

TEXTS:

- *A Necessary Evil?: Slavery and the Debate Over the Constitution*, ed. by John Kaminski (University of Wisconsin: Madison Center for the Study of the American Constitution), 1995. Can be purchased at a discount from the bookstore.
- *The American Debate over Slavery, 1760–1865: An Anthology of Sources*, ed. by Howard Lubert et al. Available at the bookstore.
- *Sources of Antislavery Constitutionalism in America, 1760-1848*, William M. Wiecek (Ithaca: Cornell University Press), 1977. This book will NOT be found at the bookstore. If students wish a hard copy, they may be purchased directly from [Cornell University Press](#), or FREE e-versions may be downloaded, either ([from the same Cornell web page](#)), or [as a Kindle version from Amazon](#).
- **Additional Readings**, found in “Files” on Canvas and compiled in a **Reading Packet**. The Reading Packet will be available for purchase in the bookstore.

Class Policies

As in all W&L courses, pledge papers and complete all work in compliance with the Honor System. You are welcome to use your laptops in class for note taking. On your honor, you are forbidden to web browse or access social media or your email account during class. No texting or use of cellphones while in class.

This is an in-person class, and it is expected that the student will be physically present for all classes whenever possible. If a student must be absent *for good cause*, such as illness or travel for an extra-curricular activity, the instructor will try to make a Zoom option available. Students must make every effort to give at least 24 hours’ notice of an expected absence (and to remind instructor of the Zoom class within 24 hours if notice was given far in advance).

Late Assignment Policy: Each assignment has its own due date, and, if turned in late, there will be a 2% penalty deducted for each day it is late (e.g., an assignment turned in 5 days late will be a full letter grade lower than an assignment turned in on time). The penalty comes with no judgment (let she who has never turned in an assignment late cast the first stone). There are times when life gets unexpectedly busy, and something has to give. In that case, turning in an assignment late and accepting the penalty, rather than turning in subpar work on time, is a rational calculation. But I do not waive the penalty except for truly dire circumstances (e.g., death in family, serious illness or accident, etc.). If you think your illness or tragedy is serious enough to warrant special accommodation, you need to seek a short-term medical adjustment from the medical/counseling staff at Student Health and Counseling (SH&C), and they will send the request to your professors.

Citation Policy: Your written work for this class includes an ongoing research project: A term paper written in three stages. Each stage requires research in published sources, and each stage requires students to cite their research using adequate citations. **Evidence of plagiarism will result in a fail for the course.**

GRADES AND ASSIGNMENTS:

Grading Scale (final grades are not rounded up or down)

97-100% = A+	77-79.99% = C+	Everything below 60% = F
93-96.99% = A	73-76.99% = C	
90-92.99% = A-	70-72.99% = C-	
87-89.99% = B+	67-69.99% = D+	
83-86.99% = B	63-66.99% = D	
80-82.99% = B-	60-62.99% = D-	

When submitting electronic assignments, it will help if you title the file: “[Last name]-[First name]-[Description of assignment].” Example: “Uzzell-Lynn-Student Bio.”

Semester Requirements, in Brief:

Assignment	Due Date	% of Grade
Student bio	Jan. 10	0%
Midterm	Feb. 17	15%
Term paper (in 3 stages):		40% Total
Outline	Feb. 27	(5%)
1 st Draft	Mar. 17	(10%)
Final Draft	Apr. 10	(25%)
Final Exam	Apr. 9-15	20%
Participation:		25% Total
Weekly posts	Weekly	(10%)
Classroom discussion	Ongoing	(15%)

STUDENT BIO:

Please fill out the student bio form (Found in the “Assignments” tab in Canvas) and upload by noon on January 10. These forms are simply meant to help me get to know my students individually and as a class; they are not graded.

MIDTERM:

The midterm will test student’s knowledge of the material covered in the first half of the semester. It will be in short-essay format and take-home/ open book. Students will have approximately one week to complete it; it is worth 15% of the grade.

TERM PAPER, IN 3 STAGES

The term paper will cumulatively be worth 40% of the grade, but it will be comprised of three different assignments, all weighted differently. We will discuss the elements of a good paper

before the outline is due. All writing assignments should be turned in electronically in Word format and uploaded to Canvas.

Papers will be graded according to all the criteria that make for good writing: evidence of research, substantive and accurate knowledge of the subject, balanced presentation of both sides cogent logic defending a concrete thesis, lucid and appropriate writing style, correct grammar, spelling, and punctuation. It is recommended that students take advantage of the Writing Center and/or Williams School Communications Center **prior** to submitting papers on the due date. **Pledge** in full all written work.

OUTLINE (1-3 pages), 5% of total grade:

The student may either choose one of the paper topics handed out at the beginning of the semester or form a unique paper topic in consultation with the instructor (which must be approved at least one week before outline is due). Preliminary research in the chosen topic must be done before the outline can be completed. **If an outline is turned in without demonstrable research, it will receive zero credit.** Each outline will include:

- The topic of the paper (this can be expressed in a well-worded title)
- A thesis statement: 1-3 complete sentences which state the proposition the paper intends to prove and reasons for supporting it.
- A list of supporting points (which prove the thesis) and the examples or proof-texts that will substantiate the supporting points. When supporting points are drawn from outside sources, that source, including page number, should be noted.
- A list of sources that have been examined for the outline, and possibly others which will be examined but have not yet been read. This list must include some sources from the class readings and also some reputable sources from outside class readings.

