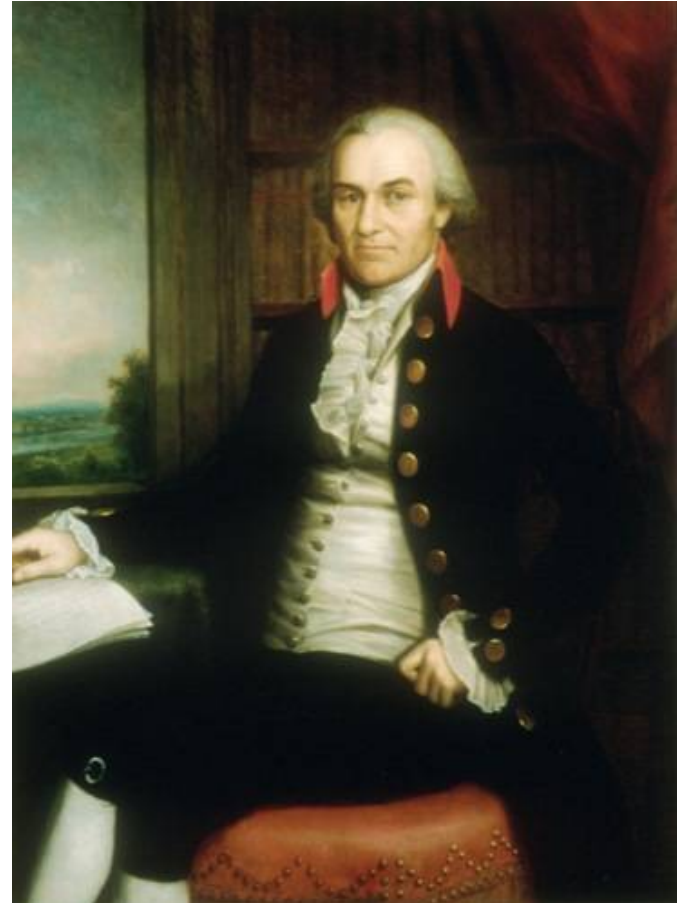


Founding Fathers & Slavery

Oliver Ellsworth
signer of the
Constitution

“All good men wish
the entire abolition
of slavery, as soon
as it can take place
with safety to the
public, and for the
lasting good of the
present wretched
race of slaves”

(“Constitutional Topic: Slavery”)



Founding Fathers & Slavery

Patrick Henry

“I believe a time will come when an opportunity will be offered to abolish this lamentable evil. Everything we do is to improve it, if it happens in our day; if not, let us transmit to our descendants, together with our slaves, a pity for their unhappy lot and an abhorrence of slavery”

(“Constitutional Topic: Slavery”)



Founding Fathers & Slavery

John Adams

“A foul contagion in
the human character”

“An evil of colossal
magnitude”

(Spalding)

- http://hotlineblog.nationaljournal.com/John_Adams.jpg



Founding Fathers & Slavery

- Many owned slaves:
 - James Madison
 - Thomas Jefferson
 - George Washington
 - George Mason

