

# The Great Debate:

## The Slave Trade and the U.S. Constitution

*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.*  
Declaration of Independence, 1776

### **HISTORICAL CONTEXT**

When the British North American colonies rebelled from England, the Continental Congress asked Thomas Jefferson to write a Declaration of Independence. In that declaration, Jefferson expressed American grievances and explained why colonists were breaking away as well as proclaimed America's ideals of freedom and equality.

Yet at the time these words were written, more than 500,000 black Americans were slaves, accounting for about one-fifth of the colony's population. Jefferson himself owned more than 100 slaves. Most lived in the Southern colonies, where slaves made up 40 percent of the population.

Many colonists, even slave holders, disliked slavery in theory. Jefferson called it a "hideous blot" on America. George Washington, who owned hundreds of slaves, denounced it as "repugnant," and George Mason, a Virginia slave owner, condemned it as "evil." But even though many revolutionary leaders decried it, Southern colonial agriculture relied on slavery. The Southern colonies were among the richest in America, and their cash crops of tobacco, indigo, and rice depended on enslaved labor.

The first U.S. national government began under the Articles of Confederation, adopted in 1781. This document said nothing about slavery, but left the power to regulate slavery, like most powers, to individual states. After their experience with the British, many colonists distrusted a strong central government; consequently the new national government consisted solely of a Congress in which each state had one vote.

With little power to execute its laws or collect taxes, however, this government proved ineffective. In May 1787, 55 delegates from 12 states met in Philadelphia (Rhode Island refused to send a delegation.) Their goal was to revise the Articles of Confederation. Meeting in secret sessions, they quickly realized the existing document was fatally flawed and rather than amend it chose to write a new Constitution. The outline of the new government was soon agreed to and consisted of three branches—executive, judiciary, and a two-house legislature.

A dispute arose over the legislative branch. States with large populations wanted representation in both houses of the legislature to be based on population. States with small populations wanted each state to have the same number of representatives, like under the Articles of Confederation. This argument carried on for two months. In the end, the delegates agreed to the "Great

Compromise.” One branch, the House of Representatives, would be based on population. The other, the Senate, would have two members from each state.

Part of this compromise included an issue that split the convention on North-South lines. The issue was: Should slaves count as part of the population? Under the proposed Constitution, population would ultimately determine three matters:

- (1) How many members each state would have in the House of Representatives.
- (2) How many electoral votes each state would have in presidential elections.
- (3) The amount each state would pay in direct taxes to the federal government.

The Southern states had the largest concentration of slaves. Counting them as part of the population would greatly increase the South’s political power, but it would also mean higher federal taxes. This was a price the Southern states were willing to pay, and they argued in favor of counting slaves. Northern states disagreed, however, and delegates ultimately compromised; each slave would count as three-fifths of a person.

Following this compromise, another controversy erupted: What should be done about the slave trade which brought new slaves into the United States? Ten states had already outlawed it by 1788. But the three states that allowed it—Georgia and the two Carolinas—threatened to leave the convention if the trade were banned. A special committee worked out another compromise: Congress would have the power to ban the slave trade, but not until 1800. The convention voted to extend the date to 1808.

The Declaration of Independence expressed lofty ideals of equality, but the framers of the Constitution—intent on making a new government—left important questions of equality and fairness to the future. It would be some time before the great republic that they founded would approach the ideals expressed in the Declaration of Independence.

**THEMES:** government, congress, representation, humanity, slavery, slave trade

## **OBJECTIVES**

Students, following review of the activity’s primary documents, will explore:

- 1) Issues and ideas supported and opposed by delegates at the Constitutional Convention (e.g. the separation of powers and check and balances; the Virginia Plan; the New Jersey Plan; the Connecticut Compromise; abolition).
- 2) Lives of African Americans during the early national and Reconstruction periods (e.g. the progress of “Black Reconstruction” and the impact of legislative reform programs; contributions of individual African Americans who served as teachers and political leaders; the reasons some abolition leaders voiced opposition to the 15th Amendment).

Three 50-minute class periods (the first two periods focusing on the Constitutional Convention, and the third on the post-Civil War ) or more are necessary for these activities depending on the amount of outside reading or media center research assigned.

### **MATERIALS (printed and copied for each student)**

- “Suppression of the Slave Trade” Essay
- Copies of the U.S. Constitution and Amendments (available in the back of most textbooks)
- Congressional U.S. Slave Trade Act of 1794 and subsequent Act of 1820
- 3/5<sup>th</sup>’s Clause

### **ACTIVITY: THE GREAT DEBATE**

#### **Part 1: Slavery and the U.S. Constitution (50 min.—1 class period):**

Ask students to read the following five segments of the U.S. Constitution to see what the Federal Government has said about slavery in the past and what is applicable today:

1. Slave Trade Act, 1794
2. I.2.3. (3/5<sup>th</sup>’s clause)
3. 13th Amendment
4. 14th Amendment
5. 15th Amendment

Then discuss with students the meaning of each of these five sections. Ask which section of the U.S. Constitution is changed by the second clause of the 14th Amendment and why.