FIRST DRAFT (8-10 pages) 10% of total grade:

A first draft is not a “rough draft.” It is expected that the student has conducted rigorous research and drafted a well-organized, well-argued, grammatically correct paper. It is due on March 17 and is worth 10% of the total course grade.

FINAL DRAFT (14-16 pages) 25% of total grade:

Students will receive copious feedback and constructive criticism on the first draft of their papers. Students will use this feedback to polish and expand upon the paper for their final draft. The final draft is due April 10 and is worth 25% of the total course grade.

PARTICIPATION

As a seminar course, the centerpiece of our class meetings will be rigorous discussion and debate about one of the most difficult subjects in American political history. Therefore, participation is of the utmost importance. Students will be expected to complete the readings before each class and be prepared to discuss them. Poor attendance will injure a participation grade (but good attendance is simply expected; it does nothing to improve a participation grade).

As part of the participation grade, students are required to make one short post (1-2 paragraphs) per week (not per class) on the Discussion Board in Canvas. Posts should begin the first week of

class and *should be made while the student is doing the assigned readings while preparing for the upcoming class*. They must be posted at least 1 hour before class begins. The post can be: an answer to one of the reading questions, a question raised by the readings, or it can be a quotation from one of the readings for that day combined with a brief explanation of why that quotation struck you as interesting or important. Individual posts will not be graded; however, a student might be asked in class to elaborate on a post that was made prior to that class. The posts are worth 10% of the total course grade, and each student must post once per week, (12 times total), to receive the full grade. The rest of the participation grade, based on class discussion, is worth 15% of the course grade.

FINAL EXAM

A final exam will test primarily the material we read for the second half of the semester, although some of the material may refer to or build upon knowledge gleaned from the first half.

Course Schedule

WEEK 1:

UNIT 1. COMPETING THEORIES OF THE CONSTITUTION AND SLAVERY

Tuesday, January 10: The Various Ways to Interpret the Constitution and Slavery

*****Assignment: Student Bios are due by noon. (Please upload in Canvas)*****

The student bio form (Found both in the “Assignments” & “Files” tab in Canvas)

<p>Readings:</p> <ul style="list-style-type: none"> • 1a in CP: Constitutional Framers in the Ratifying Debates (1787-1788) • 1b in CP: First Annual Convention of the People of Colour (1831) • 1c in CP: William Lloyd Garrison on the Constitution (1832) • 1d in CP: Frederick Douglass on the Constitution (1852) • 1e in CP: Abraham Lincoln on the Constitution (1854 & 1858) • 1f in CP: <i>The 1619 Project</i>, (2019) excerpts • 1g in CP: <i>The 1776 Report</i>, (2021) excerpts 	<p>Study Questions:</p> <ul style="list-style-type: none"> • Is the Constitution Anti-Slavery, Pro-Slavery, or Neither? • On what basis would we judge a constitution to be “pro-” or “anti-”slavery? (The intent of the Framers? The strict construction of the text? The “spirit” of the text? The historical outcome? Or something else?) • It is understandable that these debates provoked so much passion when slavery was legal in the US. Why does this historical question still provoke so much heat, more than 150 years after the 13th Amendment abolished slavery?
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***UNIT 2. THE PRE-CONSTITUTIONAL HISTORY OF SLAVERY IN NORTH AMERICA***

**Thursday, January 12: Grappling with our Past, Gauging our Complicity, Considering the Laws and Politics of Slavery in the States**

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| <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>• <b>1h in CP:</b> Herbert Storing, “Slavery and the Moral Foundations of the American Republic” (1986)</li> <li>• <b>1i in CP:</b> Michael Zuckert, “Slavery and the Constitution in Madisonian Perspective”</li> <li>• Slavery in the Confederation and the States, prior to 1787, in Kaminski’s <i>Necessary Evil</i>: pp. 1-2, 4, 7-9, 11-15, 17-18, 24-36, 171 (C.C. Pinckney on a bill of rights)</li> <li>• <b>2a in CP:</b> Edmund Randolph, history of the Virginia Constitution</li> </ul> | <p><b>Study Questions:</b></p> <ul style="list-style-type: none"> <li>• Based on what we’ve read so far, in what ways did the Framers of the Constitution get it right about slavery? In what ways did they get it wrong?</li> <li>• Many states included language in their constitutions about the natural liberty and equality of all men. Why was the Massachusetts Supreme Court the only one to abolish slavery on that account?</li> <li>• How did the Southern states deal with the tension between natural rights philosophy and the prevalence of slavery in this period?</li> </ul> |
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WEEK 2:

Tuesday, January 17: The Status of Slavery in the Pre-Constitutional United States

