

Constitutional Debates on Slavery, 1787

Introduction

By 1786, it was clear to most Americans that the Articles of Confederation, adopted in 1777, needed serious revision. The Articles left Congress without the power to regulate the economy, impose federal law, or effectively regulate trade. Considering the sizable war debts of the states as well as the federal government, it was imperative that the country establish a strong central government with the power to tax, declare war, enforce law, and negotiate with foreign powers. The Constitutional Convention started in May, 1787 and went on throughout the summer. Of the 55 delegates from 12 states (Rhode Island did not send any delegates), 25 owned slave and several others (including Benjamin Franklin) were former slave owners. The delegates waited until late August to address the issue of the slave trade and slavery itself, knowing it would be a contentious debate. They were not wrong. The ensuing debate considered 2 key issues: 1) should the United States continue to import enslaved people from Africa and the Caribbean? If so, should the federal government tax and regulate the trade? 2) Should the federal government protect slavery as another economic institution (like manufacturing and farming)?

Not all of the southern delegates felt the same about the issue of the slave trade and slavery. The delegates from Virginia and Maryland argued against the slave trade, and even criticized the continuation of slavery itself. The delegates from South Carolina and Georgia felt differently. Ultimately, the men who argued against maintaining slavery and the slave trade in the new country capitulated to the slave owners, and the Constitution protected both institutions.

James Madison, a delegate from Virginia, served as the Secretary (chief recording officer) of the convention debates. Five weeks before the explosive debate over slavery, Madison recorded his own comments to the conventions: "It seems now to be pretty well understood that the real difference of interests lies not between the large and small but between the northern and southern states. The institution of slavery and its consequences form the line of discrimination."

The following excerpt is from Madison's notes from August 21 and 22, 1787.¹

Primary Source

Tuesday, August 21

¹ [Notes on the Debates in the Federal Convention](#) by James Madison are believed to be in the [public domain](#).

MR. MARTIN², proposed to vary the Sect: 4. art VII. so as to allow a prohibition or tax on the importation of slaves. 1. as five slaves are to be counted as 3 free men in the apportionment of Representatives; such a clause would leave an encouragement to this traffic. 2. slaves weakened one part of the Union which the other parts were bound to protect: the privilege of importing them was therefore unreasonable. 3. it was inconsistent with the principles of the revolution and dishonorable to the American character to have such a feature in the Constitution.

MR. RUTLEDGE did not see how the importation of slaves could be encouraged by this Section. He was not apprehensive of insurrections and would readily exempt the other States from the obligation to protect the Southern against them. Religion & humanity had nothing to do with this question. Interest alone is the governing principle with nations. The true question at present is whether the Southern States shall or shall not be parties to the Union. If the Northern States consult their interest, they will not oppose the increase of Slaves which will increase the commodities of which they will become the carriers.

MR. ELSEWORTH was for leaving the clause as it stands. Let every State import what it pleases. The morality or wisdom of slavery are considerations belonging to the States themselves. What enriches a part enriches the whole, and the States are the best judges of their particular interest. The old confederation had not meddled with this point, and he did not see any greater necessity for bringing it within the policy of the new one.

MR. PINKNEY. South Carolina can never receive the plan if it prohibits the slave trade. In every proposed extension of the powers of the Congress, that State has expressly & watchfully accepted that of meddling with the importation of negroes. If the States be all left at liberty on this subject, S. Carolina may perhaps by degrees do of herself what is wished, as Virginia & Maryland have already done.

Adjourned

Wednesday, August 22

(In Convention, Article 7, Section 4, was resumed)

MR. SHERMAN was for leaving the clause as it stands. He disapproved of the slave-trade; yet as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, and as it was expedient to have as few objections as possible to the proposed scheme of government, he thought it best to leave the matter as we find it. He observed that the abolition of slavery seemed to be going on in the United States, and that the good sense of the several States would probably by degrees complete it.³ He urged on the Convention the necessity of dispatching its business.

COLONEL MASON. The infernal traffic originated in the avarice of British merchants. The British Government constantly checked the attempts of Virginia to put a stop to it. The present question concerns not the importing States alone, but the whole Union. The evil of having slaves

² [Click here](#) for a list of the delegates to the Constitutional Convention, which state they represented, a short biography, and other interesting information.

