



# A Failure of Nerve?

## THE SLAVERY COMPROMISE may have kept the Southern states in the Union—but at the ultimate price of civil war

By the time the subject of slavery reached the floor for full-dress debate, it was mid-August. The delegates were tired and restless. Having come so far toward an agreement in general, they also shrank from convention-wrecking confrontation. Slavery, noted James Madison's secretary, was a "distracting question." Seventy-four years later, that distraction cost half a million American lives in the Civil War. As Supreme Court Justice Thurgood Marshall said two weeks ago, the Constitution sacrificed "moral principles for self-interest."

Were the framers guilty of a failure of nerve? It didn't look that way in the America of 1787; abolitionism was a movement whose time had not yet come. The slave trade pricked the consciences of some delegates, perhaps because it involved kidnapping Africans out of freedom, but they thought simple ownership of slaves a lesser evil. Besides, in the 1780s only the Carolinas and Georgia actively imported slaves; the people of other states had some freedom to criticize the practice—and to limit it.

But the slavery debate had already become enmeshed in what seemed larger issues affecting the acceptability of the Constitution as a whole. "The morality or wisdom of slavery are considerations belonging to the states themselves," said Oliver Ellsworth, a Connecticut delegate. Ellsworth's real concern was to avoid alienating Southerners who had joined with Connecticut in hammering out earlier provisions of the Constitution, particularly the so-called Great Compromise that in July had created the House and the Senate. Many other Northerners feared that New York and Rhode Island, where majorities of the population were hostile to the whole idea of a new constitution, would use the defection of a couple of Southern states as an excuse for not joining the Union, thus dooming months of hard work.

But would the South really have walked? Charles Pinckney and John Rutledge of South Carolina did threaten secession if the slave trade were jeopardized. But they might have been bluffing. In the 1780s, slavery was not as central to Southern economies as it later became. Even Pinckney said that "if the states were let alone, they

would probably of themselves stop importation." Moreover, the Deep South states were in a poor position to establish a nation of their own. Georgia in particular was underpopulated and at the mercy of nearby Indians and Spanish adventurers moving up from Florida. "By playing on these very real fears, the northern delegates could have forced into the Constitution stricter limits on slavery," write Christopher Collier and James Lincoln Collier in their 1986 book, "Decision in Philadelphia."

But the framers did not see the issue so clearly. The Northerners thought the new Constitution *did* impose limits, which says something about the attitudes of the era. A final compromise forced the Southerners to allow the importation of slaves to be federally taxed, a concession on their part but one that confirmed the principle that slaves were property. Under the now notorious "three-fifths rule," the population of each state for purposes of taxation and congressional representation amounted to all free white inhabitants plus three-fifths of "all other persons." Many Northerners saw this devaluation of the black man as a triumph of sorts: if Southern states could not count slaves fully for purposes of representation, their ability to extend slavery into the territories would be weakened. The final part of the compromise allowed

prohibition of the slave trade after 1800, later amended to 1808. Dr. Benjamin Rush, a progressive, went so far as to say that this clause made the Constitution an antislavery document.

If only that were so. By 1808 tens of thousands of new slaves had been brought in, and the institution spread into the territories. With slavery embedded in Southern agriculture, the Civil War became all but inevitable. At least the Constitution could be amended after the war. Under the Articles of Confederation, which required a unanimous vote of the states for amendment, the slave trade would have had even greater protection.

To war and enduring racial bitterness, add another consequence of the slavery debate of 1787. "Religion and humanity

[have] nothing to do with this [slavery] question," noted John Rutledge. "Interest alone is the governing principle of nations." The tension between hardheaded commercial (and later strategic) interests on the one hand, and the promotion of humane values on the other, continues to this day. The problem for the Constitution was that the pragmatic particulars of regional politics were allowed to overwhelm what even the men of that era knew was the human spirit of the document. Whatever their brilliance at structuring a government, the founders proved powerless to thwart the forces of history, soon to steal a march on their young nation.

**RAFFLE**

**DARK BAY HORSE, "STAR,"**

**MULATTO GIRL, "SARAH,"**

**Will be Ruffled for**

**CHANCES AT ONE DOLLAR EACH.**

**JOSEPH JENNINGS.**

**ABOLITIONISM**  
WAS A MOVEMENT  
WHOSE TIME HAD  
NOT YET ARRIVED