<p>Readings:</p> <ul style="list-style-type: none"> • Wiecek, Introduction and Chapt. 1-2 (pp. 15-61) • 2b in CP: 1705 Virginia “Act concerning Servants and Slaves” & 1741 Slave Code 	<p>Study Questions:</p> <ul style="list-style-type: none"> • What was the status of slavery in the United States prior to the Constitution’s ratification? • How did the Constitution change the status of slavery, if at all?
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***UNIT 3. SLAVERY AND THE CONSTITUTION’S FORMATION AND RATIFICATION***

**Thursday, January 19: Slavery in the Constitutional Convention & the Ratifying Debates**

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| <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>• “The Constitutional Convention and Slavery” in Kaminski: pp. 41-43</li> <li>• Wiecek, Chapt. 3 (pp. 62-83)</li> <li>• First impressions of the Constitution, in Kaminski: pp. 67-79, 113-116, 135, 146-47 (Benjamin Rush to Belknap), Bottom of 148-149, 157-161</li> </ul> | <p><b>Study Questions:</b></p> <ul style="list-style-type: none"> <li>• How many clauses in the Constitution deal with slavery? How do we assess that question?</li> <li>• How do we gauge complicity with slavery? In what respect were the Framers at fault, and in what respect were circumstances beyond their control?</li> <li>• What do we learn about the Constitution from the first reactions of Americans upon</li> </ul> |
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|  | <p>reading it?</p> <ul style="list-style-type: none"> <li>• What do we learn about early Americans upon reading their first reactions to the Constitution? What did anti-slavery Americans hope for from the Constitution? What did pro-slavery Americans hope for?</li> </ul> |
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WEEK 3:

***UNIT 4. RIGHTS TO FREE SPEECH, PRESS, PETITIONS,
... AND THE POST OFFICE***

Tuesday, January 24: The First Antislavery Petitions to Congress

<p>Readings:</p> <ul style="list-style-type: none"> • 4 in CP: “Constitutional Clauses” • 4a in CP: Ellis, “The Silence,” from <i>Founding Brothers</i> • Wood on the 1st Congress (handout) 	<p>Study Questions:</p> <ul style="list-style-type: none"> • Ellis and Wood have very different <i>interpretations</i> when relating what took place during the First Congress’ debates over the anti-slavery petitions. Pay close attention to the factual claims of each. In what ways do their <i>factual</i> accounts of these debates differ?
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**Thursday, January 26: The First Antislavery Petitions, Primary Documents**

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| <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>• <b>4b in CP:</b> Early Antislavery petitions (1783)</li> <li>• Introduction to the debates in the First Congress in Kaminski: middle of p. 202 to 203</li> <li>• <b>4c in CP:</b> NY Antislavery petition</li> <li>• <b>4d in CP:</b> The “Foster Report,” as amended</li> <li>• Petitions to and debates in the First Congress, in Kaminski: pp. 210-230</li> <li>• <b>4e in CP:</b> James Madison to Benjamin Rush, March 20, 1790</li> <li>• <b>4f in CP:</b> Benjamin Franklin, “On the Slave-Trade,” March 23, 1790</li> </ul> | <p><b>Study Questions:</b></p> <ul style="list-style-type: none"> <li>• Having now read some of the primary source documents, whose historical account (Ellis’ or Wood’s) is more faithful to what actually took place?</li> <li>• Satire is a way of communicating important political truths through humor. What was Benjamin Franklin trying to communicate in this satire—the last one in this Framer’s life.</li> </ul> |
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WEEK 4:

Tuesday, January 31: Congress, Petitions, and the “Gag Rule”

<p>Readings:</p> <ul style="list-style-type: none"> • Wiecek, chapt. 8 (pp. 172-191) • 4g in CP: Petition from “Manumitted Slaves” of NC, Jan. 30, 1797 • 4h in CP: James Wilson on Speech in Congress, 1791 • 4i in CP: Jefferson and Madison on Free Speech of Representatives, 1797 • 4j in CP: Joseph Story on Right to Petition, 1833 • 4k in CP: Senate Debates Reception of Abolition Petitions, 1836 • 4l in CP: John Quincy Adams on the Gag Rule, 1836-37 • 4m in CP: Anastaplo on Calhoun and Adams • 4n in CP: Charles Sumner, on 1852 Petitions 	<p>Study Questions:</p> <ul style="list-style-type: none"> • What was the constitutional rationale for naming the right of free speech in members of Congress? • What was the constitutional rationale for naming the citizens’ right to petition? • In what way is the post office involved in these questions? • What was the South’s argument that it was constitutional to refuse to receive abolitionist petitions? • Why did Adams and others argue that Congress had a constitutional duty to receive them? • Ultimately, which side one the “petition” fight? Did abolitionists have better success in Congress under the Articles or the Constitution?
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***UNIT 5. THE THREE-FIFTHS CLAUSE***

