



Scholar Exchange: Constitution 101: The Constitutional Convention Briefing Document

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BIG IDEA

With the U.S. Constitution, the Founding generation established a new national government. This new government was more powerful than the Articles of Confederation, but also one of limited powers.

INTRODUCTION

Big Questions

- Why did the Founding generation decide to write a new Constitution?
- How did the U.S. Constitution differ from the Articles of Confederation?
- What were some of the main compromises reached by the delegates at the Constitutional Convention?

INTRODUCTION TO THE CONSTITUTION'S TEXT

Constitution 101

The Constitution is composed of a Preamble, seven articles, and 27 amendments.

- The Preamble**—beginning with its famous words, **“We the People”**—expresses the Founding generation’s commitment to popular sovereignty, meaning a national government driven by the American people.
- Articles I through III establish the three branches of government.
 - Article I** gives us the legislative branch—Congress—tasked with *making* the laws.
 - Article II** lays out the executive branch—led by a single President—responsible for *enforcing* the laws.
 - Article III** outlines the judicial branch—with a Supreme Court as the nation’s highest court—with a duty to *interpret* the laws.

- The rest of the original Constitution—Articles IV through VII—covers a range of other issues.
 - **Article IV** addresses the relationship between the states and their citizens, how to handle the admission of new states, and how to govern federal territories. (It also includes the infamous Fugitive Slave Clause.)
 - **Article V** sets out the process for amending the Constitution.
 - **Article VI** establishes the supremacy of national law over the laws of the states. It also bans religious tests for national office.
 - **Article VII** sets out the process for ratifying the Constitution—which we will cover in detail next week.

THE ROAD TO THE CONVENTION

Before we turn to the Convention itself, it's important first to review why the founding generation thought that we needed a new Constitution in the first place.

It's important to remember that when the Constitutional Convention met in Philadelphia in 1787, our nation already had a framework of government—the Articles of Confederation. The Constitutional Convention itself was—in many ways—a response to the weaknesses of this form of government.

Articles of Confederation

The One Thing to Remember about the Articles of Confederation: The Articles created a weak central government—a “**league of friendship**”—one that largely preserved state sovereignty (and independence).

The Articles created a national government centered on the legislative branch, which was comprised of a single house. There was no separate executive branch or judicial branch. Each state was entitled to between two and seven delegates, and the delegates themselves voted by state—with each state receiving one vote.

The powers of the national government were limited.

- The national government didn't have the power to tax or regulate commerce between the states.
- It couldn't force states to provide troops or send the government money.
- Any proposed amendment to the Articles required *unanimous* approval from all thirteen states. As a result, no amendment was ever ratified.
- Congress couldn't exercise the powers that it *did* have without support from *nine* of the thirteen states. This supermajority requirement made it difficult for the national government to govern.

These limits created several problems for the young nation.

- Without the power to tax, Congress struggled to fund that national government. It depended on *voluntary* contributions from state governments, and many states simply refused to pay their fair share.
- The national government struggled to defend the frontier.
- Many states raised trade barriers against one another—imposing taxes on one another's goods, spurring unhealthy competition between the states, and harming the new nation's economy. Congress was powerless to stop this.

Revolutionary-era State Governments

The Constitutional Convention was also a response to the nation's experience with revolutionary-era state governments.

In the years between the Declaration of Independence in 1776 and the adoption of the Constitution in 1789, the United States was governed primarily by thirteen separate governments.

- These state constitutions created governments led by a strong legislature—responsive to each state's voters—and a weak executive branch and judiciary.
- These state governments pushed laws to relieve debtors (those who owed money)—undercutting their creditors (those who lent them money).
- As we just discussed, these governments also set up trade barriers to protect their own businesses from competing with businesses from other states.

As a result, the American economy cratered—with many leaders blaming the downturn on the economic policies advanced by the states' democratically elected legislatures.

With the new Constitution, the Framers were looking, in part, to respond to—what they perceived to be—the evils perpetrated by powerful, democratic state legislatures.

Shays' Rebellion

Finally, there was Shays' Rebellion. The economic situation grew dire by 1786. Businesses were failing, trade suffered, and under the Article of Confederation, the national government could do little to help.

In late 1786, farmers in Western Massachusetts—facing high land taxes (and growing debt) and feeling that the economic (and governing) class in Boston didn't represent them—took matters into their own hands.

Under the leadership of Daniel Shays—a thirty-nine-year-old farmer who had fought in the American Revolution, including at Lexington and Bunker Hill—the farmers organized themselves into an armed fighting force and marched through the western part of the state.

