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[Eileen Cristin O'Keeffe](#) · 17 days ago 🔒

While it can be said that the U.S. Constitution was the most democratic enterprise undertaken in the history of the world up to 1787, the fact remains that the world at that time was not a democratic place. In 1787, the tyranny that was slavery was legal in 62.5% of the States affiliated under the Articles of Confederation. While shortly thereafter New York and New Jersey would join the rest of the Northern States in abolishing slavery, at the time the Constitution was being debated, drafted, negotiated, and presented for voting, "We the People" consisted of citizens (free males eligible enfranchised by their State to vote) consisted of a strong contingent that owned slaves or directly relied upon slavery for their livelihood. Those men of social standing and power from the Southern States were determined to protect their economic interests, and a slave economy was front and center among their interests. As a result, although referenced in thinly veiled coded terms in the document itself, in 1787 slavery was the an endemic part of the thread that was woven into the fabric of the U.S. Constitution. A Constitution that was seen to abolish slavery or weaken it would have caused a revolt by over half of the States at the time, and would have dissolved the union before it even existed. At the same time, an blatant provision for a permanent embedding of slavery as part of the union would have lost at least the 5 Northern States that had already abolished it.

In this tension, the following provisions of the Constitution were drafted that protected the interest of slave holding States while at the same time appeasing the anti-slavery faction by avoiding an overt declaration that the Union would be one of slave holders. Section 9 of Article I states:

"The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person."

Furthermore, Article V barred amendment of Section 9 before 1808. Having secured the slave trade for another 20 years, the slave trade accelerated beyond the volume it had in any other 20 year period during the colonial era. By 1808, the slave population in the South had increased by over 30%.

Section 2 of Article IV includes this provision:

"No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due."

This provision guaranteed that slave holders could retrieve those persons they held as slaves that were found in non-slave States. The non-slave States could not grant immunity to those enslaved or indentured persons. While using the language of contracted labor to appease the anti-slavery faction, the provision was a blanket protection for the "property" rights of slave holders in their slaves.

Section 2 of Article I, negotiated by James Madison of Virginia, created the 3/5th Compromise by which slave states gained the census count of 3/5 of a person for each person held in bondage for purposes of apportionment of Congressional representatives and federal taxation. When this provision was combined with the rapid rush of slave importation in the 20 years between the ratification of the Constitution and 1808, and the addition of the slave holding states of the Deep South, the pro-Slave faction gained increased political power first in the Federal government.

Even provisions of the Constitution that appear neutral to slavery on their face were drafted with slavery in mind. When Madison was drafting the 2nd Amendment's reference to "well-regulated militias", Madison was attempting to address the underlying concern of the Southern States in debating about ratification over the ability of State militias to form to use force against slave revolts without Federal military intervention.

Finally, by the era of Andrew Jackson, the power of the slave holding faction accorded it under the U.S. Constitution had tipped in favor of the slave holders with the appointment of Chief Justice Roger Taney and the expansion of slave holding territories out into "the West". This growing hegemony did not go without resistance by the anti-slavery Northern States. But the Constitutional handicap they were given limited their ability to politically impact the inherent conflict they operated under. While the Southern States could not make all States slave holding states, they could push to increase the number of new states that would be admitted as slave holding States. This stalemate did not end until the Southern States decided they would leave their anti-slavery Northern States behind by exiting the Union they had negotiated so hard to accommodate their interests did the stalemate end.

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