**Thursday, February 2: The Three-Fifths Ratio at the Constitutional Convention and Beyond**

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| <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>• <b>5 in CP:</b> “Constitutional Clauses”</li> <li>• The 3/5-ratio in the Confederation Congress, in Kaminski: pp. 18-23</li> <li>• <b>5a in CP:</b> Population figures by state</li> <li>• <b>5b in CP:</b> The 3/5-clause in the Constitutional Convention (also in Kaminski: pp. 43-54, but class will be discussing packet)</li> <li>• The 3/5-clause in the ratifying debates, in Kaminski: pp. 84-88, 127-28, 166-67 (top), 168-69 (Rutledge speech &amp; 1<sup>st</sup> paragraph of CC Pinckney speech), 183, 197-98</li> <li>• <b>5c in CP:</b> William Paterson in <i>Hylton v. United States</i></li> <li>• <b>5d in CP:</b> Madison’s Reflections on the Confederation Congress and 3/5</li> <li>• <b>5e in CP:</b> <i>Federalist</i> No. 54, excerpts</li> </ul> | <p><b>Study Questions:</b></p> <ul style="list-style-type: none"> <li>• What was the “compromise” of the three-fifths deal? In other words, what were the two sides trying to achieve?</li> <li>• At what point in the debates does the ratio get applied to taxation, and why?</li> <li>• How important was the three-fifths clause to the question of electors for the president in the <i>formation</i> of that clause?</li> <li>• While reading the Convention debates, pay particular attention to the speeches of Charles Pinckney of SC and Rufus King of MA. How does the thinking of each one evolve over the course of the debates? (Spoiler alert: the thinking of each one will continue to evolve, and harden, in future decades.)</li> <li>• Also pay close attention to the arguments</li> </ul> |
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| <ul style="list-style-type: none"> <li>• <b>5f in CP:</b> James Madison &amp; Joseph C. Cabell</li> <li>• <b>5g in CP:</b> Madison at the VA Constitutional Convention, 1829-30</li> <li>• <b>5h in CP:</b> Madison’s Reflections on the VA Constitutional Convention</li> </ul> | <p>from William Paterson of NJ and James Madison of VA. Each one will continue to voice his opinion of the clause in later decades.</p> <ul style="list-style-type: none"> <li>• Paterson and Madison were both Framers of the Constitution. Were they in agreement over the meaning of the three-fifths clause during the Convention? Which one was consistent (with himself and/ or with the Constitution’s formation) after the Convention?</li> <li>• In Madison’s two “public” defenses of the rule of apportionment (<i>Fed 54</i> and the speech in VA in 1829), what grounds does he give for supporting it?</li> <li>• James Madison was the originator of the “3/5” ratio, <i>when it applied to taxation</i>. However, when it was applied to apportionment in the Constitutional Convention, he never supported it. After the Convention, he said very different things about the clause in public and in private. What were Madison’s “true” opinions on the three-fifths clause?</li> </ul> |
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**WEEK 5:**

**Tuesday, February 7: Attempts to Undo And Extend The 3/5 Clause during the Missouri Compromise**

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| <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>• Wiecek, Chapt. 5 (pp. 106-107)</li> <li>• <b>5i in CP:</b> Belko and Poston on the MO Compromise and the three-fifths clause</li> <li>• Rufus King on the MO Compromise, in <i>American Debate</i>, pp. 74-75</li> <li>• <b>5j in CP:</b> Rufus King on the Three-Fifths Clause</li> <li>• <b>5k in CP:</b> Charles Pinckney on the Three-Fifths Clause</li> <li>• <b>5l in CP:</b> Madison to Monroe on the MO Question</li> </ul> | <p><b>Study Questions:</b></p> <ul style="list-style-type: none"> <li>• Paterson, Madison, King, and Pinckney were all Framers of the Constitution. Madison first invented the “3/5” ratio (applied to taxation) and Pinckney first applied it to representation. Were they all in agreement over the meaning of the three-fifths clause during the Convention? Which ones were consistent (with themselves and with the Constitution’s formation) after the Convention?</li> <li>• Follow the textual changes within Pinckney’s documents very closely. What place did the three-fifths clause have in his original 1787 Plan of government? In his</li> </ul> |
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|  | 1787 “Observations”? In his 1818 Plan? In his 1819 speech before Congress? |
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UNIT 6. THE INTERNATIONAL SLAVE TRADE

Thursday, February 9 The American Slave Trade, in Context, and How to Write a Killer Term Paper

<p>Readings:</p> <ul style="list-style-type: none"> • 6 in CP: “Constitutional Clauses” • The Confederation Congress and the Slave trade, in Kaminski: pp. 16-17, 26-27 • 6a in CP: Graphs on US slave importations • 6b in CP: Outline Assignment • 6c in CP: Essay Writing Guide • Paper topics (will be distributed before class) • 6d in CP: The slave trade in the Constitutional Convention, (also in Kaminski: pp. 55-64, but read the version in the packet) • 6e in CP: George Mason on the 20-Year Compromise 	<p>Study Questions:</p> <ul style="list-style-type: none"> • What are the basic elements of a good term paper, and how do they come together? • Why was the subject of the slave trade, “forced” upon the delegates of the Constitutional Convention? • What affect did the 20-year Compromise have on the history of the international slave trade? • Members from South Carolina and Georgia threatened to walk if they were denied the “right” to continue importing slaves. Were they the only stubborn ones at the Convention? Who else was being inflexible (name names)? • James Madison and Charles Cotesworth Pinckney were both on the Special Committee that forged the 20-year compromise. We have no notes about what happened behind those closed doors, but pay close attention to the exchange between them when the Committee’s Report is debated within the Convention on Aug. 25. What does this exchange tell you about what was going on behind closed doors in the Committee? • This compromise has been called the “Dirty Compromise.” What makes it dirty? What makes it a compromise? What did each side give up in order to meet in the middle?
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We will spend the first half of class discussing the elements of a good term paper, the rest of the class will be spent on the “Dirty Compromise”