- The farmers seized control of court buildings—preventing the state government from taking possession of their farms.
- They forced debtors' prisons to close.
- And they attempted to commandeer the arsenal at Springfield, Massachusetts. (Their plan was to march to Boston and confront the Massachusetts government.)

Under the Articles of Confederation, the national government struggled to raise an army. The state militia eventually put down the rebellion.

For many in the Founding generation—including George Washington, Alexander Hamilton, James Wilson, and James Madison—Shays' Rebellion was proof that the Articles were too weak to govern the country.

Revising the Articles

Eventually, these key leaders concluded that the nation needed to hold a new convention—one that might work to propose a strong national government, whether through revisions to the Articles of Confederation or even through a new Constitution.

On February 21, 1787, the Confederation Congress agreed to call for a convention of state delegates to meet in Philadelphia for the **“sole and express purpose of revising the Articles.”**

THE CONSTITUTIONAL CONVENTION

Some background on the Convention itself:

- The Constitution was drafted in secret at the Constitutional Convention in Philadelphia between May 14, 1787 and September 17, 1787.
- The Convention met at the Pennsylvania State House (now known as Independence Hall).
- On the final day of the Convention, three delegates—Elbridge Gerry, George Mason, and Edmund Randolph—refused to sign the Constitution. (Others like Luther Martin left the Convention early.)
- The delegates were nominated and appointed by their respective state legislatures.
- Delegations each had one vote per state.
- Twelve of the thirteen states were represented. (Rhode Island—fearing a strong national government—sent no delegates and therefore had no vote at the Convention.)
- The average age of the delegates in the room was forty-two, and most of the delegates were lawyers.
- George Washington was elected the President of the Convention.
- Several important Americans weren’t there: Thomas Jefferson and John Adams were both abroad—Jefferson was in France, and Adams was in England. John Hancock was Governor of Massachusetts. Richard Henry Lee and Patrick Henry refused to attend.
- The Constitution was ratified on June 21, 1788, and went into effect with the first meeting of Congress on March 4, 1789.

Let’s focus on some of the Convention’s key compromises—namely, the Connecticut Compromise, the Electoral College, the Three-Fifths Compromise, and the Slave Trade Clause.

CONNECTICUT (OR GREAT) COMPROMISE

Disputes between small states and large states spurred intense debates over how the states were to be represented in the new government.

Two key delegates—James Madison and James Wilson—were central to these debates, although they lost on many key issues. Even so, they were among the intellectual heavyweights at the Convention and helped drive the debate—even when they were outvoted.

Madison had experience in *both* the Virginia state government *and* the national government under the Articles of Confederation. His experience in Virginia convinced him that the 1776 Virginia state constitution had given too much power to the lower house of the state legislature—the elected body closest to the people. Madison remained committed to popular sovereignty, but came to believe that a constitution must set up ways of slowing politics down,

allowing time for debate, and refining public opinion. For Madison, this deliberative process would lead to better policies—policies that promoted the public good, *not* factional interests.

At the same time, Madison’s experience in the national government—as a member of Congress—convinced him that America needed a stronger national government, one with the power to regulate commerce, raise funds, and protect the interests of political minorities.

Turning to the debates over Congress at the Convention, Madison and Wilson supported a national legislature based on proportional representation. (In other words, larger states would receive more seats in the national legislature than smaller states. This differed from the Articles, which was organized under the principle of state equality. Each state—regardless of its size—received one vote.)

These ideas culminated in the “Virginia Plan”—which framed the Convention’s discussion over Congress. The Virginia Plan was presented by Edmund Randolph in the early days of the Convention, but it was the brainchild of Madison.

Virginia Plan:

- o A legislative branch consisting of two chambers. (This differed from the Confederation Congress, which included only one House.)
- o Each of the states would be represented in proportion to their size. (So, in both houses of the national legislature, populous states, like Virginia (the most populous state at the time), would have more representatives than smaller states.)
- o The national legislature would have the power to address issues that were beyond the ability of any single state government to handle.
- o And the legislature could also veto state laws which it found to be against the national interest.

William Paterson and his allies countered with the New Jersey Plan—which grew out of small-state fears that the Virginia Plan would lead to domination by the large states.

New Jersey Plan:

- o A one-house legislature with each state—regardless of its size—receiving one vote. (So, just like the Articles of Confederation.)
- o At the same time, the New Jersey Plan *would* expand the powers of the national government to address the needs of a growing nation. Even so, the basic structure of the government would remain the same.