Ask students why they think the Constitution, written in 1787, did not abolish the slave trade until 1808 and adopted a formula of counting slaves as 3/5 persons towards the apportionment of representatives and direct taxes.

Direct students to read the narrative “Suppression of the Slave Trade,” as well as the Congressional U.S. Slave Trade Act of 1807 and the subsequent Act of 1820.

The facilitate a discussion on the following question (writing answers on the board): What influences shaped legislation to suppress the slave trade?

#### **Part 2: Re-Creating the Convention and the Debate over the Slave Trade and 3/5 Clause (50 min.—1 class period)**

During the class period on the Constitutional Convention, ask each student to assume the role of a member of an interest group or an historic figure who was involved in the debate over the Constitution and its ratification. Students will need to learn what the position of their group or individual was regarding the following issues:

- Counting slaves towards apportionment of representatives in Congress;
- Counting slaves for tax purposes;
- Continuation of the importation of slaves into the United States;
- Continuation of the slave trade within the United States;
- Continuation of slavery within the United States.

a) Either assign or have students sign up for one of the following roles:

- a. Northern merchant
- b. Southern planter
- c. Western small farmer (like Daniel Shay)
- d. Slave owner
- e. Abolitionist
- f. Free person of color
- g. Luther Martin (delegate, Maryland)
- h. John Rutledge (delegate, South Carolina)
- i. Oliver Ellsworth (delegate, Connecticut)
- j. Charles Pinckney (delegate, South Carolina)
- k. Abraham Baldwin (delegate, Georgia)
- l. James Wilson (delegate, Pennsylvania)
- m. Governor Morris (delegate, Pennsylvania)
- n. Benjamin Franklin (delegate, Pennsylvania)
- o. James Madison (delegate, Virginia)
- p. Roger Sherman (delegate, Connecticut)
- q. Alexander Hamilton (delegate, New York)
- r. William Paterson (delegate, New Jersey)
- s. George Mason (delegate, Virginia)
- t. Edmund Randolph (delegate, Virginia)
- u. George Washington (convention president, Virginia)
- v. John Jay (Federalist, New York)
- w. John Adams (Federalist, Massachusetts)
- x. Patrick Henry (anti-Federalist, Virginia)
- y. John Hancock (Federalist, Massachusetts)
- z. Thomas Jefferson (diplomat to France)

Allow one to two weeks for students to conduct research. Because the above individuals and groups are well documented, students should be able to locate information about their attitudes towards slavery, and specifically, slavery and constitutional questions, by examining biographies as well as histories of the Constitutional Convention and the fight for ratification (they can use their textbooks, histories of the Constitutional Convention and slave trade in America, online resources—particularly government websites like the Library of Congress and National Archives).

Set up a seating chart for the day of the debate with the roles indicated, so that the moderator (i.e. George Washington) will be able to call on students by their role name. Delegates should sit

together by state, while members from interest groups may sit in an area designated “for the public.”

“George Washington” should sit in front of the group to act as moderator; be sure to give the person playing this role the opportunity to have the final say of the day, since he or she will be busy managing the floor during the debate.

Ask students to create placards large enough so that other students know who they represent. All speakers must ask the moderator for permission to address the class, either to present their ideas or to respond to the ideas presented by other figures. Any speaker who becomes rude or abusive will be ejected from the debate (as they would have been at the convention).

If you need an “ice-breaker,” James Wilson of Pennsylvania may ask to speak and point out that southern states wanted to count slaves as part of their population for determining apportionment in the House of Representatives yet *not* to count slaves as part of the population for tax purposes, and that he objected to them having it both ways.

Alternatively, Luther Martin of Maryland may lead off on the issue of the slave trade by condemning it and saying it was “inconsistent with the principles of the Revolution and dishonorable to the American character to have such a feature in the Constitution.”

Track comments—for and against—on the chalkboard to be able to review as a group at the end of class (if some students are uncomfortable role-playing, they might be designated as debate recorders for this task).

### **Follow-Up Activity: Implications for the North (25 min.)**

The Gilder Lehrman Foundation has published a terrific follow-up activity on the implications of the 3/5’s clause for northern states on their website. See:

[http://www.gilderlehrman.org/collection/docs\\_archive/docs\\_archive\\_threefifths.html](http://www.gilderlehrman.org/collection/docs_archive/docs_archive_threefifths.html)

for a discussion of the impact of this legislation on New York’s gradual emancipation policies.

### **Follow-up Activity: The 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> Amendments (50 min.—1 class period)**

During the class study of the Civil War and Reconstruction, ask students to assume the roles of a member of an interest group or a historic figure who was involved in the debate over the drafting of the Civil War Amendments by Congress and their ratification by the states. Students will need to learn the position of the group or individual regarding the following issues:

- Constitutional amendment to abolish slavery;
- Citizenship for emancipated slaves;
- Universal manhood suffrage;
- Women’s suffrage; and
- Compensation to slave owners for emancipation of slaves.