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**WEEK 6:**

**Tuesday, February 14: The Slave Trade in the Ratifying Debates**

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| <p><b>Readings:</b></p> <ul style="list-style-type: none"><li>• <b>6f in CP:</b> James Madison and C.C. Pinckney on the 20-Year Compromise</li><li>• Debating the slave trade during ratification, in Kaminski: pp. 88-91, 98-100, 116-118, 131-32, 136-38, 163-65, 167-182, 184-89, 198-200</li></ul> | <p><b>Study Questions:</b></p> <ul style="list-style-type: none"><li>• James Madison and Charles Cotesworth Pinckney were both on the Committee that forged the 20-year compromise. Later, each accused the other (vicariously, by naming only the state) of being inflexible. What was the peculiar brand of inflexibility of the other?</li><li>• All of the “slavery clauses” received some amount of attention during the ratifying debates, but the 20-year compromise attracted the most attention, from North and South. Why?</li></ul> |
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Thursday, February 16: The \$10 Tax on Slave Imports and Attempts to Prohibit the Trade

<p>Readings:</p> <ul style="list-style-type: none">• 6g in CP: Debates over the \$10 tax in the Constitutional Convention• Debates over the \$10 tax in the First Congress, in Kaminski: pp. 201-210• 6h in CP: 1794 Act on the Slave Trade• 6i in CP: 1804 and 1807 Congressional Slave Trade Debates, in Kornblith, pp. 123-30• Act to Abolish the International Slave Trade, 1807, in Kaminski: pp.239-41• Wiecek, Chapt. 5 (pp. 117-18)• Robert Walsh on Art. I, Sec. 9 in <i>American Debate</i>, pp. 88-89.• 6j in CP: Madison to Walsh & Monroe (1819)• 6k in CP: Charles Pinckney on Art. I, Sec. 9 in 1820	<p>Study Questions:</p> <ul style="list-style-type: none">• Why did Madison oppose naming a tax on imported slaves in the Constitution? Why did Madison argue in favor of applying the tax on imported slaves in the First Congress? In what way was he being inconsistent? In what way was he being consistent?• Madison not only argued that the Constitution should admit “the idea that there could be property in men,” but he also drafted the records that would later testify to the Convention’s rationale in wording the compact. Did that choice make any difference to future debates?• How did the “Migration or Importation” clause get interpreted in the MO Compromise debates? Who was giving the most authentic interpretation of the clause (i.e., true to its drafting history)?
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**Friday, February 17:**

**\*\*\* Midterms are due by 5:00 pm \*\*\***

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February 18-26: NO CLASS: Washington Break

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**WEEK 7:**

**Monday, February 27:**

**\*\*\* Paper Outlines are due by 9:00 am \*\*\***

***UNIT 7. THE FUGITIVE SLAVE CLAUSE***

**Tuesday, February 28: The Antecedents, Formation, and Effects of the Fugitive Slave Clause**

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| <p><b><i>Readings:</i></b></p> <ul style="list-style-type: none"><li>• <b>7 in CP:</b> “Constitutional Clauses” in CP:</li><li>• The NW Ordinance, Art. VI, in Kaminski: p. 39-40</li><li>• <b>7a in CP:</b> Debates in the Constitutional Convention on the Fugitive Slave Clause</li><li>• Debates in the Ratifying Convention, in Kaminski: 70-72, 74-76, 162, 178-79, 184 (the 2 paragraphs prior to George Mason’s letter), 200 (July 29)</li><li>• <b>7b in CP:</b> Debates at the VA Ratifying Convention</li><li>• Wiecek, pp. 97 (bottom) to 100 and pp. 191-201</li><li>• The Fugitive Slave Law, in Kaminski: pp. 238-39</li><li>• Alvan Stuart on the Fugitive Slave Law and the Due Process Clause in <i>American Debate</i>, pp. 159-61</li></ul> | <p><b><i>Study Questions:</i></b></p> <ul style="list-style-type: none"><li>• There was very little debate on the Fugitive slave clause in the Constitutional Convention, but notice the evolution of the wording and the reasons given for the change. What do the changes to the wording mean, morally? Do these changes have any legal effect (i.e., would the clause be interpreted by the judges differently if the wording had not changed)?</li><li>• Madison did not name who was behind the decision to word the fugitive slave clause as it developed, but he did draft the records that would later testify to posterity the Convention’s rationale in wording the compact as they did. Did that choice make any difference to future debates?</li><li>• There was also little debate about the fugitive slave clause in the Ratifying Debates, from either the North or the South. What could account for the relative lack of interest initially shown to this clause?</li></ul> |
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Thursday, March 2: Prigg v. PA: The Fugitive Slave Law, and “Personal Liberty” Laws