The delegates spent a great deal of time in the early part of the Convention debating how to structure Congress. These competing proposals led to intense debates—pitting small states against large ones and raising questions about how much power the national government should hold.

Eventually, Roger Sherman and Oliver Ellsworth—both from Connecticut—proposed the Connecticut (or Great) Compromise.

Connecticut Plan:

- o Congress would consist of *two* houses—a House of Representative and a Senate.

- o The House would be elected on the basis of proportional representation—giving larger states more seats than smaller states.
- o At the same time, the Senate would be elected on the basis of equal representation, with each state—regardless of its size—receiving two Senators.

The Great Compromise eventually passed by a single vote. In the end, Madison and Wilson won the fight over representation in the House, but they suffered a major defeat over representation in the Senate. They were devastated.

But they would, of course, live to fight another day, and Madison himself would even defend the Senate—equal state representation and all—in *The Federalist Papers*, written during the battle over the ratification of the Constitution.

The Federalist Papers

What was the framers' broader vision for Congress? While it's always dangerous to generalize, Madison, Hamilton, and John Jay set out a compelling vision in *The Federalist Papers*.

In designing their new government, the framers were no doubt concerned about the threat of tyranny. The British Empire had blockaded their ports, taxed their goods, and abused (and killed) their fellow citizens. British soldiers had patrolled their streets, harassed their families, and slept in their homes. And, throughout these trying times, the colonists had no voice in Parliament. Therefore, it's little wonder that the founders were concerned with designing a Congress with limited powers—one that would secure the blessings of liberty to themselves and their posterity.

However, the founders were also interested in forming a national government—and a Congress—that worked. If the tyranny of George III was fresh in their minds, so, too, were the failures of the Articles of Confederation—a government incapable of raising revenue, promoting cooperation between the states, or securing our infant nation.

By drafting and ratifying our Constitution, the founding generation sought to create a Congress more powerful than the Continental Congress under the Articles of Confederation, but also one of limited powers. This was no simple task.

In *The Federalist Papers*, Madison, Hamilton, and Jay envisioned a constitutional system driven by reasoned debate and principled compromise.

- o They believed that all of us have a range of faculties, beginning with passion at the bottom and reason at the top, and that we have the duty to cultivate our faculties of reason to converge around the facts that make reasoned deliberation possible.
- o In part, they feared majority and minority factions as enemies of public reason, and, in part, they sought to build a system that guarded against majoritarian tyranny, making it hard for (as James Madison put it) **“stronger factions [to] readily unite to oppress the weaker.”**

This is the familiar American Constitution story. Separation of powers. Checks and balances. Factions counteracting factions. However, that's only part of the story.

The founders also sought to design a system that worked—one that promoted public reason and filtered the views of the American people through representative bodies filled with America's best and brightest.

Of course, while House elections were intended to align the government with the views of the people, the Framers also designed a “**complicated**” system—one that was not simply driven by the immediate preferences of the people themselves.

- Through the new Constitution, Madison sought to limit the dangers of party passion and factional unreason. For Madison, **“the aim of every political constitution was . . . , first, to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of society.”** (Fed. 57)
- While states often had a limited pool of quality candidates for their legislatures, the national government would have, in John Jay’s words, **“the widest field of choice.”** (Fed. 3)
- Since the Framers **“extended . . . the spheres of elections,”** a larger universe of potential candidates would be available for each position in the federal government, and only those with well-established reputations would win. (Fed. 27, Hamilton)
- This would result in elected officials who were **“temperate and cool,”** (Fed 27, Hamilton) **congressional deliberations filled with “moderation and candor,”** (Fed 27, Ham), and decisions that were **“more wise, systematical, and judicious, than those of the individual states.”** (Fed 3, Jay)
- This form of representative government would **“refine and enlarge the public’s views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the interest of their country, and whose patriotism and love of justice, would be least likely to sacrifice it to temporary or partial considerations.”** (Fed. 10)
- So, the framers’ goal was to build a positive feedback loop of civic republican virtue: Build a system likely to attract great leaders, attract those leaders, build the public’s affection for the national government, and rinse and repeat. (Fed. 3, Jay)

The system as a whole was designed to slow the political process down, filter public opinion, and lead to good decision making. The people would elect the members of the House directly and indirectly play a role in the selection of the new government’s President and Senators. And any idea or piece of legislation would face considerable obstacles before succeeding.

This process would kill bad ideas, revise flawed ones, and refine good ones.

