

CONSTITUTION 101

Module 12: Slavery in America: From the Founding to America's Second Founding
12.4 Info Brief

SLAVERY IN AMERICA

Generations of Americans battled over slavery and the Constitution—with each side laying claim to the Constitution's text and history.

A range of voices—*both* pro-slavery *and* anti-slavery—turned to the Constitution's language and constructed arguments to favor their side of the great constitutional battles over slavery in the 1800s.

But it's also important not to forget the human cost of slavery—the violence, forced labor, the families were torn apart, wives sold away from husbands, and children from parents.

And every right that we cherish is violated: no right to speak, pray, read, learn, gather together, or to a fair process before we're punished or lose our freedom. No right to marry and raise a family, or to earn a freely chosen living, and so on.

Finally, let's also not forget that African Americans played a central role in this story of constitutional transformation.

In the late 1700s and throughout the 1800s, African Americans played a key role in the nascent abolitionist movement. These voices fought for the rights of free African Americans, and they demanded emancipation for enslaved people.

They also advanced a powerful vision of equal citizenship—a vision that the Reconstruction generation would later write into the Constitution with the ratification of the 13th, 14th, and 15th Amendments.

TIMELINE OF SLAVERY FROM THE CONSTITUTIONAL CONVENTION TO THE CIVIL WAR

1787: Constitutional Convention delegates refused to recognize a “right” to “property in men,” leaving the question of slavery to Congress and the states. However, they compromised on the constitutional status of slavery. The Slave Trade Clause prohibited Congress from ending the importation of enslaved people until 1808. The Fugitive Slave Clause protected slaveholders' power to retrieve alleged fugitives. The Three-Fifths Clause counted three-fifths of the enslaved population for purposes of representation.

1787: The Northwest Ordinance established a framework for governing the Northwest Territory and protecting the civil liberties of settlers. It also banned slavery in the territory, north of the Ohio River.

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1793: The Fugitive Slave Act permitted slaveholders to cross state lines to retrieve alleged fugitives.

1807: Congress banned the importation of enslaved people, which took effect in 1808. It was the earliest date the Constitution permitted Congress to impose such a ban.

1820: Under the Missouri Compromise, Missouri was admitted as a slaveholding state and Maine as a free state. It also banned slavery to the north of a set line within the Louisiana Territory.

1820s: The Negro Seamen Acts prevented free African American sailors from freely disembarking in slaveholding states and exercising their constitutional rights. Instead, they were often jailed in local prisons.

1823: In *Corfield v. Coryell*, Justice Bushrod Washington interpreted the Constitution's Privileges and Immunities Clause as protecting a set of fundamental rights, including the right to make contracts. This circuit court opinion would influence the drafting of the 14th Amendment.

1830s: Congress imposed a "Gag Rule," banning the House of Representatives from considering anti-slavery petitions. It was eventually defeated.

1832 – 33: During the Nullification Crisis, South Carolina viewed federal tariffs as unconstitutional and sought to declare them null and void. The state eventually backed down and accepted the supremacy of federal law.

1833: In *Barron v. Baltimore*, the Supreme Court ruled that the Bill of Rights only restricted Congress and did not protect Americans against violations of fundamental rights by the states. This would change with the 14th Amendment.

1842: In *Prigg v. Pennsylvania*, the Supreme Court struck down a state law that provided protections to those accused of being fugitive slaves—claiming it violated the Fugitive Slave Clause and the Fugitive Slave Act of 1793.

1846 – 48: The Mexican War added extensive new territory, fueling conflicts over whether future states would enter as slaveholding states or free states.

1850: With the Compromise of 1850, California entered as a free state, but the Utah and New Mexico territories were opened to slavery. The Fugitive Slave Act was also strengthened.

1854: The Kansas-Nebraska Act established the Kansas and Nebraska territories with the issue of slavery to be decided by their settlers.

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1857 – 58: During the Lecompton Crisis, pro-slavery advocates drafted a state constitution that excluded free African Americans and protected slavery. Congress rejected that constitution, and Kansas entered as a free state.

1857: In *Dred Scott v. Sandford*, the Supreme Court ruled that African Americans were not citizens of the United States. Overturning the decision became a rallying cry for the new Republican Party.

1860: Republican Abraham Lincoln won the presidential election with a plurality of the vote, while the Democratic Party split between its Southern and Northern wings.