<p><i>Readings:</i></p> <ul style="list-style-type: none">• 7c in CP: <i>Prigg v. PA</i> (1842), Excerpts• 7d in CP: Paul Finkelman on <i>Prigg</i>, “Anti-Slavery Use of a Pro-Slavery Decision”	<p><i>Study Questions:</i></p> <ul style="list-style-type: none">• The decision in <i>Prigg</i> was generally considered to favor the pro-slavery South. But was it defensible from a <i>Constitutional</i> perspective? Was it faithful to the original
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	formation or understanding of this clause? <ul style="list-style-type: none"> • What elements of <i>Prigg</i> were anti-slavery? • How was <i>Prigg</i> used to further anti-slavery?
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**WEEK 8:**

***UNIT 8. THE PRIVILEGES AND IMMUNITIES CLAUSE, AMERICAN “CITIZENSHIP,” AND USING THE CONSTITUTION TO FURTHER ANTI-SLAVERY***

**Tuesday, March 7: The Privileges and Immunities Clause**

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| <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>• <b>8 in CP:</b> “Constitutional Clauses”</li> <li>• <b>8a in CP:</b> Evolution of the Constitution’s Privileges and Immunities Clause</li> <li>• Wiecek, Chapt. 5 (pp. 122-24)</li> <li>• Philip Barbour on the MO Compromise, in <i>American Debate</i>, p. 79 (middle paragraph only)</li> <li>• <b>8b in CP:</b> Charles Pinckney and SCOTUS on the P&amp;I Clause</li> <li>• Bingham on OR Constitution and P&amp;I Clause in <i>American Debate</i>, pp. 280-85</li> <li>• <b>8c in CP:</b> <i>Dred Scott v. Sandford</i>, on the P&amp;I Clause and “Citizenship”</li> <li>• Review Herbert Storing’s argument (from “Moral Foundations,” which we read the second day of class), pp. 326-27</li> <li>• <b>8d in CP:</b> Lincoln on <i>Dred Scott</i>, excerpts</li> </ul> | <p><b>Study Questions:</b></p> <ul style="list-style-type: none"> <li>• Pay close attention to the evolution of wording of the Privileges and Immunities Clause. Did it favor what the Southerners wanted?</li> <li>• Who was opposed to this clause, when it was added both to the Articles of Confederation and to the Constitution? What were the grounds of their opposition?</li> <li>• The Supreme Court currently credits Charles Pinckney with being the author of the Privileges and Immunities Clause. Was he?</li> <li>• Both Taney or Curtis claimed to be searching for the original meaning of the Privileges and Immunities clause. Based on the documents showing its development—in both the Articles of Confederation and the Constitution—which Justice in the <i>Dred Scott</i> case was more faithful to its original meaning?</li> <li>• Was Storing right to favor Taney’s reading of the Constitution?</li> <li>• Lincoln obviously disagreed with the <i>Dred Scott</i> decision. What response to it did he recommend?</li> </ul> |
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Thursday, March 9:

<p>Readings:</p> <ul style="list-style-type: none"> • Wiecek, Chapt. 11 (pp. 256-67) 	<p>Study Questions:</p> <ul style="list-style-type: none"> • Why did Frederick Douglass argue that the
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<ul style="list-style-type: none"> Gerrit Smith, Wendell Phillips, and Frederick Douglass on Constitutional interpretation: in <i>American Debate</i>, pp. 137-39, 185-87, 209-212, 234-35, 256-58. 8e in CP: Douglass on The Constitution: Is it Pro-Slavery: 	<p>future of his race could only be in America?</p> <ul style="list-style-type: none"> What were some of Douglass' arguments for believing the Constitution was anti-slavery? How did he deal with the "pro-slavery" provisions, like the fugitive slave clause? Are his arguments persuasive?
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**WEEK 9:**

***UNIT 9. THE GUARANTEE CLAUSE & SLAVERY IN THE NATION'S CAPITAL***

**Tuesday, March 14:**

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| <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li><b>9 in CP:</b> "Constitutional Clauses"</li> <li><b>9a in CP:</b> James Madison and the Origins of the Guarantee Clause</li> <li><b>9b in CP:</b> <i>Federalist</i> No. 43, excerpts</li> <li><b>9c in CP:</b> Madison, Notes for the <i>National Gazette</i>, (ca. 1791-92), excerpt</li> <li>Wiecek, Chapt. 5 (pp. 119-22), &amp; Chapt. 11 (pp. 270-71)</li> <li>Timothy Fuller &amp; others on the MO Compromise, in <i>American Debate</i>, pp. 77-78, 96-97 (top)</li> <li>Later Opinions on the Guarantee Clause, in <i>American Debate</i>, middle of pg. 141 to mid-page 142</li> <li><b>9d in CP:</b> More Later Opinions on the Guarantee Clause</li> <li>Wiecek on slavery in DC, pp. 100 (bottom) to 102</li> <li>Slavery in the District of Columbia and its limits, in <i>American Debate</i>, pp. 148-56, 162-64</li> </ul> | <p><b>Study Questions:</b></p> <ul style="list-style-type: none"> <li>James Madison was clearly the inspiration for the Guarantee Clause in the Constitution. What was its original and primary purpose?</li> <li>This excerpt from Madison's Notes for the <i>National Gazette</i> was never published in his lifetime. What was Madison's private opinion of the form of government prevailing in the Southern States?</li> <li>Which of the later opinions on the Guarantee Clause were true to its original meaning or spirit?</li> <li>Why were abolitionists particularly scandalized by the slave trade in the nation's capital?</li> <li>Why was it so hard to eliminate? Why were more moderate anti-slavery figures, such as Lincoln, reluctant to act?</li> </ul> |
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UNIT 10. WESTWARD EXPANSION AND THE ADOPTION OF NEW STATES

