The Constitution &Slavery

**Primary Documents**

 ***Document 2***

***Information on the source:*** *This is a British cartoon from 1789. It has the following caption: “The Abolition of the Slave Trade, or the Man the Master.” The illustration imagines how roles slaves and slave masters will be reversed after the slave trade and slavery are ended. In this scene, a former slave is shown taking on the role of the slave master.*



**some phrases from the cartoon…**

*(Now, Massa, me lick a you, and make you worky while me be Gentleman – curse a heart.) (Retaliation for having been held in captivity.)*

*(Foreign Accent: By gar den ve sal have all de market to ourselves, and by underselling we sal send Johnny Bull's capitall and revenue to le Diable.)*

*(Why, if I have my rum and sugar and my tobacco at the old price – I don't care if the slave trade is abolished.)*

 **Document 3**

***Information on the source:*** *Comments by James Madison in the Constitutional Convention, as he recorded them on June 30, 1787, in the notes he himself kept on the convention's proceedings.*

 **Source Text:** [Madison] contended that the States were divided into different interests not by their difference in size, but by other circumstances; the most material of which resulted partly from climate, but principally from the effects of their having or not having slaves. These two causes concurred in forming the great division of interests in the U. States. It did not lie between the large & small States: It lay between the Northern & Southern, and if any defensive power were necessary, it ought to be mutually given to these two interests. He was so strongly impressed with this important truth that he had been casting about in his mind for some expedient that would answer the purpose. The one which had occurred was that instead of proportioning the votes of the States in both branches, to their respective numbers of inhabitants computing the slaves in the ratio of 5 to 3, they should be represented in one branch according to the number of free inhabitants only; and in the other according to the whole number, counting the slaves as if free. By this arrangement the Southern Scale would have the advantage in one House, and the Northern in the other.

 **Document 4**

***Information on the source:*** *On July 9, 1787, New Jersey delegate William Paterson made these comments in the Constitutional Convention. In this passage, he speaks against the idea of counting a state's slaves at all for purposes of determining that state's number of representatives in Congress. These remarks were also recorded by Madison:*

 **Source Text:** Mr. Peterson…He could regard negro slaves in no light but as property. They are no free agents, have no personal liberty, no faculty of acquiring property, but on the contrary are themselves property, & like other property entirely at the will of the Master. Has a man in Virginia a number of votes in proportion to the number of his slaves? And if Negroes are not represented in the States to which they belong, why should they be represented in the General Government. What is the true principle of Representation? It is an expedient by which an assembly of certain individuals chosen by the people is substituted in place of the inconvenient meeting of the people themselves. If such a meeting of the people was actually to take place, would the slaves vote? They would not. Why then should they be represented.

 **Document 5**

***Information on the source:*** *A statement against the Constitution by someone identified as "Adelos" appeared in the Northampton, Massachusetts, Hampshire Gazette on February 6, 1788. Here is part of the statement, as quoted in A Necessary Evil? Slavery and the Debate Over the Constitution, ed. John P. Kaminski (Columbia, S.C.: Model Editions Partnership, 1999)*

 **Source Text:** It is strange, I say, if Massachusetts should give countenance to this, after establishing a constitution of their own, fronted with these words, "All men are born free and equal;" and in consequence of which have emancipated many sordid to them (many of them) than they were to the brutal herd. I cannot see but the first moment we adopt the Federal Constitution as it stands, we raise (bring down) our own to the very foundation. We allow that freedom and equity are the natural rights of every man born into the world; but if we vote this, we vote to take away those rights…Whether we go ourselves to Africa to procure slaves, or employ others to do it for us, or purchase them at any rate of others, it matters not a whit. It is an old saying and a true one, "The partaker is as bad as the thief." It is well known that this trade is carried on by violence and rapine; nay, murder is not, I presume, out of the question. Who gave mankind a right thus to play the devil with one another?