YET

- Many of these Founders also struggled with the concept of slavery and liberty

Founding Fathers & Slavery

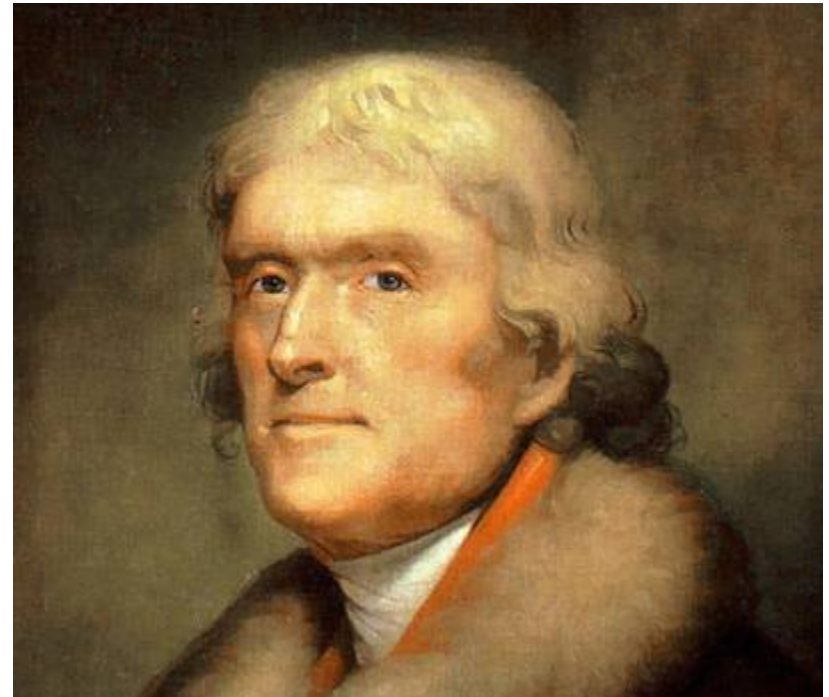
Thomas Jefferson

In *Notes on the State of Virginia* 1787:

“Can the liberties of a nation be thought secure when we have removed their firm basis...that these liberties are the gift of God? That they are not to be violated? ..I hope for a total emancipation..with the consent of the masters..”

(Spalding)

- <http://www.visitingdc.com/images/thomas-jefferson-picture.jpg>



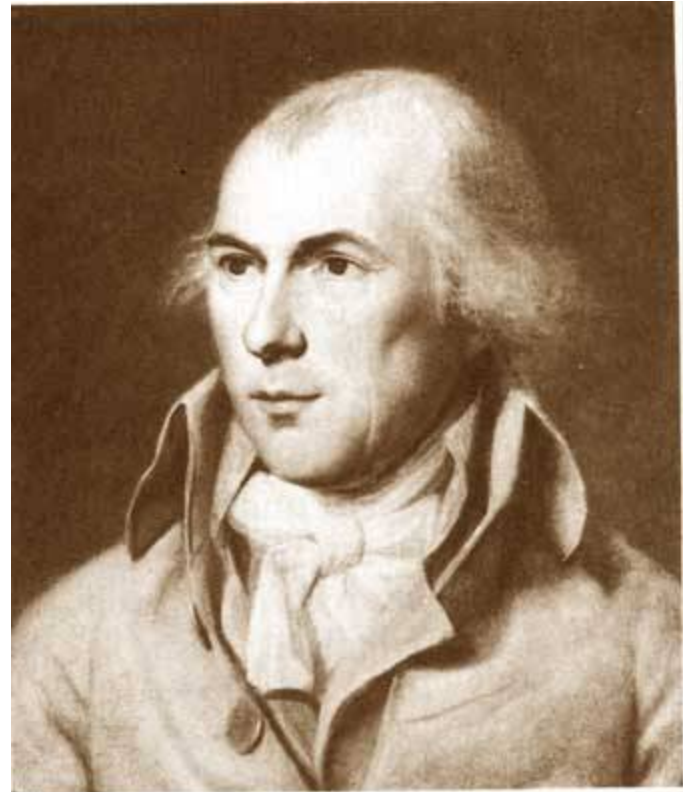
Founding Fathers & Slavery

- http://www.ons.uconn.edu/images/james_madison.jpg

James Madison

“The most oppressive
dominion ever
exercised by man
over man”

(Spalding)