- For the American people, there was an obligation to remain engaged and involved.
- For elected officials, there was the duty to educate their constituents and shape their views.

Over time, by slowing our politics down, national policy would promote the common good.

So, this is a system that’s driven, not by the immediate preferences of the American people, but instead one that promotes widespread public deliberation guided by elite leadership, a system relying on a dynamic conversation between elites and average citizens—and between Congress, the President, and the courts.

In the Framers’ system, the American people must have the last word, to be sure, but the system must also ensure that the American people’s views are actually worth following.

Only then will our national government serve the public good.

THE ELECTORAL COLLEGE

Let's turn from Congress to the Presidency—focusing on the compromises that led to our method for selecting a president, the Electoral College. So, what's the Electoral College?

Today, many democratic nations elect their executives by direct popular vote. We don't. Instead, we use a system known as the "Electoral College." How does it work?

Today, the Electoral College is made up of 538 electors drawn from the states and the District of Columbia.

Under Article II of the Constitution, the states are given a number of electors equal to their congressional delegation and the Twenty-Third Amendment granted Washington, D.C., its three electoral votes.

Today, the American people vote for president and vice president on the Election Day. But these votes don't directly determine the outcome of the election. Technically, these popular votes determine which electors will be appointed to the Electoral College from each state. The electors eventually meet in December to cast their votes for President and Vice President. If a candidate receives a majority of these votes in the Electoral College, she wins—even if she lost the popular vote.

So, how did we end up with this system? It's a very interesting story. To understand the debate over the Electoral College, it's important first to understand a bit about the framers' debates over the Presidency itself.

It's fair to say that the framers struggled with how to structure the presidency. This was driven, in part, by the lack of historical examples to follow.

- When the framers looked to antiquity—and to the difference between the Roman Republic and the Empire—they saw the failure of past republics and that past political structures hadn't addressed the problem of executive power.
- When the Framers looked to Europe, they saw powerful kings.
- When they looked to their own state constitutions, they saw executives too weak to govern effectively. (Some states (PA) had executive counsels and no single president/unitary executive.)
- When they looked to their own Congress under the existing Article of Confederation, they saw a body inadequate to the executive tasks necessary to shepherd a young (but growing) nation down its path towards greatness.

At the same time, the framers feared executive power. They remembered the abuses of King George III and his officials in colonial America—abuses that helped lead to the American Revolution.

Turning to the Convention itself, the framers as a whole had a range of opinions when it came to the new Executive.

- On one end of the spectrum, Alexander Hamilton and John Dickinson voiced admiration for the limited monarchy of Great Britain—and a single, strong national executive.
- On the other end of the spectrum, Roger Sherman viewed the Executive as **"nothing more than an institution for carrying the will of the Legislature into effect."**

In the end, the debate over the Electoral College was closely connected to these broader debates over the presidency itself. (And James Wilson played a key role throughout these debates.) Over time, they wrestled with four big issues:

- How to elect the president.
- How long the president's term should be.
- Whether the president should be allowed to run for reelection.
- And the question of impeachment and removal.

And the framers repeatedly learned that a decision taken on one of these issues would affect what they thought about all of the others.

So, how *did* we get the Electoral College?

The Electoral College was a compromise—between those like James Wilson who wanted the direct popular election of the president and those who supported other presidential selection systems.

Over time, the Framers debated a range of ways to select the president, including direct election by popular vote (Wilson's preference), by Members of Congress (the preference of many Framers—especially Southern slaveholding delegates like Pierce Butler), by electors selected by lottery (Wilson's radical suggestion), or by an electoral college (a compromise).

For much of the Convention, the election of the president seemed like an unsolvable problem. Each idea had its own problems.

- Election by Congress had the advantage of placing the decision in the hands of some of the nation's most knowledgeable leaders. However, the concern was, as Gouverneur Morris warned, that the result would eventually be the **"work of intrigue, of cabal, and of faction,"** producing a president who would become a mere tool of his supporters in Congress.
- Election by popular vote—proposed by Wilson (and supported, at various times, by Morris and Madison)—had the advantage of rooting the presidency in popular sovereignty.
 - Some framers opposed this idea based on sheer elitism.
 - However, others (like George Mason) didn't so much fear that the American people would be easily duped by demagogues, but instead were concerned that the size of the country would make it difficult to carry out a national election—and for the average voter to know anything about an out-of-state candidates' record. (In other words, everyone would know (and love) Washington. But in the future, there probably wouldn't be many (or any) other Washingtons.) For delegates like Mason, it wasn't a question of competence, but one of information. (The United States was a larger republic than any ever built. Many citizens were on the frontier, spread out in the country. Information at the time spread slowly and usually to cities first. Many rural areas didn't have newspapers. Therefore, the concern would be that these voters would rely on bad information, and this might lead them susceptible to manipulation—especially by demagogues.)
- The third—and final—key idea was the Electoral College.
 - The key advantage of this proposal was that it would keep the president independent of the legislature.
 - He would have his own independent base of support that would dissolve after the election.
 - Key disadvantages were the logistics of how to get the Electors to meet and the related expenses.

