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## Pro-Slavery Rhetoric in the Constitution

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## Pro-Slavery Rhetoric in the Constitution

### Abstract

Prior to the Thirteenth Amendment, the United States Constitution did not merely allow slavery: the document protected slavery. At the time of the Declaration of Independence in 1776, the Continental Congress vigorously debated the “peculiar institution” of slavery. The lofty ideals of the Declaration proclaimed the “inalienable rights, including life, liberty, and the pursuit of happiness.” By the time the Constitution was adopted in 1789, the delegates all but abandoned such lofty goals to set forth an administrative guide for government. The Constitution was a pro-slavery document because of the  $\frac{3}{5}$  clause and it enabled slavery.

*Pro-Slavery Rhetoric in the Constitution*

**Jonathan Panton**

Prior to the Thirteenth Amendment, the United States Constitution did not merely allow slavery: the document protected slavery. At the time of the Declaration of Independence in 1776, the Continental Congress vigorously debated the “peculiar institution” of slavery. The lofty ideals of the Declaration proclaimed the “inalienable rights, including life, liberty, and the pursuit of happiness.” By the time the Constitution was adopted in 1789, the delegates all but abandoned such lofty goals to set forth an administrative guide for government. The Constitution was a pro-slavery document because of the  $\frac{3}{5}$  clause and it enabled slavery.

The US Constitution contained pro-slavery provisions. The most notable of these provisions was the  $\frac{3}{5}$  clause. The  $\frac{3}{5}$  clause was a Constitutional clause which said that slaves counted for  $\frac{3}{5}$  of a free person in terms of Congressional representation. In turn, the  $\frac{3}{5}$  clause led to the South having more representation in the House of Representatives, which also helped Jefferson win the 1800 Presidential election. As a result of the House being responsible for spending and taxing, the Southern majority in the House was able to sway pro-slavery legislation. However, critics would argue that the  $\frac{3}{5}$  clause was a way to phase out slavery because if slaves were freed, then they would count as  $\frac{3}{5}$  more of a person. While it is true that free Black people would help Southern Congressional representation more than enslaved Blacks, the Southern leaders were purely interested in keeping the institution of slavery. Slavery kept the Southern economy moving because slaves picked valuable commodities for Slave-holders: tobacco and cotton. But, the decision to count slaves as  $\frac{3}{5}$  of a person was one of the compromises in drafting the Constitution. “He would pivot the Constitution on slavery, ignore

slavery, or do both as long as it preserved the ‘equilibrium of interests’... slaveholders would have the power to prevent actions that hurt their interests” (Waldstreicher, 2010). Madison’s main goal was balancing different interests and creating a united government, not ending slavery. So, the Constitution encouraged slavery because slaves, who were treated like property and not people, counted for  $\frac{3}{5}$  of a person and it protected the interests of the planter class. The pro-slavery rhetoric of the US Constitution is not just limited to the  $\frac{3}{5}$  clause.

The US Constitution enabled slavery. During the ratification of the Constitution, 16 of the 39 founding fathers were clearly pro-slavery. In order to win their support for ratification, compromises were made to make the Constitution pro-slavery. For instance, federalism and the fugitive slave laws were clearly pro-slavery. Federalism was pro-slavery because it allowed for dual sovereignty, which meant that the South’s planter class could run the South with slavery while not having to deal with the federal government interfering. Regarding fugitive slave laws, Douglass describes the law of 93 as making the United States a “slave hunting ground” (Black, 2006). Douglass views the fugitive slave laws as proof of the Constitution being pro-slavery since it legally allows for the enforcement of slavery across the entire United States. However, critics argue that the Constitution did not enable slavery. Frederick Douglass, in his later life, argued that pro-slavery laws must explicitly be pro-slavery. “Laws to sustain a wrong of any kind must be expressed with irresistible clearness... the constitutionality of slavery can be made out only by discrediting the plain, common sense reading of the constitution itself” (Douglass, 1863). Essentially, the older Frederick Douglass believed that the Constitution was hijacked to be pro-slavery by ignoring the language in the Constitution. On the contrary, Abraham Lincoln argued against the legitimacy of support for slavery in the Constitution. “As those fathers marked

it [slavery], so let it be again marked, as an evil not to be extended, but to be tolerated and protected only because of and so far as its actual presence among us makes that toleration and protection a necessity” (Lincoln & Grafton, 1991). Lincoln argued that the founding fathers did not like slavery, but they tolerated it enough to allow its existence. Also, a young Frederick Douglass attacks the mere intent of the US Constitution. “[the Constitution] was made in view of the existence of slavery’ and yet made no explicit motions to abolish or curtail the practice was sufficient to suggest, if not prove, that the Constitution was constructed ‘in a manner well calculated to aid and strengthen that heaven-daring crime’” (Black, 2006). Douglass believed that the original intent of the constitution makes it pro-slavery since it was made in the existence of slavery while never mentioning anything related to banning slavery. So, the absence of language in the Constitution banning slavery ultimately enabled it.

The US Constitution was a pro-slavery document since it contained the 3/5 clause and it enabled slavery. The older Frederick Douglass would disagree since he believed that the US Constitution was anti-slavery because its language does not explicitly condone slavery. Ultimately, it was not until the 13th Amendment would ensure that the first direct reference to slavery in the US Constitution would be contained in the Amendment to ban it.

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