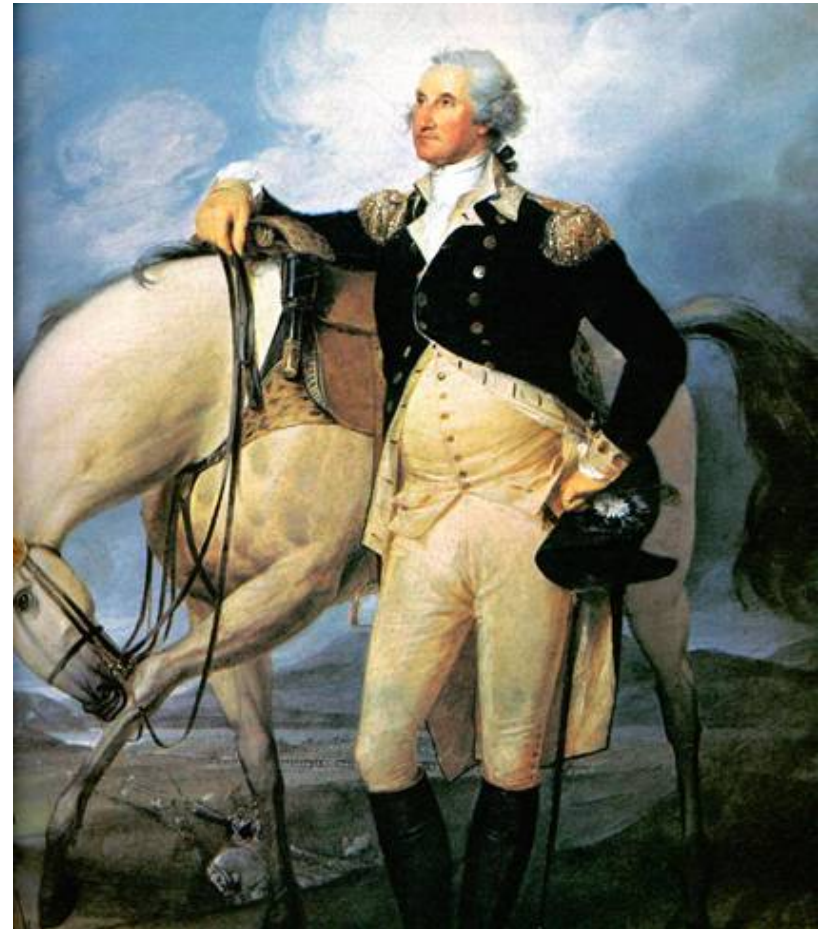
Founding Fathers & Slavery

George Washington
1786

“There is not a man living who wishes more sincerely than I do to see a plan adopted for the abolition of it”

He decreed upon his death that his slaves would become free upon the death of his wife

(Spalding)



<http://www.mccordclan.com/George%20Washington%201782%20painting.jpg>

Founding Fathers & Slavery

George Mason a
Virginian, slave owner
and together with
James Madison
called the “Father of
the Bill of Rights”
Wrote that slaves
“bring the judgment of
Heaven on a country”

(Eisert)



<http://cache.eb.com/eb/image?id=37203&rendTypeld=4>

SUMMARY

- Morally the Founders were in general agreement that slavery was wrong
- However, politically and economically there was much disagreement on the institution of slavery

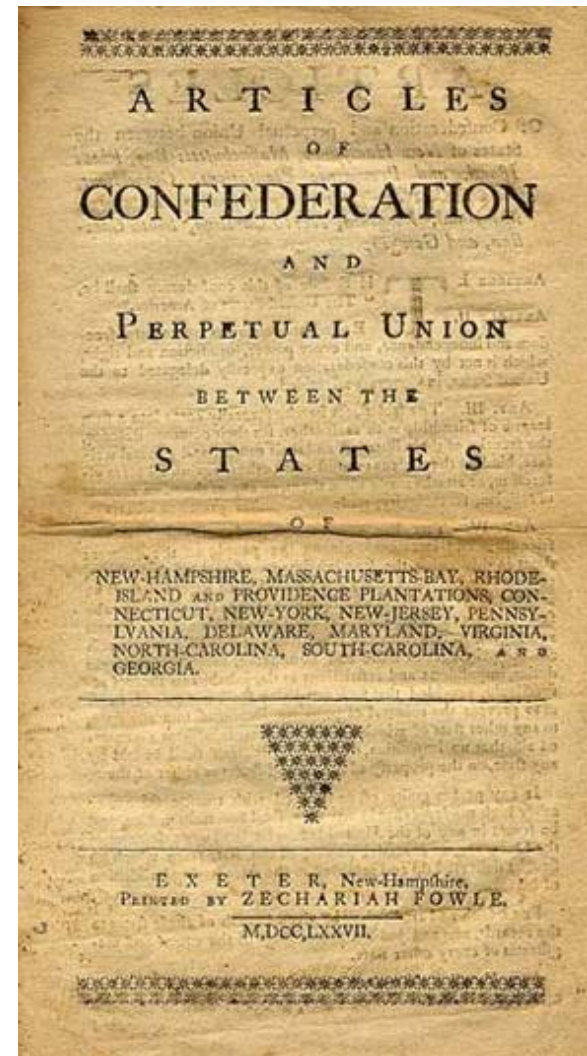
Pre-Constitutional Convention

- Two important documents were written prior to the Constitutional Convention in 1787
- Articles of Confederation 1781
- Northwest Ordinance 1784
- Each dealt differently with the issue of slavery

Pre-Constitutional Convention

ARTICLES OF CONFEDERATION 1781

- Said nothing about slavery
- Left the power to regulate slavery to the individual states as is did most powers
- Colonists distrusted a strong central government from their experience with the British

