Slavery and the American Constitution
Slavery on Caribbean plantations

- Often owned by absentee British owners who also were members of British parliament and very rich
  - This approach was coupled with the increasingly acceptable attitude that money making was acceptable to the elite
- Some island populations were 90% slaves
  - Slave rebellions became the greatest concern of non-slave inhabitants and British and other owners addressed this in part by getting out of town
• **White and mixed-race overseers were the plantation managers**

• **Absentee ownership became a model for South Carolina low country rice planters in the 18th and 19th century**

• **This arrangement separated the owners from the slaves making slavery and its cruelties remote and more pervasive**
Freeman also owned slaves on smaller sugar plantations.

Caribbean islands produced so much income for British owners and government that one half of the British troops in America in 1788 were shipped to the Caribbean after the 1788 American–French treaty for protection against the French fleet.

British sugar exports exceed the value of American exports.
West Indies also became a critical export market from British America of food and ship supplies.
Take Aways

Market demand for slave produced products caused creation and expansion of slavery

Racism led to enslavement of Africans

Slavery was back end justified by tradition and sense of cultural superiority

Western Slavery grew out of technological development

Slavery was a culturally accepted practice in Europe and the New World

Slavery sanctioned by state and moral authorities

Slavery without competition from non slave labor

Slavery was a major contributor to the growth of the New World
Slavery in colonial North America

- Most slaves who were brought or kidnapped to the Thirteen British colonies — the Eastern seaboard of what later became the United States — were imported from the Caribbean, not directly from Africa.
- South Carolina became source for food for Caribbean Islands
Indigenous peoples were also enslaved in the North American colonies, but on a smaller scale.

Indian slavery largely ended in the late eighteenth century though the enslavement of Indigenous people did continue to occur in the Southern states until the Emancipation Proclamation.
By the time of the American Revolution, Native Americans and Africans were enslaved throughout the colonies. Working on farms as laborers, in cities as artisans and mechanics (New York City had a large slave population) and in the south on tobacco, rice and indigo plantations.

Indentured servitude failed due to management, investment and alternative employment problems.

British in the Revolutionary War attempted strategic use of slaves

Americans waivered on using slaves in the Continental Army
Slavery and the Constitution

Why this is important?

The extent of the Constitution’s effect on slavery and state’s rights would be of continual debate from 1787 until the coming of the Civil War in 1861.
Slavery at the time of the American Revolution and Constitutional Convention of 1787 was firmly established in the five southern states from Maryland to Georgia. More than a trivial presence in most of the others.
Each colony before the Revolution had an accumulated body of slave law that did not so much establish slavery as acknowledge its presence, sanction it, and regulate its conduct.

Slavery had been part of the social and economic climate of the colonies for over 100 years before 1776.
The Slave Codes were colony legislation addressing the legal status of slaves, including punishment, inheritance, damages, manumission, sale, and other legal aspects of slavery.
De facto colonial self-government had also been in effect for about 75 years.
The Declaration of Independence

A defense or reason for the July 2, 1776 declaration vote of the Continental Congress
Thomas Jefferson, Virginia Delegate to the Continental Congress and part of the Declaration drafting committee.
Jefferson wrote The Declaration of Independence with prior documents before him and in the Lockean tradition of natural rights and freedoms, including property rights.
The basis of legitimate government was the consent of the governed, not divine authority granted to monarchs by God.

Freedom was the natural pre-government state of all reasonable men; to Locke this was a “self evident truth”.

People gave up designated freedoms to live under a government under a social contract.
The duty of that government is to protect the natural rights of the people, which Locke believed to include LIFE, LIBERTY, AND PROPERTY.

If the government should fail to protect these rights, its citizens have the right to overthrow that government.

This idea deeply influenced THOMAS JEFFERSON as he drafted the DECLARATION OF INDEPENDENCE.

Slavery for Locke was the continuation of Just war between the slave and master.
The Declaration of Independence (1776)

Preamble - the basis for the Declaration

“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.”
Jefferson’s Deleted Slavery Passage

He [King George III] has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating & carrying them into slavery in another hemisphere or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian King of Great Britain. Determined to keep open a market where Men should be bought & sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce.
After the achievement of independence, slavery remained what it had been before - an institution historically antecedent to the laws governing it and legally the creature of local (now state) authority.
Slaves numbered about 500,000 in 1780, constituting a little more than one-sixth of the national population. In the South, two persons out of every five were slaves. Slavery a distinctive element in the southern social order; the peculiar institution.
The slave production of staple crops dominated southern agriculture and suited the development of a national market economy with an otherwise great labor shortage.

Slaveholders played such a vigorous part in the expansion of the American frontier that slaves already comprised about one-sixth of the population living in Kentucky and the Southwest.
However, slavery was an institution under severe scrutiny, both as a matter of conscience and/or as a matter of public interest.