 **Document 6**

***Information on the source:*** *This is a statement in favor of the Constitution by someone calling himself "Mark Anthony" writing in the Boston Independent Chronicle, January 10, 1788. "Anthony" disagrees with an earlier article by someone calling himself "Brutus."*

 **Source Text:** The acts of power, which some of the States see fit to exercise with respect to their internal concerns, may be repugnant to our notions of justice; but shall we therefore refuse to confederate with them? Brutus himself surely, could not have this in contemplation. Does Brutus wish the slaves emancipated! It is a dictate of humanity, and we need no stimulus to join with him most cordially. But even in this laudable pursuit, we ought to temper the feelings of humanity with political wisdom. Great numbers of slaves becoming citizens, might be burdensome and dangerous to the Public… This subject doubtless engaged the attention of the late respectable Convention. But, in the immensity of their object, it was not their province to establish those minute provisions, which properly belong partly to federal, partly to State Legislation. They probably went as far as policy would warrant, or practicability allow. The friends of liberty and humanity, may look forward with satisfaction to the period, when slavery shall not exist in the United States; while the enlightened patriot will approve of the system, which renders its abolition gradual.

 **Document 7**

***Information on the source:*** *Along with Madison and Hamilton, John Jay of New York wrote parts The Federalist, a series of essays arguing in favor of ratifying the new U.S. Constitution. This passage is from a letter to R. Lushington on March 15, 1786:*

 **Source Text:** It is much to be wished that slavery may be abolished. The honor of the States, as well as justice and humanity, in my opinion, loudly call upon them to emancipate these unhappy people. To contend for our own liberty, and to deny that blessing to others, involves an inconsistency not to be excused…

 Is it pleasant, my Lord, to dream of these things, and I often enjoy that pleasure; but though, like some of our other dreams, we may wish to see them realized, yet the passions and prejudices of mankind forbid us to expect it.

 **Document 8**

***Information on the source:*** *At the Virginia ratifying convention, James Madison and many other Federalists backed the Constitution. George Mason was among the Anti-Federalists who opposed it. Mason was a slave owning planter, but he believed slavery was morally wrong. He wanted an end to the slave trade, yet he also felt that the slaves already here were a major a form of property that the South could not do without. These two views may seem contradictory, yet both added to Mason's doubts about the Constitution. Here are his remarks to Virginia's ratifying convention on June 17, 1788:*

 **Source Text:** The augmentation of slaves weakens the States; and such a trade is diabolical in itself, and disgraceful to mankind. Yet by this Constitution it is continued for twenty years. As much as I value an union of all the States, I would not admit the Southern States into the Union, unless they agreed to the discontinuance of this disgraceful trade, because it would bring weakness and not strength to the Union. And though this infamous traffic be continued, we have no security for the property of that kind which we have already. There is no clause in this Constitution to secure it; for they may lay such a tax as will amount to manumission. And should the Government be amended, still this detestable kind of commerce cannot be discontinued till after the expiration of twenty years. - For the fifth article, which provides for amendments, expressly excepts this clause. I have ever looked upon this as a most disgraceful thing to America. I cannot express my detestation of it. Yet they have not secured us the property of the slaves we have already. So that "They have done what they ought not to have done, and have left undone what they ought to have done."

 **Document 10**

***Information on the source:*** *Charles Cotesworth Pinckney was one of South Carolina's delegates to the Constitutional Convention. The South Carolina legislature debated the Constitution before calling a convention to vote on its ratification. In the legislative debate Pinckney defended the Constitution against several criticisms, including those like the ones made by George Mason in Virginia. These passages are from his statement, made on January 17, 1788. South Carolina's convention did ratify the Constitution later that year.*

 **Source Text:** As we found it necessary to give very extensive powers to the federal government both over the persons and estates of the citizens, we thought it right to draw one branch of the legislature immediately from the people, and that both wealth and numbers should be considered in the representation. We were at a loss for some time for a rule to ascertain the proportionate wealth of the states; at last we thought that the productive labor of the inhabitants was the best rule for ascertaining their wealth; in conformity to this rule, joined to a spirit of concession, we determined that representatives should be apportioned among the several states, by adding to the whole number of free persons three-fifths of the slaves. - We thus obtained a representation for our property, and I confess I did not expect that we should have been told on our return, that we had conceded too much to the Eastern States, when they allowed us a representation for a specie of property which they have not among them…

 By this settlement we have secured an unlimited importation of negroes for twenty years; nor is it declared that the importation shall be then stopped; it may be continued-we have a security that the general government can never emancipate them, for no such authority is granted, and it is admitted on all hands, that the general government has no powers but what are expressly granted by the constitution; and that all rights not expressed were reserved by the several states. We have obtained a right to recover our slaves in whatever part of America they may take refuge, which is a right we had not before. In short, considering all circumstances, we have made the best terms for the security of this species of property it was in our power to make. We would have made better if we could, but on the whole I do not think them bad.