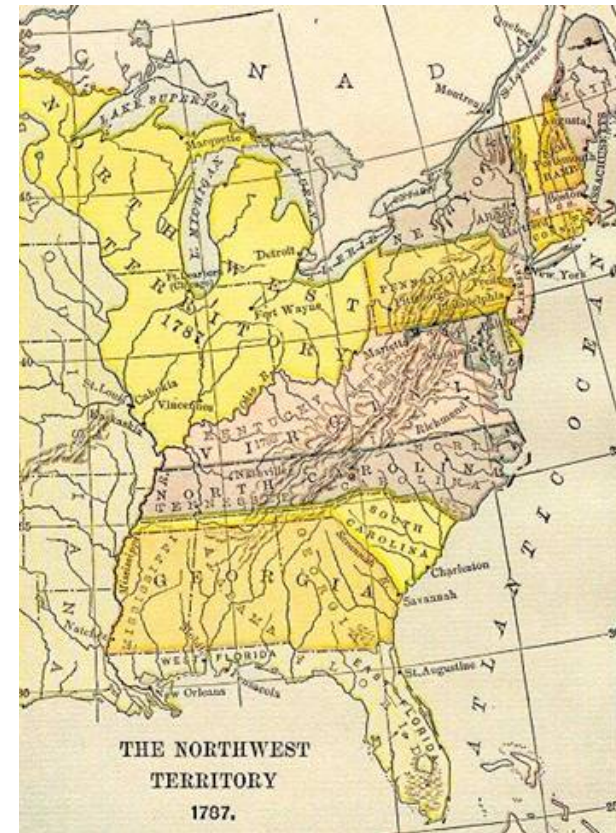


Pre-Constitutional Convention

Northwest Ordinance 1784

- 1784 draft plan for government for western territories prohibited slavery and involuntary servitude after the year 1800
- 1787 prohibited slavery in the future states of Ohio, Indiana, Michigan, Illinois, and Wisconsin
- Some feel this a quid pro quo for the three-fifths's compromise

("Ratification Debate on the US Constitution")



Pre-Constitutional Convention

- As we have seen, much anti-slavery sentiment among the Founding Fathers in both the North and the South

YET

- In three very specific areas slavery is institutionalized in the Constitution
- Even though the words “slave” and “slavery” do not appear in the document

Constitutional Convention 1787



Constitutional Convention

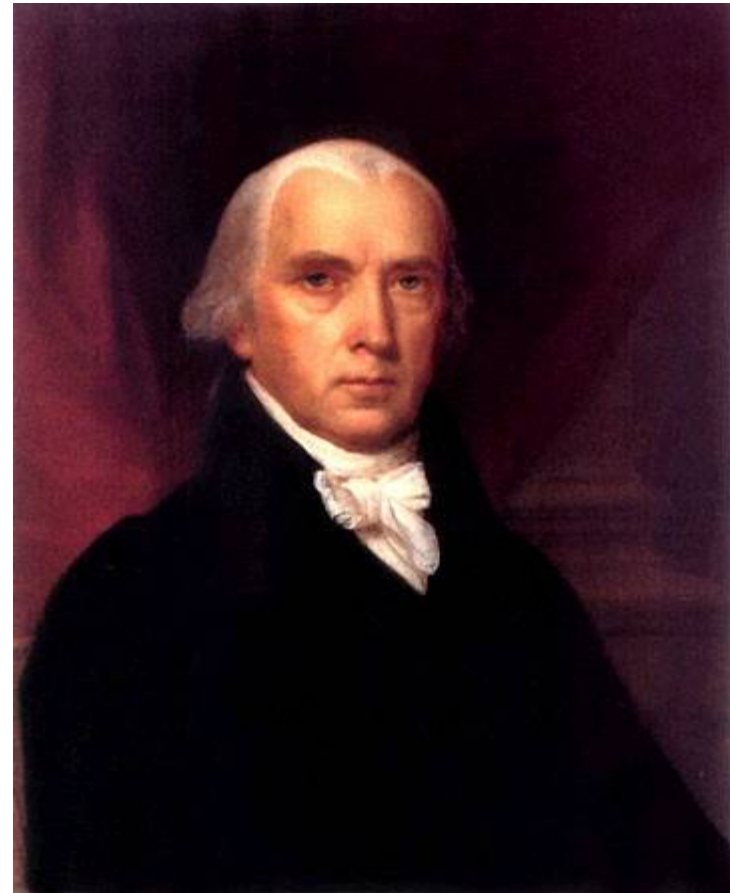
- Main goal to secure a new government
 - Articles of Confederation had left the nation weak domestically and internationally
 - Real fear for the survival of the new nation
 - Since many believed slavery a dying institution
 - Feared antagonizing the South because feared they might form own nation
 - Consequently, used slavery to bargain and keep the South from forming their own nation