³ Most northern states implemented a gradual emancipation plan, ending slavery with a set timeframe.

was experienced during the late war. Had slaves been treated as they might have been by the enemy, they would have proved dangerous instruments in their hands. But their folly dealt by the slaves as it did by the Tories⁴. He mentioned the dangerous insurrections of the slaves in Greece and Sicily; and the instructions given by Cromwell to the commissioners sent to Virginia, to arm the servants and slaves, in case other means of obtaining its submission should fail⁵. Maryland and Virginia, he said, had already prohibited the importation of slaves expressly. North Carolina had done the same in substance. All this would be in vain, if South Carolina and Georgia be at liberty to import. The Western people⁶ are already calling out for slaves for their new lands; and will fill that country with slaves, if they can be got through South Carolina and Georgia. Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the emigration of whites, who really enrich and strengthen a country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of Heaven on a country. As nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins by national calamities. He lamented that some of our Eastern brethren had, from a lust of gain, embarked in this nefarious traffic. As to the States being in possession of the right to import, this was the case with many other rights, now to be properly given up. He held it essential in every point of view, that the General Government should have power to prevent the increase of slavery.

MR. ELLSWORTH as he had never owned a slave, could not judge of the effects of slavery on character. He said, however, that if it was to be considered in a moral light, we ought to go further and free those already in the country. As slaves also multiply so fast in Virginia and Maryland that it is cheaper to raise than import them, whilst in the sickly rice swamps foreign supplies are necessary, if we go no further than is urged, we shall be unjust towards South Carolina and Georgia.⁷ Let us not intermeddle. As population increases, poor laborers will be so

⁴ What does Mason mean by “had slaves been treated as they might have been by the enemy, they would have proved dangerous instruments in their hands?”

⁵ This is a complicated reference. In short: In 1642, Oliver Cromwell led a Puritan uprising – with the support of Parliament - against the British King, Charles I. After a lengthy Civil War in England, Cromwell and the Parliamentarians, as they were called, assumed control of England, renaming the Empire the “British Commonwealth.” The political divisions in England rippled through the colonies; some colonial leadership supported the new Commonwealth, others supported the exiled monarchy (Charles I was beheaded in 1649, his son, Charles II, remained in exile until 1660). Most Virginians remained loyal to the monarchy, especially after Cromwell hinted at ending slavery in the colonies, which is what Mason alludes to here. (Cromwell declared Virginia part of the “Commonwealth” in effort to quell resistance, hence the “Commonwealth of Virginia” moniker) BTW, William Berkeley was governor of the Virginia colony during all of this. Berkeley strongly supported the restoration of Charles II to the throne (Berkeley was appointed Governor of Virginia by his father, Charles I) in 1660. His governorship ended with Bacon’s Rebellion in 1676, which should be in your notes.

⁶ The West in 1787: Ohio Territory in the North, Mississippi/Alabama Territory in the South, both formerly part of New France. Remember that the Northwest Ordinances barred slavery in the Ohio Territory, but that didn’t stop people from moving to the territory with enslaved people and loudly demanding slavery be allowed anyway. BTW: MS/AL border the foreign country of New Spain. Spain controlled Louisiana, including New Orleans, second only to Charleston, SC as the most lucrative slave port in North America. Slavery and the slave trade thrived on the other side of the Mississippi River, thus southern planters and slave traders wanted New Orleans. Even this early, expansion of slavery into the “West” was a contentious issue. Thomas Jefferson will secure New Orleans as part of the Louisiana Purchase in 1803, 16 years after this Convention.

⁷ Virginia and Maryland were the oldest southern colonies/states, and as such, had enslaved families tracing back 50-100 years by 1787 (longer than many of the delegates lineage). As a result, a “Domestic Slave Trade” developed, selling enslaved people from VA and MD to the frontier regions of Tennessee and Kentucky (and

plenty as to render slaves useless. Slavery in time, will not be a speck in our country. Provision is already made in Connecticut for abolishing it. And the abolition has already taken place in Massachusetts. As to the danger of insurrections from foreign influence, that will become a motive to kind treatment of the slaves.

MR. PICKNEY. If slavery be wrong, it is justified by the example of all the world. He cited the case of Greece, Rome, and other ancient states; the sanction given by France, England, Holland, and other modern states. In all ages one half of mankind have been slaves. If the Southern States were let alone, they will probably of themselves stop importations. He would himself, as a citizen of South Carolina, vote for it. An attempt to take away the right, as proposed, will produce serious objections to the Constitution, which he wished to see adopted.

GENERAL PICKNEY declared it to be his firm opinion, that if himself and all his colleagues were to sign the Constitution, and use their personal influence, it would be of no avail towards obtaining the assent of their constituents. South Carolina and Georgia cannot do without slaves. As to Virginia, she will gain by stopping the importations. Her slaves will rise in value, and she has more than she wants. It would be unequal, to require South Carolina and Georgia to confederate on such unequal terms. He contended, that the importation of slaves would be for the interest of the whole Union. The more slaves, the more produce to employ the carrying trade; the more consumption also; and the more of this, the more revenue for the common treasury. He admitted it to be reasonable that slaves should be dutied like other imports; but should consider a rejection of the clause as an exclusion of South Carolina from the Union.