Either assign or have students sign up for one of the following roles:

- a. Northern industrialist
- b. Southern planter
- c. Western homesteader
- d. Former slave owner
- e. Freedman
- f. “War Democrats” such as John Ganson, Representative of New York or
- g. James English, Representative of Connecticut
- h. “Peace Democrats” or “Copperheads” such as Fernando Wood of New York
- i. or C. L. Vallandigham of Ohio
- j. Andrew Johnson, President
- k. Susan B. Anthony, women's suffragist
- l. Lucy Stone, women's suffragist
- m. Frederick Douglass, abolitionist
- n. Wendell Phillips, abolitionist
- o. Parker Pillsbury, abolitionist
- p. William Lloyd Garrison, abolitionist
- q. Horace Greeley, editor
- r. Charles Francis Adams, diplomat to Great Britain
- s. Hiram Revels, state senator of Mississippi
- t. Salmon P. Chase, Chief Justice of the United States
- u. Thaddeus Stevens, Representative of Pennsylvania
- v. James S. Rollins, Representative of Missouri
- w. Charles Sumner, Senator of Massachusetts
- x. William Fessenden, Senator of Maine
- y. Lyman Trumbull, Senator of Illinois
- z. Thomas Hendricks, Senator of Indiana
- aa. Schuyler Colfax, Speaker of the House
- bb. Benjamin Wade, Acting President of the Senate

Allow one to two weeks for students to conduct research. Because the above individuals and groups are well documented, students should be able to locate information about their attitudes towards slavery, and specifically, slavery and constitutional questions, by examining biographies as well as histories of the era of Reconstruction and state fights for ratification of these amendments.

Set up a seating chart for the day with the roles indicated, so that the moderator, i.e. Benjamin Wade, will be able to call on students by their role name. Members of Congress should sit together by state, while members from interest groups may sit in an area designated “for the public.” “Benjamin Wade” should sit in front of the group to act as moderator; be sure to give the person playing this role the opportunity to have the final say of the day, since he or she will be busy managing the floor during the debate.

Ask students to create placards large enough so other students know who they are represent. All speakers must ask the moderator for permission to address the class, either to present their ideas

or to respond to the ideas presented by other figures. Any speaker who becomes rude or abusive will be ejected from the debate.

If the teacher needs someone to be an “ice-breaker,” Thaddeus Stevens of Pennsylvania may ask to speak and declare, “I am for Negro suffrage in every rebel State. If it be just, it should not be denied; if it be necessary, it should be adopted; if it be a punishment to traitors, they deserve it.”

After they have completed both debates, ask students to discuss the changes in thought and political alliances from 1787 to 1870, whether regional factions persisted, and to assess the impact of economics and labor on the questions of abolition and enfranchisement.

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### **Credits and Resources:**

This lesson plan comes from educational resources developed for “In Motion: The African-American Experience,” (<http://www.inmotionaame.org/home.cfm>) developed by the New York Public Library and the Schomburg Center for Research in Black Culture, “Ratification Debate on the U.S. Constitution,” created for the Constitutional Rights Foundation, and “Constitutional Topic: Slavery,” by U.S. Constitution Online ([http://www.usconstitution.net/consttop\\_slav.html](http://www.usconstitution.net/consttop_slav.html)), and “Great Compromises in the U.S. Constitution,” on the Slavery in America website (one of the resources for this TAH workshop, available at <http://www.ettc.org> and <http://www.slaveryinamerica.org>).

For more information about slavery and the Constitution see: Betty Wood, *The Origins of American Slavery* (Hill and Wang, 1997), Ira Berlin, *Many Thousands Gone: The First Two Centuries of Slavery in North America* (Harvard, 1998), Don Fehrenbacher, *The Slaveholding Republic: An Account of the United States Government’s Relations to Slavery* (Oxford, 2002), and David Waldstreicher, *Runaway America: Benjamin Franklin, Slavery, and the American Revolution* (Hill and Wang, 2004).

# Suppression of the Slave Trade

## Overview

Over the course of more than three and a half centuries, the forcible transportation of at least twelve million men, women, and children from their African homelands to the Americas changed forever the face and character of the modern world. The slave trade was brutal and horrific, and the enslavement of Africans was cruel, exploitative, and dehumanizing. Together, it represents one of the longest and most sustained assaults on the very life, integrity, and dignity of human beings in history.

In the Americas, besides the considerable riches their free labor created for others, the importation and subsequent enslavement of Africans was the principal way the islands and continents were re-peopled following the disastrous decline in indigenous populations. Between 1492 and 1776, an estimated 6.5 million people migrated to and settled in the Western Hemisphere. More than five out of six were Africans. Although victimized and exploited, they created a new, largely African, Creole society and their forced migration resulted in the emergence of the so-called Black Atlantic.

The transatlantic slave trade laid the foundation for modern capitalism and generated immense wealth for business enterprises in America and Europe. The trade contributed to the industrialization of northwestern Europe and created a single Atlantic world that included western Europe, western Africa, the Caribbean islands, and the mainlands of North and South America.

On the other hand, the overwhelming impact on Africa of its involvement in the creation of this modern world was negative. The continent experienced the loss of a significant part of its able-bodied population, which played a part in the social and political weakening of its societies that left them open, in the nineteenth century, to colonial domination and exploitation.