**Secondary Source 1**

***Information on the source:*** *The passage below is an excerpt from Slavery and the Founders: Race and Liberty in the Age of Jefferson, by Paul Finkelman (M.E. Sharpe, 2001), pp. 9-10. Finkelman sees the Constitution as providing great protections for slavery and therefore as being basically a proslavery document.*

**Source Text:** Besides specific clauses of the Constitution, the structure of the entire document ensured against emancipation by the new federal government. Because the Constitution created a government of limited powers, Congress lacked the power to interfere in the domestic institutions of the states. Thus, during the ratification debates only the most fearful southern antifederalists opposed the Constitution on the grounds that it threatened slavery. Most southerners, even those who opposed the Constitution for other reasons, agreed with General Charles Cotesworth Pinckney of South Carolina, who crowed to his state's house of representatives:

 "*We have a security that the general government can never emancipate them [slaves], for no such authority is granted and it is admitted, on all hands, that the general government has no powers but what are expressly granted by the Constitution, and that all rights not expressed were reserved by the several states."*

The Constitution was not "essentially open-ended with respect to slavery," as the late Don Fehrenbacher argued. Nor is it true, as Earl Malts has argued, that "the Constitution took no position on the basic institution of slavery." On the contrary, the Constitution provided enormous protections for the peculiar institution of the South at very little cost to that region. At the Virginia ratifying convention, Edmund Randolph denied that the Constitution posed any threat at all to slavery. He challenged opponents of the Constitution to show "Where is the part that has a tendency to the abolition of slavery?" He answered his own questions by asserting, "…I might tell you that the Southern States, even South Carolina herself, conceived this property to be secure" and that "there was not a member of the Virginia delegation who had the smallest suspicion of the abolition of slavery." South Carolinians, who had already ratified the Constitution, would have agreed with Randolph. In summing up the entire Constitution, General Charles Cotesworth Pinckney, who had been one of the ablest defenders of slavery at the Convention, proudly told the South Carolina House of Representatives: "In short, considering all circumstances, we have made the best terms for the security of this species of property it was in our power to make. We would have made better if we could; but on the whole, I do not think them bad."

**Secondary Source 2**

***Information on the source:*** *The passage below is an excerpt from Founding Brothers: The Revolutionary Generation, by Joseph J. Ellis (New York: Vintage, 2000), pp. 91-93. Ellis views the Constitution as evenly balanced on the issue of slavery, both protecting it and not specifically approving of it or guaranteeing its permanent existence.*

**Source Text:** The depth and apparent intractability of the problem [slavery] became much clearer during the debates surrounding the drafting and ratification of the Constitution. Although the final draft of the document was conspicuously silent on slavery, the subject itself haunted the closed door debates. No less a source than Madison believed that slavery was the central cause of the most elemental division in the Constitutional Convention: "the states were divided into different interests not by their differences of size," Madison observed, "but principally from their having or not having slaves…It did not lie between the large and small States: it lay between the Northern and Southern…"

 Neither side got what it wanted at Philadelphia in 1787. The Constitution contained no provision that committed the newly created federal government to a policy of gradual emancipation, or in any clear sense placed slavery on the road to ultimate extinction. On the other hand, the Constitution contained no provisions that specifically sanctioned slavery as a permanent and protected institution south of the Potomac or anywhere else. The distinguishing feature of the document when it came to slavery was its evasiveness. It was neither a "contract with abolition" nor a "covenant with death," but rather a prudent exercise in ambiguity. The circumlocutions required to place a chronological limit on the slave trade or to count slaves as three-fifths of a person for purposes of representation in the House, all without ever using the forbidden word, capture the intentionally elusive ethos of the Constitution. The underlying reason for this calculated orchestration of non-commitment was obvious: Any clear resolution of the slavery question on way or the other rendered ratification of the Constitution virtually impossible.