- Some Framers also feared whether they'd be able to attract Electors **"of the 1st or even the 2d grade in the States."**
- The Framers settled on the Electoral College in the closing weeks of the Convention, and they supported it for a range of reasons.
- For James Wilson—who supported the popular election of the president—the Electoral College was a second (or third) best option.
- For those who shared some of Wilson's support for popular democracy, but also shared some of the concerns of the other framers about its dangers (and limits), the Electoral College offered a balance between popular input, congressional (and elite) input, and federalism.
- For those who supported congressional election, the Electoral College would still have the U.S. House—voting by state, not by individual Members—decide the president among the top vote-getters if no candidate received a majority in the Electoral College. And many framers assumed that—after Washington—many elections would go to the House. (In other words, that no candidate would have a big enough national reputation to secure a majority of the electoral vote.) As Mason put it, the electors would fail to generate a winner **"nineteen times in twenty."**
- For some slaveholding delegates, the Electoral College represented a way of boosting their power over presidential selection—with the Constitution counting enslaved persons as three-fifths of a person for purposes of congressional representation and, in turn, for determining the voting power in the Electoral College.
- And, finally, for some founders like Alexander Hamilton (and as he argued in *Federalist* No. 68), the Electoral College represented a way of guarding against dangerous demagogues and leaving the presidential election, ultimately, to the votes of national elites serving in the Electoral College.
 - Hamilton and some of his fellow Federalists argued in support of the Electoral College as an anti-democratic institution.
 - On this view, it would limit the excesses of democracy.
 - This theory had its roots both in experiences like Shay's Rebellion, but also in antiquity (and Aristotle's theory of why democracies fell to corruption and demagoguery).
 - Hamilton: **"Men chosen by the people for the special purpose" of selecting the President "will be most likely to possess the information and discernment requisite to such complicated investigations."**

THE DEBATES OVER SLAVERY

Let's end with one of the most controversial (and troubling) aspects of the Convention—the delegates' compromises over slavery.

Slavery is obviously older than the U.S. Constitution. Slavery itself was written into colonial law as early as the 1660s in places like Virginia and the Carolinas. The British Empire secured a monopoly over the slave trade in 1713, and in the 1700s, American slavery expanded.

To give just the example of Virginia—enslaved people grew from just 7% of the population in 1680 to 28% in 1700 and, finally, to a whopping 46% (nearly half of the Virginia population) in 1750. So, well before the Constitutional Convention, slavery became a massive part of the Southern population—and white Southern wealth.

Let's fast forward to 1787 and return to the Constitutional Convention in Philadelphia. What role did slavery play there?

First, a quick backstory on the push towards emancipation—the end of slavery— in the North.

Throughout the colonial period, slavery wasn't only a Southern phenomenon. There were enslaved people in the North—in some places, for instance, New York, there were many of them. However, during the 1780s, many Northern states took steps towards ending slavery.

Vermont ended slavery in their 1777 constitution. A state supreme court decision ended slavery in Massachusetts in 1783. Pennsylvania passed a gradual emancipation bill in 1780—followed by Rhode Island and Connecticut in 1784. (These bills gradually freed the children of currently enslaved people in later years.)

But some Northern states—those with a greater number of enslaved people like New York and New Jersey—were more reluctant to act. (Acts in 1799 and 1804, respectively.)

All told, 25 of the Convention delegates held enslaved people, and slavery was critical to many of these delegates' wealth—and to the economies of their home states.

At the Constitutional Convention, the framers refused to recognize the right of property in men. However, they *did* compromise over the issue of slavery, enshrining protections for slaveholders in the Constitution.

(Broadly, the reason for compromise—the biggest goal was a strong national union and government. For some Northern states, that means securing economic power. But South Carolina and Georgia—among others—wouldn't agree to a Union without protections for slavery.)

Three-Fifths Clause

Text of the Constitution:

[The "Three-fifths Clause," Article I, Sect. II, Cl. 3](#)

"Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons."