## Africans in America

Of the estimated ten million men, women, and children who survived the Middle Passage, approximately 450,000 Africans came to North America. They thus represented only a fraction—5 percent—of those transported during the 350-year history of the international slave trade. Brazil and the Caribbean each received about nine times as many Africans. But their role in North America's development was pivotal.

The labor of enslaved Africans was crucial in the development of South Carolina, Georgia, Virginia, and Maryland and contributed indirectly through commerce to the fortunes of New York, Massachusetts, and Pennsylvania. Though the enforced destination of Africans was primarily to plantations and farms for work in cash crop agriculture, they were also used in mining and servicing the commercial economy. They were placed in towns and port cities as domestic servants; and many urban residents performed essential commercial duties working as porters, teamsters, and craftsmen.

In eighteenth-century America, most African Americans worked and lived in the agricultural lowlands of South Carolina and Georgia, especially in the Sea Islands, where they grew rice, cotton, indigo, and other crops. In Louisiana, they labored on sugarcane plantations, and employed on tobacco farms in the tidewater region of Virginia and Maryland. The tidewater, together with the Georgia and South Carolina lowlands, accounted for at least two-thirds of the Africans brought into North America prior to the end of legal importation in 1807.

### **Debating the Trade**

Article I, Section 9, Clause 1 of the U.S. Constitution (1787) stipulated that “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.” In consequence, the United States abolished its slave trade from Africa, effective January 1, 1808.

But the U.S. Slave Trade Act, enacted by a vote of 63 in favor and 49 against in February 1807, was a half victory for the slavers because it specified that the Africans illegally brought to slaveholding states would still be sold and enslaved. Penalties merely consisted of fines. With the authorities turning a blind eye and refusing to enforce their own law, the illegal slave trade flourished for several decades, particularly in Texas (Spanish until 1821), Florida (Spanish until 1818), Louisiana, and South Carolina.

Africans were sold with little secrecy. As recounted by a slave smuggler, it was an easy task: “I soon learned how readily, and at what profits, the Florida negroes were sold into the neighboring American States. The kaffle [coffle] . . . [was to] cross the boundary into Georgia, where some of our wild Africans were mixed with various squads of native blacks, and driven inland, till sold off, singly or by couples, on the road.”

The number of smuggled African captives was so high that President Madison wrote to Congress: “it appears that American citizens are instrumental in carrying on a traffic in enslaved Africans, equally in violation of the laws of humanity, and in defiance of those of their own country.”

Congress passed a tougher law in 1820 making international slave trading an act of piracy punishable by death. Even though the traffic went on, only one American was ever executed for this crime. In addition, American slavers, particularly from New York and Rhode Island, shipped Africans to Cuba, Puerto Rico, and Brazil, where the slave trade was still legal.

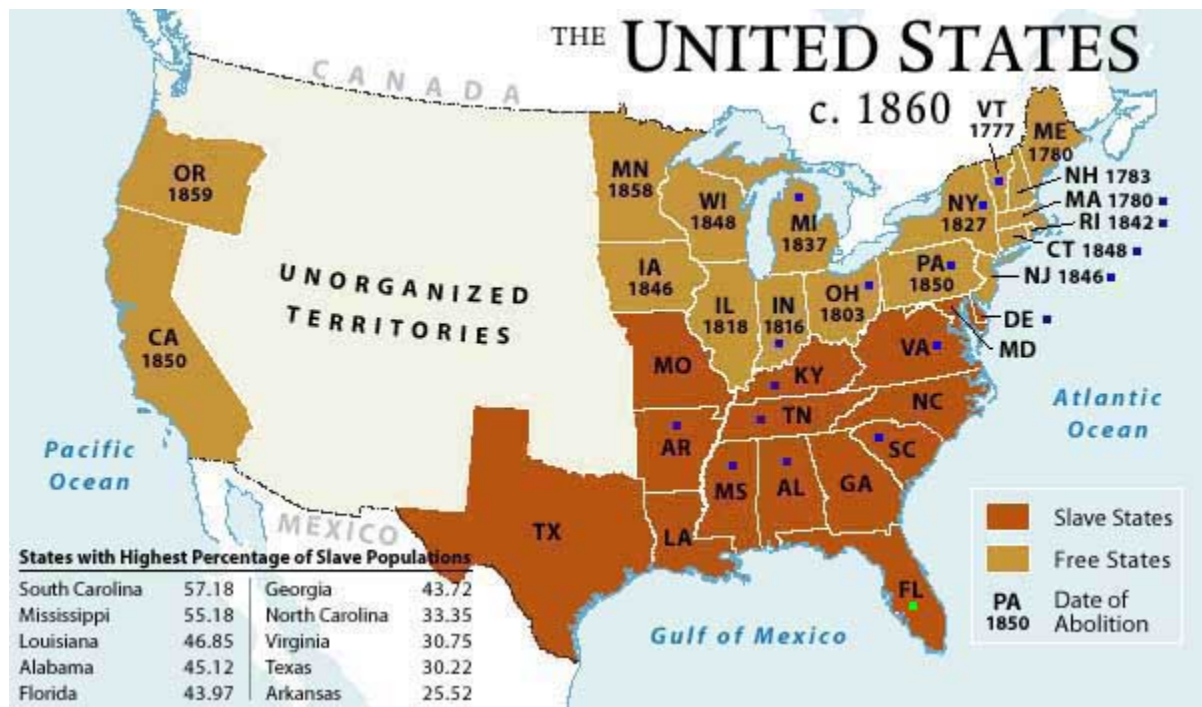
More than 3.3 million Africans were transported between 1801 and 1867, the vast majority to Brazil and Cuba. Half came from west-central Africa, and more than 40 percent were originally from the Bights of Benin and Biafra, and Southeast Africa –Mozambique and Madagascar.