MR. BALDWIN had conceived national objects alone to be before the Convention; not such as, like the present, were of a local nature. Georgia was decided on this point. That State has always hitherto supposed a General Government to be the pursuit of the central States, who wished to have a vortex for everything; that her distance would preclude her from equal advantage; and that she could not prudently purchase it by yielding national powers.⁸ From this it might be understood, in what light she would view an attempt to abridge one of her favorite prerogatives. If left to herself, she may probably put a stop to the evil. As one ground for this conjecture, he took notice of the sect of -; which he said was a respectable class of people, who carried their ethics beyond the mere equality of men, extending their humanity to the claims of the whole animal creation.

MR. WILSON observed, that if South Carolina and Georgia were themselves disposed to get rid of the importation of slaves in a short time, as had been suggested, they would never refuse to unite because the importation might be prohibited. As the section now stands, all articles imported are to be taxed. Slaves alone are exempt. This is in fact a bounty on that article.

MR. GERRY thought we had nothing to do with the conduct of the States as to slaves, but ought to be careful not to give any sanction to it.

soon , Alabama and Mississippi). Rice planters in South Carolina and Georgia were more likely to work the enslaved people to death and then buy new ones. As a result, SC and GA did not develop a Domestic Slave Trade.

⁸ What is the delegate from GA arguing here about the relationship of their state/colony to the “General (federal) Government?”

MR. DICKINSON considered it as inadmissible, on every principle of honor and safety, that the importation of slaves should be authorized to the States by the Constitution. The true question was, whether the national happiness would be promoted or impeded by the importation; and this question ought to be left to the National Government, not to the States particularly interested. If England and France permit slavery, slaves are, at the same time, excluded from both those kingdoms⁹. Greece and Rome were made unhappy by their slaves. He could not believe that the Southern States would refuse to confederate on the account apprehended; especially as the power was not likely to be immediately exercised by the General Government.

MR. WILLIAMSON stated the law of North Carolina on the subject, to wit, that it did not directly prohibit the importation of slaves. It imposed a duty of £5¹⁰ on each slave imported from Africa; £10 on each from elsewhere; and £50 on each from a State licensing manumission. He thought the Southern States could not be members of the Union, if the clause should be rejected; and that it was wrong to force anything down not absolutely necessary, and which any State must disagree to.

MR. KING thought the subject should be considered in a political light only. If two States will not agree to the Constitution, as stated on one side, he could affirm with equal belief on the other, that great and equal opposition would be experienced from the other States. He remarked on the exemption of slaves from duty, whilst every other import was subjected to it, as an inequality that could not fail to strike the commercial sagacity of the Northern and Middle States.

MR. LANGDON was strenuous for giving the power to the General Government. He could not, with a good conscience, leave it with the States, who could then go on with the traffic, without being restrained by the opinions here given, that they will themselves cease to import slaves.

GENERAL PINCKNEY thought himself bound to declare candidly, that he did not think South Carolina would stop her importations of slaves in any short time; but only stop them occasionally, as she now does. He moved to commit the clause, that slaves might be made liable to an equal tax with other imports; which he thought right, and which would remove one difficulty that had been started.

MR. RUTLEDGE. If the Convention thinks that North Carolina, South Carolina, and Georgia, will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain. The people of those States will never be such fools as to give up so important an interest. He was strenuous against striking out the section, and seconded the motion of General Pickney for a commitment.

MR. GOUVERNEUR MORRIS wished the whole subject to be committed, including the clauses relating to taxes on exports and to a navigation act. These things may form a bargain among the Northern and Southern States.

⁹The British and French Empires had slaves in their colonies, but neither England or France allowed slavery within its own country.

¹⁰ 5 pounds – English currency.

MR. BUTLER declared, that he never would agree to the power of taxing exports.

MR. SHERMAN said it was better to let the Southern States import slaves than to part with them, if they made that a sine qua non¹¹. He was opposed to a tax on slaves imported, as making the matter worse, because it implied they were property. He acknowledged that if the power of prohibiting the importation should be given to the General Government, it would be exercised. He thought it would be its duty to exercise the power.

MR. READ was for the commitment, provided the clause concerning taxes on exports should also be committed.

MR. SHERMAN observed, that that clause had been agreed to, and therefore could not be committed.