Many Americans found it difficult to square slave-holding holding with the principles of Christianity, and the Preamble of the Declaration of Independence
The Articles of Confederation

The Articles of Confederation, formally the Articles of Confederation and Perpetual Union, was an agreement among the 13 original states that served as the first constitution. This was the “Revolutionary War Constitution”.

The Articles of Confederation
The Articles, inter alia, addressed the basis of contributions (taxes) to the Continental Congress and 13 colonies.

Tax or contribution basis was on value of property.

At one time it was proposed that property be substituted with population. Slaves were to count as $\frac{3}{5}$ths of a person. Why? Never enacted though.
1787 Constitution would replace the Articles from the need for power and order:

- Power through stable unity in a central government with taxation power
- Order through a Constitution addressing added governing issues
Before the Constitutional Convention

The Western lands

- Americans of the Revolutionary Era regarded the "West" as those lands between the Appalachian Mountains and the Mississippi River.
- The area beyond the Mississippi was then largely unexplored and in the possession of foreign powers.
The West had been the object of much recent contention; Britain and France bitterly struggled for control of the area during the French and Indian War (1754-1763).
In the aftermath of French Indian War, Britain attempted to halt the westward movement of American settlers in the Proclamation of 1763.

This “halt” was an attempt at British cost reduction and the British strategy of Empire.
By the 1780s, seven of the 13 original states had enunciated claims to areas in the West. These "landed" states had a great potential advantage over the six "landless" states. Assumed that the future sale of western lands would enrich the landed states and possibly allow them to operate without any form of taxation.

The landless states feared that they would lose residents and dwindle into insignificance.
The claims to the western lands rooted in the vague wording of old colonial charters.

Claims often overlapped one another, pitted one state's interests against another.

The land claim states were Virginia, Connecticut, Massachusetts, New York, North Carolina, South Carolina and Georgia.
The pre Constitution Congress successfully worked to induce the states to surrender control of their western land claims to the central government.

The ceding of western lands by the states was accompanied by a series of laws passed by the Articles Congress to organize the areas and prepare them for statehood. These measures included the Great Northwest Ordinance in 1787.
The Northwest Ordinance of 1787 among other things prohibited slavery in the northwest territory.

The ordinance passed with little resistance from the southern states as they did not want a competitor for the rice, tobacco and cotton grown by them in 1787.
The Constitution

The framers of the Constitution, dealing with slavery as an incidental but troublesome circumstance, recognized slavery but provided no national legal status.
The Constitution does not mention the Declaration of Independence & seems to embrace principles plainly inimical to the Declaration.

- The Constitution does not use the term “slaves” anywhere

- The South historically maintained the Constitution sanctioned slavery

- The North agreed and disagreed (the Constitution was neutral)
The South occupied firmer ground when they cited the record of government practice as an authoritative guide to the established meaning of the Constitution.

- Among their prime exhibits were the treaties of peace with Britain in 1783 and 1815, both of which contained clauses making provision for certain slaves and "other property."
- A direct tax on property levied by Congress in 1813 had specifically included slaves
- Arguments about slavery and the federal government almost always turned into argument about slavery and the intent of the Constitution
Constitutional Convention

- Summer of 1787
- 55 delegates meet in Philadelphia
- Original goal was to fix the Articles of Confederation
- They realized that the Articles of Confederation could not be fixed. A new government was needed
The Constitution and the Slavery Question

Preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America
Constitution Article. I. - Section 2 - The House and the 3/5ths clause

Representatives [the House of 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 source of the three fifths clause –
The Articles of Confederation

The effect of the clause

Southern strategy

Northern irritation
Article I, section 3

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.
Section 9 - Limits on Congress and the Slave Trade

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.
Article. IV. - The States and Fugitive Slaves

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.
Tariffs

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.
Article. IV. - The States

Section 3 - New States may be admitted by the Congress into this Union . . . The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.
13 original colonies
20 pre-Civil War states
3 “Civil War” states
14 post-Civil War states
Article. V. - Amendment
The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution …..
Article. VII. - Ratification

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

Convention reps chosen by vote of individual state voters
5th Amendment

No person shall be ...... deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation
Points to Consider
25 of the 55 Convention delegates were slave owners
There was fear of internal dissent and outside influence n 1787
The Constitution had to be ratified by at least 9 states to be effective.
Most of the convention delegates would have admitted that slavery was going to wither away in the next 15 to 25 years
The Federalist Papers, a series of essays, argued in favor of approving the new Constitution.

One argument made was that unless united, based on European history the states were more likely to go to war among themselves for competitive economic reasons; and

The enemy of democracy was factions.
Next Week

The Empire of Cotton