In the 1850s, a movement developed in the South to re-open the international slave trade. It was defeated, but the illegal importation of Africans increased between 1850 and 1860, even though the African Squadron, established by the U.S. government in 1843 patrolled the harbors of the African coast.

Although their respective countries had officially outlawed the transatlantic slave trade, American and British slavers and traders continued to openly engage in the practice, and their activities brought money and work to shipbuilders, crews, insurance companies, and manufacturers of various trade goods, guns, and shackles.

In fact, slave ships brought Africans to North America right up until the Civil War. The *Clotilda* landed more than a hundred men, women, and children from Benin and Nigeria in the summer of 1860 at Mobile, Alabama. The *Wanderer* had discharged several hundred people from the Congo on Jekyll Island, Georgia, in November 1858. In both cases, the Africans were sold and enslaved. As a testimony to the persistence of the illegal slave trade, the 1870 Census reveals the presence, in the United States, of numerous men and women born in Africa well after 1808.

## Map of Slaveholding and Non-Slaveholding States



This map depicts the slave and non-slaveholding states at the outbreak of the Civil War, along with the dates when each non-slaveholding state legally ended slavery. In the 1850s, the issue of slavery's spread into the western territories divided the nation politically and spawned new political parties, including the Republican Party—which was dedicated to the non-expansion of slavery westward.

## Slave Trade Act, 1794

*An Act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight. (See notes to act of March 22, 1794, chap.11, vol. i. 347.)*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of January, one thousand eight hundred and eight, it shall not be lawful to import or bring into the United States or the territories thereof from any foreign kingdom, place, or country, any negro, mulatto, or person of colour, with intent to hold, sell, or dispose of such negro, mulatto, or person of colour, as a slave, or to be held to service or labour.*

(Importation of slaves into the U.S. forbidden after Jan. 1, 1808. Forfeiture of vessels fitted out for the slave trade after Jan. 1, 1808.)

**SEC. 2.** *And be it further enacted, That no citizen or citizens of the United States, or any other person, shall, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, for himself, or themselves, or any other person whatsoever, either as master, factor, or owner, build, fit, equip, load or otherwise prepare any ship or vessel, in any port or place within the jurisdiction of the United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of procuring any negro, mulatto, or person of colour, from any foreign kingdom, place, or country, to be transported to any port or place whatsoever, within the jurisdiction of the United States, to be held, sold, or disposed of as slaves, or to be held to service or labor; and if any ship or vessel shall be so fitted out for the purpose aforesaid, or shall be caused to sail so as aforesaid, every such ship or vessel, her tackle, apparel, and furniture, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts, for the district where the said ship or vessel may be found or seized.*

(Penalties for being engaged in such expeditions.)

**SEC. 3.** *And be it further enacted, That all and every person so building, fitting out, equipping, loading, or otherwise preparing or sending away, any ship or vessel, knowing or intending that the same shall be employed in such trade or business, from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, or any ways aiding or abetting therein, shall severally forfeit and pay twenty thousand dollars, one moiety thereof to the use of the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.*

(Forfeitures and penalties for importing slaves from Africa, &c. after Jan. 1, 1808. Distribution of the forfeitures. Slaves imported to remain subject to regulations of the states.)

**SEC. 4.** *And be it further enacted, If any citizen or citizens of the United States, or any person resident within the jurisdiction of the same, shall, from and after the first day of January, one thousand eight hundred and eight, take on board, receive or transport from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place, or country, any negro, mulatto, or person of colour, in any ship or vessel, for the purpose of selling them in any port or place within the jurisdiction of the United States as slaves, or to be held to service or labour, or shall be in any*

ways aiding or abetting therein, such citizen or citizens, or person, shall severally forfeit and pay five thousand dollars, one moiety thereof to the use of any person or persons who shall sue for and prosecute the same to effect; and every such ship or vessel in which, such negro, mulatto, or person of colour, shall have been taken on board, received, or transported as aforesaid, her tackle, apparel, and furniture, and the goods and effects which shall be found on board the same, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts in the district where the said ship or vessel may be found or seized. And neither the importer, nor any person or persons claiming from or under him, shall hold any right or title whatsoever to any negro, mulatto, or person of colour, nor to the service or labour thereof, who may be imported or brought within the United States, or territories thereof, in violation of this law, but the same shall remain subject to any regulations not contravening the provisions of this act, which the legislatures of the several states or territories at any time hereafter may make, for disposing of any such negro, mulatto, or person of colour. (See notes to act of March 22, 1794, chap.11, vol. i. 347, 348.)