Constitutional Convention

Madison:

“The real difference of interests lay not between large and small states but between the Northern and Southern states. The institution of slavery and its consequences formed a line of discrimination”

(Spalding)



http://www.freedom21santacruz.net/site/media/federal-reserve/index_files/Madison.jpg

Constitutional Convention

GOALS

- Founding Fathers believed concessions on slavery were the price for the support of southern delegates for a strong central government
- Without these compromises and provisions southern delegates would not support the new Constitution and without the southern states the Constitution had no chance of being ratified

Constitutional Convention

HISORICAL QUESTIONS:

- Was this a document that codified slavery leading ultimately to the Civil War

OR

- Was is a brilliant compromise to insure a strong central government and secure the new nation's success?

Constitutional Convention

In 1787

- 55 delegates from 12 states met in Philadelphia (RI refused)
- Goal to revise the Articles of Confederation
- Changed to write a new constitution
- Three branches

• <http://www.hoeckblog.com/brandsthatconnect/wp-content/uploads/2007/03/foundingfathers.jpg>



Constitutional Convention

- Three compromises were arrived at which made possible ratification of the Constitution by both the North and the South
- None of the three compromises are in force as law in the 21st century.

**WHAT WERE THE DISPUTES AMONG
THE DELEGATES THAT NEEDED
RESOLVING?**

Dispute #1

Representation in the legislative branch

- States with large populations wanted representation in both houses to be based on population
- States with small populations wanted each state to have the same number of representatives

Dispute #1

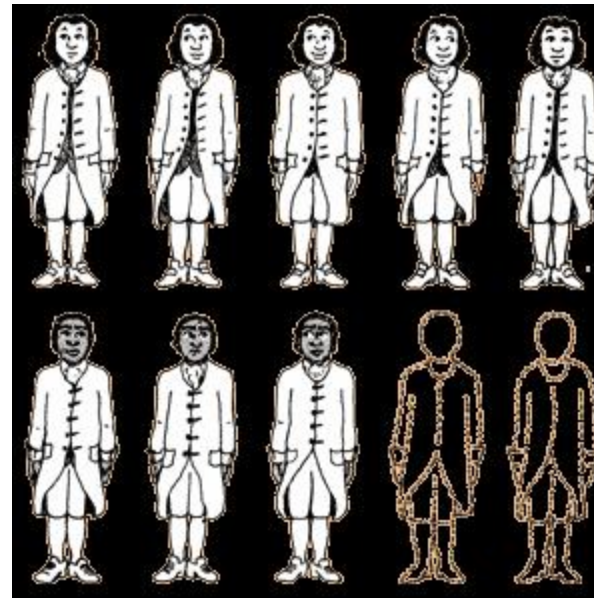
“Great Compromise”

- House of Representatives based on population
- Senate based on two members for each state

Dispute #1

- Part of the compromise was how to 'count' slaves:
- Constitution: Article I Section 2
- Apportionment for Representatives and taxation purposes would be determined by the number of free persons and three-fifths of "all other Persons"
- In other words each slave counted as $3/5$'s of a person

• <http://gunstonhall.org/discover/mn4-three-fifths.gif>



Dispute #1

EFFECT

- Counting the slaves would greatly increase the South's political power
- Also meant their paying higher taxes
- This a price the South willing to pay
- 12 of the first 16 presidential elections won by a southern slave owner

Dispute #2

Slave Trade

- 10 states had outlawed the slave trade
- 3 states allowed it: Georgia and North and South Carolina
- These states threatened to leave the convention if the slave trade were banned



Dispute #2

- **COMPROMISE:**
- Constitution: Article I, Section 9
- Congress was prohibited until 1808 from blocking the migration and importation “of such Persons as any of the states now existing shall think proper to admit”

Dispute #2

COMPROMISE:

- Congress would have the power to ban the slave trade
- BUT not until 1808
- Congress passed such a national prohibition effective Jan. 1, 1808



•<http://cache.eb.com/eb/image?id=78417&rendTypeId=4>

Dispute #2

EFFECT

- More slaves entered the US
- South Carolina imported 40,000 slaves between 1803 and 1808

(“Ratification Debate on the US Constitution”)