As we discussed earlier, the U.S. House of Representatives draws up districts based on a state's population—the larger the state, the greater the number of districts it gets. And the greater the number of districts for each state—and for each region of the country (North v. South)—the greater the political power.

The key question in the debate over the Three-Fifths Clause was how to count enslaved people as part of this process.

The delegates borrowed language from a proposed 1784 amendment to the Articles of Confederation. It counted enslaved people as 3/5 of a person. But this clause was debated multiple times during the Convention—as the delegates struggled over how best to structure Congress.

At the Convention, pro-slavery Southerners argued that enslaved people should count as a full person—5/5s, but anti-slavery Northerners shouted hypocrisy. How could the Southern delegates treat enslaved people as full persons for

purposes of representation in the national government but at the same time deny their humanity by treating them as property?

For instance, Massachusetts delegate Elbridge Gerry asked how enslaved people who were property in the South could be counted as persons any more than **“the cattle and horses of the North.”**

New York delegate Gouverneur Morris called slavery a **“nefarious institution— . . . the curse of heaven on the states where it prevailed.”** Morris then attacked the Three-Fifths Clause for giving **“the inhabitant of Georgia and South Carolina who goes to the Coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow creatures from their dearest connections and damns them to the most cruel bondages, . . . more votes in a government instituted for the protection of the rights of mankind, than the citizen of Pennsylvania or New Jersey who views with a laudable horror so nefarious a practice.”**

The Convention rejected Southern attempts to count enslaved people as a full person, and Northern attempts to exclude them from the count altogether.

Ultimately, Roger Sherman of Connecticut secured support for the Three-Fifth Clause. (The Southern delegates were unhappy that Northern reps would have a 36-29 advantage in the House, but they accepted the compromise as a key protection against future Northern attempts to limit slavery.)

Of course, the Framers avoided using the word “slave” in the clause.

This clause had a huge impact over time.

While the delegates didn’t spend much time discussing slavery when debating how to elect the president, the lower South preferred a system in which Congress—where they might have an advantage due to the Three-Fifths Clause—would elect the president, while Northerners like James Wilson preferred popular election. The Electoral College ultimately gave the slaveholding states a similar advantage.

The Three-Fifths Clause increased pro-slavery strength in Congress (by counting enslaved people as 3/5 of a person), in the presidency (through the Electoral College), and at the Supreme Court (through electing pro-slavery presidents, who appoint those justices).

Slave Trade Clause

Text of the Constitution:

[Slave Trade Clause: Article 1, Section 9, Clause 1:](#)

“Congress is limited, expressly, from banning the “Importation” of slaves, before 1808: “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.”

By the founding, even many slaveholders opposed the inhumane Atlantic slave trade. Only delegates from South Carolina and Georgia were determined to continue this brutal trade.

This issue led to heated debates at the Convention. For instance, George Mason—himself a major slaveholder—used powerful language to capture the harm of slavery to the American character, which **“produce[s] the most pernicious effect on manners” among the slaveholders by making every one of them a “petty tyrant.”**

Mason, John Dickinson, and Rufus King proposed an outright ban on the Atlantic slave trade, but the delegates rejected it. Instead, to the annoyance of Morris and Madison and others, the Convention reached a compromise over the slave trade. Congress could ban the slave trade, but only twenty years after the ratification of the Constitution—January 1, 1808.

In other words, this clause protected the brutal slave trade until 1808.

And between 1788 and 1808, the number of African slaves imported into the United States exceeded 200,000—only roughly 50,000 fewer than the total number of slaves imported to American in the previous 170 years. At that point, Congress had the power to abolish it, and so it did.

In the end, the anti-slavery Northern delegates wanted to block the expansion of slavery and did not want to write explicit protection for slavery—recognition of the so-called “right of property in man”—into the Constitution.

Many Framers hoped that enough states in the North would move toward emancipation that slavery might die out in a generation or two.

Here’s Connecticut’s Oliver Ellsworth: **“Slavery, in time, will not be a speck in our country.”**

However, they were also open to protecting the existing property rights of the slaveholders and were willing to compromise with Southern slaveholders in order to form a new Union, ratify the Constitution, and create a new national government stronger than the government under the Articles of Confederation.

At the same time, Southern slaveholders fought to build in protections against future anti-slavery Northerners’ attempts to restrict (and even abolish) slavery.

In the end, the legality of slavery—whether to permit it or to abolish it—was left to the states, where it stayed until the ratification of the Thirteenth Amendment after the Civil War.



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