Thursday, March 16:

<p>Readings:</p> <ul style="list-style-type: none"> 10 in CP: "Constitutional Clauses" 	<p>Study Questions:</p> <ul style="list-style-type: none"> Why did some people believe that
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<ul style="list-style-type: none"> • Handout: Constitutional Convention debates on New States & Territories • Wiecek, pp. 102-105, 108-116, 124-25 • Rufus King & others on the MO Compromise, in <i>American Debate</i>, pp. 72-74 (mid-page), 75-77, 78 (last paragraph)-86, 90-92 (top), 100-102 • 10a in CP: MO Compromise line & map • 10b in CP: Pinckney and King react to MO Compromise • 10c in CP: JM, TJ, and Lafayette on the MO Compromise and the diffusion of slavery • 10d in CP: John Quincy Adams on the MO Compromise • Wiecek on the Wilmot Proviso (1846) and the annexation of Texas, pp. 220-27 • John Quincy Adams against the annexation of Texas and Intro to Chapt. 5, in <i>American Debate</i>, pp. 172-74, 189-94 • Slavery in the territories, in <i>American Debate</i>, pp.198-200, 204-209, 217-27, 258-263 	<p>expanding slavery into the western territories and new states would <i>hasten</i> abolition? Why did others believe that abolition would come sooner by hemming in the borders of slavery? What were the specific political expectations or strategy of each antislavery side?</p> <ul style="list-style-type: none"> • The MO Compromise is supposedly a “compromise,” but which side believed they “won” that contest, and why? • Why does Wiecek believe that it was the combination of Westward expansion and slavery that led to the Civil War? • What would have been the likely fate of slavery if the US had remained within its original borders?
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**Friday, March 17:**

\*\*\*Assignment: 1<sup>st</sup> Draft of Paper Due by 5:00 pm\*\*\*

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WEEK 10:

Tuesday, March 21: *Dred Scott* and the Attempts to Limit Congressional Authority

<p>Readings:</p> <ul style="list-style-type: none"> • 10e in CP: <i>Dred Scott</i> on forbidding slavery in the territories • 10f in CP: Abraham Lincoln’s “Cooper Union” Address (1860) 	<p>Study Questions:</p> <ul style="list-style-type: none"> • Taney makes the case that the “Due Process” clause of the fifth amendment prohibits Congress from forbidding Southerners from taking their slaves into US-held territories. What is that argument, exactly? How does Curtis respond to it? • The Missouri Compromise had already been repealed by the 1854 Kansas-Nebraska Act. Why, then, did Taney think it necessary to declare it unconstitutional in the <i>Dred Scott</i> case?
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	<ul style="list-style-type: none"> • Does Lincoln make a good case that restricting slavery in the territories is among Congress' constitutional powers?
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## ***UNIT 11. THE CONSTITUTION, SLAVERY, AND THE DECLARATION OF INDEPENDENCE***

### **Thursday, March 23: The South Attempts to Repudiate or Reinterpret the Declaration**

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| <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>• <b>11 in CP:</b> "Constitutional Clauses"</li> <li>• Macon &amp; other congressmen on the MO Compromise, in <i>American Debate</i>, pp. 93-95, 97-98</li> <li>• Calhoun on the OR Bill and the Declaration of Independence, in <i>American Debate</i>, pp. 200-204</li> <li>• <b>11a in CP:</b> Alexander Stephens, Cornerstone Speech</li> <li>• <b>11b in CP:</b> Patrick Henry to Robert Pleasants, Jan.18, 1773</li> <li>• Jefferson's <i>Notes on the State of Virginia</i>, in <i>American Debate</i>, pp. 22-26</li> <li>• <b>11c in CP:</b> Jefferson to Henri Gregoire, February 25, 1809</li> <li>• <b>11d in CP:</b> <i>Dred Scott</i> Decision on the Constitution and the Declaration</li> <li>• Lincoln on the Declaration, in <i>American Debate</i>, pp. 263 (bottom) to 265, 273-80, 289-90</li> <li>• <b>11e in CP:</b> Lincoln, Douglas, and the "Chicago Doctrine"</li> </ul> | <p><b>Study Questions:</b></p> <ul style="list-style-type: none"> <li>• How did later Southerners, like Calhoun and Stephens, deal with the claims in the Declaration of Independence?</li> <li>• The Declaration, unlike the Constitution, is not law; it's not legally binding. Why did the South believe such a repudiation to be necessary?</li> <li>• Henry is explicitly and Jefferson is implicitly referring to themselves as hypocrites. What are the various meanings of hypocrisy? In what way were Henry and Jefferson hypocrites, and in what way were they not?</li> <li>• How did Justice Taney and Stephen Douglas deal with the problem of hypocrisy in the Founding? Were they hypocrites?</li> <li>• What was Lincoln's approach to the problem of hypocrisy?</li> </ul> |
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WEEK 11:

UNIT 12. THE CONSTITUTION AND SECESSION

Tuesday, March 28: The Constitutionality of Secession

<p>Readings:</p> <ul style="list-style-type: none"> • 12 in CP: "Constitutional Clauses" • 12a in CP: Debates in the Constitutional Convention on the Mode of Ratification 	<p>Study Questions:</p> <ul style="list-style-type: none"> • Why was it so important to some of the Framers that the Constitution receive a popular ratification (i.e., by conventions
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<ul style="list-style-type: none"> • Nashville Convention, Garrison, and Stephens on secession, in <i>American Debate</i>, pp. 232-34, 252-56, 287-89 • 12b in CP: Lincoln’s 1st Inaugural Address • 12c in CP: Anastaplo on Secession 	<p>elected by the people), rather than being ratified by the state legislatures (as the Articles of Confederation had been)?</p> <ul style="list-style-type: none"> • Does the Constitution allow states a right to peaceably secede if they no longer choose Union? What kind of compact is the Constitution? • Garrison’s address shows that the pro-slavery South was not the only side agitating for a rupture of the Union. What was Garrison’s plan for abolition, if the Union did dissolve?
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**UNIT 13. THE CIVIL WAR: THE BEGINNING OF THE END OF AMERICAN SLAVERY**

**Thursday, March 30:**

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| <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>• <b>13 in CP:</b> “Constitutional Clauses”</li> <li>• Wiecek, Epilogue, pp. 276-87</li> <li>• Henry Clay on abolitionists causing disunion in <i>American Debate</i>, pp. 164-67</li> <li>• <b>13b in CP:</b> Guelzo on Lincoln and Statesmanship</li> <li>• <b>13c in CP:</b> Patrick Henry and Edmund Randolph in the VA Ratifying Convention</li> <li>• <b>13d in CP:</b> Emancipation Proclamation, 1863</li> <li>• <b>13e in CP:</b> Abraham Lincoln to Albert Hodges</li> <li>• <b>13f in CP:</b> Kleinerman on Lincoln and Executive Power</li> </ul> | <p><b>Study Questions:</b></p> <ul style="list-style-type: none"> <li>• Describe Lincoln’s evolving understanding of his duties under the Constitution. Was one understanding superior to any other? Or was each one appropriate for its “moment”?</li> <li>• Were Lincoln’s actions “Constitutional”? Why or why not?</li> <li>• Some of Lincoln’s critics, including Frederick Douglass, believe he acted too slowly to free the slaves. Other critics believe he acted despotically and unconstitutionally. And Lincoln’s admirers believe he threaded the needle between the two. What do you believe, and why?</li> </ul> |
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WEEK 12:

UNIT 14. SLAVERY’S DEMISE

Tuesday, April 4: The Emancipation Proclamation and the President’s War Powers

<p>Readings:</p> <ul style="list-style-type: none"> • 14 in CP: “Constitutional Clauses” • 14a in CP: Douglass Oration on Lincoln 	<p>Study Questions:</p> <ul style="list-style-type: none"> • Some of Lincoln’s critics, including Frederick Douglass, believe he acted too slowly to free the slaves. Other critics
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<ul style="list-style-type: none"> • 14b in CP: Guelzo, Lincoln and the Abolitionists 	<p>believe he acted despotically and unconstitutionally. And Lincoln's admirers believe he threaded the needle between the two. What do you believe, and why?</p> <ul style="list-style-type: none"> • While Lincoln and the Abolitionists shared the same goal, Lincoln was critical of their tactics. Did the Abolitionists hasten or impede the abolition of slavery?
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**Thursday, April 6: The Reconstruction Amendments, Conclusion and Wrapping Up**

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| <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>• <b>14c in CP:</b> Foner on the Thirteenth Amendment</li> <li>• Lincoln's 2<sup>nd</sup> Inaugural, in <i>American Debate</i>, pp. 290-91</li> </ul> | <p><b>Study Questions:</b></p> <ul style="list-style-type: none"> <li>• What were some of the difficulties involved with passing the Reconstruction Amendments?</li> <li>• Some people judge Lincoln's 2<sup>nd</sup> Inaugural as being the best speech ever delivered in America. What might account for its power?</li> <li>• Lincoln says here that slavery was the cause of the Civil War, even though he had previously said that he would only engage in war to save the Union. Is he being inconsistent?</li> </ul> |
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April 8-14: **Final Exam******

Monday, April 10:

******Assignment: Final Draft of Paper Due by 5:00 pm******

Select Bibliography

Slavery and the Constitution

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