(Further penalties on citizens and residents, &c. for bringing slaves to the U. S. from any foreign place. Imprisonment and penalty not to exceed \$10,000.)

**SEC. 5.** *And be it further enacted,* That if any citizen or citizens of the United States, or any other person resident within the jurisdiction of the same, shall, from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, take on board any ship or vessel from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place, or country, any negro, mulatto, or person of colour, with intent to sell him, her, or them, for a slave, or slaves, or to be held to service or labour, and shall transport the same to any port or place within the jurisdiction of the United States, and there sell such negro, mulatto, or person of colour, so transported as aforesaid, for a slave, or to be held to service or labour, every such offender shall be deemed guilty of a high misdemeanor, and being thereof convicted before any court having competent jurisdiction, shall suffer imprisonment for not more than ten years nor less than five years, and be fined not exceeding ten thousand dollars, nor less than one thousand dollars.

(Penalties for buying slaves from the neighbouring territories, &c. Forfeiture not to extend to the seller or purchaser of any slave sold under the regulations of the legislature of any state.)

**SEC. 6.** *And be it further enacted,* That if any person or persons whatsoever, shall, from and after the first day of January, one thousand eight hundred and eight, purchase or sell any negro, mulatto, or person of colour, for a slave, or to be held to service or labour, who shall have been imported, or brought from any foreign kingdom, place, or country, or from the dominions of any foreign state, immediately adjoining to the United States, into any port or place within the jurisdiction of the United States, after the last day of December, one thousand eight hundred and seven, knowing at the time of such purchase or sale, such negro, mulatto, or person of colour, was sought within the jurisdiction of the United States, as aforesaid, such purchaser and seller shall severally for fee and pay for every negro, mulatto, or person of colour, so purchased or sold as aforesaid, eight hundred dollars; one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect: Provided, that the aforesaid forfeiture shall not extend to the seller or purchaser of any negro, mulatto, or person of colour, who may be sold or disposed of in virtue of any regulation which may hereafter

be made by any of the legislatures of the several states in that respect, in pursuance of act, and the constitution of the United States.

(Vessels may be seized, having slaves on board. Naval force of the U. States may be employed for the purpose of enforcing this act. Penalties, fine and imprisonment. Proceeds of prizes divided between the U. States and the officers and men making the seizures. Every negro and mulatto found on board any vessel captured to be delivered to persons appointed by the respective states to receive them. An account to be transmitted to the governors of the respective states.)

**SEC. 7.** *And be it further enacted,* That if any ship or vessel shall be found, from and after the first day of January, one thousand eight hundred and eight, in any river, port, bay, or harbor, or on the high seas within the jurisdictional limits of the United States, or hovering on the coast thereof, having on board any negro, mulatto, or person of colour for the purpose of selling them as slaves, or with intent to land the same, in any port or place within the jurisdiction of the United States, contrary to the prohibition of this act, every such ship or vessel, together with her tackle, apparel, and furniture. and the goods or effects which shall be found on board the same, shall be forfeited to the use of the United States, and may be seized, prosecuted, and condemned, in any court of the United States, having jurisdiction thereof. And it shall be lawful for the President of the United States, and he is hereby authorized, should he deem it expedient, to cause any of the armed vessels of the United States to be manned and employed to cruise on any part the coast of the United States, or territories thereof, where he may judge attempts will be made to violate the provisions of this act, and to instruct and direct the commanders of armed vessels of the United States, to seize take, and bring into any port of the United States all such ships or vessels, and moreover to seize, take, and bring into any port of the United States all ships or vessels of the United States, wheresoever found on the high seas, contravening the provisions of this act, to be proceeded against, according to law, and the captain, master, or commander of every such ship or vessel, so found and seized as aforesaid, shall be deemed guilty of a high misdemeanor, and shall be liable to be prosecuted before any court of the United States, having jurisdiction thereof; and being thereof convicted, shall be fined not exceeding ten thousand dollars, and be imprisoned not less than two years, and not exceeding four years. And the proceeds of all ships and vessels, their tackle, apparel, and furniture, and the goods and effects on board of them, which shall be so seized, prosecuted and condemned, shall be divided equally between the United States and the officers and men who shall make such seizure, take, or bring the same into port for condemnation, whether such seizure be made by an armed vessel of the United States, or revenue cutters thereof, and the same shall be distributed in like manner, as is provided by law for the distribution of prizes taken from an enemy: *Provided,* that the officers and men, to be entitled to one half of the proceeds aforesaid, shall safe keep every negro, mulatto, or person of colour, found on board of any ship or vessel so by them seized, taken, or brought into port for condemnation, and shall deliver every such negro, mulatto, or person of colour, to such person or persons as shall be appointed by the respective states, to receive the same; and if no such person or persons shall be appointed by the respective states, they shall deliver every such negro, mulatto, or person of colour, to the overseers of the poor of the port or place where such ship or vessel may be brought or found, and shall immediately transmit to the governor or chief magistrate of the state an account of their proceedings, together with the number of such negroes, mulattoes, or persons of colour, and a descriptive list of the same, that he may give directions respecting such negroes mulattoes, or persons of colour. (The district courts have jurisdiction under the slave trade acts, to determine who are the actual captors under a state law, made in pursuance of the 4th section of the slave trade act of 1807, and directing the proceeds of the sale of the negroes to be paid, "one moiety for the use of the commanding officer of the capturing vessel." The Josefa Segunda, 10

Wheat.312; 6 Cond. Rep. 111.