Dispute #3

Fugitive Slaves

- South wanted other states to return escaped slaves
- Articles of Confederation had not guaranteed the return of escaped slaves
- But the Northwest Ordinance had clause to return escaped slaves



Dispute #3

COMPROMISE:

- Constitution: Article IV, Section 2
- This guaranteed the return upon claim of any “Person held to Service or Labour” in one state who had escaped to another state

Dispute #3

EFFECT:

- Allowed escaped slaves to be chased into the North and caught

• <http://xroads.virginia.edu/~ma02/harris/utc/images/tom.jpg>

\$150 REWARD.
RANAWAY from the subscriber, on the night of Monday the 11th July, a negro man named
TOM,
about 30 years of age, 5 feet 6 or 7 inches high; of dark color; heavy in the chest; several of his jaw teeth out; and upon his body are several old marks of the whip, one of them straight down the back. He took with him a quantity of clothing, and several hats.
A reward of \$150 will be paid for his apprehension and security, if taken out of the State of Kentucky; \$100 if taken in any county bordering on the Ohio river; \$50 if taken in any of the interior counties except Fayette; or \$20 if taken in the latter county.
July 12-84-tf B. L. BOSTON.

**HOW CAN THESE DECISIONS
OF THE FOUNDERS BE
EVALUATED IN LIGHT OF THE
ISSUE OF SLAVERY?**

EVALUATION

HISTORICAL QUESTIONS

- Was the US Constitution a document that protected and codified slavery?

OR

- Was it a collection of brilliant compromises which were absolutely necessary to build a strong central government?

EVALUATION

Wood Writes

“Slavery was a national institution and nearly every American leader knew that its continued existence violated everything the Revolution was about”

(Wood 57)

- <http://www.wvu.edu/~lawfac/jscully/Race/images/slavery.jpg>



EVALUATION

- Did it directly protect slavery through the three-fifths clause, the 1808 slave trade provisions and the fugitive slave clause?

EVALUATION

OR

- Was it that many of the Founders saw this issue as a states rights issue, believing that it would soon fade away
- While fearing that without compromise the nation would disintegrate?

(Gibson 79)

EVALUATION

- Did the compromises in the Constitution over the issue of slavery sow the seeds of the Civil War?



Evaluation

- The fact remains that by deciding not to deal with slavery the Founders left it to others to deal with the issue which resulted in a terrible civil war seventy years later.

WORKS CITED

- Adair, Douglas. *Fame and the Founding Fathers*. Indianapolis: Liberty Fund, *Forced Founders* 1974
- Amar, Akhil Reed. *America's Constitution*. New York: Random House, 2005
- Berkin, Carol. *A Brilliant Solution*. New York: Harvest Book, 2002
- Berlin, Ira. *Generations of Captivity*. Cambridge, MA: The Belknap Press of Harvard University Press, 2003

WORKS CITED

- “The Constitution and Slavery.” Digital History. July 2008. July 2008.
http://www.digitalhistory.uh.edu/database/article_display.cfm?HHID=293
- “Constitutional Topic: Slavery.” *U.S. Constitution Online*. April, 2007; July, 2008.
http://www.usconstitution.net/constop_slav.html
- Eisert, Kevin. “Secession Crisis.” *The War for States Rights*. July 20008.
<http://civilwar.bluegrass.net/index.html>

WORKS CITED

- Frey, Sylvia R. *Water From the Rock*. Princeton: Princeton University Press, 1991
- Gibson, Alan. *Interpreting the Founding*. Kansas: University Press, 2006
- Holton, Woody. *Forced Founders*. Chapel Hill: University of North Carolina Press, 1999
- Kammen, Michael. *The Origins of the American Constitution*. New York: Penguin Group, 1986

WORKS CITED

- Linder, Doug. “The Thirteenth Amendment: the Abolition of Slavery.” *Exploring Constitutional Conflicts*. 2008. July, 2008.
<http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/thirteenthamendment.html>
- “Ratification Debate on the U.S. Constitution.” *Constitution Rights Foundation*. July, 2008. http://www.crf-usa.org/lessons/slavery_const.htm

WORKS CITED

- Spalding, Matthew. “How to Understand Slavery and the American Founding.” *The Heritage Foundation*: 2008. July 2008.
<http://www.heritage.org/Research/AmericanFoundingandHistory/wp01.cfm>
- Wood, Gordon S. *The American Revolution*. New York: A Modern Library Chronicles Book, 2003