MR. RANDOLPH, was for committing, in order that some middle ground might, if possible, be found. He could never agree to the clause as it stands. He would sooner risk the Constitution¹². He dwelt on the dilemma to which the Convention was exposed. By agreeing to the clause, it would revolt the Quakers, the Methodists, and many others in the States having no slaves. On the other hand, two States might be lost to the Union. Let us then, he said, try the chance of a commitment.¹³

(The vote)

On the question for committing the remaining part of Sections 4 and 5 of Article 7, - Connecticut, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye, -7; New Hampshire, Pennsylvania, Delaware, no, -3; Massachusetts, absent.

MR. PICKNEY and MR. LANGDON moved to commit Section 6, as to a navigation act by two thirds of each House.

MR. GORHAM did not see the propriety of it. Is it meant to require a greater proportion of votes? He desired it to be remembered, that the Eastern States had no motive to union but a commercial one. They were able to protect themselves. They were not afraid of external danger, and did not need the aid of the Southern States.

MR. WILSON wished for a commitment, in order to reduce the proportion of votes required.

MR. ELLSWORTH was for taking the plan as it is. This widening of opinions had a threatening aspect. If we do not agree on this middle and moderate ground, he was afraid we should lose two States, with such others as may be disposed to stand aloof; should fly into a variety of shapes and directions, and most probably into several confederations, - and not without bloodshed.

¹¹ An essential condition. An absolute necessity.

¹² Please reread this. Think about what Randolph is saying here about slavery in relation to the principles of the Constitution.

¹³ Serious argument. What is it?

MR. GOUVERNEUR MORRIS was for making the clause read at once, "importation of slaves into N. Carolina, S. Carolina & Georgia shall not be prohibited &c." This he said would be most fair and would avoid the ambiguity by which, under the power with regard to naturalization, the liberty reserved to the States might be defeated. He wished it to be known also that this part of the Constitution was a compliance with those States. If the change of language however should be objected to by the members from those States, he should not urge it.

COLONEL MASON was not against using the term "slaves" but against naming N. Carolina, S. Carolina & Georgia, lest it should give offence to the people of those States.

MR. SHERMAN liked a description better than the terms proposed, which had been declined by the old Congress & were not pleasing to some people. MR. CLYMER concurred with Mr. Sherman.

MR. WILLIAMSON said that both in opinion & practice he was, against slavery; but thought it more in favor of humanity, from a view of all circumstances, to let in S. C. & Georgia on those terms, than to exclude them from the Union.

MR. GOUVERNEUR MORRIS withdrew his motion.

MR. DICKENSON wished the clause to be confined to the States which had not themselves prohibited the importation of slaves, and for that purpose moved to amend the clause so as to read "The importation of slaves into such of the States as shall permit the same shall not be prohibited by the Legislature of the U- S- until the year 1808"—which was disagreed to nem: cont¹⁴: The first part of the report was then agreed to, amended as follows: The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1808.

New Hampshire, Massachusetts, North Carolina, South Carolina, Georgia - Ay (yes)
New Jersey, Delaware, Virginia - No

MR. BALDWIN in order to restrain & more explicitly define "the average duty" moved to strike out of the 24 part the words "average of the duties laid on imports" and insert "common impost on articles not enumerated" which was agreed to nem: cont¹⁵:

MR. SHERMAN was against this 2nd part, as acknowledging men to be property, by taxing them as such under the character of slaves.

MR. KING & MR. LANGDON considered this as the price of the 1st part.

GENERAL PINKNEY admitted that it was so.

COLONEL MASON. Not to tax, will be equivalent to a bounty on the importation of slaves.

¹⁴ Without dissent; unanimous.

¹⁵ Ibid (same citation as above).

MR. GHORUM thought that Mr. Sherman should consider the duty, not as implying that slaves are property, but as a discouragement to the importation of them.

MR. GOUVERNEUR MORRIS remarked that as the clause now stands it implies that the Legislature may tax freemen imported.

MR. SHERMAN in answer to Mr. Ghorum observed that the smallness of the duty shewed revenue to be the object, not the discouragement of the importation.

MR. MADISON thought it wrong to admit in the Constitution the idea that there could be property in men. The reason of duties did not hold, as slaves are not like merchandize, consumed, &c.

COLONEL MASON (in answer to Gov. Morris) the provision as it stands was necessary for the case of Convicts in order to prevent the introduction of them.

It was finally agreed nem: contrad¹⁶: to make the clause read "but a tax or duty may be imposed on such importation not exceeding ten dollars for each person," and then the 2nd part as amended.

¹⁶ Ibid.