The offence against the laws of the United States under the 7th section of the act of 1897, is not that of importing or bringing into the United States, persons of colour, with intent to hold such persons as slaves, but that of hovering on the coast of the United States with such intent. And although it forfeits the vessel and any goods or effects found on board, it is silent as to disposing of the coloured persons found onboard, any further than to impose a duty upon the officers of the armed vessels who make the capture to keep them safely to be delivered to the overseers of the poor, or the governor of the state, or persons appointed by the respective states to receive them. *United States v. Preston*, 3 Peters, 57. The persons sold as slaves under an order of the district court of Louisiana, in a case where the decree was afterwards reversed, were illegally sold, and they are freed. *Ibid.*)

(Slaves not to be transported in vessels under forty tons burthen, to be disposed of, &c. Penalties. This section not to prohibit taking on board or transporting on any river or bay within the jurisdiction of the U. States.)

**SEC. 8.** *And be it further enacted*, That no captain, master or commander of any ship or vessel, of less burthen than forty tons, shall, from and after the first day of January, one thousand eight hundred and eight, take on board and transport any negro, mulatto, or person of colour, to any port or place whatsoever, for the purpose of selling or disposing of the same as a slave, or with intent that the same may be sold or disposed of to be held to service or labour, on penalty of forfeiting for every such negro, mulatto, or person of colour, so taken on board and transported, as aforesaid, the sum of eight hundred dollars; one moiety thereof to the use of the United States, and the other moiety to any person or persons who shall sue for, and prosecute the same to effect: Provided however, That nothing in this section shall extend to prohibit the taking on board or transporting on any river, or inland bay of the sea, within the jurisdiction of the United States, any negro, mulatto, or person of colour, (not imported contrary to the provisions of this act) in any vessel or species of craft whatever.

(Vessels of larger burthen, sailing coastwise, to have the names of slaves for sale inserted in their papers, &c. The shipper to swear the negroes were not imported into the U. States after January 1, 1808. Penalties on departing without such list. Penalty for negro or mulatto taken on board.)

**SEC. 9.** *And be it further enacted*, That the captain, master, or commander of any ship or vessel of the burthen of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise, from any port in the United States, to any port or place within the jurisdiction of the same, having on board any negro, mulatto, or person of colour, for the purpose of transporting them to be used or disposed of as slaves, or to be held to service or labour, shall, previous to the departure of such ship or vessel, make out and subscribe duplicate manifests of every such negro, mulatto, or person of colour, on board such ship or vessel, therein specifying the name and sex of each person, their age and stature, as near as may be, and the class to which they respectively belong, whether negro, mulatto, or person of colour, with the name and place of residence of every owner or shipper of the same, and shall deliver such manifests to the collector of the port, if there be one, otherwise to the surveyor, before whom the captain master, or commander, together with the owner or shipper, shall severally swear or affirm to the best of their knowledge and belief, that the persons therein specified were not imported or brought into the United States, from and after the first day of January, one thousand eight hundred and eight, and that under the laws of the state, they are held to service or labour; whereupon the said collector or surveyor shall certify the same on the said manifests, one of which he shall return to the said captain, master, or commander, with a permit, specifying thereon the number, names, and general description of such persons, and authorizing him to proceed to the port of his destination. And if any ship or vessel, being laden and destined as aforesaid, shall depart from the port where she may then be, without the captain, master, or

commander being first made out and subscribed duplicate manifests, of every negro, mulatto, and person of colour, on board such ship or vessel, as aforesaid, and without having previously delivered the same to the said collector or surveyor, and obtained a permit, in manner as herein required, or shall, previous to her arrival at the port of her destination, take on board any negro, mulatto, or person of colour, other than those specified in the manifests, as aforesaid, every such ship or vessel, together with her tackle, apparel and furniture, shall be forfeited to the use of the United States, and may be seized, prosecuted and condemned in any court of the United States, having jurisdiction thereof; and the captain, master, or commander of every such ship or vessel, shall moreover forfeit, for every such negro, mulatto, or person of colour, so transported or taken on board, contrary to the provisions of this act, the sum of one thousand dollars, one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

(Manifests to be delivered to officers of customs where such slaves carried coastwise are landed. Penalty for landing a negro or mulatto without a permit.)

**SEC. 10.** *And be it further enacted,* That the captain, master, or commander of every ship or vessel, of the burthen of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise, and having on board any negro, mulatto, or person of colour, to sell or dispose of as slaves, or to be held to service or labour, and arriving in any port within the jurisdiction of the United States, from any other port within the same, shall, previous to the unloading or putting on shore any of the persons aforesaid, or suffering them to go on shore, deliver to the collector, if there be one, or if not, to the surveyor residing at the port of her arrival, the manifest certified by the collector or surveyor of the port from whence she sailed, as is herein before directed, to the truth of which, before such officer, he shall swear or affirm, and if the collector or surveyor shall be satisfied therewith, he shall thereupon grant a permit for unlading or suffering such negro, mulatto, or person of colour, to be put on shore, and if the captain, master, or commander of any such ship or vessel being laden as aforesaid, shall neglect or refuse to deliver the manifest at the time and in the manner herein directed, or shall land or put on shore any negro, mulatto, or person of colour, for the purpose aforesaid, before he shall have delivered his manifest as aforesaid, and obtained a permit for that purpose, every such captain, master, or commander, shall forfeit and pay ten thousand dollars, one moiety thereof to the United States, the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

APPROVED, March 2, 1807.

## Slave Trade Act, 1820

CHAP. CXIII. --*An Act to continue in force "An act to protect the commerce of the United States, and punish the crime of piracy," and also to make further provisions for punishing the crime or piracy.*

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the first, second, third, and fourth, sections of an act, entitled "An act to protect the commerce of the United States and punish the crime of piracy," passed on the third day of March, one thousand eight hundred and nineteen, be and the same are hereby, continued in force, from the passing of this act for the term of two years, and from thence to the end of the next session of Congress, and no longer. [First, 2d, 3d and 4th sections of act of 3d March, 1819, ch. 77, continued for two years, etc.]

SEC. 2. *And be it further enacted,* That the fifth section of the said act be, and the same is hereby, continued in force, as to all crimes made punishable by the same, and heretofore committed in all respects as fully as if the duration of the said section had been without limitation. [Fifth section of the act of 3d March, 1819, continued as to crimes heretofore committed.]

SEC. 3. *And be it further enacted,* That, if any person shall, upon the high seas, or in any open roadstead, or in any haven, basin, or bay, or in any river where the sea ebbs and flows, commit the crime of robbery, in or upon any ship or vessel, or upon any of the ship's company of any ship or vessel, or the lading thereof, such person shall be adjudged a pirate: and, being thereof convicted before the circuit court of the United States for the district into which he shall be brought, or in which he shall be found, shall suffer death. And if any person engaged in any piratical cruise or enterprise, or being of the crew or ships company of any piratical ship or vessel, shall land from such ship or vessel, and, on shore, shall commit robbery, such person shall be adjudged a pirate: and on conviction thereof before the circuit court of the United States for the district into which he shall be brought, or in which he shall be found, shall suffer death: *Provided,* That nothing in this section contained shall be construed to deprive any particular state of its jurisdiction over such offences, when committed within the body of a county, or authorize the courts of the United States to try any such offenders, after conviction or acquittance, for the same offence, in a state court. [Persons committing robbery, on any ship or vessel, or ship's company, etc., or on the high seas, in a roadstead, etc. Conviction in circuit court where brought or found. Persons engaged in any piratical enterprise, etc., and committing robbery onshore, declared pirates, and to suffer death.]

SEC. 4. *And be it further enacted,* That if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned in the whole or part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall land, from any such ship or vessel, and, on any foreign shore, seize any negro or mulatto, not held to service or labour by the laws of either of the states or territories of the United States, with intent to make such negro or mulatto a slave, or shall decoy, or forcibly bring or carry, or shall receive, such negro or mulatto on board any such ship or vessel, with intent as aforesaid, such citizen or person

shall be adjudged a pirate; and, on conviction thereof before the circuit court of the United States for the district wherein he may be brought or found, shall suffer death. [Persons landing on a foreign shore, and seizing negroes or mulattoes, not held to service, etc., with intent to make them slaves, or decoying, forcibly bringing or carrying, etc., them on board, etc., declared pirates, and to suffer death.]

Sec. 5. *And be it further enacted,* That if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned wholly or in part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall forcibly confine or detain, or aid and abet in forcibly confining or detaining, on board such ship or vessel, any negro or mulatto not held to service by the laws of either of the states or territories of the United States with intent to make such negro or mulatto a slave or shall on board any such ship or vessel, offer or attempt to sell, as a slave, any negro or mulatto not held to service as aforesaid, or shall, on the high seas, or any where on tide water, transfer or deliver over, to any other ship or vessel, any negro or mulatto not held to service as aforesaid, with intent to make such negro or mulatto a slave, or shall land, or deliver on shore, from on board any such ship or vessel, any such negro or mulatto, with intent to make sale of, or having previously sold, such negro or mulatto, as a slave, such citizen or person shall be adjudged a pirate; and, on conviction thereof before the circuit court of the United States for the district wherein he shall be brought or found, shall suffer death. [Persons forcibly confining, detaining, or aiding to confine or detain negroes, etc., on board vessels, etc. declared pirates, and to suffer death.]

APPROVED, May 15, 1820.

## **3/5<sup>s</sup> Clause**

U.S. Constitution, Article 1, Section 2:

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. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative.

## **13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> Constitutional Amendments**

### **Amendment XIII**

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

### **Amendment XIV**

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

**Amendment XV**

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.